

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for t =	$i_t$	for t =	$i_t$	for t =
September 2001 .....	.0630	1–20	.0625	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of August 2001.

**John Seal,**

*Acting Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 01–20490 Filed 8–14–01; 8:45 am]

**BILLING CODE 7708–01–P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 904**

[SPATS No. AR–038–FOR]

**Arkansas Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Arkansas proposed revisions and additions of regulations concerning definitions; areas where surface coal mining operations are prohibited or limited; exception for existing operations; procedures for compatibility findings for surface coal mining operations on federal lands in national forests; procedures for relocating or closing public roads or waiving prohibitions on surface coal mining operations within the buffer zone of public roads; procedures for waiving prohibitions on surface coal mining operations within the buffer zone of occupied dwellings; submission and processing of requests for valid existing rights determinations; director’s obligations at time of permit application review; interpretative rule related to subsidence due to underground coal mining in areas designated by act of Congress; applicability to lands designated as unsuitable by Congress; exploration on land designated as unsuitable for surface coal mining operations; procedures: Initial processing, recordkeeping, and notification requirements; permit requirements for exploration that will

remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations; relationship to areas designated unsuitable for mining; protection of publicly owned parks and historic places; relocation or use of public roads; road systems; public notices of filing of permit applications; legislative public hearing; and criteria for permit approval or denial. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations and to enhance enforcement of the State program.

**EFFECTIVE DATE:** August 15, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Arkansas Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*” and “rules and regulations consistent with regulations issued by the Secretary” pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Arkansas program on November 21, 1980. You can find background information on the Arkansas program, including the Secretary’s findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

**II. Submission of the Amendment**

By letter dated March 1, 2001 (Administrative Record No. AR–567.04), Arkansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Arkansas sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. AR–567), that we sent to Arkansas under 30 CFR 732.17(c). The amendment also includes changes made at Arkansas’ own initiative. Arkansas proposed to amend the Arkansas Surface Coal Mining and Reclamation Code (ASCMRC). We announced receipt of the amendment in the April 6, 2001, **Federal Register** (66 FR 18216). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on May 7, 2001. We did not receive any comments. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns about the definitions; submission and processing of requests for valid existing rights determinations; interpretative rule related to subsidence due to underground coal mining in areas designated by Act of Congress; public notices of filing of permit applications; and legislative public hearings. We notified Arkansas of these concerns by letter dated April 11, 2001, (Administrative Record No. AR–567.06).

By letter dated April 19, 2001 (Administrative Record No. AR–567.08), Arkansas sent us revisions to its program amendment. Based upon Arkansas’ revisions to its amendment, we reopened the public comment period in the May 10, 2001, **Federal Register** (66 FR 23868). The public comment period closed on May 25, 2001. We did not receive any comments.

**III. Director’s Findings**

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the OSM Director’s findings concerning the amendment to the Arkansas program.

Any revisions that we do not discuss below are about minor wording changes, or revised cross-references and

paragraph notations to reflect organizational changes resulting from this amendment

*A. Revisions to Arkansas' Regulations That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations*

The State regulations listed in the table contain language that is the same

as or similar to the corresponding sections of the Federal regulations. Differences between the State regulations and the Federal regulations are minor.

Topic	State regulation (ASC/MRC)	Federal counterpart regulation (30 CFR)
Definition of "valid existing rights" .....	Section 761.5 .....	Section 761.5.
Areas where surface coal mining operations are prohibited or limited ..	Section 761.11 .....	Section 761.11.
Exception for existing operations .....	Section 761.12 .....	Section 761.12.
Procedures for compatibility findings for surface coal mining operations on Federal lands in national parks.	Section 761.13 .....	Section 761.13.
Procedures for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone of a public road.	Section 761.14 .....	Section 761.14.
Procedures for waiving the prohibitions on surface coal mining operations within the buffer zone of an occupied dwelling.	Section 761.15 .....	Section 761.15.
Submission and processing of requests for valid existing rights determination.	Section 761.16 .....	Section 761.16.
Director's obligations at time of permit application review .....	Section 761.17 .....	Section 761.17.
Interpretative rule related to subsidence due to underground coal mining in areas designated by act of Congress.	Section 761.200 .....	Section 761.200.
Applicability of lands designated as unsuitable by Congress .....	Section 762.14 .....	Section 762.14.
Permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations.	Section 776.12 .....	Section 772.12.
Relationship to areas designated unsuitable for mining .....	Section 778.16(c) .....	Section 778.16(c).
Protection of publicly owned parks and historic places .....	Section 780.31(a)(2) .....	Section 780.31(a)(2).
Relocation or use of public roads .....	Section 780.33 introductory paragraph.	Section 780.33. introductory paragraph.
Road systems .....	Section 780.37 .....	Section 780.37.
Public notices of filing of permit applications .....	Section 786.11(a)(4) and (a)(5) .....	Section 773.6(a)(1)(iv) and (a)(1)(v).
Criteria for permit approval or denial .....	Section 786.19(d)(1) .....	Section 773.15(c)(2).

Because the above State regulations have the same meaning as the corresponding Federal regulations, we find that they are no less effective than the Federal regulations.

*B. Sections 761.5 Definitions and 761.15 Public Buildings*

Due to an apparent error, Arkansas' regulations contain two different definitions for "public buildings;" one in section 761.5 Definitions, the other in section 761.15 Public buildings. This occurred when the State was revising the definition of "public buildings" and inadvertently inserted a new section (section 761.15 Public buildings) instead of modifying the existing definition of "public buildings" at section 761.5 Definitions. Arkansas proposed to eliminate this redundancy and to avoid confusion by removing section 761.15 "Public buildings," and by replacing the definition of "public buildings" in section 761.5 with the definition of "public buildings" that was found in section 761.15. We are approving this revision because the revised definition of "public buildings" in section 761.5 is language that we previously approved at old section 761.15 and because the revision will

eliminate any redundancy and confusion that may have been caused by the two definitions of "public buildings" that previously existed in the State's regulations.

*C. Section 762.14 Exploration on Land Designated As Unsuitable for Surface Coal Mining Operations (Newly Redesignated As Section 762.15)*

Arkansas proposed to redesignate section 762.14 as new section 762.15. We are approving this revision because it only changes the section number of the regulation and will not alter the approved language in the section.

*D. Section 764.15 Procedures: Initial Processing, Recordkeeping, and Notification Requirements*

Arkansas proposed to revise Section 764.15(a)(7) by changing the name of the hearing from an "informal conference" to that of a "legislative public hearing." We are approving this revision because it only changes the name of the hearing and does not change the meaning or the intent of the regulation.

*E. Section 786.14 Legislative Public Hearing*

Arkansas proposed to revise Section 786.14(c) by replacing the reference citation to 761.12(d) with a reference citation to newly added section 761.14(c). Arkansas also proposed to revise this regulation to reflect that the legislative public hearings may be used to meet the requirement of a public hearing if one is requested under section 761.14(c) where the applicant proposes to relocate or close a public road or to conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road. The revised section reads as follows:

(c) Legislative Public Hearings held in accordance with this Section may be used by the Director as the public hearing required under Section 761.14(c) where the applicant proposes to relocate or close a public road or conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road.

We are approving the revision that replaces the reference citation to 761.12(d) with a reference citation to newly added section 761.14(c) because the provisions contained in old section

761.12(d) remain unchanged and have been reorganized and are now recodified in newly added section 761.14(c). We are also approving the revision to section 786.14 that reflects that the public hearings, if requested, may be used to meet the public hearing requirement under section 761.14(c) where the applicant proposes to relocate or close a public road or to conduct surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of a public road. We are approving this revision because it is consistent with the Federal regulations at 30 CFR 761.14(c) and (c)(1)–(c)(2) that require the regulatory authority or a public road authority that it designates to determine that the interests of the public and affected landowners will be protected. These Federal regulations also require that the regulatory authority must, among other things, provide opportunity to request a public hearing in the locality of the proposed operation before making this determination.

#### *F. Section 786.19 Criteria for Permit Approval or Denial*

Arkansas proposed to delete sections 786.19(d)(4) and (d)(5) and to redesignate sections 786.19(d)(6) through (d)(8) as sections 786.19(d)(4) through (d)(6). We are approving the deletion of sections 786.19(d)(4) and (d)(5) because the provisions contained in these sections are contained in revised section 786.19(d)(1) via a reference to section 761.11. We are also approving the redesignation of sections 786.19(d)(6) through (d)(8) as sections 786.19(d)(4) through (d)(6) because it will not render the Arkansas regulations less effective than the Federal regulations at 30 CFR 773.15(c).

#### *G. Name Change of the Arkansas Regulatory Authority and the Recodification of the Arkansas Surface Coal Mining and Reclamation Act*

In a letter dated April 2, 1999, Arkansas notified us that the “Arkansas Department of Pollution Control and Ecology” had its name changed to the “Arkansas Department of Environmental Quality,” effective March 31, 1999. Along with the name change, the general powers and responsibilities previously assigned to the “Arkansas Department of Pollution Control and Ecology” were transferred to the “Arkansas Department of Environmental Quality.” In a letter dated June 9, 1999, we notified the State that it must amend its approved program to reflect these changes. Because of the administrative nature of the change, we requested that Arkansas

change the references to the “Arkansas Department of Pollution Control and Ecology” to references to the “Arkansas Department of Environmental Quality” in its regulations and/or statutes the next time the State proposed to amend its approved program. Arkansas responded in a letter dated June 23, 1999, that the State had already replaced all references to the “Arkansas Department of Pollution Control and Ecology” with references to the “Arkansas Department of Environmental Quality” in its regulations. Arkansas further responded that on April 6, 1999, the Arkansas Legislature passed Act 1164 approving the agency’s name change to the “Arkansas Department of Environmental Quality” and revising all Arkansas statutes to reflect the name change.

Also, in its June 23, 1999, letter Arkansas advised us that the “legislative version” of the Arkansas Surface Coal Mining and Reclamation Act (Act 134 of 1979), as amended by Act 647 of 1979 has not existed, per se, since the effective date of Act 267 of 1987, which created and adopted the Arkansas Code. Effective December 31, 1987, Act 267 codified all existing Arkansas statutes into the Arkansas Code Annotated (ACA) without changing the substance or meaning of any provision of the statutes. All the provisions of the Arkansas Surface Coal Mining and Reclamation Act are codified at ACA Title 15, Chapter 58, Subchapters 1 through 5.

We are approving the name change of the Arkansas regulatory authority from the “Arkansas Department of Pollution Control and Ecology” to the “Arkansas Department of Environmental Quality.” We are also approving the recodification of the Arkansas statutes from the “legislative version” to the “annotated version.” We find that the changes are administrative in nature and do not render the Arkansas regulations less effective than the Federal regulations. Nor do the changes render the Arkansas statutes less stringent than the Federal statutes.

#### **IV. Summary and Disposition of Comments**

##### *Federal Agency Comments*

On March 14 and May 3, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Arkansas program (Administrative Record Nos. AR–567.05

and AR–567.09, respectively). We did not receive any comments.

##### *Environmental Protection Agency (EPA)*

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued 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 Arkansas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record Nos. AR–567.05 and AR–567.09). The EPA did not respond to our request.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 14 and May 3, 2001, we requested comments on Arkansas’ amendment (Administrative Record Nos. AR–567.05 and AR–567.09, respectively), but neither entity responded to our request.

##### *Public Comments*

We asked for public comments on the amendment, but did not receive any.

#### **V. Director’s Decision**

Based on the above findings, we approve the amendment as sent to us by Arkansas on March 1, 2001, and as revised on April 19, 2001. We approve the regulations that Arkansas proposed with the provision that they be published in identical form to the regulations sent to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 904, which codifies decisions about the Arkansas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State’s program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making the regulations effective immediately will expedite that process and will encourage Arkansas to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

**VI. Procedural Determinations***Executive Order 12866—Regulatory Planning and Review*

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary under SMCRA.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 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 because 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.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 904**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 12, 2001.

**Charles E. Sandberg,**

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

For the reasons set out in the preamble, 30 CFR Part 904 is amended as set forth below:

**PART 904—ARKANSAS**

1. The authority citation for Part 904 continues to read as follows:

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

2. Section 904.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 904.15 Approval of Arkansas regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
March 1, 2002 .....	August 15, 2001 .....	Sections 761.5 definitions of "valid existing rights" & "public buildings;" 761.11-.15; 761.16; 761.17; 761.200(a); 762.14-.15; 764.15(a)(7); 776.12; 778.16(c); 780.31(a)(2); 780.33; 780.37; 786.11(a)(4) & (a)(5); 786.14(c); and 786.19(d)(1) & (d)(4)-(d)(8); regulatory authority name change to Arkansas Department of Environmental Quality; and recodification of the statutes to Arkansas Code Annotated Title 15, Chapter 58, Subchapters 1-5.

[FR Doc. 01-20446 Filed 8-14-01; 8:45 am]  
 BILLING CODE 4310-05-P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 914**

[SPATS No. IN-151-FOR]

**Indiana Regulatory Program**

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

**ACTION:** Final rule; decision on amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is not approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Indiana proposed the addition of a statute concerning post mining land use changes as nonsignificant permit revisions. Indiana intended to revise its program to improve operational efficiency.

**EFFECTIVE DATE:** August 15, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204-1521. Telephone (317) 226-6700. Internet: IFOMAIL@indgw.osmre.gov.

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Indiana Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of

surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*" and "rules and regulations consistent with regulations issued by the Secretary" pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Indiana program on July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

**II. Submission of the Amendment**

By letter dated May 14, 1998 (Administrative Record No. IND-1606), Indiana submitted a proposed amendment to OSM in accordance with SMCRA. The proposed amendment concerned revisions of and additions to the Indiana Code (IC) made by House Enrolled Act (HEA) No. 1074. Indiana intended to revise its program to incorporate the additional flexibility afforded by SMCRA and to provide the guidelines for permit revisions, including incidental boundary revisions. We announced receipt of the proposed amendment in the May 29, 1998, **Federal Register** (63 FR 29365), and invited public comment on its adequacy. The public comment period for the amendment closed June 29, 1998. During our review of the proposed amendment, we identified concerns relating to the proposed amendment. We notified Indiana of these concerns by letter dated September 15, 1998 (Administrative Record No. IND-1621). By letter dated December 21, 1998 (Administrative Record No. IND-1627), Indiana responded to our concerns by submitting additional explanatory information. Because Indiana did not make any substantive revisions to the amendment, we did not reopen the public comment period. On March 16, 1999, we approved Indiana's proposed amendment, with three exceptions (64 FR 12890). Specifically, we did not approve the amendment at IC 14-34-5-7(a) concerning guidance for permit

revisions; the amendment at IC 14-34-5-8.2(4) concerning postmining land use changes; and the amendment at IC 14-34-5-8.4(c)(2)(K) concerning minor field revisions for temporary cessation of mining. On May 26, 1999, at Indiana's request, we provided clarification of our decision on Indiana's amendment (64 FR 28362).

On May 14, 1999, the Indiana Coal Council (ICC) filed a complaint in the United States District Court, Southern District of Indiana, to challenge our decision not to approve the proposed Indiana program amendments at IC 14-34-5-7(a) and IC 14-34-5-8.2(4). *Indiana Coal Council v. Babbitt*, No. IP 99-0705-C-M/S, (S. D. Ind.). On September 25, 2000, the Court issued its decision on the ICC's complaint. The Court found that, in the case of IC 14-34-5-7(a) concerning guidance for permit revisions, OSM was not arbitrary and capricious in not approving the amendment. Therefore, the Court upheld our decision. However, in the case of IC 14-34-5-8.2(4) concerning postmining land use changes, the Court found that our decision was arbitrary and capricious, and remanded the matter to OSM for "further consideration." In accordance with the Court's ruling, we opened the public comment period for section IC 14-34-5-8.2(4) of Indiana's proposed amendment submitted on May 14, 1998, in the January 11, 2001, **Federal Register** (66 FR 2374). In the same document, we provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on February 12, 2001. We received comments from two industry groups and one Federal agency. However, because no one requested a public hearing or meeting, we did not hold one.

**III. Director's Findings**

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director of OSM's findings concerning the proposed amendment to the Indiana program.