

FEDERAL REGISTER: 45 FR 36900 (May 30, 1980)

DEPARTMENT OF THE INTERIOR

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM)

30 CFR 700.5

Definitions of "Surface Coal Mining Operations" and "Coal-Processing Plant"

SUMMARY:

REASON FOR INCLUDING THIS ENTRY

To more clearly determine the jurisdiction of its regulatory authority, the Department of the Interior (DOI), Office of Surface Mining (OSM) is initiating a study of the characteristics of coal-processing plants located outside the permit area of a mine. An outcome of this study may be amendment of the definitions of Surface Coal Mining Operations and Coal-Processing Plant. The amendment, if undertaken, might have a major impact on the coal industry.

STATEMENT OF PROBLEM

The definitions of "Surface Coal Mining Operations" and "Coal-Processing Plant" in current regulations do not indicate clearly what off-site coal-processing plants are to be regulated. Physical or chemical processing of coal may produce coal waste. The coal-processing plants and their support facilities may be located within or outside the permit area for a mine. Furthermore, the degree of the environmental impact from the operation of coal-processing plants may vary according to the nature and location of the plant. Consequently, unless a clear understanding of the whole industry is obtained and a better jurisdiction for regulatory authority is determined, some coal-processing plants which are located outside the permit area but cause serious environmental and pollution problems may be outside the jurisdiction of the regulatory authority. OSM is, therefore, taking action to initiate a study and possibly to revise the definitions of Surface Coal Mining Operations and Coal-Processing Plant. Among other things, the study will determine the number and location of coal-processing plants that will produce clean coal and coal waste and the number and location of coal-processing plants that will only crush and load coal. The study will also report what environmental standards those plants are currently operating under or should be complying with and the cost of such compliance.

OSM's action is mainly in response to a 1979 decision of the DOI Office of Hearings and Appeals, Board of Surface Mining and Reclamation Appeals. The case involved Western Engineering, which operates a river terminal exclusively to prepare and load coal on barges. Western sometimes crushes coal and sprays the coal with water or takes other measures to control dust. Western was cited by OSM for failure to pass the effluent from these operations through a sedimentation pond and for violation of the effluent limitations. The Board ruled in favor of Western because OSM's definition was unclear as to whether this type of facility was to be regulated.

If OSM does not take any action, similar uncertainty and pollution will continue to occur and therefore make OSM's enforcement work difficult.

ALTERNATIVES UNDER CONSIDERATION

The proposed amendment will clarify OSM's intent on what coal-processing plants are to be regulated and eliminate any ambiguities as to the definitions. Consequently, another alternative considered is no action. Depending upon the outcome of the study, it is possible that no action may be taken; OSM favors the change of definition in order to minimize the adverse environmental impact of coal-processing operations.

SUMMARY OF BENEFITS

Sectors Affected: Owners of coal-processing plants; persons who live near and around coal-processing plants; the general public; and OSM and the State regulatory authority.

Owners of coal-processing plants will have the benefit of knowing whether their plants are subject to regulation. This will eliminate uncertainty and save cost. Citizens who live near coal-processing plants will have the benefit of knowing whether the plants are subject to regulation. OSM or the State regulatory authority will know the jurisdiction of its enforcement authority, and therefore perform better enforcement.

Indirectly, citizens who live in the communities with coal-processing plants will enjoy cleaner air and water and an improved quality of life. The general public will also enjoy a better environment.

SUMMARY OF COSTS

Sectors Affected: Owners of coal-processing plants; OSM and the State regulatory authority; and coal users.

OSM is initiating a study to determine more specifically the number and location of various types of coal-processing plants, such as the number and location of plants that only crush and load coal, and the number and location of coal-processing plants that clean coal and produce waste products.

This study will discuss the direct and indirect costs resulting from the proposed action. Such costs might include the cost incurred by the plant owner to comply with the regulations.

RELATED REGULATIONS AND ACTIONS

None

ACTIVE GOVERNMENT COLLABORATION

None at present. OSM may collaborate with the Environmental Protection Agency and the Mine Safety and Health Administration in the future.

TIMETABLE

ANPRM -- September 1, 1980

NPRM -- January 15, 1981

Public Hearings -- February 15, 1981 at the following locations:

Washington: Department of the Interior Auditorium 18th and C Streets N.W., Washington, D.C.

Indianapolis: Indiana World War Memorial Auditorium 431 North Meridian Street, Indianapolis, Indiana

Denver: Court House 1961 Stout Street, Room C-503, Denver, Colorado

PUBLIC COMMENTS -- Written comments can be mailed or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Records Office, Room 153 South, 1951 Constitution Avenue N.W., Washington, D.C. 20240. Written comments will be accepted between January 15, 1981 and March 15, 1981.

Final Rule -- Final rule will be published in the Federal Register on April 16, 1981.

Final Rule Effective -- 30 days after the Publication of the final rule.

AVAILABLE DOCUMENTS

None available at this time

AGENCY CONTACT

Dr. C. Y. Chen, Mining Engineer, Office of Surface Mining, Department of the Interior, 1951 Constitution Avenue N.W., Washington, D.C. 20240, (202) 343-5244