
Appendix L

COAL SUITABILITY REVIEW

Introduction

The Mineral Leasing Act of 1920 and the Mineral Leasing Act for Acquired Lands of 1947 give the BLM the responsibility for coal leasing on approximately 570 million acres of mineral estate (out of the 700 million acres of mineral estate that is owned by the Federal Government where coal development is permissible). The surface estate of these lands may be managed by the BLM, the U.S. Forest Service (USFS), private landowners, State landowners, and/or by other Federal agencies.

In Colorado, the BLM manages 36 percent of the State's 66 million surface acres and more than 41 percent of the mineral estate. Twenty-seven million acres of Federal minerals are managed by the BLM in Colorado, and approximately 20,000 acres are presently occupied by active mineral operations.

Lands Available for Coal Leasing

Public lands are available for coal leasing only after the lands have been evaluated through the BLM's multiple-use and sustained-yield planning process, in accordance with the FLPMA (43 USC 1701). In areas where development of coal resources may conflict with the protection and management of other resources, or with public land uses, the BLM may identify mitigating measures that may appear on leases as either stipulations to uses or restrictions on operations.

Suitable Lands for Coal Leasing

Not all public lands are available for coal exploration or leasing. There is a rigorous land use planning process through which all public lands are reviewed for potential coal leasing. There are 4 specific land use screening steps related to coal leasing:

- identification of coal with potential for development;
- determination as to whether the lands are unsuitable for coal development;
- consideration of multiple use and sustained-yield conflicts; and
- surface-owner consultation (43 CFR 3420.1-4).

Types of Coal Leases

The Federal Coal Leasing Amendments Act of 1976 (FCLAA), which amended Section 2 of the Mineral Leasing Act of 1920, requires that all public lands available for coal leasing be leased competitively. There are 2 notable exceptions to this requirement:

-
- preference right lease applications where a lease may be issued on a non-competitive basis to owners of pre-FCLAA prospecting permits; and
 - modifications of existing leases where contiguous lands of as much as 960 acres are added non-competitively to an existing lease.

Competitive Leasing Process

There are 2 distinct procedures for competitive coal leasing:

- regional leasing, where the BLM selects tracts within a region for competitive sale; and
- leasing by application, where the public nominates a particular tract of coal for competitive sale.

Regional coal leasing requires the BLM to select potential coal leasing tracts based upon multiple-land use and sustained-yield planning, expected coal demand, and potential environmental and economic impacts. Currently, Colorado does not have a Regional Coal Leasing Program. Due to the fact that demand for new coal leasing in recent years has been associated with the extension of existing mining operations on authorized Federal coal leases, all current leasing is done by application.

Leasing by application begins with a BLM review of an application to lease a coal tract in order to ensure that it conforms to existing RMPs for the area, and contains sufficient geologic data to determine the "fair market value" of the coal. Upon review of the application, and consideration of public comments, the BLM will reject, modify, or continue to process the application.

Once the BLM accepts an application, the agency begins either a site-specific EA or an EIS. When an EA or a Draft EIS (DEIS) has been prepared, the BLM seeks public comment on the proposed lease sale. At the same time, the BLM must consult with appropriate local, State, Native American Tribal, and other Federal agencies.

Lease Terms and Conditions

A Federal coal lease grants the right to explore for, extract, remove, and dispose of some or all of the coal deposits that may be found on the leased lands. Coal leases are granted on the condition that the lessee will obtain the appropriate permits and licenses from the BLM, the Office of Surface Mining (OSM), and any affected local and State governments [as required by the Surface Mining Control and Reclamation Act (SMCRA) of 1977].

Length of Coal Lease

A Federal coal lease has an initial term of 20 years; however, it may be terminated in as few as 10 years if the coal resources are not diligently developed. A Federal coal lease can also terminate if a lessee fails to pay any of the deferred bonus bid payments. In addition, if the lessee fails to comply with the provisions of the Mineral Leasing Act of 1920, as amended, or fails to comply with any applicable regulations, lease terms, or stipulations, the BLM may take legal steps to cancel the lease.

A coal lease may also be surrendered, in whole or in part, through the filling of a written request for relinquishment with the BLM office that has jurisdiction over the leased lands. A relinquishment, if approved, takes effect on the date it was filed. The lessee must comply with the lease terms and conditions, and have all payments and fees paid. A lease bond may be used in order to ensure compliance with terms and conditions of the lease. Reclamation is a legal obligation under the lessee's SMCRA mine permit.

Land Use Planning Evaluation

Land use planning for coal leasing requires an evaluation in order to determine the coal resources within the Planning Area that have development potential by surface or underground mining methods. In addition, a subsequent evaluation is required under the coal unsuitability criteria, as defined at 43 CFR 3461.5, in order to determine the coal resources within the Planning Area that are acceptable for further consideration of leasing.

For the purpose of this Draft Resource Management Plan/Draft Environmental Impact Statement (DRMP/DEIS), lands identified as having coal resource development potential in the Kremmling Field Office (KFO) Planning Area are primarily located in Jackson County, Colorado, where the U.S. Geological Survey (USGS) has defined the McCallum area as a known recoverable coal resource area. The McCallum Known Recoverable Coal Resource Area (KRCRA) encompasses approximately 226,015 acres that contain an estimated 1.520 million tons of potentially recoverable coal resources. The McCallum KRCRA covers over 408 sections northeast of, and around, the town Walden (and is located in 24 townships from T.s 6 - 10 N. and R.s 77 - 82 W).

Within the McCallum KRCRA, a preliminary application of 20 unsuitability criteria revealed that approximately 106,000 acres are unsuitable for surface mining. Additional applications of unsuitability criteria will not be made on future or existing, non-producing coal leases until the mine plan review stage. If lands outside of the McCallum KRCRA are proposed for consideration for coal leasing, determinations about leasing will be made on a case-by-case basis, including identifying lands that are acceptable for consideration for coal leasing and development. Before a decision is made to lease specific tracts, site-specific activity planning, environmental analysis, applications of unsuitability criteria, and a determination of development potential may be required. Lands with special designations [such as Areas of Critical Environmental Concern (ACECs) or Special Recreation Management Areas (SRMAs)] are considered to be not acceptable for consideration for coal leasing and surface development. In situations where development potential of an area is unknown, exploratory drilling may be allowed in order to obtain sufficient data for resource management decisions, and in order to make fair market value determinations.

Lands found acceptable in this DRMP/DEIS will be available for further consideration for leasing and/or exchange; however, all lands determined suitable, unsuitable, or unacceptable for further consideration for leasing and/or exchange may be reviewed, and suitability determinations may be modified based upon new data obtained during activity planning efforts. The following evaluation on unsuitability criteria apply to all, or certain stipulated, methods of coal mining.

CRITERION 1—FEDERAL LANDS SYSTEMS

The BLM may issue coal leases on all Federal lands except:

- lands in:
 - the National Park System;
 - the National Wildlife Refuge System;
 - the National Wilderness Preservation System;
 - the National System of Trails;
 - the National Wild and Scenic Rivers System (NWSRS), including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (WSRA);
 - incorporated cities, towns, and villages;
 - the Naval Petroleum Reserves, the National Petroleum Reserve in Alaska, and oil shale reserves; and
 - National Recreation Areas designated by law;
- tide lands, submerged coastal lands within the Continental Shelf adjacent or littoral to any part of land within the jurisdiction of the United States; and
- land acquired by the United States for the development of mineral deposits, by foreclosure or otherwise for resale, or reported as surplus property pursuant to the provisions of the Surplus Property Act of 1944 (50 USC App. 1622).

Results

The Planning Area contains the following land systems or categories:

- National Park System: Rocky Mountain National Park;
- National Wildlife Refuge System: Arapahoe National Wildlife Refuge;
- National System of Trails: Proposed Continental Divide National Scenic Trail (CDNST);
- National Wilderness Preservation System: All Wilderness Areas are within National Forest System lands (including Byers Peak, Vasquez Peak, Never Summer Wilderness, Rawah Wilderness, etc.);

-
- NWSRS: Eligible segments are proposed and managed under Interim Management protection;
 - National Recreation Areas: Arapahoe National Recreation Area;
 - National Forests: Medicine Bow-Routt, Arapaho-Roosevelt, White River; and
 - Incorporated Cities, Towns and Villages: Winter Park, Granby, Grand Lake, Dillon, Frisco, Breckenridge, and Silverthorne.

All of the above-mentioned land systems or categories would be considered unsuitable for all, or certain, stipulated methods of coal mining.

Exceptions

A lease may be issued within the boundaries of any National Forest if the Secretary of Agriculture finds no significant recreational, timber, economic, or other values that may be incompatible with the lease; and

1. surface operations and impacts are incident to an underground coal mine; or
2. where the Secretary of Agriculture determines, with respect to lands that do not have significant forest cover within those National Forests west of the 100th Meridian, that surface mining may be in compliance with the Multiple-Use Sustained-Yield Act of 1960 (MUSYA), the Federal Coal Leasing Amendments Act of 1976 (FCLAA), and the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

CRITERION 2—RIGHTS OF WAY AND EASEMENTS

Federal lands that are within Rights-of-Way (ROWs) or easements, or that are within surface leases for residential, commercial, industrial, or other public purposes, would be considered unsuitable.

Results

Federal lands within the Planning Area could fall under the unsuitability Criterion 2 due to ROWs or easements; or due to surface leases for residential, commercial, industrial, or other public purposes. Application of unsuitability Criterion 2 and its exceptions, including identifying lands that are acceptable for consideration for coal leasing and development, would not be applied until the activity planning stage for coal leasing and/or until the mine plan review stage.

Exceptions

A lease may be issued, and mining operations may be approved, in such areas if the surface management agency (SMA) determines one of the following:

- All, or certain types of, coal development (such as underground mining) will not interfere with the purpose of the ROW or easement.
- The ROW or easement was granted for mining purposes.
- The ROW or easement was issued for a purpose for which it is not used.
- The parties involved in the ROW or easement agree, in writing, to leasing.
- It is impractical to exclude such areas because of the location of coal and the method of mining, and such areas or uses can be protected through appropriate stipulations.

CRITERION 3—BUFFER ZONES ALONG ROWs AND ADJACENT TO COMMUNITIES AND BUILDINGS

Federal lands affected by Section 522(e) (4) and (5) of the SMCRA would be considered unsuitable, including lands within 100 feet of the outside line of the ROW of a public road; within 100 feet of a cemetery; or within 300 feet of any public building, school, church, or community or institutional building, public park, or occupied dwelling.

Results

Federal lands within the Planning Area could fall under the unsuitability Criterion 3; however, because existing data is lacking, and dwellings are continually being built, this criterion, and its exceptions, would not be applied until the activity planning stage for coal leasing and/or until the mine plan review stage.

Exceptions

A lease may be issued for lands used as mine access roads or haulage roads that join the ROW for a public road:

- for which the Office of Surface Mining Reclamation and Enforcement (OSM) has issued a permit to have public roads relocated;
- for which, after public notice and opportunity for public hearing in the locality, a written finding is made by the Authorized Officer that the interests of the public and the landowners affected by mining within 100 feet of a public road will be protected; and/or
- for which owners of occupied dwellings have given written permission to mine within 300 feet of their buildings.

CRITERION 4—WILDERNESS STUDY AREAS

Federal lands designated as Wilderness Study Areas (WSAs) would be considered unsuitable for possible wilderness designation while under review by Congress. For any Federal land that is to be leased or mined before completion of the Wilderness Inventory by the SMA, the environmental analysis document [either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS)] on the lease sale or mine plan should consider whether the land possesses the characteristics of a WSA. If the finding is affirmative, the land would be considered unsuitable unless issuance of non-competitive coal leases and mining on leases is authorized under the Wilderness Act and the Federal Land Policy and Management Act of 1976 (FLPMA).

Results

The Planning Area has lands designated as WSAs, including:

- North Sand Hills Instant Study Area (681 acres);
- Platte River Contiguous WSA (33 acres); and
- Troublesome WSA (8,158 acres).

Wilderness characteristics in WSAs would be managed in accordance with non-impairment standards, as defined under the Interim Management Policy for Lands under Wilderness Review [BLM Manual H-8550-1 (BLM 1995)], until Congress either designates these lands as Wilderness Areas or releases them for other purposes.

CRITERION 5—SCENIC AREAS

Scenic Federal lands designated by Visual Resource Management (VRM) analysis as Class 1 Areas (an area of outstanding scenic quality or high visual sensitivity), but that are not currently on the National Register of Natural Landmarks would be considered unsuitable. A lease may be issued if the SMA determines that surface coal mining operations will not significantly diminish or adversely impact the scenic quality of the designated area.

Results

Currently, the Planning Area (Alternative A) has no lands designated as VRM Class 1 Areas. However, depending upon the alternative selected, designation of VRM Class 1 Areas would be 8,900 acres under Alternative B and Alternative D; and 24,600 acres under Alternative C.

Exception

A lease may be issued if the SMA determines that surface coal mining operations will not significantly diminish or adversely impact the scenic quality of the designated area.

CRITERION 6—LANDS USED FOR SCIENTIFIC STUDIES

Federal lands under permit by the SMA, and used for scientific studies involving food or fiber production, natural resources, or technology demonstrations and experiments, would be considered unsuitable for the duration of the study, demonstration, or experiment, except where mining could be conducted in a manner that enhances, or does not jeopardize, the purposes of the study, as determined by the SMA; or where the principal scientific user or agency gives written concurrence to all, or certain, methods of mining.

Results

Currently, within the Planning Area, lands used for scientific studies include the USFS Fraser Experimental Forest. Other Federal lands within the Planning Area could fall under the unsuitability Criterion 6; however, because existing data is lacking, and new areas may be permitted for use for scientific studies, this criterion would not be applied until the activity planning stage for coal leasing and/or until the mine plan review stage.

CRITERION 7—HISTORIC LANDS AND SITES

All publicly owned places on Federal lands that are included in the National Register of Historic Places (NRHP) would be considered unsuitable. This criterion applies to any areas the SMA determines necessary, after consultation with the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Officer (SHPO), in order to protect the inherent values of the property that made it eligible for listing in the NRHP.

Results

There are publicly owned cultural or historical resources listed in the NRHP within the Planning Area. Existing cultural resource surveys cover only a small portion of the Federal lands involved. Federal lands within the Planning Area could fall under the unsuitability Criterion 7; however, because existing data is lacking, and properties may be added to the NRHP, this criterion, and its exceptions, would not be applied until the activity planning stage for coal leasing and/or until the mine plan review stage.

Exceptions

All, or certain, stipulated methods of coal mining may be allowed if, after consultation with the ACHP and the SHPO, they are approved by the SMA, and, where appropriate, the State or local agency with jurisdiction over the historic site.

CRITERION 8—NATURAL AREAS

Federal lands designated as Natural Areas or as National Natural Landmarks would be considered unsuitable.

Results

Currently, within the Planning Area, there are 2 designated Natural Areas: the Kremmling Cretaceous Ammonite RNA (198 acres); and the North Park Natural Area (318 acres). Additional areas would be designated under Alternative B and Alternative C. Areas designated would vary by alternative, and Natural Areas or National Natural Landmarks may change over time; therefore, this criterion, and its exceptions, would not be applied until the activity planning stage for coal leasing and/or until the mine plan review stage.

Exceptions

A lease may be issued, and mining operation approved, in an area or site if the SMA determines that:

- the use of appropriate stipulated mining technology will result in no significant adverse impacts to the area or site; or
- the mining of the coal resource under appropriate stipulations will enhance information recovery (such as in relation to paleontological sites).

CRITERION 9—FEDERALLY LISTED ENDANGERED SPECIES

Federally designated critical habitats for Listed Threatened or Endangered plant and animal species, and habitats proposed to be designated as Critical for Federal or Listed Threatened or Endangered Species determined by the USFWS and the SMA to be of essential value, and where the presence of Threatened or Endangered Species has been scientifically documented, would be considered unsuitable.

Results

Currently, there is no critical habitat identified within the Planning Area. However, data on occurrences of federally Listed Threatened or Endangered Species is insufficient, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued, and mining operations approved, if, after consultation with USFWS, the USFWS determines that the proposed activity is not likely to jeopardize the continued existence of the listed species and/or its critical habitat.

CRITERION 10—STATE LISTED ENDANGERED SPECIES

Federal lands containing habitats determined critical or essential for plant or animal species and listed by a State, pursuant to State law, as Endangered or Threatened, would be considered unsuitable.

Results

Currently, with the exception of habitat determined critical or essential for River Otter, there is no other habitats determined critical or essential for plant or animal species listed by Colorado State, pursuant to State law, as Endangered or Threatened. However, data on occurrences of critical habitats and State Listed Threatened or Endangered Species is insufficient, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued, and mining operations approved, if, after consultation with the State, the SMA determines that the species will not be adversely impacted by all, or certain, stipulated methods of coal mining.

CRITERION 11—BALD OR GOLDEN EAGLE NEST SITES

A bald or golden eagle nest or site on Federal lands that is determined to be active, and an appropriate buffer zone of land around the nest site, shall be considered unsuitable. Consideration of availability of habitat for prey species, and of terrain, shall be included in the determination of buffer zones. Buffer zones shall be determined in consultation with the USFWS.

Results

Current restrictions on use include prohibiting surface occupancy and surface-disturbing activities within a 0.25-mile radius of nest sites, and prohibiting activities around nests from December 15 to June 15. Under Alternative B, Alternative C, and Alternative D, restrictions on use may include those described under Alternative A. In addition, the buffer may also be extended to 0.50-mile radius around active nests; a 100-meter buffer designed to protect abandoned nests may be applied; and limitations may be placed on activities from November 15 to July 31. Data on all raptor occurrences is lacking, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued if 1 of the following occurs:

- The lease can be conditioned in such a way, either in manner or period of operation, that eagles will not be disturbed during breeding season.
- The SMA, with the concurrence of USFWS, determines that the golden eagle nest(s) will be moved.
- Buffer zones may be decreased if the SMA determines that the active eagle nests will not be adversely impacted.

CRITERION 12—BALD AND GOLDEN EAGLE ROOST AND CONCENTRATION AREAS

Bald and golden eagle roost and concentration areas on Federal lands used during migration and wintering shall be considered unsuitable.

Results

Current restrictions on use include prohibiting surface occupancy and surface-disturbing activities within a 0.25-mile radius of roost sites, and prohibiting activities around bald eagle winter roost sites from November 16 to April 15. Under Alternative B, Alternative C, and Alternative D, restrictions on use may include those described under Alternative A. In addition, the buffer may also be extended to 0.50-mile radius around active winter roosts, and limitations may be placed on activities from November 15 to April 15. Currently, the Colorado Division of Wildlife (CDOW) does not have maps showing locations of bald and golden eagle roost and concentration areas. Data on all bald and golden eagle occurrences is lacking, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued if the SMA determines that all, or certain, stipulated methods of coal mining can be conducted in such a way, and during such periods of time, to ensure that eagles shall not be adversely disturbed.

CRITERION 13— FALCON CLIFF NESTING SITES

Federal lands containing a falcon (excluding kestrel) cliff nesting site with an active nest, and a buffer zone of Federal land around the nest site, shall be considered unsuitable. Consideration of availability of habitat for prey species, and of terrain, shall be included in the determination of buffer zones. Buffer zones shall be determined in consultation with the USFWS.

Results

Current restrictions on use include prohibiting surface occupancy and surface-disturbing activities within a 0.25-mile radius of cliff nesting sites, and prohibiting activities around an active Peregrine Falcon cliff-nesting complex from March 15 to July 31. Under Alternative B, Alternative C, and Alternative D, restrictions on use may include those described under Alternative A. In addition, the buffer may also be extended to 0.50-mile radius around active and inactive nest sites of Peregrine and Prairie Falcon nest sites, and limitations may be placed on activities from March 15 to July 31. Data on falcon occurrences is lacking, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued where the SMA, after consultation with the USFWS, determines that all or certain, stipulated methods of coal mining will not adversely impact the falcon habitat during the periods when such habitat is used by the falcons.

CRITERION 14— MIGRATORY BIRD HABITAT

Federal lands that are high priority habitat for migratory bird species of high Federal interest on a regional or national basis, as determined jointly by the SMA and the USFWS, shall be considered unsuitable.

Results

Current restrictions on use would prohibit surface occupancy and surface-disturbing activities within significant production areas, as mapped by the CDOW, in order to protect waterfowl and shorebird habitat and rookeries. Under Alternative B, Alternative C, and Alternative D, surface use in areas designated for waterfowl, shorebird, and waterbird production would be prohibited in a 0.25-mile radius around the nesting and production areas of the Hebron Waterfowl Area, Junction Butte Wetlands, and MacFarlane Reservoir from March 1 to July 31 in order to prevent disruption of nesting activity. Data on migratory bird habitat may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued where the SMA, after consultation with the USFWS, determines that all, or certain, stipulated methods of coal mining will not adversely impact the migratory bird habitat during the periods when such habitat is used by the species.

CRITERION 15— HABITAT FOR PRIORITY SPECIES

Federal lands that the SMA and the State jointly agree are habitat for resident species of fish, wildlife, and plants of high interest to the State, and that are essential for maintaining these priority wildlife and plant species, would be considered unsuitable. Examples of such lands that serve a critical function for the species involved include:

- active dancing and strutting grounds for sage-grouse, sharp-tailed grouse, and prairie chicken;
- winter ranges most critical for deer, antelope, and elk; and/or
- migration corridors for elk;

Results

A large portion of the Planning Area is identified as critical habitat for wildlife and plant species of high interest to the State, including, but not limited to, habitat for mule deer, elk, antelope, Greater sage-grouse, and sharp-tailed grouse. The CDOW has maps showing severe winter ranges, concentration areas, migration routes, and production areas that are essential to the continued maintenance of these populations. Data on habitat for priority species may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued if, after consultation with the State, the SMA determines that all, or certain, stipulated methods of coal mining will not have a significant long-term impact on the species being protected.

CRITERION 16—FLOODPLAINS

Federal lands in riverine, coastal, and special floodplains (100-year recurrence interval) on which the SMA determines mining could not be undertaken without substantial threat of loss of life or property should be considered unsuitable for all or certain stipulated methods of coal mining.

Results

There are no Federal lands in riverine, coastal or special floodplains within the Planning Area. There is nothing mapped by the Federal Emergency Management Agency (FEMA) as a significant threat. Data on floodplains is lacking, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

CRITERION 17—MUNICIPAL WATERSHEDS

Federal lands that have been committed by the SMA for use as municipal watersheds would be considered unsuitable.

Result

Lands that have been committed by the SMA to be used as municipal watersheds within the Planning Area include the towns of Hot Sulphur Springs and Fraser. Both towns have officially delineated their municipal watershed boundaries. Data on municipal watershed boundaries is lacking, and may change over time; therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

A lease may be issued where the SMA, in consultation with the municipality (incorporated entity) or the responsible governmental unit, determines, as a result of studies, that all, or certain, stipulated methods of coal mining will not adversely impact the watershed to any significant degree.

CRITERION 18—NATIONAL RESOURCE WATERS

Federal lands with National Resource Waters, as identified by States in their Water Quality Management Plans, and a buffer zone of Federal lands one-quarter of a mile from the outer edge of the far banks of the water would be unsuitable.

Results

There are no such lands on BLM-managed public surface lands within the Planning Area. Data is lacking, and may change over time (Colorado may alter their Water Quality Management Plan in order to identify Federal lands with National Resource Waters); therefore, this criterion, and its exceptions, will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exception

The buffer zone may be eliminated or reduced in size when the SMA determines that it is not necessary in order to protect the National Resource Waters.

CRITERION 19—ALLUVIAL VALLEY FLOORS

Federal lands identified by the SMA, in consultation with the State in which they are located, as alluvial valley floors according to the definition in 3400.0-5(a) of this title, the standards in 30 CFR Part 822, the final alluvial valley floor guidelines of the OSM, when published, and approved State programs under the SMCRA, where mining would interrupt, discontinue, or preclude farming would be considered unsuitable. In addition, when mining Federal lands outside of an alluvial valley floor would materially damage the quantity or quality of water in surface or underground water systems that would supply alluvial valley floors, the land would be considered unsuitable.

Results

Alluvial valley floors are not mapped. Data is lacking, and may change over time; therefore, this criterion will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

CRITERION 20—PROPOSED BY STATE OR NATIVE AMERICAN INDIAN TRIBE

Federal lands in a State to which is applicable a criterion: 1) proposed by the State or by a Native American tribe located within the Planning Area; and 2) adopted by rulemaking by the Secretary, shall be considered unsuitable.

Results

There are no such lands within the Planning Area. Data is lacking, and may change over time; therefore, this criterion will be applied at the activity planning stage for coal leasing and/or at the mine plan review stage.

Exceptions

A lease may be issued when:

- such criterion is adopted by the Secretary less than 6 months prior to the publication of the Draft Resource Management Plan or land use analysis, plan, or supplement to a comprehensive RMP, for the area in which such land is included; or

-
- after consultation with the State or affected Native American tribe, the SMA determines that that all, or certain, stipulated methods of coal mining will not adversely impact the value which the criterion would protect.