



COALEX STATE COMPARISON REPORT - 271

December 1993

IMCC
Herndon, VA

TOPIC: REVEGETATION PRODUCTIVITY MEASUREMENTS

INQUIRY/SEARCH RESULTS: This Report updates COALEX State Comparison Report - 187 with the addition of two Interior administrative decisions and additional Federal Register notices providing some description of measurement methodologies contained in recent state program amendment submittals and OSM's comments on those submittals.

COALEX REPORTS

COALEX STATE COMPARISON REPORT - 187, "Revegetation productivity measurements for Phase III bond release" (1991).

This Report sought information on OSM-approved statistically valid sampling techniques for measuring successful revegetation. It includes a short survey of IMCC members and copies of an OSM methodology report, the Raelson-McKee study and a Kentucky memorandum on sampling techniques then under review by OSM.

INTERIOR ADMINISTRATIVE DECISIONS

OSM v CALVERT AND MARSH COAL CO., INC. AND BATTLE CREEK MINING CO., INC., 95 IBLA 182, IBLA 85-462 & 85-561 (1987).

Headnotes: "Failure to revegetate surface mining sites in conformity to state and Federal regulations was not shown by use of random sampling ['point-frequency'] method, the origin and application of which were not explained, where miner's proof established there was a complete revegetation of surface mining sites in conformity to regulation in force."

NEWTEX MANAGEMENT CORP., 117 IBLA 380, IBLA 89-233 (1991).

Headnotes: "Where OSM determines the percentage of vegetative ground cover within an area covered by a surface mining permit being reclaimed for use as pasture to be less than 90 percent...and where the permittee fails to challenge this determination or the methodology used to make it, OSM's decision disapproving the permittee's application for a Phase II bond release will be affirmed."



Footnote 2: "We note that, in *OSM v Calvert & Marsh Coal Co.*, supra, we did not look favorably on OSM's vegetation sampling technique. However, our concerns there arose largely because OSM was evidently sampling only one spot per sampling point. Here, OSM sampled 20 spots per sampling point."

FEDERAL REGISTER NOTICES RE: STATE PROGRAM AMENDMENTS

The Notices included here provide OSM approval and discussions of State program amendments relating to establishing revegetation success.

INDIANA

1. 57 FR 22653 (MAY 29, 1992)
2. 58 FR 16379 (MARCH 26, 1993)
3. 58 FR 41039 (AUGUST 2, 1993)

IOWA

1. 58 FR 16632 (MARCH 30, 1993)

KANSAS

1. 56 FR 6559 (FEBRUARY 19, 1991)
2. 57 FR 37430 (AUGUST 19, 1992)

KENTUCKY

1. 58 FR 32283 (JUNE 9, 1993)

LOUISIANA

1. 57 FR 48726 (OCTOBER 28, 1992)

MISSOURI

1. 55 FR 22907 (JUNE 5, 1990)
2. 56 FR 190 (JANUARY 3, 1991)

NEW MEXICO

1. 58 Fr 65907 (DECEMBER 17, 1993)

OHIO

1. 52 FR 26959 (JULY 17, 1987)



2. 58 FR 4326 (JANUARY 14, 1993)
3. 58 FR 58824 (NOVEMBER 4, 1993)

OKLAHOMA

1. 58 FR 64374 (DECEMBER 7, 1993)

PENNSYLVANIA

1. 58 FR 18149 (APRIL 8, 1993)

UTAH

1. 56 FR 41795 (AUGUST 23, 1991)

ATTACHMENTS

- A. COALEX STATE COMPARISON REPORT - 187, "Revegetation productivity measurements for Phase III bond release" (1991).
- B. OSM v CALVERT AND MARSH COAL CO., INC. AND BATTLE CREEK MINING CO., INC., 95 IBLA 182, IBLA 85-462 & 85-561 (1987).
- C. NEWTEX MANAGEMENT CORP., 117 IBLA 380, IBLA 89-233 (1991).
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