

OSMRE Approves Amendments to Pennsylvania's Regulatory Program for Beneficial Use of Coal Ash

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Effective May 12, 2022, the Office of Surface Mining Reclamation and Enforcement (OSMRE) approved amendments to the Pennsylvania regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). See 87 Fed. Reg. 21,561 (Apr. 12, 2022). The Pennsylvania Department of Environmental Protection (PADEP) submitted the amendments to OSMRE for approval in 2012, and years of correspondence between the agencies followed. OSMRE determined that Pennsylvania's proposed regulations are in accordance with SMCRA and not inconsistent with the federal regulations implementing SMCRA. By approving the amendments, OSMRE is amending the federal regulations at 30 C.F.R. pt. 938, which codify decisions concerning the Pennsylvania program, to include these amendments to the Pennsylvania program.

The amendments to the Pennsylvania program are related to the beneficial use of coal ash at active surface coal mining sites. OSMRE identified key provisions of the amendments as "operating requirements for beneficial use, including certification guidelines for chemical and physical properties of coal ash beneficially used and water quality monitoring requirements." 87 Fed. Reg. at 21,562.

The amendments include adding definitions to 25 Pa. Code chs. 287 and 290 as well as adding sections to chapter 290 that included the following, among others: general requirements for beneficial use (§ 290.101); beneficial use at coal mining activity sites (§ 290.104); coal ash certification (§ 290.201); exceedance of certification requirements (§ 290.203); water quality monitoring (§ 290.301); requirements for monitoring points (§ 290.302); and standards for wells and casing of wells (§ 290.303).

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