



COALEX STATE INQUIRY REPORT - 249

March 1993

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TOPIC: INITIATION OF OPERATIONS

INQUIRY: SMCRA Sec. 506(c) and 30 CFR 773.19(e) require the permittee to commence operations within three years of the issuance of the permit, with extensions allowed under certain circumstances. Is there any information in the preambles to the federal regulations or in the legislative history of SMCRA that discusses why three years was selected as the running time for the permit?

SEARCH RESULTS: Using the COALEX Library and other material available in LEXIS a limited amount of material on point was identified. These are listed below. Copies are attached.

SMCRA:

Section 406(c) in earlier versions. Becomes: 506(c) in SMCRA.

CFR:

786.11(b) Permit terms. 43 FR at 41720 (September 18, 1978). Proposed rules.
Becomes: 786.25(b) Permit terms. 44 FR 14902 (March 13, 1979). Final rules.
Becomes: 773.19(e).

LEGISLATIVE HISTORY

1974 version of bill states that operations must be initiated within three years of issuance of permit. Extensions are not possible.

1977 version of SMCRA allows for extensions of time under certain circumstances.

SENATE REPORT No. 95, 95th Cong, 1st Sess 74 (May 10, 1977) (S. 7). Section-by-Section Analysis: Title IV; Section 406 Permits.



"To assure that no one will be locked into outdated reclamation requirements because permits are taken out and renewed without operations being undertaken, subsection (c) provides that permits will terminate if the permittee has not begun operations within 3 years of the issuance of the permit unless otherwise provided in the permit.

[Additional sections of House Report No. 218, 95th Cong, 1st Sess (April 22, 1977) are included for background.]

REGULATORY HISTORY

43 FR at 41720 (SEPTEMBER 18, 1978). Proposed rules. 786.11 Permit terms. [Excerpts.]

"Under Subsection 786.11(b), a permit would terminate if mining has not commenced within three years after issuance. The regulatory authority could extend the time period, if the opening of the operation were delayed by conditions beyond the control of the operator. Notice of such extensions are to be made to the public. For certain synthetic fuels facilities or major electric generating plants, surface coal mining operations would be deemed to have started at the time of the construction of those facilities. These provisions are required by Section 506(c) of the Act."

44 FR 14902 (MARCH 13, 1979). Permanent program preamble - Final rules. 786.25 Permit terms. [Excerpt.]

Included for background: refers to proposed rules, above.

48 FR 44344 (SEPTEMBER 28, 1983). Final rule. 773.19(e) Initiation of operations.

"Section 506(c) of the Act specifies that the 3-year period, as established in Section 773.19(e), begins with issuance of a permit although there can be reasonable extensions of time due to litigation, substantial economic loss, or conditions beyond the control, and without the fault or negligence of the permittee.

"This flexibility recognizes the longer start-up times required for coal liquefaction and gasification projects."

ATTACHMENTS

- A. CONFERENCE COMMITTEE, S. 425, 93rd Cong., 2d Sess. (December 5, 1974). Sec. 506 Permits.
- B. CONFERENCE COMMITTEE, H.R. 2, 95th Cong., 1st Sess. (July 12, 1977). Sec. 506. Permits.
- C. SENATE REPORT No. 95, 95th Cong, 1st Sess 74 (May 10, 1977) (S. 7). Section-by-Section Analysis: Title IV; Section 406 Permits.



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- D. 43 FR at 41720 (SEPTEMBER 18, 1978). Proposed rules. 786.11 Permit terms. [Excerpts.]
- E. 44 FR 14902 (MARCH 13, 1979). Permanent program preamble - Final rules. 786.25 Permit terms. [Excerpt.]
- F. 48 FR 44344 (SEPTEMBER 28, 1983). Final rule. 773.19(e) Initiation of operations.