

either the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent).

**Optional Terminating Action**

(g) Modification of all specified fastener holes in the rear spar of the wing terminates

the initial and repetitive inspections required by paragraphs (c) and (e) of this AD, if the modification is done in accordance with Airbus Service Bulletin A320-57-1089, Revision 02, dated November 6, 1998; or Revision 03, dated February 9, 2001. If done before the airplane accumulates 12,000 total flight cycles, the modification also terminates

the actions required by paragraphs (a) and (b) of this AD.

**Incorporation by Reference**

(h) Unless otherwise specified in this AD, the actions must be done in accordance with the service bulletins listed in Table 1 of this AD.

TABLE 1.—SERVICE BULLETINS INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
Airbus Service Bulletin A320-57-1004 .....	1 .....	September 24, 1992.
Airbus Service Bulletin A320-57-1004 .....	2 .....	June 14, 1993.
Airbus Service Bulletin A320-57-1060 .....	Original .....	December 8, 1992.
Airbus Service Bulletin A320-57-1060 .....	2 .....	December 16, 1994.
Airbus Service Bulletin A320-57-1088 .....	04 .....	August 6, 2001.

(1) The incorporation by reference of Airbus Service Bulletin A320-57-1088, Revision 04, dated August 6, 2001, is approved by the Director of the Federal Register as of November 5, 2004.

(2) The incorporation by reference of Airbus Service Bulletin A320-57-1004, Revision 2, dated June 14, 1993; and Airbus Service Bulletin A320-57-1060, Revision 2, dated December 16, 1994; was approved previously by the Director of the Federal Register as of June 30, 2000 (65 FR 34069, May 26, 2000).

(3) The incorporation by reference of Airbus Service Bulletin A320-57-1060, dated December 8, 1992, was approved previously by the Director of the Federal Register as of February 14, 1994 (59 FR 1903, January 13, 1994).

(4) The incorporation by reference of Airbus Service Bulletin A320-57-1004, Revision 1, dated September 24, 1992, was approved previously by the Director of the Federal Register as of June 11, 1993 (58 FR 27923, May 12, 1993).

(5) Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Note 2:** The subject of this AD is addressed in French airworthiness directive 2001-249(B), dated June 27, 2001.

**Effective Date**

(i) This amendment becomes effective on November 5, 2004.

Issued in Renton, Washington, on September 21, 2004.

**Kalene C. Yanamura,**

*Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-21816 Filed 9-30-04; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 914**

[Docket No. IN-154-FOR]

**Indiana Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Indiana proposed revisions to and additions of rules pertaining to blasting schedules and blaster certification. Indiana submitted the amendment at its own initiative and intends to revise its program to improve operational efficiency.

**EFFECTIVE DATE:** October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Andrew R. Gilmore, Chief, Alton Field Division. Telephone: (317) 226-6700. E-mail: [IFOMAIL@osmre.gov](mailto:IFOMAIL@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Indiana Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

**I. Background on the Indiana Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of

surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the July 26, 1982, **Federal Register** (47 FR 32071). You can also find later actions concerning the Indiana program and program amendments at 30 CFR 914.10, 914.15, 914.16, and 914.17.

**II. Submission of the Amendment**

By letter dated June 2, 2004 (Administrative Record No. IND-1727), Indiana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Indiana sent the amendment at its own initiative. Indiana proposed revisions to and additions of rules pertaining to blasting schedules and blaster certification. Indiana intends to revise its program to improve operational efficiency.

We announced receipt of the proposed amendment in the July 19, 2004, **Federal Register** (69 FR 42937). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 18, 2004. We received comments from one Federal agency.

**III. OSM's Findings**

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at

30 CFR 732.15 and 732.17. We are approving the amendment as described below.

#### A. Minor Revisions to Indiana's Rules

Indiana proposed minor wording, editorial, punctuation, grammatical, or recodification changes to the following previously-approved rules: 312 Indiana Administrative Code (IAC) 25-6-31(a)(3) and (b), 25-9-5(c), and 25-9-8(b)(1) and (2).

Because these changes are minor, we find that they will not make Indiana's rules less effective than the corresponding Federal regulations.

#### B. 312 IAC 25-6-31 Surface Mining; Explosives; Publication of Blasting Schedule

Indiana proposed to remove the last sentence in subsection (c) that requires revised blasting schedules to be approved by the director of the Department of Natural Resources before publication and distribution. The deleted sentence duplicates a provision that is also found at 312 IAC 25-6-32(a). The Indiana regulation at 312 IAC 25-6-32(a) requires the permittee to submit the blasting schedule required by 312 IAC 25-6-31 to the director of the Department of Natural Resources for approval 60 days before publishing the schedule.

The counterpart Federal regulation at 30 CFR 816.64(a) requires operators to conduct blasting operations at times approved by the regulatory authority and announced in the blasting schedule. Deleting the last sentence in subsection (c) will not render Indiana's rule less effective than the counterpart Federal regulation. Therefore, we are approving the deletion of this sentence.

#### C. 312 IAC 25-9-5 Examinations

Indiana proposed to revise subsection (g) by allowing an applicant who fails an examination to retake the examination two times without reapplying and by requiring an applicant who fails the examination three times to retake the certified blaster training course.

The counterpart Federal regulation at 30 CFR 850.14 requires regulatory authorities to ensure that candidates for blaster certification are examined, at a minimum, in the topics set forth in 30 CFR 850.13(b). They do not contain provisions that govern examination procedures. We find that Indiana's proposed revisions will allow the State more flexibility in administering its blaster certification examinations and will not alter the effectiveness of its previously approved provisions. We also find that the added requirements

appear reasonable and are not inconsistent with the requirements of the counterpart Federal regulation at 30 CFR 850.14. Therefore, we are approving Indiana's revisions to subsection (g).

#### D. 312 IAC 25-9-8 Renewal

Indiana proposed to add new subdivision (b)(3) that requires certified blasters to obtain a minimum of 15 hours of additional training in the topics found in 312 IAC 25-9-3 in order to renew their blaster certification. Also, each certified blaster must provide documentation of the training, and the training must be approved by the Department of Natural Resources. Indiana also proposed to add new language to subsection (c) to require blasters whose certifications are not renewed for more than 1 year after expiration to retake the examination under 312 IAC 25-9-5 and demonstrate completion of 15 hours of additional training in the previous 36 months. In addition, if the certification is not renewed for five years after expiration, the certification will not be renewable.

The counterpart Federal regulation at 30 CFR 850.15 does not contain specific requirements concerning renewal of blaster certifications. The Federal regulation at 30 CFR 850.15(a) requires regulatory authorities to certify, for a fixed period, candidates examined and found to be competent and to have the necessary experience to accept responsibility for blasting operations in surface coal mining operations. Also, the Federal regulation at 30 CFR 850.15(c) allows regulatory authorities to require the periodic reexamination, training, or other demonstration of continued blaster competency.

We find that Indiana's above proposed requirements are reasonable and are consistent with the counterpart Federal regulation at 30 CFR 850.15 and do not alter the effectiveness of the State's previously approved blaster certification provisions. Therefore, we are approving them.

### IV. Summary and Disposition of Comments

#### Public Comments

We asked for public comments on the amendment, but did not receive any.

#### Federal Agency Comments

On June 10, 2004, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND-

1729A). The United States Fish and Wildlife Service responded on July 12, 2004 (Administrative Record No. IND-1731), that it noted no significant issues related to wildlife conservation.

#### Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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.*).

None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On June 10, 2004, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IND-1729A). EPA did not respond to our request.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On June 10, 2004, we requested comments on Indiana's amendment (Administrative Record No. IND-1729A), but neither responded to our request.

### V. OSM's Decision

Based on the above findings, we approve the amendment Indiana sent us on June 2, 2004.

We approve the rules proposed by Indiana with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 914, which codify decisions concerning the Indiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

## VI. Procedural Determinations

### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that 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 because each 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 the Federal regulations at 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.

### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-

recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Indiana program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Indiana program has no effect on Federally-recognized Indian tribes.

### *Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

### *National Environmental Policy Act*

This rule does not require an environmental impact statement because 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 certifies 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. 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.

### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

### **List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 3, 2004.

**Charles E. Sandberg,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR part 914 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 in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

### **§ 914.15 Approval of Indiana regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
June 2, 2004	October 1, 2004	312 IAC 25–6–31(c); 25–9–5(g); 25–9–8(b)(3) and (c).

[FR Doc. 04–22018 Filed 9–30–04; 8:45 am]

BILLING CODE 4310–05–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Jacksonville 04–112]

RIN 1625–AA00

#### Safety Zone: Port Canaveral, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Atlantic Ocean in the Port Canaveral Entrance Channel. The safety zone is established for the safety of marine vessels transiting a shoaled area within the navigation channel as a result of Hurricane Frances.

**DATES:** This rule is effective from 10 a.m. on September 10, 2004, through 10 a.m. on December 10, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP Jacksonville 04–112 and are available for inspection or copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant James R. Bigbie at Coast Guard Marine Safety Office, Jacksonville, FL, tel: (904) 232–2640, ext. 105.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date are contrary to public safety because immediate action is necessary to protect the public and waters of the United States.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Immediate action is necessary to protect the public and waters of the United States. The Coast Guard will issue a broadcast notice to mariners and may place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

##### Background and Purpose

This rule is needed to protect marine craft transiting the Port Canaveral Entrance Channel. The safety zone includes all those waters shoreward of a boundary that originates on the beach in position 28°21'24" N 080°36'12" W; and extends east to 28°21'24" N 080°30'18" W; then north to 28°24'48" N 080°30'18" W; then west to the beach where the zone will terminate at position 28°24'48" N 080°35'00" W. Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Jacksonville, FL.

##### Regulatory Evaluation

This regulation is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential cost and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not

have a significant economic impact upon a substantial number of small entities because although the safety zone will apply to all vessels transiting the port with a draft greater than 22 feet, traffic will be allowed to pass through the zone with the permission of the Coast Guard Captain of the Port and the impact on routine navigation is expected to be minimal.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

##### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

##### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.