

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.

FOR FURTHER INFORMATION CONTACT: John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463-6460. Internet address: 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).