

OSMRE Issues Final Rule Amending Pennsylvania's SMCRA Program

May 27, 2026

Pittsburgh, PA and Washington, DC

FNREL Mineral and Energy Law Newsletter

Pennsylvania – Mining

(by [Joe Reinhart](#), [Sean McGovern](#), [Gina Buchman](#), and [Jordan Brown](#))

The Office of Surface Mining Reclamation and Enforcement (OSMRE) has issued a final rule approving an amendment to Pennsylvania's Surface Mining Control and Reclamation Act (SMCRA) program, effective February 17, 2026. See 91 Fed. Reg. 1696 (Jan. 15, 2026). This action confirms that Pennsylvania's updated program remains consistent with federal SMCRA standards and gives the commonwealth continued primacy to administer and enforce surface coal mining and reclamation within its borders.

Act 32 of 2017 requires permit applicants to ensure the restoration of pre-mining flows and biological communities in waters affected by subsidence. 52 Pa. Stat. § 1406.5(j). This aligns with Pennsylvania's administrative code, specifically 25 Pa. Code § 86.37(a)(3), which mandates that applicants demonstrate no presumptive evidence of potential pollution.

The amendment maintains Pennsylvania's regulatory program as more stringent than federal standards, particularly 30 C.F.R. §§ 784.14, 784.21, and 817.41, and section 516 of SMCRA, 30 U.S.C. § 1266. Pennsylvania's approach imposes a duty on applicants to demonstrate the absence of presumptive pollution evidence, while federal standards focus on minimizing disturbances. Section 5(j) of Act 32 specifies that the exemption from presumptive pollution evidence applies only if the permit application includes plans for restoring pre-mining conditions. This ensures consistency with the pre-mining uses of Pennsylvania's waters.

The amendment also introduces a more structured approach to compliance monitoring and enforcement, ensuring that permit applicants provide more comprehensive documentation and evidence to support their restoration plans. For communities and landowners, the amendment is expected to enhance environmental protection by reinforcing reclamation obligations, clarifying water quality and land restoration expectations, and ensuring that financial assurances are sufficient for long-term site stability.

Stakeholders should monitor agency guidance and implementation materials expected in advance of the effective date to facilitate a smooth transition.

Copyright © 2026, The Foundation for Natural Resources and Energy Law, Westminster, Colorado