



COALEX STATE INQUIRY REPORT - 57
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TOPIC: STATE REGULATORY PROGRAM/"APPLICABLE REQUIREMENTS"

INQUIRY: SMCRA Sec. 510(b)(5) contains special provision for alluvial valley floors west of the one-hundredth meridian west longitude. The question is whether Tennessee needs to include a provision for alluvial valleys in proposed state regulations, even though they would not apply to mining within the state. Search state regulatory programs to see if other eastern states included provisions with respect to alluvial valleys.

SEARCH RESULTS: 30 CFR Sec. 732.15(b)(1) under the criteria for approval or disapproval of state programs, requires that the state program includes provisions to "implement, administer and enforce all applicable requirements consistent with Subchapter K of the federal regulatory program.

When the final regulations were promulgated in 1979, the word "applicable" was added to this section in response to a commenters suggestion that otherwise states would be required to adopt "irrelevant and inapplicable standards".

The preamble to the 1979 discussion of Sec. 732.15(b)(1) states:

"Addition of the word 'applicable' will in no way relieve a state from its obligations to meet the intended goals of the Act. Inclusion of the word 'applicable' relieves the states from its compliance responsibilities only if the state can demonstrate that there is no situation within the state which would be covered by the Act and regulations." (44 FR 14962 (MARCH 13, 1979))

With respect to alluvial valleys, the preamble discussion specifically states that "the special protections offered alluvial valley floors are only applicable west of the one-hundredth meridian and therefore need not be included in programs submitted by states east of the meridian." (Id.)

A COALEX search of state regulatory programs identified pertinent sections with regard to alluvial valleys under western programs, such as those of Colorado, New Mexico, Texas, and North Dakota. The phrase "alluvial valleys", however, was not found to appear among most of the eastern regulatory programs including Kentucky, Maryland, Ohio, West Virginia, Indiana and Pennsylvania.



ATTACHMENT

44 FR 14961-14965 (MARCH 13, 1979). 1979 Preamble discussion of 30 CFR Sec. 732.15,
Criteria for approval or disapproval of state programs.