



COALEX STATE INQUIRY REPORT - 73
July 14, 1986

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TOPIC: IMPOUNDMENT BANKS

INQUIRY: Are coal mine operators required to reclaim impoundment banks constructed of or impounding coal mine waste?

SEARCH RESULTS: A search of COALEX was conducted examining the history of 30 CFR 816.84 which contains the regulations regarding coal mine waste impoundment banks under the permanent regulatory program; 30 CFR 715.18 which provides the guidelines for coal mine waste impoundments under the interim regulatory program; and 30 CFR 77.216-4 which contains the Mine Safety and Health Administration's (MSHA) requirements for abandoning water, sediment or slurry impoundments and impounding structures.

Subsection (b)(1) of Sec. 816.84*, which deals with the abandonment of coal mine waste impoundment banks reads as follows:

"Each impounding structure constructed of coal mine waste or intended to impound coal mine waste shall be designed, constructed and maintained in accordance with Sec. 816.49 (a) and (c).** Such structures may not be retained permanently as part of the approved postmining land use."

* Sec. 817 which provides the permanent program performance standards or underground mining activities contains identical provisions in regards to coal mine waste impoundment structures as those found in Sec. 816.84.

**Sec. 816.49(a) contains general requirements applicable to temporary and permanent impoundments.

HISTORY

Sec. 816.84 began as three separate sections (30 CFR 816.91, 816.92 and 816.93) in the original permanent regulatory program. (44 FR 15409,15410 (MARCH 13, 1979)) These sections dealt with coal processing waste dam and embankment general requirements, site preparation requirements, and design and construction requirements. respectively. None of these sections contained requirements for the reclamation of coal mine waste impoundments.



On June 18, 1982, in a proposed change of the permanent program, OSM proposed 2 options as possible substitutes for the existing sections on coal mine waste embankments.

Option 1 proposed to combine the three sections into one section and make certain changes in the general, site preparation, and design and construction requirements of Sec. 816.91-93 (816.86) (47 FR 26604 (JUNE 18, 1982))

Option 2 proposed combining the general, and the design and construction requirements with the same proposed changes to those sections as provided under Option 1. Option 2, however, would have deleted the section dealing with site preparation (816.92).

Neither proposed Option 1 nor Option 2 contained language expressly requiring the reclamation of coal mine waste impoundment structures.

The final rule, adopted as 816.84 (rather than 816.86) on September 26, 1983, contained elements of both options. The changes in general, construction, and design requirements proposed in Option 1 were adopted, and the site preparation requirements, which under Option 2 were to be eliminated, were adopted under a different section, amended Sec. 816.49(a) which contains site preparation requirements for all impoundments. Final rule 816.84 contains a reference to these site preparation requirements in subsection (b).

The final rule also contained the first express statement that coal mine waste impounding structures could not be maintained as part of the approved postmining land use. (48 FR 44024 (September 26, 1983))

INITIAL PROGRAM REGULATIONS

Sec. 715.18 contains the requirements for "Dams constructed of or impounding waste material" for mines operating under the initial program regulations, enacted December 13, 1977 (42 FR 62677). Subsection (b)(8) of Sec. 715.18, which deals with reclamation of coal mine waste impoundment structures, reads as follows:

"All dams shall be removed and the disturbed areas regraded, revegetated, and stabilized before the release of bond unless the regulatory authority approves retention of such dams as being compatible with an approved postmining land use." (Sec. 715.13)***

*** Sec. 715.13 states that "[a]ll disturbed areas shall be restored in a timely manner (1) to conditions that are capable of supporting the uses which they were capable of supporting before any mining, or (2) to higher or better uses achievable under criteria and procedures of ... this section." (30 CFR 715.13)

MSHA REQUIREMENTS

Operations which make use of coal mine waste impoundment structures must also comply with MSHA regulations. 30 CFR 77.216-5 contains MSHA's guidelines for the abandonment of



"Water, sediment, or slurry impoundments and impounding structures." Sec. 77.216-5 reads as follows:

"Prior to abandonment of any water, sediment, or slurry impoundments and impounding structures which meet the requirements of Sec. 77.216(a), the person owning, operating, or controlling such an impoundment and impounding structure shall submit to and obtain approval of the District Manager a plan for abandonment based on current, prudent engineering practices which shall contain provisions to preclude the probability of future impoundment of water, sediment, or slurry, provide for major slope stability and include a schedule for the plan's implementation."

ATTACHMENTS

- A. 44 FR 15409-10.
- B. 47 FR 26603-04.
- C. 48 FR 44023-25.
- D. 30 CFR 715.18.
- E. 30 CFR 77.216.