

provisions are intended to benefit consumers by providing safeguards to ensure that prescription drug products are safe and effective and to avoid an unacceptable risk that counterfeit, adulterated, misbranded, subpotent, or expired drugs are being sold to consumers. The proposal gave interested persons an opportunity to submit written comments by May 30, 1994.

In response to the proposal, Alza Corp. requested a 1-month extension of the comment period; Piper & Marbury requested a 90- to 120-day extension; and Wolf, Block, Schorr and Solis-Cohen on behalf of Diagnostek, Inc., requested a 10-day extension. These organizations requested additional time to respond to the proposal because of its length and because of complex issues and questions that need careful analysis and evaluation.

FDA has carefully considered these requests and has determined that reopening the comment period to August 15, 1994 for the preparation and submission of meaningful comments on this proposed rule, is in the public interest. A longer comment period is not warranted because the proposal provided an extended comment period and because FDA previously made available many of the procedures contained in the proposal in a series of letters containing interim guidance. Accordingly, the comment period for submissions by any interested person is reopened to August 15, 1994.

Interested persons may, on or before August 15, 1994, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 11, 1994.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

[FR Doc. 94-17288 Filed 7-14-94; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Ch. I

### Minerals Management Service

#### 30 CFR Ch. II

### Geological Survey

#### 30 CFR Ch. IV

### Bureau of Mines

#### 30 CFR Ch. VI

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Ch. VII

### National Park Service

#### 36 CFR Ch. I

### Office of the Secretary

#### 43 CFR Subtitle A

#### 48 CFR Ch. XIV

### Bureau of Reclamation

#### 43 CFR Ch. I

### Bureau of Land Management

#### 43 CFR Ch. II

### Fish and Wildlife Service

#### 50 CFR Chs. I and IV

### Review of Existing Significant Regulations

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Notice with request for comment.

**SUMMARY:** Pursuant to Executive Order 12866 (the "Order"), the Department of the Interior ("DOI") announced its intent on March 1, 1994, to establish periodic reviews of all "significant" regulations published by the Department (59 FR 9718). The purpose of these reviews is to ensure that all significant DOI regulations are efficient and effective, impose the least possible burden upon the public, and are tailored no broader than necessary to meet the objectives of the program being implemented.

The Department has determined to review a number of its regulations. Some are being reviewed based upon the Department's examination of its regulatory program. Others are being reviewed in response to the comments received on the March 1 notice (the

"Notice"), or will be reviewed in the course of upcoming rulemakings or other proceedings. The purpose of this notice is to inform the public of which regulations are being reviewed at this time, to briefly discuss the comments received pursuant to the March 1 Notice, and to invite specific, detailed comments on how the regulations under review may be revised.

This notice discusses regulations issued by the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, the Minerals Management Service, the Bureau of Indian Affairs, and the Bureau of Reclamation. Other bureaus and offices are not discussed because no comments were received regarding their regulations, and it was determined that either they have no significant regulation or review is not appropriate at this time. If you disagree and feel that these bureaus and offices have regulations that should be reviewed at this time, please contact the Office of Regulatory Affairs at the address below. Similarly, if there are any concerns regarding the plans or analyses set forth below by the various Departmental bureaus and offices, please also contact the Office of Regulatory Affairs.

**DATES:** Written comments must be received by October 13, 1994.

**ADDRESSES:** Please send written comments to Bill Vincent, Deputy Director, Office of Regulatory Affairs, Department of the Interior, Mail Stop 6214 MIB, 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Bill Vincent, Deputy Director, Office of Regulatory Affairs, phone (202) 208-5271.

**SUPPLEMENTARY INFORMATION:** The following is a discussion of the regulations that currently are scheduled for review as well as the comments received in response to the March 1 notice.

#### Bureau of Land Management ("BLM")

After assessing its regulatory program and reviewing the comments received in response to the Notice, BLM plans to review the following regulations contained in 43 CFR: Part 1600 (Planning, Programming, Budgeting); Group 3200 (Geothermal Resources Leasing); Group 3400 (Coal Management); Group 3600 (Mineral Materials Disposal); and Group 8300 (Recreation Management). Specific comments are requested on these provisions. The following is a discussion of comments received in response to the Notice.

### Comments From the Geothermal Energy Industry

Five comments came from companies producing or seeking to produce geothermal energy. The thrust of all of the comments was that the BLM should expedite publication of geothermal resources leasing and operations regulations that have been in development for several years. These regulations were removed from the Semiannual Agenda of Federal Regulations (the "Agenda") last winter because we were unable to forecast with precision when work on the rule would be completed. This rule will be restored to the Agenda this summer, and internal review of the rule should begin in October 1994.

Two of these comments suggested that a series of industry-government forums should take place on these regulations, and an industry-government task force should be formed to monitor them and prepare the rule. We will consider the use of such forums during the public comment period on the proposed rule, but any group formed to reach consensus on a proposed rule must be in compliance with the Federal Advisory Committee Act.

One of the geothermal comments also mentioned other regulations as possible candidates for review: 43 CFR Part 1600—Planning, Programming and Budgeting, and 43 CFR Part 2800—Rights-of-way. As mentioned above, BLM plans to review the planning regulations, and draft revised regulations are in preparation. They will be restored to the Agenda when it is updated this summer.

There are no current plans to review or amend the general right-of-way regulations implementing Title V of the Federal Land Policy and Management Act of 1976 (FLPMA) or Section 28 of the Mineral Leasing Act. Two current rules on rights-of-way are in review: regulations on rights-of-way under R.S. 2477, a major DOI priority, and fee schedule regulations for nonlinear communication site rights-of-way, which are of interest in the Congress. Reviews will not begin until those two rules are finalized.

### Comments From the Oil and Gas Industry

Two commenters suggested review of regulations on archaeological and cultural resource clearances for mineral leasing activities on BLM and split-estate lands. The regulations referred to in this comment are issued by the Advisory Committee on Historic Preservation and implemented by BLM in cooperation with State Historic

Preservation Officers. They are not subject to review or amendment by BLM, and comments will be forwarded to the Committee.

The commenters also suggested that lease terms and rental payments be suspended pending environmental reviews, and that BLM should not consider exploration and production wastes as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or the Resource Conservation and Recovery Act of 1976. They urged completion of rules revising Onshore Oil and Gas Order No. 1—Approval of Operations, Order No. 8—Well Workovers, Completions, Abandonments, and a rule relating to BLM responsibilities as to oil and gas operations on Forest Service lands.

These suggestions are not related to the review of existing significant regulations and therefore fall outside of the scope of the Order. Nevertheless, the following is a brief statement regarding current efforts for some of the suggestions. The rule regarding Order No. 1 will be restored to the Agenda when the program office has finished its review of the draft prepared by BLM's standing field committee on operations. The rule regarding Order No. 8 is undergoing review within BLM. The rule relating to Forest Service lands is undergoing review within the Department's Solicitor's Office.

One commenter suggested that oil and gas lease terms and rental payments be automatically suspended pending environmental reviews affecting a particular lease or unit. The current regulations at 43 CFR 3103.4-2 allow such suspensions, at the discretion of the authorized officer, for the purpose of conserving natural resources. Although this suggestion might be considered in a future review, making such a suspension automatic would make the process susceptible to abuse. It might allow extensions of leases that are not being actively developed without proof that the environmental review prevents ongoing or imminent development or somehow threatens natural resources. Without further persuasion from the public, this suggestion likely will not be adopted.

The comment regarding whether oil and gas wastes are hazardous has long been a matter of controversy. The matter has not yet been resolved conclusively in the courts, and may not be until the laws involved are reauthorized in the Congress. We are continuing to work with industry to resolve this issue.

One commenter requested to be involved in the preparation and distribution of BLM's Instruction

Memoranda. This is a matter for review in the process of reducing our internal directives pursuant to Executive Order 12861, and will be considered then. Specific suggestions for revising BLM instruction manuals may be sent to the Office of Regulatory Affairs at the address set forth in the beginning of this notice.

One commenter urged that environmental impact statements ("EIS's") on rights-of-way on public lands for projects that are otherwise wholly on private lands be limited strictly to a consideration of their environmental impacts on the public lands crossed by the rights-of-way. This would be counter to our interpretation of the National Environmental Policy Act of 1969 ("NEPA"), which requires that all effects of a project be considered in reviewing the Federal aspects of the project.

The commenter also urged that categorical exclusions from environmental review be applied more liberally to activities such as geophysical exploration and drilling permit applications, which it characterizes as having minimal impact. At 43 CFR 3162.5-1, BLM's regulations require an environmental record of review or an environmental assessment to determine whether an EIS is required and what terms and conditions need to be included in approved plans. Again, NEPA requires that all effects of a project be considered in reviewing the Federal aspects of the project. Further, the Department's Solicitor has advised BLM to limit its use of categorical exclusions. Nevertheless, categorical exclusions are listed in the appendix to the Departmental Manual, and may be subject to our review of internal directives under E.O. 12861.

The commenter also suggested that BLM apply Administrative Procedure Act procedures (*i.e.*, public notice and comment) to BLM State and District Office issuance of Notices to Lessees, and that oil and gas lease parcel stipulations identify, by specific legal description, the lands covered. The latter is a matter that can be covered in the review of internal directives. The former have not been routinely published in the *Federal Register* for public comment because of their geographically limited effect. In any event, these are not topics for periodic review of significant regulations.

Finally, a review of 43 CFR Group 3100 was requested. These rules, however, currently are being reviewed through the National Performance Review. The National Performance Review has identified broad aspects of the onshore oil and gas program as

candidates for process re-engineering. Implementation teams have been established to evaluate comments received from outside groups and Federal employees on ways to streamline procedures and make them more effective. It is likely that these teams will recommend changes to one or more sections of the onshore oil and gas regulations as a result of their evaluations. Consequently, no further review is necessary at this time.

#### *Comments From the Coal Industry*

A coal industry commenter made two specific recommendations regarding BLM's coal management regulations: (1) that BLM reinstitute a rulemaking that was withdrawn from review in 1993 that would have rendered all coal lease decisions and approvals in full force and effect pending appeal; and (2) that BLM discontinue its current rulemaking that would amend coal logical mining unit ("LMU") procedures. Neither recommendation relates to periodic review of existing regulations. Further, following the recommendations would reverse two policy decisions of the administration. Nevertheless, the program office is reviewing the entire group of coal management regulations at this time. A proposed rule that will include the LMU proposal and other coal management provisions will be scheduled in the upcoming Agenda, revising the current entry for the LMU rule.

#### *Miscellaneous*

One commenter provided a list of regulations that, in the commenter's view, adversely affect "in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health safety (sic), or State, local, or tribal governments, or communities." Each of the following paragraphs is devoted to the successive parts of Title 43 suggested by this commenter for review.

**1700—Program Management.** This Group is divided into two parts, 1720—Programs and Objectives, and 1780—Cooperative Relations. The former part was removed from the Code of Federal Regulations in a final rule published on June 6, 1994 (59 FR 29205). The latter, which contains the regulations on advisory committees, was proposed to be substantially revised as part of the proposed rule on rangeland reform, published on March 25, 1994 (59 FR 14314). No further review of these regulations is necessary.

**2400—Land Classification.** Proposed legislation that would make these regulations unnecessary is being drafted in BLM. Further, a proposed rule

amending this part currently is being reviewed by the Department's Solicitor's Office. It was removed from the most recent edition of the Agenda because of uncertainty regarding when review would be complete.

**3000–3800.** This grouping includes all of the mineral development regulations of BLM. Of these, Group 3400—Coal Management is now being reviewed, as stated above, and review should be completed and lead to new regulations before 1996. Group 3200—Geothermal Resources Leasing, as stated above, is being reviewed, and a proposed rule will be scheduled in the upcoming Agenda.

In addition, all of the minerals regulations except for those governing mining under the mining law are being reviewed for purposes of revising or adding provisions for recovery of administrative costs. A proposed rule was drafted in 1993, but was withdrawn because of questions regarding supporting data that arose during internal review. New rules amending some of the cost recovery provisions relating to oil and gas exploration (part of Group 3100) and non-energy leasable minerals (Group 3500) may be added to the upcoming Agenda, depending on policy decisions to be made at the DOI level and involving the Office of the Inspector General.

Several rulemaking efforts amending portions of Groups 3700 and 3800, relating to the mining law, have been suspended pending the development of mining law reform legislation in the Congress. Moreover, the regulations in Group 3600—Mineral Materials Disposal, were the subject of a final rule prepared in 1992. This rule was suspended upon the change of Administrations in 1993, and the regulations in this group are now being reviewed, partly in response to audits by the Office of the Inspector General, and for purposes of updating the regulations and improving efficiency. This review should be concluded by 1996.

**4100—Grazing Administration.** These regulations have been subject to internal and DOI review, and intense public scrutiny, during the last 12 months. A rule amending them is now among the highest priorities of the Secretary of the Interior, and a proposed rule was published on March 25, 1994 (59 FR 14314). There is no need for further review of these regulations under Section 5 of the Executive Order.

**5000–5510.** This grouping comprises the entire Forestry Program regulations of BLM, including those on free use of vegetative resources. The regulations governing these programs have been

undergoing continual informal review over the past decade and close public scrutiny and intense interest during the past 18 months surrounding the formulation of the Secretary's Forest Plan. As problems are disclosed, either through informal public input or internal review, and as legislation is enacted, rules have been proposed and promulgated dealing with them. There currently are two rules undergoing review, one proposing regulations on export and substitution of timber, and the other promulgating regulations on trespass. We would be happy to consider specific public comments on needed changes in the forestry regulations, but there are no plans for systematic review of these regulations in the next 2 years, especially in light of possible funding and personnel cuts in this program.

**6220—Wildlife Management.** There are no regulations in this part except for a single paragraph stating a purpose for regulations on primitive areas, scenic corridors and buffer zones, and wild and scenic rivers. It is not clear why the commenter listed this provision as significant, but it is certainly a good candidate for removal as serving no purpose.

**8300—Recreation Management.** The portions of the recreation management regulations on prohibited acts are currently undergoing review as part of the projected overhaul of the law enforcement regulations in part 9260. In addition, the entire recreation management part will be reviewed for purposes of efficiency and streamlining in the next 2 years. Comments from the public regarding this review are welcome.

**8400—Visual Resource Management [Reserved] and 8600—Environmental Education and Protection [Reserved].** There are no regulations at all in these groups, and it is not clear why the commenter listed these parts. The headings and part numbers are merely reserved for possible future use.

**8500—Wilderness Management.** The wilderness management regulations were thoroughly reviewed by BLM in 1992–93, and a proposed rule updating certain provisions is awaiting review in the Office of the Solicitor. Publication of the proposed rule will afford the public an opportunity to make further suggestions.

**9210—Fire Management.** There are no current plans to review the fire management regulations. The program office currently is reviewing its internal Manual and other guidance. Moreover, most fire management initiatives arise from State and local governments, and are carried out through cooperative

agreements and memoranda of understanding. We do not view these regulations as significant under the terms of the Executive Order, but would be happy to accept specific comments from the public as to how they may be improved. We do not anticipate a formal review, however, unless comments arrive informing us of problems with the current regulations.

The commenter also suggested a procedure for conducting periodic review of existing regulations. He suggested that "DOI held numerous public hearings in each of the States which are affected by these regulations" and that "DOI meet separately with each individual county together with the businesses and industries within that county which are affected by these regulations." In the BLM we meet constantly with the public, formally and informally, at all levels of the organization. To institutionalize such meetings in every county for this periodic review, however, would be enormously expensive and time consuming. BLM therefore is strongly opposed to such a procedure.

#### Summary

The following BLM regulations in Title 43 of the Code of Federal Regulations are scheduled for review and specific, detailed recommendations on how these regulations should be amended are invited.

Part 1600--Planning, Programming, Budgeting  
 Group 3200--Geothermal Resources Leasing  
 Group 3400--Coal Management  
 Group 3600--Mineral Materials Disposal  
 Group 8300--Recreation Management

The following regulations will not be reviewed in the immediate future because reviews have been completed, proposed rules amending them either have been published or are expected to be published, or because legislation is pending.

Group 1700--Program Management  
 Group 2400--Classification  
 Group 3700--Multiple Use; Mining  
 Group 3800--Mining Claims under the General Mining Law  
 Group 4100--Grazing Administration  
 Group 8500--Wilderness Management

The following regulations are not scheduled for review, although comments addressing them are welcome:

#### Part 9210--Fire Management

The following regulations are not scheduled for review and comments are not being solicited through this notice

because rules or reviews currently are underway in those areas:  
 Group 2800--Use; Rights-of-Way  
 Group 3100--Oil and Gas Leasing  
 Group 3500--Management of Solid Minerals Other Than Coal  
 Group 5400--Sales of Forest Products  
 Group 5500--Nonsale Disposals

#### Bureau of Reclamation

The Bureau of Reclamation (Reclamation) received no comments in response to the Department's March 1 Notice. Nevertheless, it has identified six significant regulations that meet the Order's criteria for a significant regulation, and each of these regulations will be reviewed. These regulations are:

(1) 43 CFR part 413 (assessment by irrigation districts of lands owned by the United States, Columbia Basin Project, Washington);

(2) 43 CFR part 417 (procedural methods for implementing Colorado River water conservation measures with lower basin contractors and others);

(3) 43 CFR part 418 (Newlands Reclamation Project, Nevada; Truckee River Storage Project, Nevada; and Washoe Reclamation Project, Nevada-California (Truckee and Carson River Basins, California-Nevada); Pyramid Lake Indian Reservation, Nevada; Stillwater Area, Nevada);

(4) 43 CFR part 424 (regulations pertaining to standards for the prevention, control, and abatement of environmental pollution of Conconully Lake and Conconully Reservoir, Okanogan County, Washington);

(5) 43 CFR part 426 (rules and regulations for projects governed by Federal Reclamation Law, which currently are being reviewed and revised; and

(6) 43 CFR part 431 (general regulations for power generation, operation, maintenance, and replacement at the Boulder Canyon Project, Arizona/Nevada).

Reclamation will conduct a review of each of these regulations. Any revisions will be published in the **Federal Register** with a 60-day period for public comment.

Regulation 43 CFR 426 is in the process of being rewritten. The proposed rule is scheduled for completion in December 1994, and the final rule is scheduled for completion in August 1995. The remaining rules will be reviewed as expeditiously as possible, and completion of the review and any appropriate revisions will be no later than June 30, 1996.

#### Office of Surface Mining Reclamation and Enforcement ("OSM")

OSM received several comments in response to the Notice. Based upon

these comments and an independent assessment of its regulatory program, OSM is conducting, or will conduct, reviews of several existing significant regulations. The following is a brief discussion of the comments received and the reviews that will be conducted.

#### Definition of Valid Existing Rights

OSM received a number of comments regarding the definition of valid existing rights. A rulemaking currently is being conducted regarding this definition, and no further review is necessary at this time. A notice of intent to prepare an environmental impact statement was published in the **Federal Register** on April 28, 1994, and the comment period on this notice expired on June 30. OSM is examining the comments and is proceeding with preparation of the statement and the rule.

#### Federal Oversight/Enforcement of Approved State Programs (Sections 842, 843)

One commenter recommends that OSM repeal 30 CFR 843.12(a)(2) to eliminate Federal NOV authority in primacy States. These regulations, however, currently are being litigated. OSM does not intend to take any further action until a court decision is issued.

The commenter also recommends that OSM require citizens to exhaust the State program citizen complaint process before any Federal involvement or use of ten-day notices. The commenter further recommends that OSM limit citizen review of State permitting decisions to those procedures established under State programs for that purpose, and eliminate use of ten-day notices to address State permitting issues.

OSM has established two task forces which currently are studying the entire citizen complaint and ten-day notice processes. This study includes a review of the specific concerns raised by the commenter. The efforts of these task forces may culminate in recommended changes, and OSM does not intend to undertake any further action until the studies are completed.

#### Revegetation Success Standards (Sections 816.116/817.116)

A commenter identified three areas of the revegetation success standards for change: 1) The requirement to obtain approval from other agencies for planting and stocking plans; 2) the requirement that husbandry or conservation practices be approved through the State program amendments process; and 3) the requirement that OSM-approved statistically valid

measurement techniques be used in evaluating revegetation success.

OSM will review the regulations to determine the need to propose rulemaking. Public comments are requested regarding modification to the Revegetation Success Standards for sections 816.116 and 817.116. Review of the regulations will commence by October 1, 1994.

*Hydrology: Water Quality (Sections 816.42/817.42, 782.21(j)/764.14(i))*

A commenter asked OSM to delete cross references to 816.42 (which cites effluent guidelines at 40 CFR part 434) in favor of the statement “\* \* \* capable of meeting EPA’s effluent guidelines.” Any rule change, however, requires the concurrence of the Environmental Protection Agency (EPA). OSM therefore intends to enter into discussions with EPA and review the current Hydrologic standards at sections 816.42, 816.46/817.42, 817.46. Public comments are requested regarding these hydrologic standards. Review of the regulations will commence by October 1, 1994.

*Air Monitoring Program (Sections 780.15/784.26)*

A commenter noted that fugitive and other emissions at mines fall within EPA’s authority under the Clean Air Act and should not be regulated by OSM. The commenter also noted that SMCRA only provides authority to deal with erosional aspects of air pollution.

The existing OSM permitting requirements were promulgated in 1979. Subsequently, the corresponding performance standards governing air quality were revised. OSM considers it appropriate, therefore, to review these permitting regulations. Public comments are requested regarding these requirements at sections 780.15 and 784.26. Review of the regulations will commence by October 1, 1994.

*Roads (Sections 816.150, 816.151, 817.150, 817.151)*

One commenter suggested that existing road design standards need to be deleted because the primary road category is so broadly defined that it subjects temporary roads and insignificant travel routes to expensive highway design standards. The commenter further suggested that the foundation and embankment testing requirements and drainage design requirements are costly and unnecessary, and that they should be replaced with general criteria for roads based upon prudent engineering practices and best management practices. The commenter also noted

that OSM should refrain from exerting jurisdiction over public roads.

OSM does not believe there is sufficient justification to review the existing regulations regarding road design standards. OSM believes its existing standards, which are implemented through a two-tiered classification system, adequately address the commenters concerns. OSM plans, however, to undertake rulemaking to address the jurisdictional question.

*Regulations Concerning Ownership and Control, Permit Information, and Permit Rescission*

Commenters suggested that OSM review regulations concerning ownership and control, permit information, and permit rescission. These regulations currently are being litigated and/or are in the process of being revised. OSM does not intend to take any further action until pending issues are decided.

*Water Impoundments/Sedimentation Ponds (Sections 816.49/817.49, 780.25/846.16)*

A rulemaking currently is being undertaken and no further review is expected at this time. A final rule entered internal review within OSM on February 7, 1994.

*Backfilling and Grading—Nationwide Time and Distance Standards*

A commenter raises the same issues on the relevance of a time standard and the practicality of establishing national standards for area and contour mining due to the variability in geology, equipment, mining methods, and market conditions as it previously did in its May 25, 1993, report. OSM already has commenced a rulemaking in this area and no further review is required.

*Backfilling and Grading—Underground Mines (Sections 817.102/106)*

A commenter recommends revising existing regulations requiring the elimination of the “highwall” at underground mine openings. The commenter notes that OSM’s rules on highwall elimination and approximate original contour restoration should reflect the statutory and operational differences between surface and underground mining. The commenter recommends that OSM revise the regulations to clarify that the underground performance standards in section 516(b)(2) are the relevant standards governing the reclamation of mine openings and avoid the wholesale incorporation of surface mining requirements.

OSM is currently reviewing its Backfilling and Grading rule and will shortly implement an outreach plan to discuss certain topics. Public comment regarding OSM rules for backfilling and grading highwalls for underground mines will be welcome at that time.

*Historic Properties (Sections 779.12(b)/7832.12(b))*

A commenter recommends that the rules should provide, with greater clarity and certainty, a threshold of information necessary before the State Historic Preservation Officer (“SHPO”) and regulatory authority can order field investigations and surveys to identify the possible existence of important cultural and historic resources. The SHPO should be subject to a higher burden for its recommendations so that available information discloses a substantial likelihood that cultural and historic resources eligible for listing in the National Register are present on the mine site.

OSM currently is pursuing a programmatic agreement with the Advisory Council on Historic Preservation that will address the issues raised by the commenter. A notice announcing the availability of the programmatic agreement and requesting comments was published in the Federal Register on June 16, 1994.

*Transfer, Assignment, and Sale of Permits (Section 774)*

Comments suggested that rules relating to the transfer, assignment, and sale of permits be reviewed. A rulemaking currently is being undertaken and no further review is necessary.

*Abandoned Mined Land Fee Reauthorization Implementation*

A commenter recommends not finalizing that aspect of the proposed rule on the new reporting requirements until it has conducted a burden analysis and discussed with the coal industry a more realistic and less costly approach for gathering information. For example, OSM should clarify that the lessees of the coal are the owners for purposes of identifying the owners of the coal on the AML form.

A final rule was published in the **Federal Register** on May 31, 1994. Extensive outreach efforts were conducted with States and Tribes and constituent groups prior to the drafting of the proposed rule. Further, the proposed rule was subject to an extended public comment period via the **Federal Register** process. All comments received were evaluated carefully and responded to as appropriate in the final

rule, including responding to a lengthy comment that included references to the reporting burdens of industry as related to threshold reporting requirements. Specifically, the final rule at 30 CFR 870.5 addressed the coal ownership concern by specifying that, "(i) if there are several persons who have successfully transferred the mineral rights, information shall be provided on the last owner(s) in the chain prior to the permittee, i.e., the person or persons who have granted the permittee the right to extract the coal."

#### Minerals Management Service

The Minerals Management Service ("MMS") received approximately 40 public comments on the Notice. The commenters cited specific sections of the regulations and stated what was, in their opinion, wrong with the regulation and recommended how to fix it. Since the comments were very specific they will be very useful to MMS. The comments were also very constructive and we encourage the continued use of this open dialogue.

The comments were almost equally divided between MMS' Offshore Minerals Management operation and its Royalty Management Program. Discussed below are those comments that MMS either already has started some action, or intends to initiate some type of action in the near future. In keeping with the need to avoid paperwork and regulations, MMS will seek non-regulatory solutions wherever possible.

If issues raised by commenters are not covered by one of the listed areas, MMS will conduct a separate review and obtain input from other offices in headquarters and the Regions. For example, MMS will address concerns expressed in a letter from the Wilderness Society about the public input process.

#### Offshore Minerals Management ("OMM") Program

In response to the public comments received on the Notice, the OMM Program plans to review the following four sections of OMM regulations. The first three areas involve ongoing reviews that will be expanded to cover additional provisions as a result of the comments received in response to the Notice.

1. Regulations applicable to production in deep water. (30 CFR Part 250, Subpart H, Production)

*Comments Received*—(a) "Revise current regulations to provide for approval of extended flaring periods under certain situations (e.g., deepwater prospects, well tests, etc.) and clarify

criteria for flaring or venting small amounts of gas."

(b) "Revise requirements associated with subsea installations such as valve arrangement and closure time requirements for USV's and associated SCSSV's."

*Action Planned*—Formation of a Task Force to evaluate deepwater issues.

*Timetable*—Task Force expected to complete a draft report in July or August 1994.

2. Regulations applicable to blowout preventer ("BOP") test procedures and frequency. (30 CFR 250.56 and 57)

*Comments Received*—"Revise BOP testing regulations to allow for less frequent and shorter tests. Allow 14 day BOP test interval vs. current 7 day \* \* \*"

*Action Planned*—The MMS has established a workgroup to study BOP system maintenance and reliability. The workgroup is also looking at testing times.

*Timetable*—The workgroup expects to complete data analysis by November 1994.

3. Regulations governing safety and pollution prevention equipment. (30 CFR 250.126)

*Comments Received*—"Reduce associated administrative burden on lessees and operators by eliminating unnecessary record keeping requirements (i.e., inventory lists, paperwork notifications, etc.)."

*Action Planned*—MMS intends to use a negotiated rulemaking as part of this review.

*Timetable*—A "Convener" has been appointed and has initiated discussions with interested parties. The first meeting of the participants is planned for September 1994.

4. Regulations governing conservation of resources and diligence. (30 CFR Part 250, Subpart K, Oil and Gas Production Rates and Subpart M, Unitization).

*Comments Received*—(a) "Revise Suspension of Production approval/lease holding criteria \* \* \*", (b) "Relax restrictions on commingling reservoirs in a common wellbore \* \* \*", (c) "revise current regulations to provide for approval of extended flaring periods \* \* \*", etc.

*Action Planned*—Initiate a review of the issues raised. Review may consist of forming a workgroup.

*Timetable*—Begin review in Fall of 1994.

#### Royalty Management Program ("RMP")

The RMP plans to review the following regulations:

1. Regulations applicable to valuation of oil and gas produced from unitized/communitized properties (Take vs

Entitlements). Also, regulations applicable to non-arm's length sales. (30 CFR 202)

*Comments Received*—"Regulations concerning Takes vs. Entitlements are confusing and make compliance difficult \* \* \* valuing gas under a non-arm's length transaction is burdensome \* \* \*"

*Action Planned*—Form a workgroup with representation from various sources to arrive at a consensus and develop a Negotiated Regulation.

*Timetable*—First meeting of participants in the negotiated rulemaking process was held in Denver, Co. on June 15, 1994.

2. Regulations clarifying the responsibilities of payors and lessees. (30 CFR 218 and 211)

*Comments Received*—"Existing regulations are unclear as to the obligations and liabilities of payors and lessees."

*Action Planned*—A workgroup has been assembled to review the options associated with this issue.

*Timetable*—A Proposed Rule on *Pcyor Responsibilities* is being drafted. Projected publishing date is late 1994.

3. Regulations establishing procedures for obtaining refunds and credits of excess payments made under Federal mineral leases on the Outer Continental Shelf (OCS) which are subject to section 10 of the OCS Lands Act. (30 CFR 230)

*Comments Received*—"Industry has difficulty complying with 2 year limitation on refunds \* \* \*"

*Action Planned*—Regulations have been drafted to address certain aspects of section 10 refunds.

*Timetable*—A Final Rule on Offsets, Recoupments and Refunds of Excess Payments of Royalties, Rentals, Bonuses, or Other Amounts under Federal offshore Mineral Leases. Projected publishing date is Fall 1994.

4. Streamlining the MMS Administrative Appeals process. (30 CFR 290)

*Comments Received*—The process has been criticized for taking too long.

*Action Planned*—A couple of studies have been performed to review the different core processes in the Appeal function. Some streamlining revisions have been implemented and further studies are continuing.

*Timetable*—Review and streamlining of appeals process is ongoing. Meetings are being held and internal processes being reviewed. Most recent effort is determining whether Alternative Dispute Resolution could be an effective tool in the Appeal process.

#### Bureau of Indian Affairs ("BIA")

BIA received no comments in response to the Notice. Nevertheless,

BIA will review the following regulations: 25 CFR Part 169 (rights-of-way over Indian lands); 25 CFR Part 152 (issuance of patents in fee, certificates of competency, removal of restrictions, and sale of certain Indian lands); 25 CFR Part 168 (grazing regulations for the Hopi Partitioned Lands area); and 25 CFR Part 83 (procedures for establishing that an American Indian group exists as an Indian tribe).

Each regulation will be reviewed before December 31, 1994 to determine whether it should be revised. The reviews will be held during a joint meeting between the Division of Management Support, the Solicitor's Office and the related program office. Results of the reviews shall be submitted in writing from the Division of Management Support to the Department's Office of Regulatory Affairs as soon as possible after the conclusion of the last review meeting.

Dated: July 1, 1994.

Bill Vincent,

Deputy Director, Office of Regulatory Affairs.  
[FR Doc. 94-17228 Filed 7-14-94; 8:45 am]

BILLING CODE 4310-10-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[FI-10-94]

RIN 1545-AS54

#### Real Estate Mortgage Investment Conduits; Hearing Cancellation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed regulations.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations relating to real estate mortgage investment conduits.

**DATES:** The public hearing originally scheduled for Friday, July 22, 1994, beginning at 10 a.m. is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-8452 or (202) 622-7190 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 860G of the Internal Revenue Code. A notice of proposed rulemaking and public hearing appearing in the *Federal Register* for Wednesday, April 20, 1994,

(59 FR 18772), announced that the public hearing on the proposed regulations would be held on Friday, July 22, 1994, beginning at 10 a.m., in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Friday, July 22, 1994, is cancelled.

Jacquelyn B. Burgess,

Alternate Federal Register Liaison Officer,  
Assistant Chief Counsel (Corporate).

[FR Doc. 94-17148 Filed 7-14-94; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 914

#### 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 referred to as the "Indiana program") under the Surface Mining Reclamation Act of 1977 (SMCRA). The proposed amendment (#93-2 Continuation) consists of revisions to the Indiana rules concerning show cause orders and adjudicative proceedings for the suspension and revocation of permits. The amendment is intended to revise the Indiana program to be consistent with SMCRA and the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., E.S.T. August 15, 1994. If requested, a public hearing on the proposed amendment will be held on August 9, 1994. Requests to speak at the hearing must be received by 4:00 p.m., E.S.T. on August 1, 1994.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Roger W. Calhoun, Director, Indianapolis Field Office at the first 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 contracting OSM's Indianapolis Field Office. 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.

Roger W. Calhoun, Director,  
Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, Room 301, Indianapolis, Indiana 46204,  
Telephone: (317) 226-6166;  
Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, Telephone: (317) 232-1547.

**FOR FURTHER INFORMATION CONTACT:**  
Roger W. Calhoun, Director,  
Indianapolis Field Office, Telephone: (317) 226-6166.

#### 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 32071). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

##### II. Discussion of the Proposed Amendment

By letter dated June 15, 1994 (Administrative Record No. IND-1374), Indiana submitted the final-adopted language of program amendment #93-2 concerning show cause orders and adjudicative proceedings for the suspension or revocation of permits. OSM published a final rule notice approving, with an exception, Indiana's program amendment #93-2 on November 18, 1993 (58 FR 60783). In that notice, OSM required, at 30 CFR 914.16(d), an amendment to the Indiana program. Indiana's submittal of the final-adopted language of amendment #93-2 contains Indiana's response to the required program amendment at 30 CFR 914.16(d) and other changes made by Indiana. Since Indiana's final adoption of amendment #93-2 occurred after OSM published its approval of #93-2, any changes Indiana made to the language approved by OSM on November 18, 1993, must be considered by OSM to be the subject of a new