



COALEX STATE INQUIRY REPORT – 97
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TOPIC: DEFINITION OF "PERENNIAL STREAM"

INQUIRY: Please search the Federal Register and selected state regulations for the definitions of "perennial stream."

SEARCH RESULTS: The federal regulation defining the term "perennial stream" is found at 30 CFR Sec. 701.5, and reads as follows: Perennial stream "means a stream or part of a stream that flows continuously during all of the calendar year as a result of ground-water discharge or surface runoff". The term does not include "intermittent stream" or "ephemeral stream."

This definition has not been revised or amended since its promulgation in 1979. In the preamble to the 1979 final regulations, OSM noted that this definition was based on a definition of the term which was contained in a 1960 U.S. Geological Survey Water Supply Paper. No comments were received on this regulation, which was adopted as proposed. (44 FR 14,932 (1979)).

Of the six states which were researched, four (Kentucky, Indiana, Illinois, and Virginia) contained a definition of "perennial stream" that is identical to that found in the federal regulations. Ohio's definition differed from the others in that the phrase "or part of a stream" was omitted; otherwise, Ohio's definition was identical to that used by OSMRE.

West Virginia's definition differs from the OSMRE definition, in that it makes no reference to a flow during "a calendar year" or to "surface runoff" of "ground water discharge". That state's definition of "perennial streams" reads: "a stream or portion of a stream that flows continuously."

ATTACHMENTS

- A. 44 FR 14, 932 (1979).
- B. 405 KAR 7:020, Sec. 1 (1986).
- C. 310 IAC 12-1-3 (1986).
- D. Illinois Surface Coal Mining Regs., Sec. 1701.5 (1982).
- E. Virginia Coal Surface Mining Reclamation Regs. Sec. 480-03-19. 700.5 (1986).
- F. Ohio Admin Code Sec. 1501:13-1-02 (1987).
- G. West Virginia Surface Mining Reclamation Regs. Sec. 2 (1983).