

will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

#### IV. 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 such 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 section 702(d) of the 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 counterpart 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 counterpart 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 913**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 27, 1998.

##### **Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

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BILLING CODE 4310-05-M

#### DEPARTMENT OF THE INTERIOR

##### **Office of Surface Mining Reclamation and Enforcement**

##### **30 CFR Part 914**

[SPATS No. IN-130-FOR; State Program Amendment No. 95-8]

##### **Indiana Regulatory Program**

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (hereinafter the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to regulations pertaining to permit application requirements for reclamation plans, public availability of information, and stream buffer zones. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the Indiana program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4:00 p.m., e.s.t., May 6, 1998. If requested, a public hearing on the proposed amendment will be held on May 1, 1998. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t. on April 21, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

Copies of the Indiana program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

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, IN 46204, Telephone:  
(317) 226-6700.

Indiana Department of Natural  
Resources, 402 West Washington  
Street, Room C256, Indianapolis,  
Indiana 46204, Telephone: (317) 232-  
1547.

**FOR FURTHER INFORMATION CONTACT:**  
Andrew R. Gilmore, Director,  
Indianapolis Field Office, Telephone:  
(317) 226-6700.

##### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the Indiana Program**

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. 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 914.15 and 914.16.

## II. Description of the Proposed Amendment

By letter dated March 6, 1998 (Administrative Record No. IND-1596), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. Indiana proposes to amend the Indiana Administrative Code (IAC) at 310 IAC 12. The full text of the proposed program amendment submitted by Indiana is available for public inspection at the locations listed above under ADDRESSES. A brief discussion of the proposed amendment is present below.

1. *310 IAC 12-3-46 Surface Mining Permit Application Requirements for Reclamation Plans.* a. The existing provision in subsection (a) was revised by changing the citation references from "IC 13-4.1-8 and 310 IAC 12-5-1 through 310 IAC 12-5-158" to "IC 14-34-10, 310 IAC 12-5, and the environmental protection performance standards of IC 14-34 and this article." The following new provision was added:

The plan shall include, at a minimum, all information required under sections 41 through 45 of this rule, this section, and sections 46.5 through 55 of this rule.

b. The following revisions were made to subsection (b):

New paragraph (2) was added as follows:

A detailed estimate of the cost of reclamation of the proposed operations required to be covered by a performance bond under 310 IAC 12-4, with supporting calculations for the estimates.

Existing paragraph (2) was changed to paragraph (3) and a citation reference to 310 IAC 12-5-150.1 was added.

Existing paragraph (3) was changed to paragraph (4) and revised to also require that a demonstration of the suitability of topsoil substitutes or supplements be based upon analysis of the total depth of the different kinds of soils. The last sentence of new paragraph (4) was revised to read as follows:

The director may require other chemical and physical analyses, field-site trials, or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitute or supplements.

Existing paragraph (4) was changed to paragraph (5) and revised by adding the language "but not limited to" after the word "including." Existing paragraphs (4)(i) through (4)(vii) were changed to paragraphs (5)(A) through (5)(G). New paragraph (5)(G) was revised by removing the language "methods for

evaluating" and replacing it with the language "a soil testing plan for evaluation of."

Existing paragraphs (5) through (8) were changed to paragraphs (6) through (9) with minor wording changes.

### 2. *310 IAC 12-3-80 Underground Mining Permit Application*

*Requirements for Reclamation Plans.* a. The existing provision in subsection (a) was revised by changing the citation references from "chapters 8 and 9 of IC 13-4.1 and 310 IAC 12-5-1 through 310 IAC 12-5-158" to "IC 14-34-10, IC 14-34-11, and the environmental protection performance standards of IC 14-34 and this article." The following new provision was added:

The plan shall include, at a minimum, all information required under sections 41 through 55 of this rule.

b. The following revisions were made to subsection (b):

New paragraph (2) was added as follows:

A detailed estimate of the cost of reclamation of the proposed operations required to be covered by a performance bond under 310 IAC 12-4, with supporting calculations for the estimates.

Existing paragraph (2) was changed to paragraph (3) and it was revised to read as follows:

A plan for backfilling, soil stabilization, compacting, and grading, with contour maps, topographical maps, or cross-sections that show the anticipated final surface configuration of the proposed permit area in accordance with 310 IAC 12-5-119.1 through 310 IAC 12-5-121.5 and 310 IAC 12-5-150.1.

Existing paragraph (3) was changed to paragraph (4) and revised to also require that a demonstration of the suitability of topsoil substitutes or supplements be based upon analysis of the total depth of the different kinds of soils. The last sentence of new paragraph (4) was revised to read as follows:

The director may require other chemical and physical analyses, field-site trials, or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitute or supplements.

Existing paragraph (4) was changed to paragraph (5) and revised by replacing the reference to "310 IAC 12-5-129" with a reference to "310 IAC 12-5-128.3." Existing paragraphs (4)(i) through (4)(vii) were changed to paragraphs (5)(A) through (5)(G).

Existing paragraphs (5) through (8) were changed to paragraphs (6) through (9) with minor wording changes.

3. *310 IAC 12-3-110 Public Availability of Information.* Minor wording changes were made to

subsections (a) through (e). New subsection (f) was added as follows:

Information on the nature and location of archaeological resources on public and Indian land, as required under the Archaeological Resources Protection Act of 1979 (Pub. L. 96-95, 93 Stat. 721, 16 U.S.C. 470), is confidential.

Existing subsection (f) was changed to (g) and revised by adding "confidential information" as one of the types of information for which a person can oppose or seek disclosure.

4. *310 IAC 12-5-32 Surface Mining Stream Buffer Zones.* Subsection (a) is revised as follows:

(a) No land within one hundred (100) feet of a perennial stream or an intermittent stream shall be disturbed by surface mining activities, unless the director specifically authorizes surface mining activities closer to or through such a stream. The director may authorize such activities only upon finding that: (1) Surface mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and (2) if there will be a temporary or permanent stream-channel diversion, it will comply with sections 18 through 19 of this rule.

Subsection (b) was revised by replacing the word "marked" with the language "the operator shall mark it."

5. *310 IAC 12-5-97 Underground Mining Stream Buffer Zones.* Subsection (a) is revised as follows:

(a) No land within one hundred (100) feet of a perennial stream or an intermittent stream shall be disturbed by underground mining activities, unless the director specifically authorizes underground mining activities closer to or through such a stream. The director may authorize such activities only upon finding that: (1) underground mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and (2) if there will be a temporary or permanent stream-channel diversion, it will comply with sections 84 through 85 of this rule.

Subsection (b) was revised by replacing the word "marked" with the language "the operator shall mark it."

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Indiana program.

### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations.

Comments received after the time indicated under **DATES** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

### Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. e.s.t. on April 21, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

### Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

## IV. 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 such 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 section 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 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 counterpart 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 exiting 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 assumption for the counterpart 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: March 27, 1998.

### Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 914

[SPATS No. IN-131-FOR; State Program Amendment No. 95-13]

### Indiana Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (hereinafter the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Indiana's regulations pertaining to the definition of "affected area," submittal of underground mining operation plans, and the standards for prime farmland restoration by surface and underground coal mining operations. The amendment is intended to revise the Indiana regulations to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the Indiana program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing.