

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t., December 5, 2003.

ADDRESSES: You should mail written comments and requests to speak at the hearing to James F. Fulton at the address listed below.

You may review copies of the Colorado program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting Office of Surface Mining Reclamation and Enforcement's (OSM) Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, PO Box 46667, Denver, CO 80201-6667.

David A. Berry, Coal Program Supervisor, Colorado Division of Minerals and Geology, 1313 Sherman Street Room 215, Denver, Colorado 80203, Telephone: 303/866-3873.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Telephone: 303/844-1400 ext. 1424, Internet address: jfulton@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Colorado Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Colorado Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Colorado program on December 15, 1980. You can find background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program in the December 15, 1980, **Federal Register** (45 FR 82173). You can also find later actions concerning Colorado's program and program amendments at 30 CFR 906.15, 906.16, and 906.30.

II. Proposed Amendment

By letter dated March 27, 2003, Colorado sent us a proposed amendment to its program (SATS No. CO-033-FOR, administrative record number CO-696-1) under SMCRA (30 U.S.C. 1201 *et seq.*). Colorado sent the proposed amendment in response to the letters that we sent it in accordance with 30 CFR 732.17(c) on May 7, 1986; on June 9, 1987; and on March 22, 1990. The amendment concerns prime farmland, revegetation, hydrology, enforcement, topsoil, historic properties, and bond release requirements.

On April 4, 2003, Colorado sent us an addition to its March 27, 2003, program amendment which amended Rule 4.15.8(3)(a), Revegetation Success Criteria.

We announced receipt of the March 27, 2003, proposed amendment and its April 4, 2003, addition in the June 3, 2003, **Federal Register** (68 FR 33032), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy. Because no one requested a public hearing or meeting, none was held. The public comment period ended on July 3, 2003. We received comments from one Federal agency.

Colorado now proposes, in its July 23, 2003, submittal, revisions to Rule 4.15.1, Weed Management Plan; Rule 4.15.9, Revegetation Success Criteria: Cropland; and Rule 1.04(78), Definition of Noxious Weeds. Specifically, (1) Rule 4.15.1 requires a weed management plan be submitted with the surface coal mining permit application; (2) In Rule 1.04(78), the definition is amended to read "noxious weeds" rather than "noxious plants;" and (3) Rule 4.15.9, "Revegetation Success Criteria: Cropland," is amended to read "crop production from the mined area shall not be less than that of the liability period * * *," and "Crop production shall not be considered prior to year nine of the liability period. With respect to annual grain crops for which the cropping cycle may incorporate a summer fallow year, two of the last four cropping years will be considered."

III. Public Comment Procedures

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the

administrative record any comments received after the time indicated under **DATES** or at locations other than the Denver Field Division.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. CO-033-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Denver Field Division at 303/844-1400, ext. 1441.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

VI. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10),