

stamped postcard on which the following statement is made: "Comments to Airspace Docket No 98-ASO-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO-520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Roxboro, NC. A GPS RWY 6 SIAP has been developed for Person County Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Person County Airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant

rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and

(3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

##### ASO NC E5 Roxboro, NC [Revised]

Person County Airport, NC

(Lat. 36°17'08"N, long 78°59'00"W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.6-mile radius of Person County Airport.

\* \* \* \* \*

Issued in College Park, Georgia, on March 25, 1998.

**Wade T. Carpenter,**

*Acting Manager, Air Traffic Division Southern Region.*

[FR Doc. 98-8837 Filed 4-3-98; 8:45 am]

BILLING CODE 4910-13-M

#### DEPARTMENT OF THE INTERIOR

#### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 913

[SPATS No. IL-094-FOR]

#### Illinois 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 two proposed amendments to the Illinois regulatory program (hereinafter the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This first proposed amendment consists of revisions to Illinois' statutes pertaining to definitions and areas unsuitable for surface coal mining operations. The second proposed amendment consists of revisions to Illinois' regulations pertaining to a definition for "previously mined areas" areas unsuitable for surface coal mining operations, permitting, prime farmland, bonding, performance standards, and blasters certification. The amendments are intended to revise the Illinois program to be consistent with the corresponding Federal regulations and SMCRA, clarify existing regulations, and improve operational efficiency.

This document sets forth the times and locations that the Illinois program and proposed amendments to that program are available for public inspection, the comment period during which interested persons submit written comments on the proposed amendments, 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 amendments 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 Illinois program, the proposed amendments, 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 amendments 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.

Illinois Department of Natural  
Resources, Office of Mines and  
Minerals, 524 South Second Street,  
Springfield, IL 62701-1787,  
Telephone: (217) 782-4970.

**FOR FURTHER INFORMATION CONTACT:**

Andrew R. Gilmore, Director,  
Indianapolis Field Office, Telephone:  
(317) 226-6700.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Illinois Program**

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

**II. Description of the Proposed Amendment**

By letter dated March 28, 1996, Illinois notified OSM of revisions to the Illinois Surface Coal Mining Land Conservation and Reclamation Act that were enacted through House Bill (H.B.) 965 and signed into law by the Governor of Illinois on February 7, 1996. These revisions primarily address changes brought about by the July 1, 1995, reorganization and name change of the Illinois regulatory authority, which were approved by OSM on July 11, 1995 (60 FR 35696). Revisions were made to 225 ILCS 720/1.03, Definitions; 225 ILCS 720/7.03, Procedure for designation of areas unsuitable for mining operations; and 225 ILCS 720.7.04, Land Report. By letter dated February 26, 1998 (Administrative Record No. IL-5009), Illinois submitted a proposed amendment to revise its regulations in response to letters dated January 6, 1997, and June 17, 1997 (Administrative Record Nos. IL-1951 and IL-2000, respectively), that OSM sent to Illinois in accordance with 30 CFR 732.17(c) and in response to a required program amendment at 30 CFR 912.16(w).

Illinois also amended its program to clarify existing regulations and to implement the statutory changes made by H.B. 965. Illinois proposes to amend its regulations at Title 62 of the Illinois Administrative Code (62 IAC). A brief discussion of the proposed amendments are presented below.

A. *Revision to the Illinois Surface Coal Mining Land Conservation and Reclamation Act (State Act).* Illinois proposes the following changes to the State Act:

1. *225 ILCS 720/1.03 Definitions.* At § 1.03(a)(4), the definition for the term "Department" was changed from the "Department of Mines and Minerals" to the "Department of Natural Resources." At § 1.03(a)(8), the definition of the term "Department of Energy" was removed.

2. *225 ILCS 720/7.03 Procedure for Designation.* At § 7.03(b), the language "refer it to the Department of Energy for preparation of" was replaced by the word "prepare." At § 7.03(c), the language "Department of Energy files a" was replaced by the language "has been prepared by."

3. *225 ILCS 720/7.04 Land Report.* At 7.04(a), each instance of the term "Department of Energy" was replaced by the term "Department." The language "and referred by the Department to the Department of Energy for a Land Report" was removed from the end of the first sentence. The last sentence was revised to read: "Each Land Report shall be completed not later than eight months after receipts of the petition." Section 7.04(c) was removed.

B. *Revisions to Illinois' Permanent Program Regulations.* Illinois proposes the following revisions to its regulations:

1. *62 IAC 1701.5 Appendix A. Definitions.* Illinois proposes to amend the definition of "previously mined area" by adding the phrase "that has not been reclaimed to the standards of 62 Ill. Adm. Code 1700 to 1850" after the date "August 3, 1977."

2. *62 IAC Part 1761 Areas Designated by Act of Congress.* At § 1761.12(b)(1), Illinois proposes to remove the reference to § 1761.11(f) or (g). At § 1761.12(c), Illinois proposes to replace the reference to "Section 1761.11(d)(2)" with a reference to "Section 1761.11(a)(4)(B)."

3. *62 IAC Part 1764 State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations.* At § 1764.13(a), the term "Illinois Department of Mines and Minerals" was replaced by the term "Illinois Department of Natural Resources." The language in the first sentence of § 1764.15(c)(1) was replaced by the language "After the petition is

determined to be complete the Department shall prepare a Land Report." Section 1764.15(c)(2) was revised as follows:

The Land Report shall state objectively the information which the Department has, but shall not contain a recommendation with respect to whether the petition should be granted or denied. Each Land Report shall be completed not later than eight (8) months after the petitioner has been notified the petition is complete under subsection (a)(1).

At § 1764.15(c)(3), the term "Department of Energy and Natural Resources" was replaced by the term "Department" and the term "Department" was replaced by the term "Land Reclamation Division."

4. *62 IAC Part 1773, Requirements for Permits and Permit Processing.* At § 1773.11(a), the term "Illinois Department of Mines and Minerals" was replaced by the term "Illinois Department of Natural Resources." At § 1773.15(c)(11), references to 62 Ill. Adm. Code 1816.11(a)(2)(B) and 1816.117(a)(2)(B) were added.

5. *62 IAC Part 1774, Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights.* At § 1774.11(a), the term "Illinois Department of Mines and Minerals" was replaced by the term "Illinois Department of Natural Resources." At § 1774.13(b)(3), the reference to "1773.19(b) (1) and (3)" was replaced by a reference to "1773.19(b)."

6. *62 IAC 1778.14, Violation Information.* Illinois proposes to replace its existing introductory language at § 1778.14(c) with the following language:

A list of all violation notices received by the applicant during the three-year period preceding the application date, and a list of all outstanding violation notices received prior to the date of the application by any surface coal mining operation that is deemed or presumed to be owned or controlled by either the applicant or any person who is deemed or presumed to own or control the applicant under the definition of "owned or controlled" and "owns or controls" in 62 Ill. Adm. Code 1843.12 or under a Federal or State program for which the abatement period has not expired, the applicant shall certify that such notice of violation is in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation. For each violation notice reported, the list shall include the following information as applicable:

7. *62 IAC 1785.17, Prime Farmlands.* Illinois proposes to add the following new provision at § 1785.17(e)(5):

The aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation must be located within the post-reclamation non-prime farmland portions of

the permit area. The creation of any such water bodies must be approved by the Department and the consent of all affected property owners within the permit area must be obtained.

8. *62 IAC Part 800, Bonding and Insurance Requirements.* At § 1800.4(a), the term "Office of Mines and Minerals" was replaced by the term "Office of Natural Resources." At § 1800.40(b)(2), the language "serve, by certified mail" was replaced by the language "notify in writing."

9. *62 IAC Part 816, Permanent Performance Standards for Surface Mining Activities and 62 IAC Part 817, Permanent Program Performance Standards for Underground Mining Operations.* At §§ 1816.46(a)(3) and 1817.46(a)(3), Illinois proposes to revise its definition of "other treatment facilities" by adding the language "or to comply with all applicable state and federal water quality laws and regulations." At §§ 1816.49(a)(3)(B) and 1817.49(a)(3)(B), concerning impoundments, Illinois proposes to replace the term "U.S. Soil Conservation Service" with the term "U.S. Natural Resources Conservation Service." Illinois proposes to revise § 1817.61(a), concerning use of explosives, by adding the language "that are within 50 vertical feet of the original ground surface" to the end of the existing provision. At § 1817.62(d), concerning pre-blasting surveys, Illinois replaced the language "published scheduled beginning" with the language "planned initiation."

Illinois proposes to add the following sentence to the end of § 1816.64(b), concerning public notice of blasting schedule: "Unscheduled blasting does not include nighttime blasting, which is prohibited at all times." At § 1816.649(c)(1), Illinois proposes to require publication of a blasting schedule at least ten days, but not more than 30 days, before beginning a blasting program in which blasts that use more than five pounds of explosive or blasting agent are detonated. At § 1816.64(c)(3), Illinois proposes to require that blasting schedules be revised and republished at least 10 days, but not more than 30 days, before blasting in areas not covered in the current schedule or if the actual blasting times differ from the time periods listed in the current schedule for more than 20 percent of the blasts fired. Section 1816.64(d) was revised by changing the subsection introductory sentence to "The blasting schedule shall contain at a minimum"; removing existing paragraphs (1) and (2); and redesignating paragraphs (2)(A) through (2)(E) as paragraphs (1) through (5).

At § 1817.66, concerning blasting signs, warnings, and access control, the language "blasting schedule" was replaced by the language "blasting notification required in § 1817.64." At §§ 1816.66(d)(2) and 1817.66(d)(2), concerning blasting prohibitions, the language "unless a waiver is obtained from the owner of the facility and submitted to the Department prior to blasting within one hundred (100) feet" was added at the end of the provision.

At § 1816.67(c)(1), concerning air blast monitoring, Illinois proposes to replace paragraphs (1)(A) and (1)(B) with the following language: the burden to hole depth ratio is greater than 1.0, or the top stemming height is less than seventy percent (70%) of the burden dimension, the air blast produced by that blast shall be measured, recorded, analyzed, and reported pursuant to subsection (g) and Section 1816.68(b). This subsection shall not apply to horizontal blast holes drilled from the floor of the pit.

At § 1817.67(c)(1), concerning air blast monitoring, Illinois proposes to replace paragraphs (1)(A) and (1)(B) with the following language: the burden to hole depth ratio is greater than 1.0, or the top stemming height is less than seventy percent (70%) of the burden dimension, the air blast produced by that blast shall be measured, recorded, analyzed, and reported pursuant to subsection (g) and Section 1817.68(b).

At §§ 1816.67 and 1817.67, concerning ground vibrations, Illinois proposes to number the existing provision in subsection (e) as subsection (e)(1); redesignate subsection (f) as subsection (e)(2); redesignate subsections (f)(1) and (f)(2) as subsections (e)(2)(A) and (e)(2)(B); and redesignate existing paragraphs (g) and (h) as paragraphs (f) and (g). Redesignated subsection (e)(2) was revised to read as follows:

Blasting shall be conducted to prevent adverse impacts on any underground mine and changes in the course, channel, or availability of ground or surface water outside the permit area. Ground vibration limits, including the maximum peak particle velocity limitation of subsection (e)(1) shall not apply at the following locations:

At the end of §§ 1816.83(c)(4) and 1817.83(c)(4), concerning coal mine waste refuse piles, Illinois proposes to add the following new provision:

The Department shall require the addition of neutralization material to be added to the coal mine waste if, based on physical and chemical analyses, this material is needed to prevent acid mine drainage. This subsection is also applicable to the reclamation of fine coal waste (slurry) not meeting the definition of refuse piles.

At 1817.116(a)(1), concerning success of revegetation, a reference to "Section 1817.116" was added. At §§ 1816.116(a)(2)(C) and 1817.116(a)(2)(C), concerning success of revegetation, the address for the Department's Springfield office was changed to "524 S. Second Street, Springfield, Illinois 62701-1787." At §§ 1816.116(a)(2)(F) and 1817.116(a)(2)(F), concerning augmentation, subsections (a)(2)(F)(i) were removed. At § 1817.116(a)(3)(E), concerning productivity success, the language "Production for proof of productivity purposes shall also be determined in accordance with Section 1817.117(a)(2)" was removed. At §§ 1816.116(a)(5)(A) and 1817.117(a)(5)(A), concerning wetland revegetation, the address for the Department's office was changed to "524 S. Second Street, Springfield, Illinois 62701-1787." Sections 1816.117(c)(3) and 1817.117(c)(3), concerning tree and shrub vegetation, were revised to read as follows:

The number of plots needed to sample the area will not exceed 200 for areas of 50 acres or more. The number of plots needed to sample areas less than 50 acres in size will be calculated employing the following formula: Number of Plots equals 2.5 percent multiplied by Sample Area in acres divided by plot size.

10. *62 IAC Part 1823, Prime Farmland.* At § 1823.1, Illinois proposes to remove the language "except this Part does not apply to any underground mining operations or activities, nor, except as expressly indicated or required by the Department in a permit, to the surface facilities and activities of surface mining that do not involve drilling, blasting, or mining." The title to § 1823.11 was revised to read: "Prime Farmland: Applicability." Illinois proposes to revise § 1823.11 to read as follows:

The requirements of this section shall not apply to:

(a) Coal preparation plants, support facilities, and roads of underground mines that are actively used over extended periods of time and where uses affect minimal amount of land. Such uses shall meet the requirements of 62 Ill. Adm. Code 1817 for underground mining activities.

(b) Disposal areas containing coal mine waste resulting from underground mines that is not technologically and economically feasible to store in underground mines or on non-prime farmland. The operator shall minimize the area of prime farmland used for such purposes.

(c) Prime farmland that has been excluded in accordance with 62 Ill. Adm. Code 1785.17(a).

Section 1823.12(c), concerning soil removal, was added to read as follows:

The B and/or C horizons may be left in place for surface disturbance areas if the Department determines the soil capability can be retained.

Section 1823.14(g), concerning soil replacement, was revised by replacing the term "Soil conservation Service" with the term "Natural Resources Conservation Service."

11. *62 IAC 1825.11, High Capability Lands: Special Requirements.* At § 1825.11(b), the term "Illinois Department of Mines and Minerals" was replaced by the term "Illinois Department of Natural Resources." At § 1825.11(c), the following new requirement was added: "Measurement of success of revegetation shall be initiated within ten (10) years after completion of backfilling and final grading on high capability land."

12. *62 IAC Part 1840, Department Inspections.* At § 1840.1, the term "Illinois Department of Mines and Minerals" was replaced by the term "Illinois Department of Natural Resources." Illinois proposes to revise § 1840.11(a) by requiring the Department to conduct an average of at least one partial inspection per month of each active surface coal mining and reclamation operation. Illinois proposes to revise § 1840.11(b) by requiring the Department to conduct an average of at least one complete inspection per calendar quarter of each active or inactive surface coal mining and reclamation operation.

13. *62 IAC Part 1847, Administrative and Judicial Review.* At § 1847.3(g), permit hearings, Illinois proposes to replace its existing burden of proof provision with the following provision:

(1) In a proceeding to review a decision on an application for a new permit—

(A) If the permit applicant is seeking review, the Department shall have the burden of going forward to establish a prima facie case as to the failure to comply with the application requirements of the State Act or regulations or as to appropriateness of the permit terms and conditions, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit or as to the inappropriateness of the permit terms and conditions.

(B) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion by a preponderance of the evidence that the permit application fails in some manner to comply with the applicable requirements of the State Act or regulations.

(2) In all other proceedings held under this Section, the party seeking to reverse the Department's decision shall have the burden of proving that the Department's decision was clearly erroneous.

At § 1847.9(j), bond release hearings, Illinois is proposing to allow each party

to the hearing to file written exceptions with the hearing officer within ten days after service of the hearing officer's proposed decision. All parties shall have ten days after service of written exceptions to file a response with the hearing officer.

Illinois is proposing to revise § 1847.9(k), bond release hearings, as follows:

If no written exceptions are filed, the hearing officer's proposed decision shall become final ten (10) days after service of such decision. If written exceptions are filed, the hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue his final administrative decision affirming or modifying his proposed decision, or shall vacate the decision and remand the proceeding for rehearing.

At § 1847.9(1), bond release hearings, the citation "Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 through 3-112" was replaced by the citation "735 ILCS 5/3."

14. *62 IAC Part 1850, Training, Examination and Certification of Blasters.* At § 1850.13(a), training, Illinois proposes to allow the Department, the operator or his representative to conduct blasters training. Sections 1850.14(a) and (b), concerning examination of blasters, were revised to read as follows:

(a) Written examination for blaster certification shall be administered on dates, times, and at locations announced by the Department via direct communication with operators and individuals who request in writing to be so notified. All persons scheduled for a regular examination session will be so notified at least one (1) week prior to the scheduled exam date.

(b) Reexaminations shall be scheduled, if needed, for those persons who do not pass the regularly scheduled examination. The Department shall also allow for examination at this time those persons who have newly applied for certification. All persons scheduled for reexamination or reexamination during the reexamination session will be so notified at least one (1) week prior to the scheduled reexamination session.

Section 1850.15(a), concerning application and certification, was revised to read as follows:

Each applicant shall submit a completed application for certification on forms supplied by the Department. Any applicant whose completed application has been received, reviewed and accepted by the Department prior to a regularly scheduled examination session shall be scheduled for that session. The following documents shall be included with the completed application form:

At § 1850.16(b)(2), concerning denial, issuance of notice of infraction, suspension, revocation, and other administrative actions, a typographical error was corrected by changing the

word "requirements" to the word "requirement."

### 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 Illinois 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 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.*

[FR Doc. 98-8893 Filed 4-3-98; 8:45 am]

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.