



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
U.S. Department of the Interior

Citizen Request for Evaluation of a State Regulatory Program

December 2015

Citizen Request for Evaluation of a State Regulatory Program

When do we (OSMRE) evaluate the way that a state is administering, implementing, maintaining, or enforcing its approved regulatory program?

States with an approved regulatory program have an obligation under [30 CFR 733.11](#) to implement, administer, enforce, and maintain that program in accordance with both (1) the provisions of the approved program and (2) those provisions of SMCRA and the federal regulations that apply even after approval of a state program.

Under [30 CFR 733.12\(a\)\(1\)](#), we must evaluate the administration of each approved state program at least once per year. The OSMRE field office responsible for conducting oversight of each state program prepares an annual evaluation report describing oversight activities and the findings of the evaluation. You can review those reports at <http://odocs.osmre.gov/>.

In addition, [30 CFR 733.12\(a\)\(2\)](#) provides that any interested person may request that we conduct an evaluation of an approved state regulatory program. We will conduct a special evaluation of the state program if we grant that request.

How may I submit a request for evaluation of a state program?

You must provide a statement explaining why you believe that there is a need for an evaluation of the state program. The statement need not be lengthy, but it must identify the provision or provisions of the approved state program that you believe the state is not properly implementing, administering, enforcing, or maintaining. You also must document how the state is not effectively implementing, administering, enforcing, or maintaining its approved program.

Examples of documentation include, but are not limited to, photographs of uncorrected offsite environmental damage caused by mining operations, copies of water sample analyses demonstrating ongoing adverse impacts of

the operation, or correspondence with the state regulatory authority indicating an intent not to comply with a provision of the approved program. For example, if you allege that the state is not taking enforcement action for violations of effluent limitations, you should submit copies or logs of water monitoring reports documenting the violations. Similarly, if you allege that the state is not requiring restoration of the approximate original contour, you should submit photos and, if available, topographical maps supporting the allegation.

Send your request to the appropriate [OSMRE Regional Director](#), preferably with a copy to the appropriate [local OSMRE Area Office](#).

We encourage you to work with the state regulatory authority to resolve the problem at the state level, if possible, before requesting that we evaluate the state program. Also, if your allegation pertains only to one permit, we recommend that you first submit a citizen complaint to the state regulatory authority. If you are dissatisfied with the outcome of the complaint process, you may submit a complaint to the appropriate local OSMRE office, using the information at <http://www.osmre.gov/resources/InformationFor/citizens/InspectionRequest.shtm>

How will we process your request?

Upon receipt of your request, we will review your allegations, the documentation that you submit, and all other available information. We will then notify you of our decision to either grant or deny your request, together with the rationale for our decision. We will endeavor to complete this process within 60 days of receipt of your request.

What will happen if we grant your request?

If we grant your request, we will conduct an evaluation of how the state is implementing, administering, enforcing, or maintaining the provision or provisions of the state program to which your request pertains.

If, as a result of that evaluation, we determine that there is reason to believe that the state is not effectively implementing, administering, maintaining, or enforcing any part of the approved state program, the Director will send a letter to the state explaining the problems and specifying a time within which the state must resolve them.

The state may request an informal conference within 15 days after

expiration of the time for resolution specified in the Director's letter.

We will terminate the action if the problems are resolved. Otherwise, the Director will notify the state and the public and hold a public hearing within 30 days of either the date specified in the letter or any modified date established pursuant to the informal conference.

If, after the public hearing, we find that the state has not demonstrated its intent to implement or enforce all or part of its program, the Director either will—

1. Recommend that the Secretary of the Interior withdraw approval of the state program, in whole or in part, or
2. Substitute direct Federal enforcement of all or part of the state program.

In either case, we must provide public notice of the decision and implement direct Federal enforcement of the state program effective upon the date of public notice of the decision.

After receiving the Director's recommendation, the Secretary either will withdraw approval of the state program in whole or in part or instruct the Director to continue direct Federal enforcement. If the Secretary withdraws approval of the state program in whole or in part, the Director must initiate action to institute a Federal program for the state.

Do I have any recourse if we deny your request?

Yes, you may appeal the decision to the Interior Board of Land Appeals in accordance with [43 CFR 4.1280 through 4.1286](#).

PAPERWORK REDUCTION STATEMENT

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires us to inform you that: Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is necessary when an interested person requests that we conduct an evaluation of an approved state regulatory program. We will conduct a special evaluation of the state program if we grant that request.

Public reporting burden to follow these instructions is estimated to average 60 hours, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of these instructions to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 203 SIB, Constitution Ave., NW, Washington, D.C. 20240.