



COALEX STATE COMPARISON REPORT – 140
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TOPIC: STATE SURFACE COAL MINE REGULATIONS PRE-SMCRA

INQUIRY: Which states had statutes and rules in force to regulate surface coal mining prior to the passage of the Surface Mining Control and Reclamation Act of 1977? Please locate any information available on pre-SMCRA laws and regulations.

SEARCH RESULTS: Using the COALEX Library, a 1977 Committee Print was identified which contains the results of a survey conducted by the Congressional Research Service of the Library of Congress. The survey compared the proposed federal legislation with existing state laws and regulations. A brief description of the survey and its findings is provided below. A copy of the Committee Print is attached.

"State Surface Mining Laws: A Survey, A Comparison with the Proposed Federal Legislation, and Background Information", Senate Committee on Energy and Natural Resources, Publication No 95-25, 95th Cong, 1st Sess (June 1977).

BACKGROUND

In November, 1976, a questionnaire was sent out by the Senate Committee on Energy and Natural Resources (formerly the Interior and Insular Affairs Committee) to 39 states that had surface mining laws for coal or other minerals. The purpose of survey was to: "gather information concerning State laws and regulations governing surface effects of coal mining, together with information regarding enforcement of those laws, as compared with the requirements of the Surface Mining Control and Reclamation Act of 1976 (H.R. 13950 - 94th Congress)." [NOTE: HR 13950 was replaced by HR 2.] Committee Print, p. 29.

Copies of proposed sections 515 and 516 were enclosed with the questionnaire.

The results of the survey, reported as the Committee Print, were "designed to assist the Committee in determining whether or not Federal legislation to regulate surface mining [was] necessary and, if it [was], what that legislation might contain." Committee Print, p. 4.

SUMMARY OF THE FINDINGS



The amount of detail provided in responses to the questionnaire differed widely; however, the results "suggest[ed]" that "most requirements of the State laws [were] far less stringent than the proposed Federal regulations in H.R. 13950 would be" and enforcement was "extremely lenient or even non-existent".

Some of the findings are as follows:

1. Permitting.
Virtually all of the states which have surface mining laws required that mine operators first obtain permits before engaging in active mining. Procedures for obtaining permits in H.R. 13850 were more detailed than those of the states, with the exception of Ohio. Ohio mining law was similar to the federal.
2. Abandoned Lands Reclamation.
Only a few states had "implemented any programs of reclaiming land which was mined prior to the passage of the State mining laws." Kentucky and Virginia had appropriated or procured money for reclamation. Some of the other states had "initiated programs to reclaim abandoned lands by using the proceeds from fines for noncompliance or from permit application fees."
3. Mine Inspectors.
In general, there was "an inadequate number of mine inspectors for the number of mining operations under permit in the state" and the mine inspectors were inadequately trained.
4. Citizens Complaints.
"Many State mining laws [did] not have adequate mechanisms for the filing, consideration, and disposition of citizen complaints related to coal surface mining."
5. Enforcement.
"[E]ven when violations [were] discovered in a State, fines assessed against the operators were small in size and in number. Kentucky, Montana, Ohio, and Virginia were among the few States which [had] actually assessed fines against mine operators for non-compliance with the law."
6. Bonding.
"[T]he most serious shortcoming of the state surface-mining laws seems to be that of not requiring an adequate amount of performance bond to insure reclamation in the event of forfeiture by the operator."

Committee Print, pp. 25-28.

RESULTS OF THE SURVEY

According to the survey, the following states had laws in existence in 1977 to regulate surface mining of coal:

- Alaska: had only one operation at the time of the survey.
- California: operations were regulated on the county or local level.
- Georgia
- Idaho



- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Michigan
- Missouri
- Montana
- Ohio
- Pennsylvania
- South Dakota
- Tennessee
- Texas
- Virginia
- Washington: had two active mine operations
- West Virginia

The following states had laws regulating underground mining but not surface mining of coal:

- North Carolina: last mining was conducted in 1950's.

These states had laws regulating other minerals, ores, etc. but not coal:

- Hawaii: laws were enacted to mine bauxite.
- Maine: enacted regulations for non-coal mining and reclamation.
- Minnesota: had laws re mining and reclamation of metallic ores.
- New Jersey: rules for stone quarries and sand pits, only.
- New York: laws for mining minerals other than coal.
- North Carolina: laws regulating non-metallic minerals.
- Rhode Island: sand and gravel operations were regulated on the local level, only.
- South Carolina
- Vermont: had some laws pertaining to mineral development.
- Wisconsin: laws for metallic mining.

These states reported that they had no surface mining statutes:

- Arizona
- Connecticut
- Delaware
- Florida
- Massachusetts
- Mississippi
- Nebraska



Specific comparisons between the state regulations and the proposed federal statute are discussed in the Print. A table version of the findings is also a part of the Print. The table, entitled "matrix", is included as part of the attachment; however, it was reproduced from the computer database and is difficult to read.

ATTACHMENTS

- A. "State Surface Mining Laws: A Survey, A Comparison with the Proposed Federal Legislation, and Background Information", Senate Committee on Energy and Natural Resources, Publication No 95-25, 95th Cong, 1st Sess (June 1977).