

(c) Within 15 days after an award has been submitted to the parties, the arbitrator shall submit an Arbitrator's Report and Fee Statement (Form R-19) to OAS showing a breakdown of the fee and expense charges so that the OAS may review conformance with stated charges under § 1404.12(a). The Form R-19 is not to be used to invoice the parties.

(d) While the FMCS encourages the publication of arbitration awards, arbitrators should not publicize awards if objected to by one of the parties.

**§ 1404.15 Fees and charges of arbitrators.**

(a) FMCS will charge all arbitrators a fee to be listed on the Roster. All arbitrators listed on the Roster may charge a per diem fee and other predetermined fees for services, if the amount of such fees have been provided in advance to the FMCS. Each arbitrator's maximum per diem fee and the existence of other predetermined fees, if any, are set forth on a biographical sketch which is sent to the parties when panels are submitted. The

arbitrator shall not change any fee or add charges without giving at least 30 days' advance written notice to the FMCS. Arbitrators with dual business addresses must bill the parties for expenses from the nearest business address to the hearing site.

(b) In cases involving unusual amounts of time and expenses relative to pre-hearing and post-hearing administration of a particular case, an administrative charge may be made by the arbitrator.

(c) Arbitrators shall submit their schedule of fees to both parties when accepting arbitration appointments. All charges other than those specified in paragraph (a) of this section shall be divulged to and agreement obtained by the arbitrator with the parties immediately after appointment.

(d) The OAS requests that it be notified of any arbitrator's deviation from the policies expressed in this part. While FMCS will not resolve fee disputes, repeated complaints concerning the fees charged by an

arbitrator will be brought to the attention of the Arbitration Review Board for further consideration.

**§ 1404.16 Reports and biographical sketches.**

(a) arbitrators listed on the Roster shall execute and return all documents, forms and reports required by FMCS. They shall also keep the OAS informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations or which creates or gives the appearance of advocacy as defined in § 1404.5(c)(1).

(b) The OAS will provide biographical sketches on each person admitted to the Roster from information supplied by applicants. Arbitrators may request revision of biographical information at later dates to reflect changes in fees, the existence of additional charges, or other relevant data. The OAS reserves the right to decide and approve the format and content of biographical sketches.

Appendix to 29 CFR Part 1404—Arbitration Policy; Schedule of Fees

Annual listing fee for all arbitrators .....	\$100 for the first address; \$50 for second address.
Request for panel of arbitrators .....	\$30 for each panel request (includes subsequent appointment).
Direct appointment of an arbitrator when a panel is not used .....	\$20 per appointment.
List and biographic sketches of arbitrators in a specific area .....	\$10 per request plus \$10 per page.

John Calhoun Wells,  
 Director.  
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 BILLING CODE 6732-01-M

**DEPARTMENT OF THE INTERIOR**  
**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 906**  
 [SPATS No. CO-034-FOR]

**Colorado Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.  
**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Colorado regulatory program (hereinafter, the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of, in addition to several nonsubstantive editorial revisions, revisions to Colorado's rules pertaining to (1) the

applicability of Colorado's rules and language identifying where referenced material may be viewed; (2) definitions; (3) the requirement to repeal any State rule required by a Federal law or rule which is repealed; (4) the operations plan permit application requirements; (5) experimental practices; (6) the right of successive permit renewal; (7) transfer, assignment or sale of permit rights; (8) terms and conditions of an irrevocable letter of credit; (9) performance standards for sedimentation ponds; (10) embankment design for sedimentation ponds; (11) sign and markers for temporary and permanent cessation of operations; (12) availability of records; and (13) a permittee's failure to abate a violation. The amendment is intended to revise the Colorado program to clarify ambiguities and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., M.D.T., April 14, 1997. If requested, a public hearing on the proposed amendment will be held on April 7, 1997. Requests to present oral testimony at the hearing must be received by 4:00 p.m., M.D.T., on March 28, 1997.

**ADDRESSES:** Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Colorado program, the proposed amendment, 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 contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733

Michael B. Long, Director, Division of Minerals and Geology, Department of Natural Resources, 1313 Sherman St., Room 215, Denver, Colorado 80203, Telephone: (303) 866-3567

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Telephone: (303) 844-1424.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Colorado Program  
 On December 15, 1980, the Secretary of the Interior conditionally approved

the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, and 906.16.

## II. Proposed Amendment

By letter dated February 25, 1997, Colorado submitted a proposed amendment (administrative record No. CO-683) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment at its own initiative. Colorado proposed to revise the following provisions of the Colorado Surface Coal Mining Reclamation Act, Colorado Revised Statutes (C.R.S.):

C.R.S. 34-33-1.01 and 1.01(9), concerning applicability of Colorado's rules, to include the statements, respectively, that "[a] written statement on the basis and purpose of the amendments to these Rules adopted by the Board on December 18, 1996 is hereby incorporated in these Rules by reference pursuant to C.R.S. 1995, 24-4-103(4) and is available at the Office of the Mined Land Reclamation Board" and "[a]ll materials [cited in these rules] incorporated by reference are available for inspection at State Publications Depository Libraries, through inter-library loan, and at the Division office located in Room 215, Centennial Building, 1313 Sherman Street, Denver, Colorado 80203. The Division Director can provide further information regarding how the incorporated material may be obtained or examined;"

C.R.S. 34-33-104(4), concerning the definition of "[a]ctive mining area," to remove the parenthetical reference stating "as used in 4.05.2(7);"

C.R.S. 34-33-1.04(21), concerning definition of "[c]oal," to remove language identifying where material incorporated by reference may be viewed;

C.R.S. 34-33-104(41), concerning the definition of "[e]mployee," to add the parenthetical statement "regarding employee financial interests in Section 1.10;"

C.R.S. 34-33-1.13, concerning the requirement to repeal any State rule required by a Federal law or rule which is repealed, to require that the repeal of the State rule become effective ninety, rather than sixty, days after publication of the repeal of the Federal rule in the Federal Register;

C.R.S. 34-33-2.05.3(3)(b)(i)(D), concerning the operations plan permit application requirements for mine facilities, to remove a reference to "design requirements" where discussing exemptions for existing structures at 2.07.6;

C.R.S. 34-33-2.05.3(3)(c)(ii), concerning the operations plan permit application requirements for mine facilities, to correct the referenced citations to performance standards for roads, conveyors, or road systems;

C.R.S. 34-33-2.06.2(3), concerning experimental practices, to require the approval of the Director of OSM as the authorized representative of the Secretary of the United States Department of Interior;

C.R.S. 34-33-2.06.6(2)(a)(i), concerning requirements for permit applications involving prime farmlands, to delete language identifying where referenced material may be viewed;

C.R.S. 34-33-2.08.5(2)(b)(ii), concerning the right of successive permit renewal, to require that a copy of the newspaper notice to be placed in a local newspaper in accordance with the requirements of 2.07.3(2) with proof of publication made a part of the renewal application not later than 4 weeks after the last date of publication;

C.R.S. 34-33-2.08.6(6), concerning transfer, assignment or sale of permit rights, to require that (1) the Division shall initially notify the appropriate parties of its "proposed" decision, (2) if no informal hearing is requested, the Division shall issue and implement the proposed decision as final within 5 days after the close of the 30 day period provided for the filing of a request for a formal hearing, and (3) no permit shall be transferred until the applicant has filed a performance bond with the Division and the Division has approved it;

C.R.S. 34-33-3.02.4(2)(d)(i), concerning terms and conditions of an irrevocable letter of credit, to provide that the letter of credit may be issued by a bank not located in the State of Colorado if the letter is confirmed by a bank located in the State, or if, at the Board's discretion, the letter is determined to be an acceptable letter of credit;

C.R.S. 34-33-4.02.2(2) and 4.30.1(3) and 2(3), concerning signs and markers and cessation of operations, respectively, to (1) notify OSM that it never promulgated previously proposed and approved language requiring the mine identification sign to include the name, address, and telephone number of the Division office where the mining and reclamation permit is filed, and (2) require that as soon as a temporary

cessation extends beyond 30 days or when operations have permanently ceased, the operator shall modify the mine identification sign to include the name, address, and telephone number of the Division office where the mining and reclamation permit is filed, until such time as the Division terminates jurisdiction over the surface coal mining operation;

C.R.S. 34-33-4.05.6(6)(a), concerning performance standards for sedimentation ponds, to require that a pond meeting the size criteria of 4.05.6(12) be designed to control, at a minimum, the probable maximum precipitation of a 25-year 24-hour event, rather than a 24-hour event;

C.R.S. 34-33-4.05.6(11)(h),

concerning embankment design for sedimentation ponds, to correct the referenced citation for size criteria;

C.R.S. 34-33-5.02.4(1), concerning availability of records, to require that (1) all but confidential information be available to the public at the Division office and at a convenient place in the area of mining to which the information pertains until "the Division has terminated jurisdiction at the surface coal mining operation, pursuant to 3.03.3(1), and (2) after the Division has terminated jurisdiction, copies of all but confidential information will be maintained and available for public review, or provided promptly by mail at the request of interested parties, for at least 5 years after the expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond, whichever is later; and

C.R.S. 34-33-5.03.3(5), concerning a permittee's failure to abate a violation, to correct the referenced citation for an order to show cause.

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Colorado program.

### 1. Written Comments

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

## 2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., M.D.T., on March 28, 1997. 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**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, 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 responses 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 who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

## 3. Public Meeting

If only one person requests an opportunity 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 amendment may request a meeting 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 at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

## IV. Procedural Determinations

### 1. 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).

### 2. 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 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 the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

### 3. 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)).

### 4. 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.*).

### 5. 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 that 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.

### 6. 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 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 97-6352 Filed 3-12-97; 8:45 am]

BILLING CODE 4310-05-M

## 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; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt 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 proposed amendment consists of revisions to the Indiana rules pertaining to identification of interests, compliance information, and permit conditions. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., e.s.t., April 14, 1997. If requested, a public hearing on the proposed amendment will be held on April 7, 1997. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t., on March 28, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Charles F. McDaniel, Acting Director, Indianapolis Field Office, at the 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 contacting OSM's Indianapolis Field Office.

Charles F. McDaniel, Acting Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana