

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points			
V245 Is Amended To Delete Changeover Point			
NATCHEZ, MS VOR/DME	MAGNOLIA, MS VORTAC	25	NATCHEZ

[FR Doc. 2023–20316 Filed 9–19–23; 8:45 am]

BILLING CODE 4910–13–P

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

[SATS No. MO–049–FOR; Docket ID: OSM–2019–0001; S1D1S SS08011000 SX064A000 234S180110; S2D2S SS08011000 SX064A000 23XS501520]

Missouri AML Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Missouri Abandoned Mine Land Reclamation Fund and Abandoned Mine Reclamation and Restoration regulations under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment was submitted in response to two executive orders by the Governor of Missouri. Each State agency was directed to review and amend their regulations to ensure that they were efficient, effective, and necessary, and to significantly reduce the volume of regulations. Missouri's amendments to their regulations will replace text to improve clarity and remove redundant sections already addressed under their Abandoned Mine State Reclamation Plan or elsewhere in their statutes and regulations (hereinafter, the Missouri Plan).

DATES: Effective October 20, 2023.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background on the Missouri Program
- II. Submission of the Amendment
- III. OSMRE's Findings

- IV. Summary and Disposition of Comments
- V. OSMRE's Decision
- VI. Statutory and Executive Order Reviews

I. Background on the Missouri Program

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop and submit for approval to the Secretary of the Interior a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior approved the Missouri Plan effective January 29, 1982. You can find background information on the Missouri Plan, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri Plan in the January 29, 1982, **Federal Register** (47 FR 4253). You can also find later actions concerning the Missouri Plan and amendments to the Plan at 30 CFR 925.20 and 925.25.

II. Submission of the Amendment

By letter dated March 6, 2019 (Administrative Record No. MO–685), Missouri sent us an amendment to its Abandoned Mine Land Reclamation Fund and Abandoned Mine Reclamation and Restoration regulations under SMCRA (30 U.S.C. 1201 *et seq.*) on its own initiative. We announced receipt of the proposed amendment in the May 10, 2019, **Federal Register** (84 FR 20597). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because one was not requested. We did not receive any public comments on the proposed amendment. The public comment period ended on June 10, 2019.

III. OSMRE's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884. We are approving the amendment as described below.

Missouri Executive Order 17–03 (January 10, 2017) and Missouri Executive Order 18–04 (June 29, 2018) directed Missouri State agencies to review and revise existing state regulations to reduce textual length and regulatory burden. Several of Missouri's revisions were proposed in response to these Orders.

Missouri proposed to add more specific statutory citations to section 10 CSR 40–9.010. We find the additional citations to be relevant and appropriate for inclusion.

Missouri proposed to replace the phrase “shall include:” with “includes:” in 10 CSR 40–9.010(2) with the goal of increasing clarity. We find that this change does not alter the meaning of the regulation, and therefore we approve the change.

Missouri proposed to revise 10 CSR 40–9.010 (3) from “the fund *shall* be used . . .” to “the fund *are to be* used . . .” (emphasis added). The State has determined that this change provides better clarity. OSMRE finds that this change does not alter the meaning of the regulation, and therefore we approve the change.

Missouri proposed to revise section 10 CSR 40–9.020(1), replacing “*shall* be used to offset the cost of reclamation . . .” with “*are to be* used to offset the cost of reclamation . . .” (emphasis added). Missouri further proposed changing “if not *required* for further reclamation . . .” to “if not *needed* for further reclamation . . .” (emphasis added). Missouri offers these changes in the assertion it improves the clarity of the regulation. OSMRE finds this does not alter the meaning of the regulation and approves.

Missouri proposed to remove paragraphs 10 CSR 40–9.020(4) and (5) from their regulations entirely. These paragraphs address reclamation objectives and priorities as well as reclamation project evaluation factors. Reclamation goals and objectives are already included in State law at Mo.

Rev. Stat. § 444.915 and in the Missouri Plan section titled *Goals and Objectives—884.13(c)(1)*, pages C–1–1 through C–1–6. Reclamation project evaluation factors are already addressed in the Missouri Plan section *Project Ranking and Selection—884.13(c)(2)*, pages C–2–1 through C–2–7. We find the sections included in the statute and Missouri Plan have met the requirements of 30 CFR 884.13(c)(1) and (2), thereby rendering the referenced regulatory paragraphs unnecessary and we approve their removal from the regulations.

Missouri proposed to amend 10 CSR 40–9.030(2)(B) to replace the term “general welfare” with “environment” with the stated goal of aligning with the Federal regulation. The Federal regulation, however, uses the term “general welfare.” Nevertheless, we find that Missouri’s program remains consistent with the Federal regulation under the proposed amendment. Even if the term “environment” could be construed as a term with a more limited meaning than “general welfare,” we note that Missouri’s statute construes entry as an exercise of the police power for “the protection of public health, safety, and general welfare . . .” Mo. Rev. Stat. § 444.925(4). Thus, Missouri’s proposed amendment does not make Missouri’s program inconsistent with the Federal requirements.

Missouri proposed to change 10 CSR 40–9.030(2)(c) to replace “Entry *required* to investigate and explore reported emergency conditions will be governed by 10 CSR 40–9.030(4)” with “Entry *necessary* to investigate and explore emergency conditions will be governed by 10 CSR 40–9.030(4)” (emphasis added). Missouri determined this change provided increased clarity. OSMRE finds this change does not alter the meaning of the regulation, and therefore we approve the change.

Missouri proposed to amend 10 CSR 40–9.030(3)(B)(2) by replacing the term “the general welfare” with “environment.” For the reasons stated above, we find that Missouri’s proposal is consistent with Federal requirements.

Missouri proposed to change 10 CSR 40–9.030(3) from “The owner of the land or water resources where entry *must be made* to restore, . . .” to “The owner of the land or water resources where entry is *necessary* to restore, . . .” (emphasis added). Missouri determined this change improves the clarity of the regulation. OSMRE finds the change does not alter the meaning of the regulation, and therefore we approve the change.

Missouri proposed to revise 10 CSR 40–9.030(3)(C) to read “The notice shall

be in writing and mailed, return receipt requested” instead of “The notice shall be requested in writing and *shall be* mailed, return receipt requested” (emphasis added). The State determined removing the second “shall be” improved the readability of the regulation. OSMRE approves of this non-substantive change.

Missouri proposed to amend 10 CSR 40–9.040 to add more specific statutory citations. OSMRE approves the proposal because the additional citations are relevant and appropriate.

Missouri proposed to remove sections 10 CSR 40–9.040(1)(A)(1), (A)(2), and (B) and replace these sections with a cross-reference to the State statute: Mo. Rev. Stat. § 444.925.1. The information contained in the deleted sections is included by reference to 30 CFR part 879 in section C–4–2 of the Missouri Plan and in Mo. Rev. Stat. § 444.925. The program remains as effective as the Federal counterpart regulation by including the necessary information by reference. Therefore, we approve this change.

In 10 CSR 40–9.040(2), Missouri proposed to update the citation “Interagency Land Acquisition Conference 1973” to “Interagency Land Acquisition Conference 2016”. We approve Missouri’s proposal as consistent with the Federal requirement in 30 CFR 879.12(d).

Missouri proposed to revise 10 CSR 40–9.050 to change the citations to the State statutes (Mo. Rev. Stat. §§ 444.825.5 and 444.825.6) in the current regulation to the correct citations (Mo. Rev. Stat. §§ 444.925.5 and 444.925.6). OSMRE approves of this correction.

Missouri proposed to edit 10 CSR 40–9.050 to remove paragraphs (1)(B) and (1)(C) in their entirety. As background, section 407(f) of SMCRA authorizes the Secretary of the Interior to “provide by regulation that money derived from the lease, rental, or user charges of such acquired land and facilities thereon will be deposited in the fund.” 30 U.S.C. 1237(f). Federal implementing regulations at 30 CFR 879.14 provide: “Procedures for collection of user charges or the waiver of such charges by the OSM, State, or Indian tribe shall provide that all user fees collected shall be deposited in the appropriate Abandoned Mine Reclamation Fund.” Missouri’s previously approved regulations at 10 CSR 40–9.050(1)(B)–(C) provide that any user of acquired land must be charged a use fee and that such use fees will be deposited in the fund in accordance with 10 CSR 40–9.010. Missouri proposed to continue to allow use of acquired land under 10

CSR 40–9.050(A), which is not proposed to be amended, while deleting the provisions about user fees in 10 CSR 40–9.050(1)(B)–(C). Nevertheless, we find that Missouri continues to meet the requirements of 30 CFR 879.14 because a separate provision, 10 CSR 40–9.010(2)(B), specifies that monies collected by the State from charges for uses of acquired or reclaimed lands will be treated as revenue to the abandoned mine reclamation fund. Therefore, we approve this change.

Missouri proposed to revise 10 CSR 40–9.050(2)(E) to read, “All monies received from the disposal of land under this rule will be de-obligated and returned to the office,” instead of “All monies received from the disposal of land under this rule shall be deposited in the abandoned mine land fund.” “Office” is defined in 10 CSR 40.9010(1) as OSMRE. More specific details outlining this requirement can be found in the Missouri Plan contained in section 30 C–4–2, which states that the provisions of 30 CFR part 879 will be followed. 30 CFR 879.15(b)(2)(h), in turn, dictates: “We will handle all monies received under this paragraph as unused funds in accordance with § 886.20 of this Chapter.” We find this change to be no less effective than the Federal counterpart, and therefore we approve the change.

The State proposed to revise 10 CSR 40–9.060(1) to remove the word “required” and replace it with “necessary.” The State asserts that this change improves clarity and complies with Executive Order 17–03. OSMRE finds this does not alter the meaning of the regulation, and therefore we approve the change.

The State proposed to revise 10 CSR 40–9.060(2) to remove the word “require” and replace it with “necessitates.” The State asserts that this improves clarity and complies with Executive Order 17–03. OSMRE finds this does not alter the meaning of the regulation, and therefore we approve the change.

Missouri proposed removal of “acquired title prior to May 2, 1977 and who” from 10 CSR 40–9.060(3)(2). OSMRE removed this date under a 2008 amendment to 30 CFR 882.13 (73 FR 35236). This revision aligns the amended language exactly to the Federal counterpart; therefore, it is no less effective, and we approve the change.

The State proposed to revise 10 CSR 40–9.060(3) to remove the word “shall” and replace it with “will.” The State asserts that this improves clarity and complies with Missouri Executive Order 17–03. OSMRE finds this proposal does

not alter the meaning of the regulation, and therefore we approve the change.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment. As noted in Section II, we did not receive any public comments on this proposed amendment.

Federal Agency Comments

On February 14, 2019, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Missouri program (Administrative Record No. MO-685). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Missouri proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on February 14, 2019, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. MO-685). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On February 14, 2019, we requested comments on the Missouri amendment (Administrative Record No. MO-685). We did not receive comments from the SHPO or the ACHP.

V. OSMRE's Decision

Based on the above findings, we are approving Missouri's submittal sent to us on March 6, 2019 (Administrative Record No. MO-685) because the proposed amendments are consistent with Federal standards.

To implement this decision, we are amending the Federal regulations, at 30 CFR part 925, that codify decisions concerning the Missouri program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

Section 405 of SMCRA requires that each State with an abandoned mine reclamation program must have an approved State regulatory program pursuant to Section 503 of the Act. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in private property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review, 13563—Improving Regulation and Regulatory Review, and 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State plan amendments are exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations,

the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State amendment that Missouri drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under Section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to "grant the States the maximum administrative discretion possible" with respect to Federal statutes and regulations administered by the States. Missouri, through its approved reclamation program, implements and administers SMCRA and its implementing regulations at the state level. This rule approves an amendment to the Missouri reclamation program submitted and drafted by the State and, thus, is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have determined that it has no substantial direct effects on Federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's Tribal consultation policy is not required. The basis for this determination is that our decision is on the Missouri plan, which does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking 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

significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. We are not required to provide a detailed statement under the National Environmental Policy Act of 1969 because this rule qualifies for a categorical exclusion under the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(B)(29).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA; 15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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, which is the subject of this rule, is based upon corresponding 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. 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 corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete

with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

William L. Joseph,

Acting Regional Director, OSMRE IRs 3, 4 and 6.

For the reasons set out in the preamble, 30 CFR part 925 is amended as follows:

PART 925—MISSOURI

■ 1. The authority citation for part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 925.25 amend the table by adding an entry for “March 6, 2019” at the end of the table to read as follows:

§ 925.25 Approval of Missouri abandoned mine land reclamation plan amendments.

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Original amendment submission date	Date of final publication	Citation/description
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March 6, 2019	September 20, 2023.	10 CSR 40–9.010 through 40–9.060.