

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 914

[SPATS No. IN-139-FOR]

## Indiana Abandoned Mine Land Reclamation Plan

**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 abandoned mine land reclamation plan (hereinafter referred to as the "Indiana plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Indiana plan pertaining to procedures for ranking and selecting reclamation projects, coordination with other programs, reclamation of private land, public participation policies, organization of designated agency, Applicant/Violator System (AVS) requirements, flora and fauna of southwestern Indiana, and the emergency response reclamation program. The amendment is intended to revise the Indiana plan to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** March 16, 1998.

**FOR FURTHER INFORMATION CONTACT:**

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, Indiana 46204-1521, Telephone (317) 226-6700.

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Indiana Plan**

On July 29, 1982, the Secretary of the Interior approved the Indiana plan. Background information on the Indiana plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the July 26, 1982, **Federal Register** (47 FR 32110). Subsequent actions concerning the Indiana plan and amendments to the plan can be found at 30 CFR 914.20 and 914.25.

**II. Submission of the Proposed Amendment**

By letter dated July 23, 1997 (Administrative Record No. IND-1579), Indiana submitted a proposed amendment to its plan pursuant to SMCRA. Indiana submitted the proposed amendment in response to a September 26, 1994, letter (Administrative Record No. IND-1583) that OSM sent to Indiana in accordance with 30 CFR 884.15(d) and at its own initiative.

OSM announced receipt of the proposed amendment in the August 8, 1997, **Federal Register** (62 FR 42713), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on September 8, 1997.

During its review of the amendment, OSM identified some editorial errors relating to citation references, agency references, subparagraph notations, and typographical errors. OSM notified Indiana of these concerns by letter dated September 16, 1997 (Administrative Record No. IND-1589). By letter dated February 4, 1998 (Administrative Record No. IND-1594), Indiana notified OSM that the changes would be made and a copy of the corrected plan submitted to OSM. Indiana also requested that OSM proceed with publication of a final rule in the **Federal Register**. Because the corrections needed are nonsubstantive in nature, the Director is proceeding with publication of the final decision on the proposed amendment.

**III. Director's Findings**

As discussed below, the Director, in accordance with SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15 finds that the proposed plan amendment meets the requirements of the corresponding Federal regulations and is in compliance with SMCRA. Revisions not specifically discussed below concern nonsubstantive wording changes or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

**1. Miscellaneous Changes**

At sections 884.13(c)(4), 884.13(c)(5), and 884.13(c)(6), Indiana changed statute citation references to reflect recodification of the Indiana Surface Coal Mining and Reclamation Act under House Enrolled Act No. 1047. This recodification was approved by OSM on April 8, 1996 (61 FR 15378).

The Director finds that the above proposed revisions do not alter the

substance of the previously approved Indiana plan.

**2. Reclamation Project Ranking and Selection Procedures, 884.13(c)(2)**

a. At section 884.13(c)(2), Indiana added a new subcategory to its Priority II objective concerning abandoned mine land (AML) problems which adversely impact the public health, safety, or general welfare. Potential sites may now include any water body adversely affected by acid drainage derived from coal mine sources which has reduced recreational or aesthetic value and for which there is local support for reclamation. Indiana's existing plan at section 884.13(c)(2) requires Indiana to ensure that priority is given to those eligible post-1997 sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community in accordance with section 402(g)(4)(C) of SMCRA.

Section 403(a)(2) of SMCRA defines a Priority II site as one where reclamation is needed to protect the public health, safety, and general welfare from adverse effects of coal mining practices. The Federal regulation at 30 CFR 884.13(c)(2) requires State reclamation plans to include the specific criteria, consistent with section 403 of SMCRA, for ranking and identifying projects to be funded. The Director finds that the addition of the proposed subcategory for Indiana's Priority II objective meets the requirement of 30 CFR 884.13(c)(2) and is not inconsistent with the requirement of section 403(a)(2) of SMCRA.

b. At section 884.13(c)(2), Indiana deleted its former Priority IV objective concerning AML problems which present a potential for research and demonstration projects related to mine reclamation and renumbered former Priority V and VI as priority IV and V, respectively.

The Energy Policy Act of 1992 amends SMCRA on October 24, 1992, by deleting the fourth priority regarding research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques originally found in section 403(a) of SMCRA. Therefore, the Director finds that Indiana's removal of its former Priority IV objective is in compliance with the amended objectives of section 403(a) of SMCRA.

c. At section 884.13(c)(2), Indiana added a new provision entitled "Remined Sites." Any site that is eligible for AML reclamation fund expenditures, that is remined or reaffected by mining, remains eligible for AML reclamation after bond release

or bond forfeiture. Indiana's existing provision entitled "Bond Forfeiture" provides that eligibility of bond forfeiture sites to receive AML funding will be determined consistent with all Federal laws and regulations including sections 401 through 411 of SMCRA.

The Energy Policy Act of 1992 amended SMCRA on October 24, 1992, by revising section 404 of SMCRA to extend eligibility for AML reclamation fund expenditures to lands which are eligible for remining. The revision to section 404 of SMCRA provides that surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration after the release of the bond or deposit. In the event the bond or deposit is forfeited, available funds may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement. On May 31, 1994, OSM added a new provision at 30 CFR 874.12(h) to implement this requirement. The Director finds that Indiana's proposed revision for remined sites in conjunction with its existing provision for bond forfeiture sites is consistent with the provisions of section 404 of SMCRA and CFR 874.12(h) of the Federal regulations concerning remining operations.

### 3. Coordination with Other Programs, 884.13(c)(3)

In its provision entitled "Natural Resources Conservation Service—Rural Abandoned Mine Program," Indiana: (1) changed references from "Soil Conservation Service (SCS)" to "Natural Resources Conservation Service (NRCS)" and from "SCS" to "NRCS" to reflect that Federal agency's name change; (2) changed references from "AML program grants personnel" to "Indiana Restoration Program" to reflect changes in the State organization; and (3) removed the language "Division of Reclamation annual plans will be developed with SCS as funding is made available." In its provision entitled "Emergency Policy," Indiana removed the existing language and added the following new language: "Indiana's implementation of the Emergency Reclamation Program is defined in the attached Amendment E.R.P."

The Director finds that the revisions proposed by Indiana either correct or clarify existing provisions. Therefore, this section of the State plan continues to meet the Federal requirements at 30 CFR 884.13(c)(3) to describe coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program, the reclamation programs of any Indian

tribes, and OSM's reclamation programs.

### 4. Reclamation of Private Land, 884.13(c)(5)

a. Indiana removed the minimum 30-day time period for allowing the landowner to prepay the amount of a proposed lien. The revised provision now requires that prior to the time of actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to prepay that amount instead of allowing the lien to be filed against the property involved. The Director finds that Indiana's revised provision is substantively identical to the counterpart Federal provision at 30 CFR 882.13(b) and meets the requirement of 30 CFR 884.13(c)(5) that a State reclamation plan include policies and procedures regarding reclamation on private land under 30 CFR part 882.

b. Indiana added a new provision that allows the landowner, within 60 days of the lien being filed, to petition under local law to determine the increase in market value of the land as a result of the reclamation work. The Director finds that this provision is substantively identical to the counterpart Federal provision at 30 CFR 882.13(c) and meets the requirement of 30 CFR 884.13(c)(5).

### 5. Public Participation Policies, 884.13(c)(7)

a. Indiana added a new public participation policy provision which states that "the publication 'Citizens Guide to Indiana's Abandoned Mine Land Program' is widely circulated to all interested citizens." Indiana revised its provision concerning how the Department of Reclamation (DoR) responds to public concerns regarding private property located over abandoned deep mined areas by specifying that the DoR staff responds "by investigating complaints, providing technical information and recommending alternatives for action." The existing provision did not require the DoR staff to provide technical information.

The Director finds that the proposed revisions serve to enhance Indiana's public participation policy and meet the requirement of 30 CFR 884.13(7) that a State plan include public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

b. Indiana removed the existing language pertaining to its intergovernmental review process pursuant to Executive Order (E.O.) 12372, and added a statement that its direct contact provisions have replaced

the E.O. 12372 requirements. Indiana's existing provisions for intergovernmental review include direct contact with elected officials on the Federal, State, county, township, and municipal level. The contact includes a description of the reclamation work planned for each site within the official's area of concern, maps that aid all reviewers in locating proposed sites, and a questionnaire which gives the recipient the opportunity to participate indirectly in the AML reclamation program's planning process prior to submission to OSM for authorization to proceed with each project. Indiana also requires that detailed descriptions of proposed reclamation sites and construction activities be distributed to various State and Federal agencies prior to funding an application in order to allow inter-agency review to provide guidance in designated specialized fields to more fully meet the concerns and intent of State and Federal regulations such as the National Fish and Wildlife Coordination Act and the National Endangered Species Act.

The Director finds that Indiana's existing direct contact provisions meet the requirements of E.O. 12372 for intergovernmental review, and is approving the removal of the E.O. 12372 process provision.

c. Indiana revised its plan to require that direct contact be made with elected officials on the Federal, State, county, township, and municipal and/or town level before it requests authorization from OSM to proceed with each project. Indiana revised its plan to require that detailed descriptions of proposed reclamation sites and construction activities be distributed to various State and Federal agencies prior to funding an application. Indiana revised its public meeting provision to provide that meetings be held prior to requesting OSM's authorization to proceed. Indiana also revised its plan to require that when a construction site is selected, the Project Manager contacts the affected land owners. In the existing plan these contacts were required prior to submission of a grant application. The Director finds that these revisions reflect revised grant procedures implemented by OSM that do not require specific project submissions or approvals at the time of grant application or issuance, and is approving them.

d. Indiana deleted the existing paragraphs specifying its public meeting policy and format, and added the following revised public meeting policy:

Public participation and awareness of a proposed reclamation project may be carried out through public meetings prior to requesting authorization to proceed. The

meetings may be held at any location in order to satisfy the concerns of citizens over a specific proposed site, or any group of sites. Locations are selected for the meetings based upon special requests or in response to citizen inquiry. Public notices are published once per week for two consecutive weeks in a general circulation newspaper within the county where the proposed site is located. A thirty day comment period is allowed for response to these public notices prior to requesting authorization to proceed.

Indiana's previous provision did not allow for a specific thirty day comment period. The Director finds that the revised public meeting provision enhances Indiana's public participation policy and meets the requirement of 30 CFR 884.13(c)(7).

#### *6. Organization of the Designated Agency, 884.13(d)(1)*

Indiana proposed several revisions to this section to reflect its current organization for conducting the reclamation program including the following:

Indiana deleted the paragraph on the "Geological Survey Division" to reflect the survey being separated from the Department of Natural Resources into an institute of the Indiana University. The organizational chart of the Department of Natural Resources was revised to reflect the current organization. The Division of Reclamation organizational chart and organization references throughout the plan were revised to reflect the current organization. Indiana revised the current organizational structure for management of the Indiana abandoned mined lands reclamation program by changing the name of the AML Section to Restoration Program. The Restoration Program was re-aligned into three functions designated Technical Services, Project Design, and Project Management directly under the Restoration Program Coordinator. A new position for Emergency Coordinator was added and the Field Operations Coordinator position was moved directly under the Restoration Program Coordinator. The Program Planning function was changed to the Technical Services Manager function. The Environmental Specialist, Inventory Specialist, and Financial Officer position were changed to Technical Manager positions. The surveyor positions were realigned from under the Chief Engineer to under the Construction Supervisor. An Applicant/Violator System (AVS) Coordinator position was added under the Regulatory Program function.

The Director finds that the proposed revisions meet the Federal requirement at 30 CFR 884.13(d)(1) that a State reclamation plan include a description

of the organization of the designated agency and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity.

#### *7. Personnel Staffing Policies, 884.13(d)(2)*

Indiana changed its reference to "DoR and the AML Section" to "DoR and the Restoration Program" in order to reflect the current organizational structure.

The Director finds that this proposed revision meets the Federal requirement at 30 CFR 884.13(d)(1).

#### *8. Purchasing and Procurement, 884.13(d)(3)—Applicant/Violator System (AVS) Requirements*

Indiana added a new provision, entitled "Indiana AML Applicant/Violator System (AVS) Program," to address requirements and procedures for AVS checks on potential AML contractors. This new provision was required by OSM in a letter sent to Indiana dated September 26, 1994, pursuant to 30 CFR 884.15(d). The Federal regulations at 30 CFR 874.16 and 875.20 provide that to receive AML funds, every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1), at the time of contract award, to receive a permit or conditional permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's automated Applicant/Violator System for each contract to be awarded. Indiana developed a procedure within the State contracting process to satisfy these requirements. All successful bidders on AML federally funded projects must comply with 30 CFR 874.16, 875.20, and 773.15(b)(1). Specifically, all successful low bidders being awarded federally funded AML contracts over \$25,000 and all subcontractors that will be performing over \$25,000 of a contract shall be cleared through the AVS. An AVS Entity Check Form will be included with each of these bid packages. All contractors submitting a bid will be required to fill out this form and submit it with their bids. The contractor is also to submit this form for any applicable known subcontractors. An AVS Contractor Certification Form will be included with each bid package. The contractor certifies on this form that he will comply with the AVS requirements. An AVS Contractor Waiver Form will also be included with each bid package. This form may be completed by the bidder and applicable subcontractors if that company and its owners and controllers have never owned or controlled a surface coal mining permit. After confirmation

through the AVS that the company and its owners and controllers are not linked to any surface coal mining permit with any outstanding violations, future AVS clearance checks would not be necessary unless the ownership or control of the contractor or subcontractor changes. The low bidder and applicable subcontractors will be checked through the AVS system by the Division of Reclamation AVS Coordinator as soon as possible following bid opening and prior to issuing the Bid Report. If a contractor or subcontractor has an unresolvable AVS problem, a decision will be made whether to rebid the project or go to the next low bidder. In order to prevent excessive delays, a contractor will normally be allowed only seven days to clear an AVS "deny" decision. Emergency program contractors will also be required to meet Indiana's AVS clearance requirements. A check after-the-fact will be performed if the Emergency Response Coordinator determines there is an overriding need to proceed prior to being able to make an AVS check. The results of this after-the-fact check could be a basis for future contract denials.

The Director finds that Indiana's requirements for confirming bidder eligibility by OSM's automated Applicant/Violator System are consistent with the Federal requirements at 30 CFR 874.16 and 875.20.

#### *9. Flora and Fauna of Southwestern Indiana, 884.13(f)(3)*

Indiana revised this section to require the wildlife biologist to evaluate sites to determine the presence of wetlands, endangered species, or other environmental concerns. Indiana's existing plan required the wildlife biologist to evaluate Priority II sites to determine the presence of wetlands only. Indiana's provision concerning a significant features review was revised to clarify interaction with other Divisions in identifying important natural features and to clarify policy on potential conflicts with endangered species or unique natural features. A location map and proposed scope of work for each reclamation site is routed to the Division of Nature Preserves (DNP) for review. The DNP searches the Indiana Natural Heritage Program database for each site to determine whether there are any important natural features recorded at or near the proposed project. The Restoration Program attempts to resolve any potential conflicts with endangered species or unique natural features by designing the project to avoid the

critical habitat or natural feature. Projects that cannot be designed for avoidance will be coordinated with the DNP and the Division of Fish and Wildlife to develop a plan to minimize disturbance and mitigate any losses. Indiana also made various revisions to the reclamation review checklist which is completed by the Division of Nature Preserves for the Division of Reclamation. These revisions include adding the consideration of impacts to State Nature Preserves, State Forests, State Reservoirs, and State endangered or threatened species.

The Director finds that Indiana's proposed revisions meet the Federal requirements of 30 CFR 884.13(f)(3) that a State reclamation plan include a general description of the conditions prevailing in the different geographic areas of the State where reclamation is planned relating to endangered and threatened plant, fish, and wildlife and their habitat.

#### *10. Amendment E.R.P. (Emergency Reclamation Program)*

Indiana revised its emergency response reclamation program provisions to clarify that the policies and procedures for emergency reclamation on private and public lands will be the same as for other AML reclamation activities that are detailed in the approved State plan. The description of the Emergency Program Coordinator position was changed to reflect that the position has been established.

The Director finds that the revisions to the Indiana plan relating to its emergency response reclamation program meet the requirements of 30 CFR 884.13 (c) and (d) and are in compliance with SMCRA and the Federal regulations.

#### **IV. Summary and Disposition of Comments**

##### *Public Comments*

OSM solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

##### *Federal Agency Comments*

Pursuant to 30 CFR 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Indiana plan by letter dated August 4, 1997 (Administrative Record No. IND-1585.) By letter dated August 20,

1997 (Administrative Record No. IND-1586), the U.S. Fish and Wildlife Service responded that the proposed program amendment would have no significant effect on wetlands and would not affect any Federally endangered species, that other project impacts would be minor in nature, and that the U.S. Fish and Wildlife Service had no objections to the proposed amendment.

#### **V. Director's Decision**

Based on the above findings, the Director approves the proposed plan amendment as submitted by Indiana on July 23, 1997.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standard without undue delay. Consistency of State and Federal standards is required by SMCRA.

#### **VI. Procedural Determinations**

##### *Executive Order 12866*

This proposed 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 and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231-1243) and 30 CFR Part 884.

##### *National Environmental Policy Act*

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the

Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

##### *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 submittal which is the subject of this rule is based upon corresponding 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. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding 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 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1998.

**Brent Wahlquist,**

*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 914.25 is amended in the table in paragraph (a) by adding a new entry in chronological order by "Date of final publication" to read as follows:

#### **§ 914.25 Approval of Indiana abandoned mine land reclamation plan amendments.**

(a) \* \* \*

Original amendment submission date	Date of final publication	Citation/description
July 23, 1997 .....	March 16, 1998 .....	Indiana plan §§ 884.13(c)(2) through (7), (d)(1) through (3), (f)(2), (3); emergency response reclamation program.

\* \* \* \* \*

[FR Doc. 98-6687 Filed 3-13-98; 8:45 am]  
BILLING CODE 4310-05-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[FRL-5979-1]

#### Identification of Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On January 16, 1998, the EPA published a proposed rule (63 FR 2804) and a direct final rule (63 FR 2726) announcing EPA's decision to identify areas, designated under the national ambient air quality standard (NAAQS) for ozone, where the 1-hour NAAQS is no longer applicable because there has been no current measured violation of the 1-hour standard in such areas. The EPA is withdrawing the final rule due to adverse comments and will summarize and address all relevant public comments received in a subsequent final rule (based upon the proposed rule cited above).

**EFFECTIVE DATE:** This withdrawal of the direct final rule will be effective March 16, 1998.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: Air and Radiation Docket and Information Center (6101), Attention: Docket No. A-97-42, U.S. Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460, telephone (202) 260-7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group,

MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5246/5238.

#### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: March 11, 1998.

**Richard D. Wilson,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 98-6776 Filed 3-13-98; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Part 1305

RIN 0970 AB53

#### Head Start Program

**AGENCY:** Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Final rule.

**SUMMARY:** The Administration on Children, Youth and Families is amending the requirements on eligibility, recruitment, selection, enrollment and attendance in Head Start in six areas affecting Head Start programs serving specific populations. These amendments address new language in the Head Start Act of 1994 and add a new definition for Indian Tribe; amend the definition of migrant family; add the requirement that migrant programs give priority to children from families that relocate most frequently; expand the definition of a service area for Head Start programs operated by Indian Tribes to include near-reservation designations; expand the family income criteria for Indian grantees meeting certain conditions; and amend the enrollment and reenrollment criteria for children in Head Start and for children enrolled in an Early Head Start program.

**EFFECTIVE DATE:** This rule is effective April 15, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, (202) 205-8572.

#### SUPPLEMENTARY INFORMATION:

##### I. Program Purpose

Head Start, as authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*), is a national program providing comprehensive developmental services primarily to low-income preschool children, age three to the age of compulsory school attendance, and their families. In addition, section 645A of the Head Start Act provides authority for programs serving low-income pregnant women and families with infants and toddlers. Programs funded under this section are referred to as Early Head Start programs. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1997, Head Start served over 752,000 children through a network of 2,000 grantee and delegate agencies.

While Head Start is designed primarily to serve children whose families have incomes at or below the poverty line or who receive public assistance, the Head Start regulations permit up to ten percent of the children in local programs to be from families who do not meet these low-income criteria. Additionally, as provided in this rule, Indian Tribes meeting certain conditions may enroll additional over-income children above the ten percent limitation. The Act also requires that a minimum of ten percent of the enrollment opportunities in each program be made available to children with disabilities. These children are expected to participate in the full range of Head Start services and activities with their non-disabled peers and to receive needed special education and related services.