

provide specific and adequate provisions that address the following problems:

a. *Funding*: The proposal must demonstrate to our satisfaction a commitment to fully fund the Missouri program.

b. *Staffing*: The proposal must demonstrate to our satisfaction a commitment to hire a sufficient number of qualified personnel to comply with all inspection and enforcement, permitting, and bonding requirements of the Missouri program.

c. *Adherence to Approved Program*: The proposal must include provisions, policy statements, and other affirmative evidence sufficient to assure us that the MLRP will be in full compliance at all times with the provisions of the Missouri program.

4. Starting three months after the effective date of this decision, the MLRP must submit to us a report once every three months on its progress in obtaining full funding for the Missouri program.

5. Effective September 8, 2003, the MLRP must take all steps necessary to ensure that all records, documents, correspondence, inspector logs, etc. are made secure and to supply copies of all documents to us upon request.

C. Resumption of State Authority

In order to resume regulatory authority over any portion of the inspection and enforcement, permitting, and bonding aspects of the Missouri program, the MLRP must formally petition us. We will entertain such a petition upon completion of the actions listed above under "State Remedial Actions."

Before making a decision to allow the MLRP to resume regulatory authority over any portion of the inspection and enforcement, permitting, or bonding operations, we will schedule a public comment period and hold a public hearing as outlined under 30 CFR 925.19. On the basis of the information available to us, we will determine if the MLRP will be allowed to resume regulatory authority over the Missouri program.

D. 30 CFR 733 Action

We will publish any additional findings and decisions on this action in the **Federal Register** and will amend 30 CFR part 925 accordingly. A notice announcing a public comment period and opportunity for a hearing on Missouri's implementation of its program and our substitution of Federal enforcement may be found else where in this edition of the **Federal Register**.

E. Funding

We have decided that we will not provide additional grant funds to the MLRP for initiating new projects under the approved Missouri AMLR program under Title IV of SMCRA. We will review the status of any uninitiated projects that are currently funded under one or more AMLR construction grants as well as any high-priority proposed projects and take action as appropriate. Also, Missouri currently administers for us the AML emergency program in the State. We will continue to fund this program, as needed.

Because the MLRP's regulatory authority and responsibilities are being modified, funding under future administration and enforcement grants for implementation of the Missouri program must reflect actual regulatory authority responsibilities. The MLRP may submit an application for a new administration and enforcement grant based on its modified responsibilities.

V. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 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 because each 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.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Missouri program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Missouri program has no effect on Federally-recognized Indian tribes.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute