Federal income tax than interest income and is, therefore, a separate class of income in the ordinary income category. The annuity amount is deemed to be distributed from the classes within the ordinary income category, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. Because during 2003 qualified dividend income is taxed at a lower rate than interest income, the interest income is deemed distributed prior to the qualified dividend income. Therefore, in the hands of the recipient, the 2003 annuity amount has the following characteristics:

Interest income	$80
Qualified dividend income	20

(iii) The remaining $30 of qualified dividend income that is not treated as distributed to the recipient in 2003 is carried forward to 2004 as undistributed qualified dividend income.

Example 2. (i) The facts are the same as in *Example 1,* and at the end of 2004, X has the following classes of income:

Interest income class	$5
Qualified dividend income class ($10 from 2004 and $30 carried forward from 2003)	40
Net short-term capital gain class	15
Net long-term capital loss in 28-percent rate class	(325)
Net long-term capital gain in unrecaptured section 1250 gain class	175
Net long-term capital gain in all other long-term capital gain class	350

(ii) In 2004, gain in the unrecaptured section 1250 gain class is subject to a 25-percent Federal income tax rate, and gain in the all other long-term capital gain class is subject to a lower rate. The net long-term capital loss in the 28-percent rate class is used to offset the net capital gains in the other classes of long-term capital gain and loss, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. The $325 net loss in the 28-percent rate class reduces the $175 net gain in the unrecaptured section 1250 gain class to $0. The remaining $150 loss from the 28-percent rate class reduces the $350 gain in the all other long-term capital gain class to $200. As in *Example 1,* qualified dividend income is taxed at a lower rate than interest income during 2004. The annuity amount is deemed to be distributed from all the classes in the ordinary income category and then from the classes in the capital gains category, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. In the hands of the recipient, the 2004 annuity amount has the following characteristics:

Interest income	$5
Qualified dividend income	40
Net short-term capital gain	15
Net long-term capital gain in all other long-term capital gain class	40

(iii) The remaining $160 gain in the all other long-term capital gain class that is not treated as distributed to the recipient in 2004 is carried forward to 2005 as gain in that same class.

Example 3. (i) The facts are the same as in *Examples 1* and *2,* and at the end of 2005, X has the following classes of income:

Interest income class	$5
Qualified dividend income class	20
Net short-term capital loss class	(50)
Net long-term capital gain in 28-percent rate class	10
Net long-term capital gain in unrecaptured section 1250 gain class	135
Net long-term capital gain in all other long-term capital gain class (carried forward from 2004)	160

(ii) Net short-term capital loss is used to offset the net capital gains in the classes of long-term capital gain and loss, in turn, until exhaustion of the class, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. The $50 net loss reduces the $10 net gain in the 28-percent rate class to $0. The remaining $40 net loss reduces the $135 net gain in the unrecaptured section 1250 gain class to $95. As in *Examples 1* and *2,* during 2005, qualified dividend income is taxed at a lower rate than interest income; gain in the unrecaptured section 1250 gain class is taxed at 25-percent; and gain in the all other long-term capital gain class is taxed at a rate lower than 25-percent. The annuity amount is deemed to be distributed from all the classes in the ordinary income category and then from the classes in the capital gains category, beginning with the class subject to the highest Federal income tax rate and ending with the class subject to the lowest rate. In the hands of the recipient, the 2005 annuity amount has the following characteristics:

Interest income	$5
Qualified dividend income	20
Unrecaptured section 1250 gain	75

(iii) The remaining $20 gain in the unrecaptured section 1250 gain class and the $160 gain in the all other long-term capital gain class that are not treated as distributed to the recipient in 2005 are carried forward to 2006 as gains in their respective classes.

(ix) *Effective dates.* The rules in this paragraph (d)(1) that require long-term capital gains to be distributed in the following order: first, 28-percent rate gain as defined in section 1(h)(4); second, unrecaptured section 1250 gain as described in section 1(h)(6); and then, all other long-term capital gains are applicable for taxable years ending on or after December 31, 1998. The rules in this paragraph (d)(1) that provide for the netting of capital gains and losses are applicable for taxable years ending on or after December 31, 1998. The rule in the second sentence of paragraph (d)(1)(vi) of this section is applicable for taxable years ending on or after December 31, 1998. The rule in the third sentence of paragraph (d)(1)(vi) of this section is applicable for distributions made in taxable years ending on or after December 31, 1998. All other provisions of paragraph (d)(1) are applicable for taxable years ending after November 20, 2003.

* * * * *

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–29042 Filed 11–19–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[CO–033–FOR]

Colorado Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: We are announcing receipt of revisions pertaining to a previously-proposed amendment to the Colorado regulatory program (hereinafter, the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Colorado proposes revisions to require a weed management plan as part of the permit application, and as part of the Cropland revegetation success criteria, to not consider crop production prior to year nine of the liability cycle (or 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).

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

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),

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.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because 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 certifies 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. 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: a. does not have an annual effect on the economy of $100 million; b. will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and c. does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 24, 2003.

Peter A. Rutledge,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 03–28996 Filed 11–19–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–246–FOR]

Kentucky Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Kentucky regulatory program (the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky is revising its definition of ''affected area'' to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., e.s.t., December 22, 2003. If requested, we will hold a public hearing on the amendment on December 15, 2003. We will accept requests to speak until 4 p.m., e.s.t., on December 5, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, a