

above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 11, 1995.

William B. Schultz,

*Deputy Commissioner for Policy.*

[FR Doc. 95-25670 Filed 10-12-95; 1:38 pm]

BILLING CODE 4160-01-F

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 31

[IA-30-95]

RIN 1545-AT86

#### Reporting of Nonpayroll Withheld Tax Liabilities

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

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations relating to the reporting of nonpayroll withheld income taxes under section 6011 of the Internal Revenue Code. The text of the temporary regulations also serves as the text for this notice of proposed rulemaking.

**DATES:** Written comments and requests for a public hearing must be received by December 15, 1995.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:T:R (IA-30-95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (IA-30-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Vincent G. Surabian, (202) 622-6232 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The collection of information is in § 31.6011(a)-4T(b). This information is required by the IRS to monitor compliance with the federal

tax rules related to the reporting and deposit of nonpayroll withheld taxes.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224. To ensure that comments on the collection of information may be given full consideration during the review by the Office of Management and Budget, comments on the collection of information should be received by December 15, 1995.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Estimates of the reporting burden in this Notice of Proposed Rulemaking will be reflected in the burden of Form 945.

##### Background

The temporary regulations published in the Rules and Regulations section of this issue of the Federal Register contain an amendment to the Regulations on Employment Taxes and Collection of Income Tax at Source (26 CFR part 31). This amendment relates to the reporting of nonpayroll withheld tax liabilities. The temporary regulations change the rule regarding the filing of Form 945, Annual Return of Withheld Federal Income Tax, for a calendar year in which there is no liability.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

##### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue

Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

##### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are timely submitted to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

**Drafting Information.** The principal author of these regulations is Vincent G. Surabian, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

##### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

##### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

#### **PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE**

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. In § 31.6011(a)-4, paragraph (b) is revised to read as follows:

##### **§ 31.6011(a)-4 Returns of income tax withheld.**

\* \* \* \* \*

(b) [The text of this proposed paragraph (b) is the same as the text of § 31.6011(a)-4T(b) published elsewhere in this issue of the Federal Register].

\* \* \* \* \*

Margaret Milner Richardson,

*Commissioner of Internal Revenue.*

[FR Doc. 95-25313 Filed 10-13-95; 8:45 am]

BILLING CODE 4830-01-U

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 906****Colorado Regulatory Program**

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

**SUMMARY:** OSM is announcing receipt of proposed revisions to rules that had been previously approved by OSM and additional explanatory information 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). The revisions and additional explanatory information for Colorado's proposed rules pertain to the definition of "road;" adjustments in bond amount; the bond liability period on land reclaimed for industrial or commercial, or residential use; bond forms; terms and conditions of irrevocable letters of credit; the criteria and schedule for release of performance bonds; and erosion control on mine support facilities is within areas where the pre- and postmining land use is industrial or commercial. The amendment is intended to revise the Colorado program to be consistent with the corresponding Federal regulations and SMCRA, and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.s.t. November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., October 31, 1995.

**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, Western Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3300, Denver, Colorado 80202

Colorado Division of Minerals and Geology, Department of Natural Resources, 215 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203, Telephone: (303) 866-3567

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Telephone: (303) 672-5524.

**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, 906.16, and 906.30.

**II. Proposed Amendment**

By letter dated July 12, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO-670) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment in response to a February 7, 1990, letter (administrative record No. CO-484) that OSM sent to Colorado in accordance with 30 CFR 732.17(c), and at its own initiative.

OSM announced receipt of the proposed amendment in the July 28, 1995, Federal Register (60 FR 38773), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. CO-670-4). Because no one requested a public hearing or meeting, none was held. The public comment period ended on August 28, 1995.

In addition to the proposed amendment submitted on July 12, 1995, Colorado submitted under the same July 12, 1995, cover letter (administrative record No. CO-670), promulgated rules which had been previously approved by OSM (see 59 FR 28248, June 1, 1994, and 59 FR 62574, December 6, 1994). Upon promulgation of these previously approved rules, Colorado revised and submitted several of them in response to the requirement to amend its program at 30 CFR 906.16(g) and at its own initiative. The previously approved provisions of 2 Code of Colorado Regulations 407-2, the rules and regulations of the Colorado Mined Land Reclamation Board that Colorado

proposes to revise are: Rule 1.04(111), concerning the definition of "road;" Rule 3.02.2(5), concerning adjustments in bond amount; Rule 3.02.3(2)(c), concerning the bond liability period on land reclaimed for industrial or commercial, or residential use; Rules 3.02.4(1), 3.02.4(1)(b) and (d), concerning bond forms; Rule 3.02.4(2)(c)(ix), concerning real property bonds; Rule 3.02.4(2)(d)(i), concerning terms and conditions of irrevocable letters of credit; Rule 3.03.1(2)(b), concerning the criteria and schedule for release of performance bonds; and Rule 4.15.10(3), concerning erosion control on mine support facilities within areas where the pre- and postmining land use is industrial or commercial.

Specifically, Colorado proposes to revise:

Rule 1.04(111), the definition of "road," to exclude public roads;

Rule 3.02.2(5), to clarify the circumstances under which a permittee may request an adjustment in bond amount;

Rule 3.02.3(2)(c), to require that the minimum period of bond liability on land reclaimed for industrial or commercial, or residential use must continue until, among other things, the permittee demonstrates that development of the land use has substantially commenced and is likely to be achieved;

Rules 3.02.4(1) and 3.02.4(2)(c)(ix), to allow conditioned acceptance of real property bonds;

Rule 3.02.4(1)(b), to include a reference to the rules concerning conditions for approval of a collateral bond;

Rule 3.02.4(1)(d), to correct the citation of a referenced rule concerning approval of an alternative bonding system;

Rule 3.02.4(2)(d)(i), to allow an irrevocable letter of credit to be issued by a bank outside the State of Colorado if the letter of credit can be exercised at an affiliate or subsidiary located in the State of Colorado;

Rule 3.03.1(2)(b), to (1) allow for eighty-five percent of a bond amount to be released if, among other things, the established vegetation supports the approved postmining land use and (2) clarify that, with the exception of prime farmlands, the evaluation of vegetation establishment must be based on statistically valid data collected during a single year of the liability period; and

Rule 4.15.10(3), to delete the requirement for a demonstration that retention of the mine support facilities will support the approved postmining land use.

During its review of the proposed amendment and previously approved rules for which Colorado proposed further revisions upon promulgation, OSM identified issues relating to the provisions at Rule 1.04(111), concerning the definition of "road;" Rules 3.02.4(1) and 3.02.4(2)(c)(ix), concerning the allowance of real property bonds; Rule 4.15.10(3), concerning erosion control on mine support facilities located within areas where the pre- and postmining land use is industrial or commercial; and Rule 4.20.3(2), concerning subsidence-caused damages.

OSM notified Colorado of the concerns by letter dated August 31, 1995 (administrative record No. CO-670-7). Colorado responded in a letter dated September 26, 1995, by submitting additional explanatory information (administrative record No. CO-670-8).

Colorado proposes additional explanatory information for Rules 3.02.4(1) and 3.02.4(2)(c)(ix), concerning the allowance of real property bonds, and Rule 4.15.10(3), concerning erosion control on mine support facilities located within areas where the pre- and postmining land use is industrial or commercial. Specifically, Colorado explained that (1) because a collating error was made upon promulgation and Rule 3.02.4(c)(ix) was inadvertently removed, submitted Rule 3.02.4(c)(ix) should be codified as Rule 3.02.4(c)(x), and (2) it is policy that only mine support facilities which are appropriate for the postmining land use are approved for retention. In addition, Colorado stated that (1) it is aware of proposed U.S. Congressional bills which would amend SMCRA by providing an exemption for public roads and that it will proceed with any necessary revision of the definition of "road" at Rule 1.04(111) upon resolution of these bills and (2) it anticipated a 1996 rulemaking petition to address the necessary revisions at Rule 4.20.3(2), concerning subsidence-caused damages.

### III. Public Comment Procedures

#### 1. Written Comments

OSM is reopening the comment period on the proposed Colorado program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. 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.

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 OSM's Denver Field Division 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 p.m., m.d.t. on October 31, 1995. 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 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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.

#### List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 4, 1995.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 95-25554 Filed 10-13-95; 8:45 am]

BILLING CODE 4310-05-M

### 30 CFR Part 934

[ND-033]

#### North Dakota Abandoned Mine Land Reclamation (AMLR) Plan

**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:** OSM is announcing receipt of a proposed amendment to the North Dakota AMLR plan (hereinafter, the "North Dakota plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of addition of a contractor eligibility statutory provision, revision of procurement and contract procedures, revision of procurement and contract policies, and revision of the State agency organizational structure. The amendment is intended to revise the North Dakota plan to meet the requirements of the corresponding Federal regulations and to improve operational efficiency.

**DATES:** Written comments must be received by 4 p.m., m.d.t., November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t., October 31, 1995.

**ADDRESSES:** Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota plan, 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 Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, Wyoming 82601-1918

Louis A. Ogaard, Director, AML Division, Public Service Commission, Capitol Building, Bismarck, ND 58505-0165

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: (307) 261-5776.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the North Dakota Plan

On December 23, 1981, the Secretary of the Interior approved the North Dakota plan. General background information on the North Dakota plan, including the Secretary's findings and the disposition of comments, can be found in the December 23, 1981, Federal Register (46 FR 62253). Subsequent actions concerning North Dakota's plan and plan amendments can be found at 30 CFR 934.25.

##### II. Proposed Amendment

By letter dated September 20, 1995, North Dakota submitted a proposed amendment to its plan (administrative record No. ND-X-02) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. ND-X-01) that OSM sent to North Dakota in accordance with 30 CFR 884.15(b). The provisions of its North Dakota plan that North Dakota proposes to add and/or revise are: North Dakota Century Code (NDCC) 38-14.2-03(14), powers and duties of the Commission; procurement procedures; contract procedures; policy 2-01-81(5), procurement policy and contract policy; and State agency organizational structure.

Specifically, North Dakota proposes to add to its statute at NDCC 38-14.2-03(14) a requirement that:

Every successful bidder for an AML contract must be eligible based on available information concerning Federal and State failure-to-abate cessation orders, unabated Federal and State imminent harm cessation orders, delinquent civil penalties issued pursuant to Section 518 of the Surface Mining Control and Reclamation Act of 1977, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental

protection incurred in connection with any surface coal mining operation.

North Dakota proposes to rename its "Procurement Policy" as "Procurement Procedures" and make various revisions in:

Section II, definitions and miscellaneous policy provisions, at subsection E, contract execution; subsection H, contractor selection; subsection I, final report; subsection K, preference; subsection M, procurement officer;

Section III, Public Service Commission and public contractor code of conduct, at subsection B, gifts; and

Section IV, procurement procedural requirements, at subsection B, procurement procedures; subsection C, method of procurement; subsection D, unsolicited proposal.

In the "Procurement Procedures," North Dakota also proposes to add appendices at: A, evaluation criteria for request for proposals/competitive negotiations; B, sample scoring system for competitive negotiation type contracts; C, procedures for competitive contract negotiations; D, procedures for sole source procurement; and E, checklist for work statement (specific provisions) contracts and requests for proposals.

North Dakota proposes to rename its "Contract Policy" as "Contract Procedures" and make various revisions in:

Section II, checklist for negotiating contracts; and

Section III, standard contract provisions, at subsection B, construction contracts.

In the "Contract Procedures," North Dakota also proposes to add appendices at: A, sample close-out letter to contractor; B, sample contract transmittal letter; C, sample detailed budget sheet for cost reimbursable contracts; D, checklist for negotiating contracts; E, Public Service Commission contract numbering system; F, conflict of interest disclaimer; G, checklist for work statement (specific provisions) contracts and request for proposals; and H, certification of payment to employees, suppliers, and subcontractors.

North Dakota proposes to revise policy 2-02-81(5), Public Service Commission contract policy and procurement policy.

Lastly, North Dakota submitted a revised organizational chart for the Public Service Commission. The chart indicates that 5.3 employees are devoted to abandoned mine lands.