

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. 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 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 16, 1995.

Ronald C. Recker,

Acting Assistant Director, Eastern Support Center.

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30 CFR Part 925

Missouri 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: OSM is announcing receipt of a proposed amendment to the Missouri regulatory program (hereinafter, the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*, SMCRA). The proposed amendment consists of revisions to rules and statutes along with supporting documentation and information pertaining to its alternative bonding system. The amendment is intended to revise the Missouri program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4 p.m., c.s.t. April 26, 1995. If requested, a public hearing on the proposed amendment will be held on April 21, 1995. Requests to present oral testimony at the hearing must be received by 4 p.m., c.s.t. on April 11, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Michael C. Wolfrom at the address listed below.

Copies of the Missouri 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 Kansas City Field Office.

Michael C. Wolfrom, Acting Director,
Kansas City Field Office, Office of
Surface Mining Reclamation and
Enforcement, 934 Wyandotte, Room
500, Kansas City, MO 64105
Missouri Department of Natural
Resources, Land Reclamation
Program, P.O. Box No. 176, Jefferson
City, MO 65102, Telephone: (314)
751-4041

FOR FURTHER INFORMATION CONTACT:

Michael C. Wolfrom, Telephone: (816)
374-6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

II. Proposed Amendment

By letter dated March 7, 1995, Missouri submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. MO-617). Missouri submitted the proposed amendment in response to a January 30, 1986 letter (administrative record No. MO-351) that OSM sent to Missouri in accordance with 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 925.16(g). The provisions of the Revised Statutes of Missouri (RSMo) and the Code of State Regulations (CSR) that Missouri proposed to revise were: Section 444.830.1. and 3. (RSMo), Bond requirements, when a bond must be filed, the amount of a bond, and allowance for bond substitution; Section 444.950. (RSMo), Phase I reclamation bond requirements; Section 444.960.1. and 5. (RSMo), establishment, purpose, and duties of the coal mine reclamation fund; Section 444.965.1., 3., 4., 5. and 6. (RSMo), Assessment for fund; 10 CSR 40-7.011, Bond Requirements; 10 CSR 40-7.021, Duration and Release of Reclamation Liability; 10 CSR 40-7.041,

Form and Administration of the Coal Mine Land Reclamation Fund. In addition Missouri has submitted: (1) A narrative explaining the current and projected balances of the bond pools; (2) a discussion of how each outstanding required program amendment of the final rule **Federal Register** of May 8, 1991 (56 FR 21281) (administrative record No. MO-536) will be resolved; (3) an explanation of how the deficiencies identified in OSM's issue letter dated March 9, 1994 (administrative record No. MO-592) will be resolved; (4) a table of reclamation cost estimates for all permits except those that represent a minimal liability to the bond pools; (5) a statement from the Missouri Attorney General that explains the legal basis for using Abandoned Mine Land Funds for the reclamation of Bill's Coal Forfeited Project; and (6) copies of the revised bond forms utilized by Missouri.

Specifically, Missouri proposes to revise its statute and regulations: (1) To remove the option to file a full cost Phase I bond; (2) to provide that the per acre bond amounts are minimums that may be adjusted annually by the commission based upon calculations conducted by the State director; (3) to provide that annual adjustments to the bond amount will not be more than \$250 per acre per year with a maximum of \$5,000 per acre for all areas except coal preparation areas, and \$500 per year with a maximum of \$15,000 per acre for coal preparation areas; (4) to require that the minimum bond will not be less than \$10,000 per permit; (5) to require that all promulgated rules must be approved by the joint committee on administrative rules; (6) to allow the commission to retain up to 20 percent of the amount of the bond at Phase I liability release and retain that amount until the release of Phase III liability; (7) to require the total amount of the Phase I bond to be available for the completion of all phase of reclamation in the event of bond forfeiture; and (8) to require monies to continue to be accumulated in the CMLR Fund until they are sufficient to complete reclamation of permits revoked prior to September 1, 1988.

In addition, Missouri is revising its regulations to: (1) Provide new definitions of Phase I Bond, Phase II bond, Phase III bond, and surety bond; (2) require for incremental bonding that disturbances are prohibited prior to acceptance of the bond and that a schedule of increments be provided; (3) require that Phase I bond be retained on unreclaimed temporary structures; (4) allow the release of bond from undisturbed lands when further

disturbances from surface mining have ceased; (5) require that the permit shall terminate on all areas where all bonds have been released; and (6) require at Phase III release that the operator provide evidence that an affidavit has been recorded at the county lands affected by underground mining, augering, covered slurry ponds, or other underground activities that could impact future land use for lands where Phase I reclamation was completed on or after September 1, 1992.

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 Missouri 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 Kansas City 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., c.s.t. on April 11, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listing 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 of 1969 (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 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 16, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

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30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*). The amendment consisted of revisions that Utah proposed to its liability self-insurance rule.

EFFECTIVE DATE: This withdrawal is effective March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmet, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION: By letter dated October 4, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-979). Utah submitted the