



COALEX STATE COMPARISON REPORT - 215

May 1992

Steve Layton
Maryland Bureau of Mines
160 So. Water Street
Frostburg, Maryland 21532

TOPIC: WATER QUALITY STANDARDS AND EFFLUENT LIMITATIONS

INQUIRY: The federal regulations at 30 CFR 816.42 (surface) and 817.42 (underground) state that discharges from areas disturbed by mining shall comply with effluent limitations set by the Environmental Protection Agency (EPA). Maryland's corresponding regulation requires compliance with "all federal and State laws", lists specific minimum numerical effluent limitations and allows exemptions from the effluent limitations for certain precipitation events. Which states have regulations that reference the EPA regulations and which states list specific numerical limitations?

SEARCH RESULTS: Research was conducted using the COALEX Library and other materials available in LEXIS. Relevant regulations were identified for 18 states. These findings are listed below. Also identified were Federal Register notices that discuss OSM's approval or disapproval of the state sections that correspond to 816.42 and 817.42. The regulation history of the section and the most recent EPA notice on effluent limitations are included for background. Copies of all materials are attached unless otherwise indicated.

REGULATION HISTORY

The attached summary of the history of 30 CFR 816.42 is taken from the final rules published in the Federal Register on September 26, 1983 (48 FR 44032). Copies of the revisions to the regulation section and the OSM preambles which discuss the rationale for the changes, e.g., federal case decisions and changes to EPA's guidelines, are attached. Also included with this report is a copy of the most recent Federal Register notice that discusses EPA's effluent limitation guidelines.

COMPARISON OF STATE REGULATIONS

The following states' permanent program regulations reference the Clean Water Act or the EPA regulations at 40 CFR 434:



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
U.S. Department of the Interior

STATE	REGULATION SECTION (EFFECTIVE DATE)	COMMENTS
ILLINOIS	Ill Admin Code title 62, 1816.42 (10/88)	
KENTUCKY	405 KAR 16:070E, Sec 1 (5/82)	
LOUISIANA	216.42 (5/91)	See Federal Register notice that discusses revisions: 56 FR 21270 (MAY 8, 1991).
MISSOURI	10 CSR 40-3.040 (1/91)	See Federal Register notice that discusses deletion of rainfall exemption section: 55 FR 618 (JANUARY 8, 1990).
MONTANA	Mont Admin R 26.4.633 (5/90)	Section provides examples of minerals regulated.
	Mont Admin R 26.4.903 (5/90)	Underground mining section refers to 26.4.633.
OKLAHOMA	817.42 (3/90)	
VIRGINIA	Va Regs Reg 480-03-19.816.42 (11/86)	
WEST VIRGINIA	38-2-14 (5/91)	See the attached Federal Register notice: 55 FR 21304 (MAY 23, 1990).

The regulations of these states require compliance with state and/or federal rules but do not specifically indicate EPA rules:

STATE	REGULATION SECTION (EFFECTIVE DATE)	COMMENTS
ALABAMA	Ala Admin Code r 880-X-10C-.13 (7/84)	
INDIANA	310 IAC 12-5-17 (10/81)	See excerpts of Meeting Minutes that discusses EPA comments. OSM stated that the language of the section is "no less effective" even though specific water quality standards are not delineated.
OHIO	Ohio Admin Code 1501:13-9-04 (12/88)	See Federal Register notice excerpts: 55 FR 38989 (SEPTEMBER 24, 1990).
NORTH DAKOTA	ND Cent Code Sec 69-05.2-16-04 (1/90)	Requires compliance with state rules.

The following states have regulations similar to MARYLAND COMAR 08.13.09.24 (12/80), in that they specify numerical effluent limitations and/or allow exemptions for certain precipitation events, as indicated below:



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
U.S. Department of the Interior

STATE	REGULATION SECTION (EFFECTIVE DATE)	COMMENTS
ARKANSAS	Ark Reg 816.42 (3/88)	(a)(7) Refers to EPA regs at 40 CFR 434; (b) discusses exemptions.
COLORADO	Colo Reg 4.05.2 (5/84)	(7) Lists specific limitations, but does not use the phrase "at a minimum"; (8) lists exemptions. See Federal Register excerpts: 54 FR 50739 (DECEMBER 11, 1989).
MISSISSIPPI	216.42 (4/80)	(a)(7) List specific limitations; (b) lists exemptions.
NEW MEXICO	CSMC Rule 80-1-20-42 (6/91)	(a)(8) Refers to EPA rules at 40 CFR 434; (b) lists exemptions. See discussions of revisions and EPA comments in Federal Register notices: 56 FR 28484 (JUNE 21, 1991) and 57 FR 12720 (APRIL 13, 1992).
PENNSYLVANIA	25 Pa Code Sec 89.102 (5/91)	Lists specific effluent limitations corresponding to different weather conditions.
	25 Pa Code Sec 87.103 (5/91)	Lists alternate effluent limitations for certain precipitation events.
	25 Pa Code Sec 89.52 (5/91)	Lists specific limitations for underground mining. See discussion of reorganized rules in Federal Register excerpts: 56 FR 24687 (MAY 31, 1991).
TEXAS	051.07.04.340 (7/85)	(a)(7) Lists specific limitations; (b) lists exemptions. See excerpts from the Federal Register, below.
	50 FR 279047 (JULY 9, 1985). Final rule.	In approving the Texas regulation, OSM stated: "In response to a concern raised by OSM, Texas responded in a letter clarifying that where the EPA standards at 30 CFR 434 are more stringent than the limits established in the Texas rules, the EPA standards will apply. The Director is satisfied that Texas will apply EPA criteria for all discharges covered in this rule".

ATTACHMENTS



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
U.S. Department of the Interior

- A. ILLINOIS: Ill. Admin. Code title 62, Sec. 1816.42 (10/88). Hydrologic balance: Water quality standards and effluent limitations.
- B. KENTUCKY: 405 KAR 16:070E, Sec 1 (5/82). Water quality standards and effluent limitations.
- C. LOUISIANA:
 - a. 216.42 (5/91). Hydrologic balance: Water quality standards and effluent limitations.
 - b. 56 FR 21270 (MAY 8, 1991). Final rule; approval of amendment.
- D. MISSOURI:
 - a. 10 CSR 40-3.040 (1/91). Requirements for protection of the hydrologic balance.
 - b. 55 FR 618 (JANUARY 8, 1990). Final rule; approval of amendment.
- E. MONTANA:
 - a. Mont. Admin. R. 26.4.633 (5/90). Water quality performance standards.
 - b. Mont. Admin. R. 26.4.903 (5/90). General performance standards.
- F. OKLAHOMA: 817.42 (3/90). Hydrologic balance: Water quality standards and effluent limitations.
- G. VIRGINIA: Va. Regs. Reg. 480-03-19.816.42 (11/86). Hydrologic balance: Water quality standards and effluent limitations.
- H. WEST VIRGINIA:
 - a. 38-2-14 (5/91). Hydrologic balance.
 - b. 55 FR 21304 (MAY 23, 1990). Final rule; approval of amendment.
- I. ALABAMA: Ala. Admin. Code r. 880-X-10C-.13 (7/84). Hydrologic balance: Water quality standards and effluent limitations.
- J. INDIANA:
 - a. 310 IAC 12-5-17 (10/81). Hydrologic balance: Water quality standards and effluent limitations.
 - b. Minutes of meetings between OSM and Indiana Dept. of Natural Resources (5/18/82 and 5/19/82).
- K. OHIO:
 - a. Ohio Admin. Code Sec. 1501:13-9-04 (12/88). Protection of the hydrologic system.
 - b. 55 FR 38989 (SEPTEMBER 24, 1990). Final rule; approval of amendments.
- L. NORTH DAKOTA: N.D. Cent. Code Sec. 69-05.2-16-04 (1/90). Performance standards - Hydrologic balance: Water quality standards and effluent limitations.
- M. MARYLAND: COMAR 08.13.09.24 (12/80). Ponds and sediment control measures.
- N. ARKANSAS: Ark. Reg. 816.42 (3/88). Hydrologic balance: Water quality standards and effluent limitations.
- O. COLORADO:
 - a. Colo. Reg. 4.05.2 (5/84). Hydrologic balance: Water quality standards and effluent limitations.
 - b. 54 FR 50739 (DECEMBER 11, 1989). Final rule; approval of amendment.
- P. MISSISSIPPI: 216.42 (4/80). Hydrologic balance: Water quality standards and effluent limitations.
- Q. NEW MEXICO:



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
U.S. Department of the Interior

- a. CSMC Rule 80-1-20-42 (6/91). Hydrologic balance: Water quality standards and effluent limitations.
- b. 56 FR 28484 (JUNE 21, 1991). Final rule; approval of proposed amendment.
- c. 57 FR 12720 (APRIL 13, 1992). Final rule; approval of proposed amendment.
- R. PENNSYLVANIA:
 - a. 25 Pa Code Sec. 89.102 (5/91). Hydrologic balance; effluent standards. [Surface coal mining]
 - b. 25 Pa Code Sec. 87.103 (5/91). Catastrophic storm exemption. [Surface coal mining]
 - c. 25 Pa Code Sec. 89.52 (5/91). [Underground mining]
 - d. 56 FR 24687 (MAY 31, 1991). Final rule; approval of amendment.
- S. TEXAS:
 - a. 051.07.04.340 (7/85). Hydrologic balance: Water quality standards and effluent limitations.
 - b. 50 FR 279047 (JULY 9, 1985). Final rule.
- T. 44 FR 14902 (MARCH 13, 1979). Permanent Program Final Preamble - Final Rule. Sec. 816.42 Hydrologic balance: Water quality standards and effluent limitations.
- U. 44 FR 77447 (DECEMBER 31, 1979). Notice of suspension and withdrawal of certain rules in 30 CFR Chapter VII.
- V. 44 FR 77456 (DECEMBER 31, 1979). Notice of intent to commence rulemaking.
- W. 45 FR 36901 (MAY 30, 1980). [Statement of proposed effluent limitations regulations under consideration.]
- X. 45 FR 51547 (AUGUST 4, 1980). Notice of suspension.
- Y. 46 FR 34784 (JULY 2, 1981). Proposed rule. Effluent limitations and sedimentation pond design.
- Z. 47 FR 47216 (OCTOBER 22, 1982). Final rule. Water quality standards and effluent limitations.
- AA. 48 FR 44032 (SEPTEMBER 26, 1983). Final rule. Siltation structures.
- BB. 50 FR 41296 (OCTOBER 9, 1985). EPA: Final rule. Effluent limitations guidelines and new source performance standards.
- CC. 45 FR 6913 (JANUARY 30, 1980). Correction and addition to notice of suspension and withdrawal.