



COALEX STATE INQUIRY REPORT – 95
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TOPIC: COAL EXPLORATION NOTICES: LEGISLATIVE HISTORY

INQUIRY: Please research the legislative history of the coal exploration notice requirements.

SEARCH RESULTS: Section 512(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires that any coal exploration operation which substantially disturbs the land surface be conducted in accordance with the state or federal regulations. This section then requires that any regulations pertaining to coal exploration operations include certain minimum requirements. One of these requirements, mandated by SMCRA is that, prior to conducting any exploration activities, an operator must file a notice of intention to explore the proposed area.

Prior to 1976, both the House and Senate versions of the proposed surface mining legislation required that any coal exploration operation which would substantially disturb the area was to obtain a permit from the regulatory authority. (See, e.g., S. Rep. No. 28, 94th Cong., 1st Sess. 72 (1975).) This provision required any person to obtain a permit "by submitting an application similar to, but simpler than, that for a mining operation." (Id. at 211.) An operator was also required to submit an application fee.

The permit requirement for coal exploration operations conducted on state lands was deleted in the first session of the 94th Congress. This requirement was replaced by a provision requiring that a notice of intention be filed with the regulatory authority. However, permits were still required for exploration operations conducted on federal lands. (See 122 Cong. Rec. H30322 (1976).) This requirement was later deleted. It should also be noted that this version did not require specific written approval for the removal of more than 250 tons of coal.

The explanation accompanying the deletion of permit requirements explained the reasons for the change:

"The previous bill would have required application for conducting exploration for coal. Exploration often results in environmental damage and the Committee believes that a full permitting program is justified to control exploration activities. Nevertheless, a simpler procedure could be imposed to achieve the needed degree of regulation. Thus, the Committee has eliminated the permitting process for coal exploration on lands within the jurisdiction of the states. Section 512 now requires that prior to exploration, notice be

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given of intention to conduct exploration and that all exploration be conducted pursuant to regulations designed to require reclamation of disturbed lands. By imposing penalties for violations of the exploration regulations, the Committee believes that the bill will adequately protect the environment without imposing the extensive and time consuming permitting procedure." (H.R. Rep. No. 1445, 94th Cong., 2nd Sess. 7 (1976))

Thus, it appears that while Congress intended to maintain the environmental safeguards of the permitting requirements, it felt that the notice requirements imposed would achieve the necessary protection without the expenditure of the time and effort necessary to obtain a complete permit.

In the 1997 version of SMCRA, which was passed by both houses and signed into law by President Carter, the exploration notice provision was essentially identical to that found in the 1976 bill, except that the section pertaining to the written approval for operations exceeding 250 tons was added. (See S. Rep. No. 337, 95th Cong., 1st Sess. 43, 106 (1977).)

Thus, the legislative history offers very little insight as to exactly what Congress intended the notice provisions of Section 512 to include.

ATTACHMENTS

- A. S. Rep. No. 28, 94th Cong., 1st Sess. (1975).
- B. 122 Cong. Rec. H30322 (1976).
- C. H.R. Rep. No, 1445, 94th Cong., 2nd Sess. (1976).
- D. S. Rep. No. 337, 95th Cong., 1st Sess. (1977).