

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 925****Missouri Regulatory Program**

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

**ACTION:** Public comment period and opportunity for a public hearing.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), have reason to believe that Missouri is not adequately implementing, administering, maintaining, or enforcing its approved regulatory program (Missouri program) to regulate surface coal mining and reclamation operations. Also, based on the information that we currently have, we are substituting Federal enforcement for portions of the Missouri program in accordance with our regulations. We have scheduled a public comment period and opportunity for a public hearing to provide an opportunity for interested persons to express their concerns on Missouri's implementation of its program and our substitution of Federal enforcement for portions of the Missouri program.

This document gives the purposes, dates, and time for the public comment period during which interested persons may submit written comments on Missouri's implementation of its program and on our decision to substitute Federal enforcement for portions of the Missouri program. This document also includes the procedures that we will follow for a public hearing, if one is requested. We are publishing our findings and decision on the substitution of Federal enforcement for portions of the Missouri program in a separate **Federal Register** document.

**DATES:** We will accept written comments until 4 p.m., c.d.t., September 22, 2003. If requested, we will hold a public hearing on September 16, 2003. We will accept requests to speak at a hearing until 4 p.m., c.d.t. on September 8, 2003. We must receive public comments before 4 p.m., c.d.t., on September 22, 2003 at the address listed below, in order to be considered in our findings on the status of the Missouri program.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to John W. Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of all administrative record documents referenced in this document and all written comments received in response to this document at the address listed below during normal business hours, Monday through Friday, excluding holidays. John W. Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463-6460, Internet address: [jcoleman@osmre.gov](mailto:jcoleman@osmre.gov).

**FOR FURTHER INFORMATION CONTACT:** John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463-6460. Internet address: [jcoleman@osmre.gov](mailto:jcoleman@osmre.gov).

**SUPPLEMENTARY INFORMATION:** On June 19, 2003, the Missouri Department of Natural Resources, Air and Land Protection Division, Land Reclamation Program (MLRP) notified us that the Missouri Legislature passed House Bill (HB) 6 that appropriated funds for the Missouri program. In HB 6, the Missouri Legislature did not fully fund the Missouri program for the period beginning July 1, 2003, and ending June 30, 2004. The Governor of Missouri signed the appropriation bill on May 30, 2003 (Administrative Record No. MO-664).

On July 2, 2003, we met with the MLRP at the Missouri Department of Natural Resources' office in Jefferson City, Missouri (Administrative Record No. MO-664.1). During the meeting, the MLRP made a presentation, including a series of slides, describing the recently approved appropriation bill. HB 6 contained a severe cut in general revenue dollars available as State matching funds for the regulatory program. The MLRP advised us that the moneys that are available for the regulatory program would only be used for bond forfeiture reclamation activities. Also, the MLRP advised us that the State Legislature appropriated funds for the abandoned mine land reclamation (AMLR) program. In addition, the MLRP explained that as of July 18, 2003, existing regulatory program staff, with the exception of four full-time employees, would be transferred to other programs and that it would not be able to implement and maintain its inspection, enforcement, permitting, or bond release responsibilities under the currently approved Missouri program. The four full-time employees would perform the bond forfeiture reclamation activities that were funded by the State Legislature. The MLRP indicated that it would try to gain full program funding from the Missouri Legislature next year.

On July 11, 2003, the MLRP notified the Missouri coal operators that the Legislature had decided, through the budget process, to withhold funding and staffing for the Missouri program. The MLRP also notified the operators that after July 18, 2003, it would no longer be available for coal regulatory issues (Administrative Record No. MO-664.2).

On July 21, 2003, the Governor of Missouri notified us that the State of Missouri is experiencing difficult budget and revenue shortfalls (Administrative Record No. MO-664.3). As a result of the revenue shortfalls, he requested assistance with permit reviews, inspection activities, and general oversight of the active coal mining operations in the State. He indicated that Missouri continues to have adequate funding and staff available to maintain design and reclamation efforts for bond forfeiture sites, as well as sufficient funding and staff to maintain the AMLR program, including the emergency program. He also indicated that he was hopeful his request would be temporary and that he would continue to work with the Legislature in an attempt to assure adequate funding for all of Missouri's regulatory program responsibilities.

On August 4, 2003, we notified the Governor of Missouri that we were obligated, in accordance with 30 CFR 733.12(e), to substitute Federal enforcement for those portions of the Missouri program that were not fully funded and staffed (Administrative Record No. MO-664.4). We cited Missouri's failure to fund and staff the Missouri program in several areas including inspection, enforcement, permitting, and bonding activities. A final rule announcing the substitution of Federal enforcement for portions of Missouri's permanent regulatory program may be found elsewhere in this edition of the **Federal Register**.

In accordance with the procedures contained in 30 CFR 733.12(d), we are announcing a public comment period and offering the opportunity for a public hearing to provide interested parties an opportunity to express their concerns on the implementation of the Missouri program. We are particularly interested in the public's views and concerns on the State's ability to implement its program and on possible actions Missouri and OSM should pursue to resolve identified problems.

After the public comment period and review of all available information, we will publish additional findings on the status of Missouri's program implementation in accordance with the provisions of 30 CFR 733.12(e).

## Public Comment Procedures

### *Written Comments*

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this document and include explanations in support of your recommendations. We will not consider your comments if they are received after the close of the comment period (*see DATES*). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Mid-Continent Regional Coordinating Center may not be logged in.

### *Electronic Comments*

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include 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 Mid-Continent Regional Coordinating Center at (618) 463-6460.

### *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.

### *Public Hearing*

The scope of the public hearing will include permitting, bonding, inspection, enforcement, and all other matters relevant to the issues of whether a full or partial Federal program or Federal enforcement should be implemented in the State of Missouri.

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on September 8, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

In addition, we will follow the hearing format and rules of procedure listed below.

1. The hearing will be informal and follow legislative procedures.
2. Based on the number of speakers in attendance, each participant may be limited to 10 minutes.
3. Participants will be called in the order in which they register.

### **List of Subjects in 30 CFR Part 925**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 13, 2003.

**Jeffrey D. Jarrett,**

*Director, Office of Surface Mining.*

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