§ 31.6011(a)–4T Returns of income tax withheld (temporary).

(a) [Reserved] For further guidance see § 31.6011(a)–4(a).

(b) *Withheld from nonpayroll payments.* Every person required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for calendar year 1994 and for any subsequent calendar year in which any such tax is required to be withheld until the person makes a final return in accordance with § 31.6011(a)–6. Every person not required to withhold tax from nonpayroll payments for calendar year 1994 must make a return for the first calendar year after 1994 in which the person is required to withhold such tax and for any subsequent calendar year in which the person is required to withhold such tax until the person makes a final return in accordance with § 31.6011(a)–6. Form 945, Annual Return of Withheld Federal Income Tax, is the form prescribed for making the return required under this paragraph (b). Nonpayroll payments are—

(1) Certain gambling winnings subject to withholding under section 3402(q);

(2) Retirement pay for services in the Armed Forces of the United States subject to withholding under section 3402;

(3) Certain annuities as described in section 3402(o)(1)(B);

(4) Pensions, annuities, IRAs, and certain other deferred income subject to withholding under section 3405; and

(5) Reportable payments subject to backup withholding under section 3406.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. Section 602.101, paragraph (c) is amended in the table by adding the entry ''31.6011(a)–4T . . . . 1545–1413'' in numerical order.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: September 22, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 95–25314 Filed 10–13–95; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–126–FOR; State Program Amendment No. 95–9]

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 additions to the Indiana Administrative Code [IAC] rules at 310 IAC 12 pertaining to definition of terms used in the Indiana Program. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations and to provide additional safeguards.

EFFECTIVE DATE: October 16, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204, 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. 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 May 11, 1995 (Administrative Record No. IND–1469), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. Indiana proposed to add definitions at 310 IAC 12–0.5–2, 12–0.5–14, 12–0.5–57, 12–0.5–95, 12–0.5–99, and 12–0.5–123. These definitions pertain to acid drainage; augmented seeding, fertilization, or irrigation; high level management; public building; randomly located; and support facility, respectively.

OSM announced receipt of the proposed amendment in the May 30, 1995, Federal Register (59 FR 28073), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 29, 1995.

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.

A. Revisions to Indiana Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

State regulation	Subject	Federal counterpart
310 IAC 12–0.5–2	Definition of Acid Drainage	30 CFR 701.5
310 IAC 12–0.5–95	Definition of Public Building	30 CFR 761.5

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

B. Revisions to Indiana's Regulations With No Corresponding Federal Regulations

1. 310 IAC 12–0.5–14 Augmented Seeding, Fertilization, or Irrigation. Indiana proposed to define ''augmented seeding, fertilization, or irrigation'' as seeding, fertilizing, or irrigating in excess of normal agronomic practices within the region.

OSM amended the Federal regulations at 30 CFR 816.116(c) and 817.116(c) on September 7, 1988 (53 FR 34636). These regulations provide for regulatory authority approval of ''selective husbandry practices.'' OSM, in discussing the approval of selective husbandry practices, stated ''these approved practices were allowed to occur during the liability period without restarting the five- or ten-year period responsibility for successful revegetation provided the practice was a 'normal conservation practice' and was not *augmented seeding, fertilizing, irrigation, or other work*.'' (Emphasis added.)

OSM uses the above emphasized language in its regulations at 30 CFR 816.116(c) and 817.116(c) to make a distinction between normal and augmented husbandry practices. Indiana's proposed definition makes a similar distinction. Therefore, the Director finds the proposed definition at 310 IAC 12–0.5–14 is no less effective than the Federal regulation provisions pertaining to normal husbandry practices.

2. 310 IAC 12–0.5–57 High Level Management. Indiana proposed a definition for ''high level management'' as it relates to agronomic practices. The definition includes use of cropping systems that help maintain the land; the control of erosion through conservation and water management practices; use of soil tests for determining proper lime and fertilizer application; use of crop residue for protection of soil; use of conservation tillage practices where needed; use of crop varieties that are adapted to the climate and the soil of the region; use of currently accepted management techniques for controlling weeds, plant diseases, and harmful insects for the region; and use of surface or subsurface drainage systems for wet areas.

The term ''high level management'' is used in both the Indiana regulations and the Federal regulations in the permit application content requirements for information pertaining to the productivity of prime farmlands prior to mining. The term, as used, does not alter the reclamation or productivity requirements for lands to be mined. Although OSM chose not to include a definition of high level management in its regulations, the Indiana definition includes all of the general requirements published by the U.S. Natural Resources Conservation Service in its National Soils Handbook and additional management practices to aid permit evaluators in reviewing the information submitted with a mining permit. Therefore, the Director finds the proposed definition at 310 IAC 12–0.5–57 is not inconsistent with the requirements of the Federal regulations at 30 CFR 785.17(c).

3. 310 IAC 12–0.5–99 Randomly Located. Indiana proposed to define ''randomly located'' as the selection of a location that is statistically independent of all previous and future location selections.

The term ''randomly located'' is used by Indiana in its revegetation standard regulations to denote the selection of sampling locations. OSM's regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) allow each State to establish its own testing procedures within certain general guidelines. At a minimum, OSM would require that any testing procedure selected by the State be based on valid statistical methods. The proposed definition requires that all locations selected must be statistically independent of all others. Any method used to actually locate positions in the field would have to meet the definition. Therefore, the Director finds the definition is consistent with and no less effective than 30 CFR 816.116(a)(1) and 817.116(a)(1).

4. 310 IAC 12–0.5–123 Support Facility. Indiana proposed a definition of ''support facility'' that contains the following provisions. Subsection (a) relates a support facility to the activities identified in 310 IAC 12–0.5–125(1), which defines surface coal mining operations, and the area upon which the facility is located. Subsection (b) specifies that ''resulting from or incidental to'' connotes an element of proximity to the activity. Subsection (c) provides a list of support facilities which includes mine buildings, bath houses, coal loading and storage facilities, coal crushing and sizing facilities, equipment and storage facilities, fan buildings, hoist buildings, sheds, shops, and other buildings, facilities used to treat and store water for mine consumption, and specific transportation facilities.

On November 22, 1988, OSM removed its definition of ''support facilities'' from 30 CFR 701.5 (53 FR 47378). Indiana has chosen to provide additional clarification and guidance to its mine operators by adding one to its program. The Director acknowledges that the proposed definition will supplement Indiana's regulations at 310 IAC 12–5–71 pertaining to support facilities and utility installations. OSM noted in the November 22, 1988, Federal Register that some State programs contain a definition of support facilities, and the Director did not require these States to remove them.

While only two approved State programs contain a definition of support facilities, rarely have objections been raised to OSMRE concerning the administration of State programs on this issue.

Based on the above discussion, the Director finds the proposed definition at 310 IAC 12–0.5–123 is not inconsistent with the requirements of SMCRA and the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

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. In a letter dated June 19, 1995 (Administrative Record No. IND–1490), the U.S. Bureau of Mines commented that the definition of acid drainage may not include that drainage that would emanate from the surface effects of underground mines, either active or abandoned, or from coal processing or loading facilities. The definition as proposed is the same as the Federal definition in 30 CFR 701.5. Both the Federal and Indiana definitions utilize the term ''surface coal mining and reclamation operation'' which under both programs include surface mines and facilities and the surface effects of underground mines. Therefore the concerns raised by the U.S. Bureau of Mines are adequately addressed by the Indiana program. The proposed Indiana definition of acid drainage will not exempt drainage from any facility or operation regulated under SMCRA.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required 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.*).

On May 18, 1995, OSM solicited EPA's concurrence with the proposed amendment (Administrative Record No. IND–1482). On June 15, 1995, EPA gave its written concurrence, without comment on all of the definitions except high level management (Administrative Record No. IND–1489). EPA expressed concern with the possible impacts of the language within the definition which refers to ''drainage wet areas.'' When OSM explained that the definition was used in reference to the management of unmined lands for which only information was required under the Indiana Program, EPA issued a concurrence for the definition (Administrative Record No. IND–1507).

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

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No comments were received from either agency.

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment as submitted by Indiana on May 11, 1995.

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.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Indiana program, the Director will recognize only the statutes, regulations, and other materials approved by OSM, together with any consistent implementing policies, directives, and other materials, and will require the enforcement by Indiana of only such provisions.

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 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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(20(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.

List of Subjects in 30 CFR 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 3, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations 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 by adding paragraph (lll) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(111) The following rules, as submitted to OSM on May 11, 1995, are approved effective October 16, 1995.

310 IAC 12–0.5–2—Definition of acid drainage.

310 IAC 12–0.5–15—Definition of augmented seeding, fertilization, or irrigation.

310 IAC 12–0.5–57—Definition of high level management.

310 IAC 12–0.5–95—Definition of public building.

310 IAC 12–0.5–99—Definition of randomly located.

310 IAC 12–0.5–123—Definition of support facility.

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