operations affecting 2 acres or less. However, on May 7, 1987, the President signed Pub. L. 100–34, which repealed this exemption and preempted any corresponding acreage-based exemptions included in State laws or regulations (52 FR 21228, June 4, 1987).

Colorado's proposed deletion of reference to a 2-acre exemption at Rule 1.05.1(1)(b) is consistent with SMCRA as amended to delete the 2-acre exemption. Therefore, the Director finds that the deletion of the 2-acre exemption from Rule 1.05.1(1)(b) is no less stringent than SMCRA as amended by Public Law 100–34 and approves it.

b. *Deletion of the allowance for an exemption for extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 and ⅔ percent of the mineral tonnage removed for commercial use or sale.* Colorado proposed to revise the definition of ''surface coal mining operations'' at Rule 104(132) and Rule 1.05.1(1)(b), concerning applicability of the Colorado program, by deleting an exemption from the Colorado program for the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 and ⅔ percent of the tonnage of minerals removed for purposes of commercial use or sale.

The counterpart Federal definition of ''surface coal mining operations'' at 30 CFR 700.5 and provisions for applicability of the Federal program at 30 CFR 700.11(a)(4) include provisions for this exemption. However, because Colorado's deletion of this provision means that the Colorado program would regulate operations extracting coal incidental to the extraction of other minerals where coal does not exceed 16 and ⅔ percent of the tonnage of minerals removed for purposes of commercial use or sale, Colorado's deletion of the provision causes its program to be more inclusive of operations to be regulated than does the Federal program.

The Director finds that proposed Rules 104(132) and 1.05.1(1)(b) are no less effective than the respective Federal regulations at 30 CFR 700.5 and 700.11(a)(4). The Director approves the proposed rules.

*6. Rule 2.05.3(3)(c)(iv), Permit Application Requirements in the Operations Plan for Roads, Conveyors, or Rail Systems Within the Permit Area*

Colorado's proposed Rule 2.05.3(3)(c)(iv), concerning the required description in a permit application of the measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert for roads, conveyors, or rail systems within the permit area, has been revised to reference approval of the culvert design under Rule 4.03.1(4)(e)(vi)(C). Referenced Rule 4.03.1(4)(e)(vi)(C) requires approval of drainage by culverts for haul roads.

The Federal regulations at 30 CFR 780.37(a)(1) and 784.24(a)(1) require that ''(a) [e]ach applicant for a surface coal mining and reclamation permit shall submit plans and drawings for each road, as defined in Sec. 701.5 of this chapter, to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall ''[i]nclude a map, appropriate cross sections, design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings, and drainage structures.'' There is no Federal counterpart to Colorado's requirement for descriptions of measures to protect the inlet end of a ditch relief culverts for roads, conveyors, or rail systems within the permit area. The Federal regulations concerning permit applications pertain to all roads but include only a general requirement for design of culverts. However, this specificity in the Colorado rule does not cause it to be inconsistent with the Federal regulations and ensures a greater degree of environmental protection than does the Federal regulation.

Therefore, the Director finds that Colorado's proposed Rule 2.05.3(3)(c)(iv) is no less effective than the Federal regulations at 30 CFR 780.37(a)(1) and 784.24(a)(1), and approves the proposed rule.

*7. Rules 2.06.8(5)(c)(i) (A) and (B), Criteria for Determining Material Damage to Water Quality or Quantity in Alluvial Valley Floors*

Colorado's existing Rule 2.06.8(5)(c)(i) specifies specific conductance, which affects water quality and crop production, as the particular factor to evaluate to determine whether material damage to surface or ground water systems has occurred. The existing rule requires that specific conductance be measured by ''Maas, E.V., 'Salt Tolerance of Plants,' Tables 2 and 3.'' Colorado proposes to delete from Rules 2.06.8(5)(c)(i) (A) and (B) the requirement for the use of Maas' publication to set crop salt tolerance threshold values. Instead, Colorado proposes that published research or testing be used to establish the salt tolerance threshold values for specific crop yields. Colorado's proposed rules further require that probable increases in specific conductance of water supplied to an alluvial valley floor shall not exceed the salt tolerance threshold value of any crop grown on the alluvial valley floor, unless the applicant demonstrates that the projected decrease in productivity is negligible to the production of one or more farms.

The Federal regulations at 30 CFR 822.12(a)(2) essentially prohibit mining operations from causing material damage to the quality or quantity of surface or ground water systems that supply alluvial valley floors. The Federal regulations are more general in scope than Colorado's rules, simply stating that water in alluvial valleys shall not be materially damaged by mining. The Federal regulations do not state how to determine that material damage has occurred. Colorado's proposed Rules 2.06.8(5)(c)(i) (A) and (B) set forth a technically acceptable method for evaluating whether a mining operation will damage the water system of an alluvial valley floor.

Therefore, the Director finds that Colorado's proposed Rules 2.06.8(5)(c)(i) (A) and (B) are consistent with and no less effective than the Federal regulations at 30 CFR 822.12(a)(2). The Director approves the proposed rules.

*8. Rule 3.02.3(c), Bond Liability Period for Lands With Approved Industrial or Commercial, or Residential Post-mining Land Use*

OSM required, at 30 CFR 906.16(g), that Colorado amend its program by revising Rule 3.02.3(c) to require that prior to release of bond liability, the permittee must demonstrate that development of the industrial, commercial, or residential land use has substantially commenced and is likely to be achieved (59 FR 62574, 62577, finding No. 6.a, December 6, 1994, administrative record No. CO–650).

In response to this required amendment, Colorado proposed to revise Rule 3.02.3(c), concerning the bond liability period for lands with approved industrial or commercial, or residential post-mining land use, by adding the phrase ''until the permittee demonstrates that development of such land use has substantially commenced and is likely to be achieved.''

Colorado has satisfied the requirement at 30 CFR 906.16(g). Therefore, the Director finds that Colorado's proposed Rule 3.02.3(c) is consistent with and no less effective than the broad requirements of the Federal regulations at 30 CFR 800.13(a)(1), 816.116(b)(4), 816.133(c), 817.116(b)(4), and 817.133(c). The Director approves proposed Rule