

Railroad Retirement Act contains its own termination provisions: section 5(c)(7) of that Act specifies when a child's annuity paid under the Railroad Retirement Act terminates. Therefore, this amendment to section 202(d)(1) does not directly apply to benefits paid under the Railroad Retirement Act. However, it will affect the inclusion of auxiliary beneficiaries in the computation of the social security overall minimum guarantee provision.

Consequently, under section 202(d)(1), as amended, if the marriage of a railroad employee stepparent and natural parent is terminated, then the stepchild would no longer be included in the computation under the social security overall minimum guarantee provision. Therefore, the Board is proposing to amend its regulations to provide that the inclusion of the stepchild in the computation under the social security overall minimum guarantee provision will terminate when the marriage of the stepparent and the natural parent is terminated.

The Board published this rule as a proposed rule on May 22, 1997 (62 FR 27989), and invited comments by July 21, 1997. None were received.

The Office of Management and Budget has determined that this is not a significant regulatory action under Executive Order 12866. There are no new information collections associated with this rule.

List of Subjects in 20 CFR Parts 222 and 229

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, title 20, chapter II, parts 222 and 229 of the Code of Federal Regulations are amended as follows:

PART 222—FAMILY RELATIONSHIPS

1. The authority citation for part 222 continues to read as follows:

Authority: 45 U.S.C. 231f.

§ 222.55 [Amended]

2. Section 222.55 is amended by removing the words "is living with or".

PART 229—SOCIAL SECURITY OVERALL MINIMUM GUARANTEE

3. The authority citation for part 229 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5).

4. Section 229.42 is amended by removing the period at the end of paragraph (f), by adding "; or" to the end of paragraph (f), and by adding a new paragraph (g) to read as follows:

§ 229.42 When a child can no longer be included in computing an annuity rate under the overall minimum.

* * * * *

(g) In the case of a stepchild of the employee, the month after the month in which the divorce between the stepparent and the natural parent becomes final.

Dated: August 27, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN-127-FOR; State Program Amendment No. 95-5]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana regulatory program (hereinafter referred to as the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to its rules pertaining to an exemption for coal extraction incidental to the extraction of other minerals. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: September 8, 1997.

FOR FURTHER INFORMATION CONTACT:

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204-1521, Telephone (317) 226-6700.

SUPPLEMENTARY INFORMATION:

- I. Background on the Indiana Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program,

including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated March 7, 1997 (Administrative Record No. IND-1565), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment in response to the required program amendments at 30 CFR 914.16(cc) and 914.16(dd). The proposed amendment revises the Indiana Administrative Code (IAC) at 310 IAC 12-1 pertaining to an exemption for coal extraction incidental to the extraction of other minerals.

OSM announced receipt of the proposed amendment in the April 29, 1997, **Federal Register** (62 FR 23192), and in the same document opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment. The public comment period closed on May 29, 1997. Because no one requested a public hearing or meeting, none was held.

During its review of the amendment, OSM identified a concern relating to 310 IAC 12-1-7.1(a), public availability of information submitted for an exemption for coal extraction incidental to the extraction of other minerals. The proposed rule did not specify where the information would be made available. OSM notified Indiana of this concern by letter dated June 16, 1997 (Administrative Record No. IND-1572).

By letter dated July 11, 1997 (Administrative Record No. IND-1577), Indiana responded to OSM's concern by submitting a policy statement specifying where all public documents, including information submitted under 310 IAC 12-1, would be maintained for inspection and copying by the public. Because the additional information merely clarified the provision at 310 IAC 12-1-7.1(a), OSM did not reopen the public comment period.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment. Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph

notations to reflect organizational changes resulting from this amendment.

1. Revisions to Indiana's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

The proposed State rules, pertaining to an exemption for coal extraction

incidental to the extraction of other minerals, listed in the table contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the proposed State rules and the Federal regulations are nonsubstantive.

Topic	State regulation	Federal regulation counterpart
Contents of application for exemption	310 IAC 12-1-7(a)	30 CFR 702.12, Introductory sentence
Contents of application for exemption	310 IAC 12-1-7(a)(15)(A)	30 CFR 702.12(o)(1)
Revocation and enforcement	310 IAC 12-1-11(b)	30 CFR 702.17(b)
Revocation and enforcement	310 IAC 12-1-11(c)(1) and (2)	30 CFR 702.17(c)(1) and (2)
Revocation and enforcement	310 IAC 12-1-11(d)(1) through (3)	30 CFR 702.17(d)(1) through (3)

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that Indiana's proposed rules are no less effective than the Federal regulations.

2. 310 IAC 12-1-7(17) Exemption for Coal Extraction Incidental to the Extraction of Other Minerals; Contents of Application for Exemption.

Indiana proposed to delete subdivision (17), which requires that information collected under the provision of section 12-1-7 be subject to the public availability of information provisions in 310 IAC 12-3-17. As discussed below in Finding No. 3, Indiana proposed to add a new section at 310 IAC 12-1-7.1 that contains provisions pertaining to public availability of information that are substantively identical to the Federal regulations at 30 CFR 702.13. Therefore, the Director finds that the removal of subdivision (17) will not render the Indiana rules less effective than the Federal regulations.

3. 310 IAC 12-1-7.1 Exemption for Coal Extraction Incidental to the Extraction of Other Minerals; Public Availability of Information

Indiana proposed to add new section 12-1-7.1 in response to OSM's requirement at 30 CFR 914.16(cc) that Indiana amend its rules to make it clear that information submitted under 310 IAC 12-1-7 must be held until at least three years after expiration of the period during which the subject mining area is active. Subsection (a) requires that except as provided in subsection (c), all information submitted shall be made immediately available for public inspection and copying and shall be maintained until at least three years after expiration of the period during which the subject mining area is active. Per Indiana's policy statement dated July 11, 1997 (Administrative Record No. IND-1577), all information

submitted would be maintained in the Division of Reclamation Field Office at Jasonville, Indiana, and it would be available for inspection and copying by the public during regular office hours. The Jasonville Field Office is located closest to all surface mining activities conducted in the State of Indiana. Subsection (b) allows Indiana to keep information submitted confidential if the person submitting the information requests in writing, at the time of submission, that it be kept confidential and demonstrates that the information concerns trade secrets or is privileged commercial or financial information of the persons intending to conduct operations. Subsection (c) requires information requested to be held confidential under subsection (b) not be made publicly available until after notice and opportunity to be heard is afforded to persons both seeking and opposing disclosure of the information.

The Director finds that Indiana's proposed rule along with its policy statement is consistent with and no less effective than the Federal regulations at 30 CFR 702.13 and that it satisfies the required amendment at 30 CFR 914.16(cc). Therefore, the Director is approving the proposed amendment at 310 IAC 12-1-7.1, and is amending 30 CFR 914.16 to remove paragraph (cc).

4. 310 IAC 12-1-11(c)(3) Exemption for Coal Extraction Incidental to the Extraction of Other Minerals; Revocation and Enforcement

Indiana proposed to add new subdivision (c)(3) in response to OSM's requirement at 30 CFR 914.16(dd) that Indiana amend 310 IAC 12-1-11 to add a counterpart to 30 CFR 702.17(c)(3). Subdivision (c)(3) requires that a petition for administrative review filed under subdivision (c)(2) not suspend the effect of a decision on whether to revoke an exemption.

The Director finds that Indiana's proposed rule is consistent with and no less effective than the Federal regulation

at 30 CFR 702.17(c)(3) and that it satisfies the required amendment at 30 CFR 914.16(dd). Therefore, the Director is approving the proposed amendment at 310 IAC 12-1-11(c)(3), and is amending 30 CFR 914.16 to remove paragraph (dd).

IV. Summary and Disposition of Comments

Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND-1567). On May 8, 1997 (Administrative Record No. IND-1574, the Mine Safety and Health Administration responded without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is require to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the EPA (Administrative Record No. IND-1567). The EPA did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on the proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. IND-1567). Neither the SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Indiana on March 7, 1997, pertaining to revisions to Indiana's rules relating to an exemption for coal extraction incidental to the extraction of other minerals, and removes the required amendments at 30 CFR 914.16(cc) and (dd).

The Director approves the rules as proposed by Indiana with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations. Surface mining, Underground mining.

Dated: August 20, 1997.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended in the table by adding a new entry in chronological order by "date of final publication" to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* March 7, 1997	* September 8, 1997	* 310 IAC 12-1-7(a), (15)(A), (17); 12-1-7.1 (a) through (c); 12-1-11(b), (c) (1) through (3), (d) (1) through (3).

§ 914.16 [Amended]

3. Section 914.16 is amended by removing and reserving paragraphs (cc) and (dd).

[FR Doc. 97-23725 Filed 9-5-97; 8:45 am]

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DEPARTMENT OF THE TREASURY**31 CFR Part 103**

RIN 1506-AA11

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Exemptions From the Requirement To Report Transactions in Currency

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: This document contains a final rule amending the Bank Secrecy Act regulations. The amendment will eliminate the requirement to report transactions in currency in excess of \$10,000 between depository institutions and certain classes of "exempt persons" defined in the rule. It will modify (and, as modified, will supersede), an interim rule on the same subject, to reflect the comments that were requested when the interim rule was published.

There appears elsewhere in today's edition of the **Federal Register** a notice of proposed rulemaking that would further modify the rules for granting exemptions from the currency transaction report filing requirements. The final rule and the notice of proposed rulemaking are additional steps in a process intended to achieve the reduction set by the Money Laundering Suppression Act of 1994 in the number of Bank Secrecy Act currency transaction reports required to be filed annually by depository institutions.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Peter Djinis, Associate Director, FinCEN, (703) 905-3819; Charles Klingman, Financial Institutions Policy Specialist, FinCEN, (703) 905-3602; Stephen R. Kroll, Legal Counsel, Cynthia L. Clark, on detail to the Office of Legal Counsel, and Albert R. Zarate, Attorney-Advisor, Office of Legal Counsel, FinCEN, (703) 905-3590.

SUPPLEMENTARY INFORMATION:**I. Statutory Provisions**

The Bank Secrecy Act, Titles I and II of Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-

1959, and 31 U.S.C. 5311-5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311-5330) appear at 31 CFR Part 103. The authority of the Secretary to administer Title II of the Bank Secrecy Act has been delegated to the Director of FinCEN.

The reporting by financial institutions of transactions in currency in excess of \$10,000 has long been a major component of the Department of the Treasury's implementation of the Bank Secrecy Act. The reporting requirement is imposed by 31 CFR 103.22, a rule issued under the broad authority granted to the Secretary of the Treasury by 31 U.S.C. 5313(a) to require reports of domestic coins and currency transactions.

Four new provisions (31 U.S.C. 5313(d) through (g)) concerning exemptions were added to 31 U.S.C. 5313 by the Money Laundering Suppression Act of 1994 (the "Money Laundering Suppression Act"), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325 (September 23, 1994). According to subsection (d)(1), the Treasury must exempt a depository institution from the requirement to report currency transactions with respect to transactions between the depository institution and the following categories of entities:

- (A) Another depository institution.
- (B) A department or agency of the United States, any State, or any political subdivision of any State.
- (C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.
- (D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

Subsection (d)(2) requires the Treasury to publish at least annually a list of entities whose currency transactions are exempt from reporting under the mandatory rules. The companion provisions of 31 U.S.C. 5313(e) authorize the Secretary to permit a depository institution to grant additional, discretionary, exemptions from the currency transaction reporting requirements. Subsection (f) places

limits on the liability of a depository institution in connection with a transaction that has been exempted from reporting under either subsection (d) or subsection (e) and provides for the coordination of any exemption with other Bank Secrecy Act provisions, especially those relating to the reporting of suspicious transactions. Subsection (g) defines "depository institution" for purposes of the new exemption provisions.

The enactment of 31 U.S.C. 5313 (d) through (g) reflects a congressional intention to "reform * * * the procedures for exempting transactions between depository institutions and their customers." See H.R. Rep. 103-652, 103d Cong., 2d Sess. 186 (August 2, 1994).¹ The administrative exemption procedures at which the statutory changes are directed are found in 31 CFR 103.22 (b)-(g).

Several reasons have been given for the administrative exemption system's lack of success in eliminating routine currency transactions from operation of the Bank Secrecy Act rules. The first is the retention by banks of liability for making incorrect exemption determinations. The second is the complexity of the administrative exemption procedures. Finally, advances in technology have made it less expensive for some banks to report all currency transactions than to incur the administrative costs and risks of exempting customers and then administering the terms of particular exemptions properly.

II. The Interim Rule

On April 24, 1996, an interim rule (the "Interim Rule") adding a new paragraph (h) to the currency transaction reporting rules in 31 CFR 103.22 was published in the **Federal Register**. See 61 FR 18204. The Interim Rule exempted, from the requirement to report transactions in currency in excess of \$10,000, transactions occurring after April 30, 1996, between banks² and

¹ Section 402(b) of the Money Laundering Suppression Act states simply that in administering the new statutory exemption procedures

the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31 * * * by at least 30 percent of the number filed during the year preceding [September 23, 1994,] the date of enactment of [the Money Laundering Suppression Act].

² The Interim Rule used the term *bank* to define the class of financial institutions to which the Interim Rule applied. As defined in 31 CFR 103.11(c), that term includes both commercial banks and other classes of depository institutions at which the language of 31 U.S.C. 5313 is directed.