



COALEX STATE INQUIRY REPORT - 347

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TOPIC: STATE SMCRA PROGRAM AMENDMENTS RELATING TO EPA REGULATIONS

INQUIRY: Must states send program amendments relating to the regulation of effluent limitations and other such areas under EPA's purview to OSM or can they be sent directly to EPA for approval? Can Pennsylvania delete these regulations from their SMCRA programs?

SEARCH RESULTS: Research was conducted using the COALEX Library and other materials available in LEXIS. The results of the research are summarized below. Excerpts from the items referenced are attached.

[NOTE: Changes have been made to the SMCRA effluent regulations since 1982. Neither the information on those changes nor the language of the regulations currently in force are included with this Report.]

According to the legislative history of SMCRA and the preambles to the proposed rules and the final program rules, SMCRA regulations and EPA regulations are seen as complementary, not duplicative. State SMCRA programs, their revisions and amendments are required to be reviewed and approved by OSM with the concurrence of EPA. The alternative of merely adopting the EPA effluent guidelines under the National Pollution Discharge Elimination System (NPDES) was considered but was rejected. Reasons for rejecting this alternative, as stated in the preamble to the Permanent Program Final Rules (44 FR 14902; March 13, 1979) include the following:

(1) The NPDES regulations "apply only during the active phase of mining operations and do not extend to the reclamation phase of mining. Further, neither the NPDES permit system nor EPA's regulations cover nonpoint' source discharges to surface water, any discharges to ground water, or discharges to surface waters that do not meet the agency's definition of waters of the United States."

(2) "The NPDES system also assumes the existence of a point source discharge before applicable effluent limitations attach to the discharge. This system would leave entirely



unregulated any non-point discharges, of which surface and underground mining activities have many, largely resulting from the storm water runoff over surface areas and ground waters exiting underground mine workings. Under Sections 102, 506, 510, 515, 516, and 517 of the Act, however, all water discharged as a result of coal mining and reclamation operations which could materially damage the hydrologic system are to be regulated through a permit system and regulations, which will require collection of non-point runoff and treatment to limit discharges of pollutants to ground or surface waters."

ATTACHMENTS

- A. H. REP. 218, 95th Cong. 1st Sess. 142 (April 22, 1977; HR 2). [Excerpts]
- B. 42 FR 62639 (DECEMBER 13, 1977). Final rules. [Excerpts]
- C. 43 FR 41662 (SEPTEMBER 18, 1978). Proposed rules. Section 816.42. [Excerpts]
- D. 44 FR 14902 (MARCH 13, 1977). Permanent Program Final Preamble -- Final rules. Section 816.42 Hydrologic balance: Water quality standards and effluent limitations. [Excerpts]
- E. 47 FR 47216 (OCTOBER 22, 1982). Final rule. Water quality standards and effluent limitations. [Excerpts]