

**Par. 4.** Section 20.2056(b)-10 is revised to read as follows:

**§ 20.2056(b)-10 Effective dates.**

Except as specifically provided in §§ 20.2056(b)-5(c)(3)(ii) and (iii), 20.2056(b)-7T(d)(3), 20.2056(b)-7(e)(5), and 20.2056(b)-8(b), the provisions of §§ 20.2056(b)-5(c), 20.2056(b)-7, 20.2056(b)-8, and 20.2056(b)-9 are effective with respect to estates of decedents dying after March 1, 1994. With respect to decedents dying on or before March 1, 1994, the executor of the decedent's estate may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of §§ 20.2056(b)-5(c), 20.2056(b)-7, 20.2056(b)-8, and 20.2056(b)-9 (as well as project LR-211-76 (1984-1 C.B. 598), see § 601.601(d)(2)(ii)(b) of this chapter), are considered a reasonable interpretation of the statutory provisions.

**Margaret Milner Richardson,**

*Commissioner of Internal Revenue.*

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**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Parts 206 and 208**

RIN 1010-AC09

**Establishing Oil Value for Royalty due on Federal Leases, and on Sale of Federal Royalty Oil**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Proposed rule; notice of extension of public comment period.

**SUMMARY:** The Minerals Management Service (MMS) hereby gives notice that it is extending the public comment period on a Notice of proposed rule, which was published in the **Federal Register** on January 24, 1997, (62 FR 3742). The proposed rule would amend the regulations governing the valuation for royalty purposes of oil produced from Federal leases. In response to requests for additional time, MMS will extend the comment period from March 25, 1997, to April 28, 1997.

**DATE:** Comments must be submitted on or before April 28, 1997.

**ADDRESSES:** Written comments, suggestions, or objections regarding this proposed amendment should be sent to the following addresses.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program,

Rules and Publications Staff, P.O. Box 25165, MS 3101, Denver, Colorado 80225-0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3101, Building 85, Denver Federal Center, Room A-212, Denver, Colorado 80225-0165.

**FOR FURTHER INFORMATION CONTACT:** David S. Guzy, Chief, Rules and Publications Staff, phone (303) 231-3432, FAX (303) 231-3194, e-Mail David\_Guzy@smtp.mms.gov.

Dated: February 10, 1997.

**Lucy R. Querques,**

*Associate Director for Royalty Management.*

[FR Doc. 97-3908 Filed 2-14-97; 8:45 am]

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**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 914**

[SPATS No. IN-136-FOR; Amendment No. 95-4]

**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 Indiana's regulation pertaining to repair or compensation for material damage resulting from subsidence caused by underground coal mining operations and to replacement of water supplies adversely impacted by coal mining operations. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

**DATES:** Written comment 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 comment 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 14, 1997 (Administrative Record No. IND-1551), the Indiana Department of Natural Resources (IDNR) submitted to proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment in response to a May 20, 1996, letter (Administrative Record No. IND-1540) that OSM sent to Indiana in accordance with 30 CFR 732.17(c). Indiana proposes to amend the following regulations of the Indiana Administrative Code (IAC) pertaining to repair or compensation for material damage resulting from subsidence and to replacement of water supplies.

**1. 310 IAC 12-0.5 Definitions**

a. Indiana proposes to add a definition at 310 IAC 12-0.5-39.5 for

the term "Drinking, domestic or residential water supply."

b. Indiana proposes to add a definition at 310 IAC 12-0.5-72.1 for the term "Material damage."

c. Indiana proposes to add a definition at 310 IAC 12-0.5-75.5 for the term "Non-commercial building."

d. Indiana proposes to add a definition at 310 IAC 12-0.5-77.5 for the term "Occupied residential dwelling and structures related thereto."

e. Indiana proposes to add a definition at 310 IAC 12-0.5-107.5 for the term "Replacement of water supply."

### 2. 310 IAC 12-3-81 *Underground Mining Permit Applications; Reclamation Plan; Protection of Hydrologic Balance*

Indiana proposes to amend 310 IAC 12-3-81(c) by redesignating the introductory paragraph as subsection (c)(1) and by adding new subsection (c)(2). New subsection (c)(2) requires the PHC determination to include findings on "whether the underground mining activities may result in contamination, diminution, or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas." Existing subsections (c)(1) through (c)(3) were redesignated subsections (d)(1) through (d)(3), and existing subsections (d) and (e) were redesignated subsections (e) and (f), respectively.

### 3. 310 IAC 12-3-87.1 *Underground Mining Permit Applications; Reclamation Plan; Subsidence Control Plan*

Indiana proposes extensive revisions to this section. The substantive revisions are discussed below.

a. Subsections (a)(1) through (a)(3) require an application to include a map, a narrative, and a pre-subsidence survey indicating the location, type, and condition of structures and renewable resource lands that subsidence may materially damage or diminish in value and of drinking, domestic, and residential water supplies that subsidence may contaminate, diminish, or interrupt. Subsection (a)(3) also requires the applicant to notify property owners of the effect that denial of access for purposes of conducting a pre-subsidence survey will have on their rights, to pay for any technical assessment or engineering evaluation needed, and to provide copies of the survey and any technical assessment or engineering evaluation to the property owner and the director of IDNR.

b. Subsection (b) contains revised requirements for a subsidence control plan. A new introductory paragraph provides that no further information need be provided in the application under this section if the survey conducted under subsection (a) shows that no structures, drinking, domestic, or residential water supplies, or renewable resource lands exist or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands and no contamination, diminution, or interruption of such water supplies would occur as a result of mine subsidence. The director of IDNR must agree with the conclusion of the survey. A subsidence control plan is required if the survey identifies the existence of structures, renewable resource lands, or water supplies and if subsidence could cause material damage to the identified structures and renewable resource lands diminution in value or foreseeable use, or contamination, diminution, or interruption of the protected water supplies.

c. Subsection (b)(7) requires a description of the methods that will be taken to minimize damage to non-commercial buildings and occupied residential dwellings and related structures; or a submittal of the written consent of the owner of the structure or facility that minimization measures need not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage to these structures or facilities exceed the anticipated cost of repair for areas where planned subsidence is projected.

d. Subsection (b)(8) requires a description of the measures to be taken to replace adversely affected protected water supplies or to mitigate or remedy any subsidence-related material damage to protected land and structures.

### 4. 310 IAC 12-5-94 *Underground Mining; Hydrologic Balance; Water Rights and Replacement*

Indiana proposes to revise 310 IAC 12-5-94 to require the permittee to replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities if the affected well or spring was in existence before the date the director of IDNR received the permit application. The baseline hydrologic information and geologic information concerning baseline hydrologic conditions required in the permit application will be used to determine

the impact of mining activities upon water supply.

### 5. 310 IAC 12-5-130.1 *Underground Mining; Subsidence Control; General Requirements*

Indiana proposes extensive revisions to this section. The substantive revisions are discussed below.

a. Indiana proposes to revise subsection (a) by redesignating the existing provisions (1)(A) and (1)(B) and by adding two new provisions. Subsection (a)(2) provides that if planned subsidence is used, the permittee must minimize material damage to noncommercial buildings and occupied residential dwellings and related structures to the extent technologically and economically feasible. Except this is not required if he has the written consent of the owners or unless the anticipated damage would constitute a threat to health or safety, the costs would exceed the anticipated costs of repair. Subsection (a)(3) provides that the standard method of room-and-pillar mining is not prohibited.

b. Indiana proposes to revise subsection (c)(2) by deleting the existing language and adding new language. New subsection (c)(2) requires the permittee to repair or compensate the owner for subsidence-related material damage to non-commercial buildings or occupied residential dwellings that existed at the time of mining. It also specifies the responsibilities of the permittee under both the repair and compensation options.

c. Indiana proposes to add new subsection (c)(3) to provide for repair or compensation for subsidence-related material damage to structures or facilities not protected by subdivision (2).

d. Indiana proposes to add new subsection (c)(4)(A) to provide that if damage to non-commercial buildings or occupied residential dwellings and related structures occurs as a result of earth movement within the area determined by projecting a specified angle of draw from underground mine workings to the surface, a rebuttable presumption exists that the permittee caused the damage. The presumption will normally apply to a 30-degree angle of draw. The director of IDNR may apply the presumption to a different angle of draw under specified circumstances.

e. Indiana proposes to add new subsection (c)(4)(B) to provide that the permittee or permit applicant may request that the presumption apply to a different site-specific angle of draw based on a site-specific geotechnical

analysis of the potential surface impact of the mining operation that demonstrates that the proposed angle of draw has a more reasonable basis than the one established in the Indiana program.

f. Indiana proposes to add new subsection (c)(4)(C) to provide that no rebuttable presumption will exist if the permittee is denied access to the land or property for the purpose of conducting a pre-subsidence survey.

g. Indiana proposes to add new subsection (c)(4)(D) to provide for a rebuttal of presumption under specified circumstances.

h. Indiana proposes to add new subsection (c)(4)(E) to provide that all relevant and reasonably available information will be considered in determining whether damage to protected structures was caused by subsidence.

i. Indiana proposes to add new subsection (c)(5) to require additional performance bond if subsidence-related material damage to protected land, structures, or facilities occurs and if contamination, diminution, or interruption to water supplies occur. No additional bond is required if repairs, compensation or replacement is completed within 90 days of the occurrence of damage. Indiana may extend the 90-day time frame under specified circumstances.

### 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 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.

#### 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.

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