

requirements and whether Kansas still believed that its regulations contained the necessary counterparts to the Federal regulations (Administrative Record No. KS-597). At that time, it concluded that it did not.

Kansas indicated that it is under a moratorium for promulgating new regulations under its State rulemaking process, but that it will propose new regulations that are counterparts to the Federal regulations at the first opportunity to do so. Such new regulations could not be expected to be promulgated until 1997 or 1998.

Comments. On April 6, 1995, OSM published in the **Federal Register** (60 FR 17504) notice of opportunity for a public hearing and a request for public comment to assist OSM in making its decision on how the underground coal mine subsidence control and water replacement requirements should be implemented in Kansas (Administrative Record No. KS-596). The comment period closed on May 8, 1995. Because OSM did not receive a request for a public hearing, OSM did not hold one. The comments discussed above for the Iowa program, and OSM's responses to them, also apply to the Kansas program.

Regional Director's decision. Prior to the Regional Director making this decision on which enforcement alternative should be implemented in Kansas, the Kansas City Field Office on May 5, 1995, consulted with Kansas in accordance with 30 CFR 843.25(a)(4) (Administrative Record No. KS-597). Because there has been no underground mining activity since October 24, 1992, and there is no underground mining activity proposed in the State, the Field Office and Kansas agreed that it is unlikely that any State or Federal enforcement would be necessary in the State during the interim period between October 24, 1992, and the date by which Kansas revises its program in accordance with SMCRA and the Federal regulations.

On this basis and the disposition of the comments received, the Regional Director decides that initial enforcement of the underground coal mine subsidence control and water replacement requirements in Kansas is not reasonably likely to be required and that implementation will be accomplished through the State program amendment process. In the near future, and in accordance with 30 CFR 732.17(d), OSM intends to notify Kansas of the specific revisions that it must make to its regulatory program to be no less stringent than SMCRA and no less effective than the implementing Federal regulations.

If circumstances within Kansas change significantly, the Regional Director may reassess this decision. Formal reassessment of this decision would be addressed by **Federal Register** notice.

E. Enforcement in Missouri

Missouri Program Activity, Requirements, and Enforcement

By letter to Missouri dated December 14, 1994, OSM requested information from Missouri that would help OSM decide which approach to take in Missouri to implement the requirements of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart Missouri program provisions (Administrative Record No. MO-619). By letter dated February 16, 1995, Missouri responded to OSM's request (Administrative Record No. MO-620).

Missouri stated that the subsidence plan permitting requirements at 10 Missouri Code of State Regulations (CSR) 40-6.120(11) and the performance standards for subsidence control at 10 CSR 40-3.280 generally correspond to the requirements of section 720(a)(1) of SMCRA. In these regulations, Missouri requires the permit applicant to submit a plan detailing steps to prevent subsidence damage or mitigate effects of that damage to "structures or renewable resource lands." Missouri interprets "structures" to broadly mean any building, whether commercial or noncommercial and whether occupied or unoccupied, and it defines "renewable resource lands" as "aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silviculture production for food and fiber, and grazing lands."

Missouri also stated that the underground mining permit requirements for alternate water supply at 10 CSR 40-6.110(8) and protection of hydrologic balance requirements at 10 CSR 40-6.120(5)(B)3., together with the performance requirements for water rights replacement at 10 CSR 40-3.200(14), generally correspond to section 720(a)(2) of SMCRA.

Missouri indicated that all of the above-discussed regulations have effective dates preceding October 24, 1992, and appear to provide Missouri authority to enforce the provisions of section 720 of SMCRA.

On May 10, 1995, OSM confirmed with Missouri that no underground coal mines have operated in Missouri after October 24, 1992, and there is no underground mining activity proposed in the State (Administrative Record No. MO-631).

Missouri indicated that it would propose regulation revisions that are intended to be no less effective than the Federal regulations in the next amendment that it submits to OSM.

Comments. On April 6, 1995, OSM published in the **Federal Register** (60 FR 17504) notice of opportunity for a public hearing and a request for public comment to assist OSM in making its decision on how the underground coal mine subsidence control and water replacement requirements should be implemented in Missouri (Administrative Record No. MO-628). The comment period closed on May 8, 1995. Because OSM did not receive a request for a public hearing, OSM did not hold one. The comments discussed above for the Iowa program, and OSM's response to them, also apply to the Missouri program.

Regional Director's decision. Prior to the Regional Director making this decision on which enforcement alternative should be implemented in Missouri, the Kansas City Field Office on May 10, 1995, consulted with Missouri in accordance with 30 CFR 843.25(a)(4) (Administrative Record No. MO-631). Because there has been no underground mining activity since October 24, 1992, and there is no underground mining activity proposed in the State, the Field Office and Missouri agree that it is unlikely that any Federal or State enforcement would be necessary in the State during the interim period between October 24, 1992, and the date by which Missouri revises its program in accordance with SMCRA and the Federal regulations.

On this basis and the disposition of the comments received, the Regional Director decides that initial enforcement of the underground coal mine subsidence control and water replacement requirements in Missouri is not reasonably likely to be required and that implementation will be accomplished through the State program amendment process. In the near future, and in accordance with 30 CFR 732.17(d), OSM intends to notify Missouri of the specific revisions that it must make to its regulatory program to be no less stringent than SMCRA and no less effective than the implementing Federal regulations.

If circumstances within Missouri change significantly, the Regional Director may reassess this decision. Formal reassessment of this decision would be addressed by **Federal Register** notice.