

30 CFR Part 914

[SPATS No. IN-138-FOR; Amendment No. 95-3 II]

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 the Indiana Administrative Code (IAC) regulations pertaining to Indiana's small operator assistance program. The amendment is intended to revise the Indiana regulations to be consistent with the corresponding Federal regulations and to incorporate changes desired by the State.

DATES: Written comments must be received by 4:00 p.m., e.s.t., March 20, 1997. If requested, a public hearing on the proposed amendment will be held on March 16, 1997. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t., on March 5, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Ronald F. Griffin, Acting 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.

Ronald F. Griffin, Acting 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.

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

FOR FURTHER INFORMATION CONTACT:
Ronald F. Griffin, Acting 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. 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. Description of the Proposed Amendment

By letter dated January 13, 1997 (Administrative Record No. IND-1550), the Indiana Department of Natural Resources submitted to OSM proposed State program amendment number 95-3 II pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. The proposed amendment revises Indiana's regulations pertaining to the small operator assistance program at 310 IAC 12-3-130, definitions; 310 IAC 12-3-131, eligibility for assistance; 310 IAC 12-3-132, filing for assistance; 310 IAC 12-3-132.5, application approval and notice; 310 IAC 12-3-133, program services and data requirements; 310 IAC 12-3-134.1, qualified laboratories; 310 IAC 12-3-134.5, assistance funding; and 310 IAC 12-3-135, applicant liability. Specifically, Indiana proposes the following revisions.

1. 310 IAC 12-3-130 Small Operator Assistance; Definitions

Indiana proposes to revise the definitions for the terms "program administrator" at 310 IAC 12-3-130(4) and "qualified laboratory" at 310 IAC 12-3-130(5).

2. 310 IAC 12-3-131 Small Operator Assistance; Eligibility for Assistance

a. Indiana proposes to revise 310 IAC 12-3-131 by deleting the existing language in subsections (2)(A) and (2)(D); by redesignating subsections (2)(A), (2)(C) as (2)(B), and (2)(E) as (2)(D); and by adding new subsection (2)(C).

New subsection (2)(C) requires that production from all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of ownership, direction of management, or in any manner be attributed to the applicant.

b. Indiana proposes to move the substantive provision in subsection (3)

to new subsection (4) with minor language changes. New subsection (3) requires that the applicant not be restricted in any manner from receiving a permit.

3. 310 IAC 12-3-132 Operator Assistance; Filing for Assistance

Indiana is proposing minor language changes to clarify the existing requirements for the information to be included in an application for assistance.

4. 310 IAC 12-3-132.5 Small Operator Assistance; Application Approval and Notice

a. Indiana proposes to add new subsection (c) to allow data collection and analysis to proceed concurrently with the development of mining and reclamation plans by the operator.

b. Indiana proposes to add new subsection (d) to require that data collected under its small operator assistance program be made available to the public and that the program administrator develop procedures for interstate coordination and exchange of data.

5. 310 IAC 12-3-133 Small Operator Assistance; Program Services and Data Requirements

Indiana is proposing minor language changes in this section to clarify the program services available for eligible operators who request assistance.

6. 310 IAC 12-3-134.1 Small Operator Assistance; Qualified Laboratories

Indiana proposes to delete section 134 and to add its substantive provisions to section 134.1. Minor language changes are also proposed.

7. 310 IAC 134.5 Small Operator Assistance; Assistance Funding

Indiana proposes to add a new section at 310 IAC 134.5 concerning Indiana's use of funds authorized for the small operator assistance program. Subsection (a) requires that the funds be used to provide the services specified in section 133 and not be used to cover administrative expenses. Subsection (b) requires the program administrator to establish a formula for allocating funds to provide services for eligible small operators if the available funds are less than those required to provide the services pursuant to this rule.

8. 310 IAC 12-3-135 Small Operator Assistance; Applicant Liability

Indiana proposes minor language changes in this section to clarify the requirements for an applicant to reimburse funds received for services

rendered under the small operator assistance program.

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 March 5, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held. 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**.

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 720(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 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

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 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 6, 1997.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 97-3898 Filed 2-14-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN 68-1-7308b; FRL-5678-4]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Indiana for the purpose of incorporating minor changes to existing regulations and accommodating recent revisions to the SIP by adding and updating regulations. The EPA made a finding of completeness in a letter dated November 25, 1994. This revision affects definitions in the General Provisions of the Indiana SIP (326 IAC 1-1, 1-2, 1-6), and the Permit Review Rules (326 IAC 2-1). In the final rules section of this **Federal Register**, the EPA is approving these actions as a direct final rule without prior proposal because EPA views these as noncontroversial actions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives