

**Correction of Publication**

Accordingly, the publication on November 14, 1997 of the corrections to the proposed regulations, (62 FR 61057) is further corrected as follows:

**§ 11.100(a) [Corrected]**

On page 61057 and 61058, §11.100 (a) is corrected to read as follows:

**§ 11.100 Where are Courts of Indian Offenses established?**

(a) Unless indicated otherwise in this part, the regulations in this part apply to the Indian country (as defined in 18 U.S.C. 1151) occupied by the following tribes:

- (1) Red Lake Band of Chippewa Indians (Minnesota).
- (2) Te-Moak Band of Western Shoshone Indians (Nevada).
- (3) Kootenai Tribe (Idaho).
- (4) Shoalwater Bay Tribe (Washington).
- (5) Eastern Band of Cherokee Indians (North Carolina).
- (6) Ute Mountain Ute Tribe (Colorado).
- (7) Hoopa Valley Tribe, Yurok Tribe and Coast Indian Community of California (California jurisdiction limited to special fishing regulations).
- (8) Louisiana Area (includes Coushatta and other tribes located in the State of Louisiana which occupy Indian country and which accept the application of this part); Provided that this part shall not apply to any Louisiana tribe other than the Coushatta Tribe until notice of such application has been published in the **Federal Register**.
- (9) For the following tribes located in the former Oklahoma Territory (Oklahoma):
  - (i) Apache Tribe of Oklahoma.
  - (ii) Caddo Tribe of Oklahoma.
  - (iii) Comanche Tribe of Oklahoma (Except Comanche Children's Court).
  - (iv) Delaware Tribe of Western Oklahoma.
  - (v) Fort Sill Apache Tribe of Oklahoma.
  - (vi) Kiowa Tribe of Oklahoma.
  - (vii) Ponca Tribe of Oklahoma.
  - (viii) Tonkawa Tribe of Oklahoma.
  - (ix) Wichita and Affiliated Tribes of Oklahoma.
- (10) For the following tribes located in the former Indian Territory (Oklahoma):
  - (i) Chickasaw Nation.
  - (ii) Choctaw Nation.
  - (iii) Thlopthlocco Tribal Town.
  - (iv) Seminole Nation.
  - (v) Eastern Shawnee Tribe.
  - (vi) Miami Tribe.
  - (vii) Modoc Tribe.
  - (viii) Ottawa Tribe.
  - (ix) Peoria Tribe.

- (x) Quapaw Tribe.
- (xi) Wyandotte Tribe.
- (xii) Seneca-Cayuga Tribe.
- (xiii) Osage Tribe.

\* \* \* \* \*

Dated: June 4, 1998.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 98-15833 Filed 6-12-98; 8:45 am]

BILLING CODE 4310-02-P

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 914**

[SPATS No. IN-128-FOR; Amendment No. 95-6]

**Indiana Regulatory Program**

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

**ACTION:** Proposed rule; withdrawal of proposed amendment.

**SUMMARY:** OSM is announcing the withdrawal 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 amendment concerned revisions to the Indiana rules pertaining to identification of interests, compliance information, and permit conditions. Indiana is withdrawing the amendment at its own initiative.

**FOR FURTHER INFORMATION CONTACT:** Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226-6700.

**SUPPLEMENTARY INFORMATION:** By letter dated February 18, 1997 (Administrative Record No. IND-1555), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment in response to a letter dated May 11, 1989 (Administrative Record No. IND-0644), that OSM sent to Indiana in accordance with 30 CFR 732.17(c), and at its own initiative. Indiana proposed to amend the provisions of the Indiana Administrative Code (IAC) concerning identification of interests, compliance information, and permit conditions for surface and underground coal mining.

OSM announced receipt of the proposed amendment in the March 13, 1997, **Federal Register** (62 IAC 11807) and invited public comment on its adequacy. The public comment period ended April 14, 1997.

By letter dated June 24, 1997 (Administrative Record No. IND-1576), OSM notified Indiana that the U.S. Court of Appeals for the district of Columbia Circuit invalidated the language of the Federal regulations upon which the proposed revisions were based. On May 21, 1998 (Administrative Record No. IND-1610), Indiana requested that the proposed amendment be withdrawn. Indiana will submit a revised version of the amendment after OSM completes its revisions to the Federal regulations pertaining to ownership and control. Therefore, the proposed amendment announced in the March 13, 1997, **Federal Register** is withdrawn.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 5, 1998.

**Charles E. Sandberg,**

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

[FR Doc. 98-15763 Filed 6-12-98; 8:45 am]

BILLING CODE 4310-05-M

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 948**

[WV-080-FOR]

**West Virginia Permanent 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 West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of the revisions to the West Virginia Surface Mining Reclamation Regulations. The amendments are intended to improve the operational efficiency of the West Virginia program.

**DATES:** Written comments must be received on or before 4:00 p.m. July 15, 1998. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. on July 10, 1998. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on June 30, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

Copies of the West Virginia program, the program amendment decision that is the subject of this notice, and the administrative record on the West Virginia program are available for public review and copying at the addresses below, during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed changes by contacting the OSM Charleston Field Office.

Mr. Roger W. Calhoun, Director,  
Charleston Field Office, Office of  
Surface Mining Reclamation and  
Enforcement, 1027 Virginia Street,  
East, Charleston, West Virginia 25301  
Telephone: (304) 347-7158.

West Virginia Division of  
Environmental Protection, 10  
McJunkin Road, Nitro, West Virginia  
25143, Telephone: (304) 759-0515

In addition, copies of the amendments that are the subject of this notice are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation  
and Enforcement, Morgantown Area  
Office, 75 High Street, Room 229, P.O.  
Box 886, Morgantown, West Virginia  
26507, Telephone: (304) 291-4004

Office of Surface Mining Reclamation  
and Enforcement, Beckley Area  
Office, 323 Harper Park Drive, Suite 3,  
Beckley, West Virginia 25801,  
Telephone: (304) 255-5265.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347-7158.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the West Virginia Program**

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915-5956). Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

**II. Discussion of the Proposed Amendment**

By letter dated May 11, 1998 (Administrative Record Number WV 1086), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program pursuant to the Federal regulations at 30 CFR 732.17(b). The recent West Virginia Legislative session amended CSR 38-2 of the State's Surface Mining Reclamation Regulations, and the West Virginia Governor signed the amendments on April 12, 1998.

The proposed amendments are identified below.

**1. CSR 38-2-2 Definitions**

Subsection 2.25 The definition of "Coal Remining Operation" is amended to mean a coal mining operation on lands which would be eligible for expenditures under section four, article two of chapter twenty-two.

Subsection 2.102 The definition of "Remined Area" is amended to mean only that area of any coal remining operation.

The WVDEP explained that these changes were done to correspond with the Energy Policy Act of 1992, Public Law 102-846. The WVDEP stated that the changes are consistent with changes to Chapter 22, Article 3 of the Code of West Virginia, which were made during the last legislative session.

**2. CSR 38-2-3.14 Removal of Abandoned Coal Refuse Disposal Piles**

Subsection 3.14.a is amended by deleting the terms "special permit" and in their place adding the term "reclamation contract." Also, the words "permit application" are deleted and replaced by the word "request."

Subsection 3.14.b is amended by deleting the phrase "an application for a special permit," and adding in its place the phrase "a request for a reclamation contract."

Subsection 3.14.b.1 is amended by excluding subsections 3.1.c., d., k., n., and o. from the requirement that all information required by subsection 3.1 should be included in a request for a reclamation contract under subsection 3.14.b. Subsection 3.14.b.2 is amended by reducing the comment period from 30 days to 10 days.

Subsection 3.14.b.3 is amended by deleting the phrase "and where applicable subsection 3.3 of the regulations."

Subsection 3.14.b.4.E is amended by deleting the existing language and adding in its place the words, "Permits or approvals as necessary from the

appropriate environmental agencies or other agencies."

Subsection 3.14.b.7 is deleted.

Subsections 3.14.b.8 through 3.14.b.15 have been renumbered as 3.14.b.7 through 3.14.b.14.

Subsection 3.14.d is amended by deleting the existing language and adding in its place the words, "Insurance and filing fee in accordance with subsection b. Of Section 28 of the Act."

Subsection 3.14.e is amended to read, "Removal operations permitted under this subsection shall be subject to paragraph 1., subsection 22.5 of this rule and all other applicable performance standards of the Act and the reclamation contract." Subsection 3.14.f is added to read as follows: "All persons conducting removal of abandoned coal disposal piles under a reclamation contract shall have on site, a copy of the written approval for such activities issued by the Director."

In its submittal, the WVDEP stated that changes to Section 3 will allow the reclamation of coal refuse sites by a reclamation contract that normally does not require any state expenditure. The WVDEP stated that it believes that totally removing a refuse pile constitutes reclamation. Further the WVDEP stated that the amendments are consistent with the change to Chapter 22, Article 3 Section 28 of the Code of West Virginia which occurred in the last legislative session.

**3. CSR 38-2-3.32 Findings—Permit Issuance**

Subsection 3.32.d.12 is amended by deleting the reference to subsection 14.16, and adding in its place a reference to subsection 24. In addition, the words "and prior to August 3, 1977" are deleted and replaced by the words, "would be eligible for expenditures under Section 4, Article 2 of Chapter 22."

Subsection 3.32.g is added to read as follows. "The prohibition of subsection c. shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface mine eligible for remining held by the applicant."

In its submittal, the WVDEP stated that this change is due to a new Federal definition of "remining" which basically states that any site eligible for abandoned mined lands funding is also eligible for remining.

**4. CSR 18-2-14.14.a.1 Disposal of Excess Spoil**

This subsection is amended by adding language to allow excess spoil to be deposited on abandoned mine lands and/or forfeited mine lands under a

reclamation contract pursuant to Section 28 of the Act and this rule. The new language further provides that it is the permittee's responsibility to obtain right of entry and any necessary approvals from the appropriate environmental agencies or other agencies.

The WVDEP stated that these changes will allow the director to issue no-cost reclamation contracts to a permittee to reclaim abandoned and forfeited sites.

*5. CSR 38-2-14.16 Is Being Moved to New Section CSR 38-2-24*

*6. CSR 38-2-14.17 Is Redesignated as CSR 38-2-14.16*

*7. CSR 38-2-14-18 Is Redesignated as CSR 38-2-14.17*

*8. CSR 38-1-14.19 Is Redesignated as CSR 38-2-14.18*

Old subsection 14.19.d is deleted because it conflicts with CSR 38-2-8.2.e that was added during the last legislative session.

*9. CSR 38-2-22.5.1 Removal of Abandoned Coal Refuse Piles*

Subsection 22.51 is amended by deleting the words "special permit" and adding in their place the words "reclamation contract."

The WVDEP explained that the changes to Section 3 will allow the reclamation of coal refuse sites by a reclamation contract that normally does not require any state expenditure.

*10. CSR 38-2-23 Special Authorization for Coal Extraction as an Incidental Part of Development of Land for Commercial, Residential, or Civic Use*

This entire section is new language. This section would allow special authorization for coal extraction as an incidental part of development of land for commercial, residential, industrial, or civic use. The section contains provisions for applicant information, site development and sampling information; provisions for approval of Notice of Intent for coal extraction as an incidental part of development of land for commercial, residential, or civic use; performance standards; expiration of a notice of intent coal extraction as an incidental part of development; escrow release; notice on site; and public records.

The WVDEP explained that the new language is intended to implement new code provisions that allow the director to give special authorization for coal extraction as an incidental part of development of land for commercial, residential, industrial, or civic use.

*11. CSR 38-2-24 Performance Standards Applicable Only to Remining Operations*

This entire section is new. However, subsection 24.1 was previously 14.16; subsection 24.2.a was previously 14.16.m; subsection 24.3 was previously 14.16.n; subsection 24.2.b is new language; and subsection 24.4 is new language.

Subsection 24.1 provides for backfilling, remining, and grading of previously mined areas. Subsection 24.2 provides for revegetation of coal remining operations. Subsection 24.3 provides for water quality of coal remining operations. Subsection 24.4 provides the requirements for release of bonds for coal remining operations.

The WVDEP stated that subsection 24.2.b is due to a new Federal remining regulation which basically states that successful revegetation shall be for a period of not less than two growing seasons. Subsection 24.4 will allow for release of the land reclamation bond if the post-remining water quality discharging from the site is equal to or better than pre-remining water quality.

**III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on the proposed amendments to the West Virginia program that were submitted on May 11, 1998. Comments should address whether the proposed amendments satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the West Virginia program.

*Written Comments*

Written comments should be specific, pertain only to the issues proposed in this notice and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

*Public Hearing*

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business on June 30, 1998. If no one requests an opportunity to testify at the public hearing by that date, 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 remarks and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

*Public Meeting*

If only one person or group requests to testify 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 clarification, removal of the required amendment, or change in the effective dates of the approval may request a meeting at the OSM Charleston Field Office listed under **ADDRESSES** 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 in advance at the locations listed under **ADDRESSES**. A written summary of each public 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 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 4, 1998.

**Tim L. Dieringer,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 98-15761 Filed 6-12-98; 8:45 am]

BILLING CODE 4310-05-M

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

**RIN 1018-AE**

**Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Public Hearings on Proposed Threatened Status for the Plant *Helianthus Paradoxus* (Pecos Sunflower)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of public hearings and reopening of comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) provides notice that three public hearings will be held on the proposed determination of threatened status for *Helianthus paradoxus* (Pecos sunflower). This plant is dependent on desert wetlands in New Mexico and western Texas.

**DATES:** Public hearings will be held from 7 p.m. to 9 p.m. on July 8, 1998, in Fort Stockton, Texas; July 9, 1998, in Roswell, New Mexico; and July 13, 1998, in Grants, New Mexico. The comment period, which originally closed on June 1, 1998, is reopened and now closes on August 13, 1998.

**ADDRESSES:** The public hearings will be held at the large Community Hall in James Rooney Memorial Park on U.S. Highway 285 (Sanderson Highway) in Fort Stockton, Texas; the Roswell Public Library, 301 North Pennsylvania Avenue, in Roswell, New Mexico; and the City Hall Council Chambers, 600 West Santa Fe Avenue, in Grants, New Mexico. Written comments and materials should be sent to the Field Supervisor, New Mexico Ecological Services Field Office, U.S. Fish and Wildlife Service, 2105 Osuna Road, NE., Albuquerque, New Mexico 87113, facsimile 505/346-2542. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Charlie McDonald, Endangered Species Botanist, at the above address or telephone 505/346-2525, ext. 112; facsimile 505/346-2542.

**SUPPLEMENTARY INFORMATION:****Background**

Pecos sunflower is a wetland plant that grows in permanently saturated soils. Areas that maintain these conditions are mostly desert wetlands

(cienegas) associated with springs, but they may also include stream margins and the margins of impoundments. When Pecos sunflowers are associated with impoundments, the impoundments typically have replaced natural cienega habitats. Pecos sunflower is presently known from 25 sites that occur in 5 general areas. These areas are Pecos and Reeves counties, Texas, in the vicinity of Fort Stockton and Balmorhea; Chaves County, New Mexico, from Dexter to just north of Roswell; Guadalupe County, New Mexico, in the vicinity of Santa Rosa; Valencia County, New Mexico, along the lower part of the Rio San Jose; and Cibola County, New Mexico, in the vicinity of Grants. Threats to Pecos sunflower include drying of wetlands from groundwater depletion; alteration of wetlands (*e.g.* wetland fills, draining, impoundment construction); competition with nonnative plant species, particularly saltcedar; excessive livestock grazing; mowing; and highway maintenance.

On April 1, 1998, the Service published a proposed rule to list the Pecos sunflower as threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule in the **Federal Register**. Public hearing requests were received within the allotted time period from the New Mexico Farm and Livestock Bureau; New Mexico County Farm and Livestock Bureaus in Colfax, Cibola-McKinley, and Santa Fe counties; Production Credit Association of New Mexico; Texas and Southwestern Cattle Raisers Association; and Davis Mountains Trans-Pecos Heritage Association.

The Service has scheduled hearings from 7 p.m. to 9 p.m. in Fort Stockton, Texas, on July 8, 1998, at the large Community Hall in James Rooney Memorial Park on U.S. Highway 285 (Sanderson Highway); in Roswell, New Mexico, on July 9, 1998, at the Roswell Public Library, 301 North Pennsylvania Avenue; and in Grants, New Mexico, on July 13, 1998, at the City Hall Council Chambers, 600 West Santa Fe Avenue. Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement to be presented to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at these hearings or