

Signed at Washington, D.C. on April 10, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[IN-117, Amendment Number 94-2]

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 permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of miscellaneous revisions to Indiana's Surface Coal Mining and Reclamation Rules. The amendment is intended to revise the Indiana program to eliminate typographical, clerical, and spelling errors and to amend those instances where the word "commission" should be changed to "director" in accordance with Indiana Senate Enrolled Act (SEA) 362.

EFFECTIVE DATE: April 20, 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, IN 46204, Telephone (317) 226-6166.

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

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of

approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated August 25, 1994 (Administrative Record No. IND-1394), Indiana submitted program amendment #94-2 concerning miscellaneous revisions to the Indiana rules to eliminate typographical, clerical, and spelling errors and to amend those instances where the word "commission" should be changed to "director" in accordance with Indiana SEA 362. OSM approved SEA 362 as a program amendment on August 2, 1991 (56 FR 37016). By letter dated August 30, 1994 (Administrative Record No. IND-1395), Indiana submitted a supplement to the August 25, 1994, submittal which consists of a hard copy of the rules being amended in those instances where "commission" should be changed to "director" as a response to SEA 362 along with miscellaneous revisions.

OSM announced receipt of the proposed amendment in the September 16, 1994, **Federal Register** (59 FR 47571), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on October 17, 1994. By letter dated March 20, 1995 (Administrative Record No. IND-1438), Indiana submitted additional typographical and clerical corrections to the proposed amendment in response to comments provided by OSM on February 14, 1995 (Administrative Record No. IND-1437). In addition, Indiana withdrew its proposed change to 310 IAC 12-7-1(c) and reinstated the word "commissions," to this subsection. Therefore, 310 IAC 12-7-1(c) is not part of this amendment.

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 to the Indiana program.

In amendment #94-2, Indiana corrected numerous typographical, clerical, or spelling errors and made numerous changes from the word "commission" to "director." The Director finds that the numerous typographical, clerical, and spelling changes are nonsubstantive changes or changes which improve the clarity or accuracy of the Indiana rules.

The Director finds that the changes from "commission" to "director" more accurately reflect the responsibilities within the Indiana program as provided by SEA 362 which was approved by OSM on August 2, 1991 (56 FR 37016), and that the changes do not render the Indian program less effective than Federal regulations.

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. No comments were received.

Public Comments

A public comment period and opportunity to request a public hearing was announced in the September 16, 1995, **Federal Register** (59 FR 47571). The comment period closed on October 17, 1995. No one commented and no one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State 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.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND-1403). EPA responded on September 27, 1994 (Administrative Record No. IND-1402) and stated that EPA had no comments.

V. Director's Decision

Based on the findings above, the Director is approving Indiana's program amendment #94-2, concerning miscellaneous revisions to the Indiana rules as submitted by Indiana on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 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.

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(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.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 13, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support 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. In §914.15, paragraph (jjj) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(jjj) Amendment #94-2 to the Indiana program concerning miscellaneous revisions to the Indiana rules as submitted to OSM on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 1995, is approved effective April 20, 1995.

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30 CFR Part 914

[IN-112-FOR; Amendment 92-7C]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with exceptions, a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is a continuation of an earlier program amendment and consists of revisions to Indiana's Surface Coal Mining and

Reclamation Rules concerning the control of subsidence caused by underground mining operations. The amendment is intended to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives.

EFFECTIVE DATE: April 20, 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, IN 46204, Telephone (317) 226-6166.

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II. Submission of the Amendment

By letter dated December 2, 1992 (Administrative Record No. IND-1175), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment (#92-7) to the Indiana program. Amendment #92-7 proposed changes to the Indiana surface mining rules concerning subsidence liability. On May 17, 1993, OSM approved, with two exceptions, amendment #92-7 (58 FR 28775). By letter dated March 18, 1994 (Administrative Record Number IND-1340), Indiana submitted to OSM a notice of the final adoption of amendment #92-7 as published in the Indiana Register, Volume 17, Number 6, pages 1086-1089 (March 1, 1994).

The final adopted language of amendment #92-7 differs in some ways from the language approved by OSM on May 17, 1993. Therefore, OSM reopened the public comment period and invited comment on the substantive differences.

OSM announced receipt of the proposed amendment in the April 22, 1994, **Federal Register** (59 FR 19155),