

2006 Coal Industry Update



West Virginia Coal Association

Coal Industry Update

- 2005 Review- water quality
- 2006 Legislative Session
- Future

Water Quality Standards

- **Significant Progress**

- Transfer of Rulemaking Authority

- Manganese Five Mile Rule

- Chronic Aluminum Criterion

Rulemaking Authority

- Legislation approved moving the responsibility for setting WQS from the Environmental Quality Board to WV DEP

-Political vs. Scientific

-Benefits can already be seen

Manganese

- Manganese Five-Mile Rule

- Approved

- Manganese Human Health Criterion only applies within a five-mile zone above a known public drinking water intake

Manganese

- Approval ends a 20-year ordeal related to Manganese and the West Virginia coal industry**
- Avoided a messy legal challenge regarding the state-wide classification of all waters as public drinking water supplies

** Implementation has proven difficult

Aluminum

- Legislative mandate to the EQB to revise the state's chronic aluminum criterion
- EQB approves chronic 750 ug/L dissolved but only temporary
- Study commissioned to determine the appropriate criterion for WV

Aluminum

- Temporary standard sent to EPA
- Study results very disappointing:
 - No scientific research beyond that used to promulgate original criterion
 - In order to set criterion for WV, million of \$\$ and several years

Aluminum

- EPA completes review of temporary standard

-Approved

-No distinction as to permanent or temporary

2006 Legislative Session

Prelude

- Soaring coal prices
- Demand for coal miners
- New Development
- New look at reserves/operations
- Renewed interest in Northern Appalachia
- “Continual improvement” in permitting
- Water quality changes

January 2006

- Just finished the safest year in West Virginia's mining history
- West Virginia and coal at the center of frenzied media attention
- Once again “on the defense”

“Ready- - Shoot- - Aim”

- Cascade of safety legislation
- Congressional hearings
- Mountain of misinformation
- Impractical proposals

Acknowledgement

- True outpouring of support from every facet of the industry
- “All Coal Miners”
 - No management / labor
 - No surface / underground
 - No north / south

Senate Bill 247

- Sweeping changes to state safety law
 - Underground tracking
 - Two-way communications from underground to the surface
-
- Additional SCSRs
 - Details through emergency rules

Senate Bill 247

- Prepared on Sunday
- Introduced, to Committees, passed both Houses in 24 Hours

The Details...

- Original proposals:
 - 16 SCSRs per miner underground
- Mine Safety Task Force
 - Six members: 3 UMW, 3 Industry

House Bill 4550

- Remedies perceived problem with existing state anti-degradation statute
- Tier 2.5 stream list subject to Legislative Rulemaking Review

House Bill 4135

- Consolidated WV DEP Rules Package

- Two amendments

- Air Quality**

- Enactment of EPA Mercury Rules

- Requires study of Hg concentrations

- Surface Mining**

- “Bio-Fuel Agriculture” as post-mining land use

House Bill 4192

- Revised Fire Marshall's Rules
- Changed age requirements on explosives handling
- 18 yr-olds can now be blaster's helpers

House Bill 4611

- **“Good Samaritan” protection for Mine Rescue Teams**

House Bill 4728

- WV DEP Advisory Council
- Added 7th member
- Representative of farming community

Senate Bill 353

- Special Crossing Permits
- Allows trucks in excess of 120,000 lbs to cross public highways
- Limited application (mileage restriction)
- Added safety devices at intersections

Senate Bill 461

- Long-standing OSM-required program amendment
- West Virginia regulations enacted the provisions of Energy Policy Act but statute never changed
- Law now mirrors federal statute

Bills that Failed to Pass

Impoundments

- Legislation proposed in House and Senate
- Prohibited construction of new facilities
- No enlargement or modification of existing facilities

Impoundments

- “Evil Twin” of Legislation
- Two study resolutions
- Failed to be considered

Mine Subsidence

- Same scenario as impoundments
- Prohibited Longwall Mining in any areas with less than 600 feet of cover
- Outlawed Longwall Mining

Mine Subsidence

- “Evil Twin”
- Study Resolutions
- Considered by Committee
- Did not advance

Senate Bill 756

- Greenhouse Gas Emissions
- “voluntary” metering of emissions
- ?? Methane ??
- ?? Existing federal requirements ??

Mine Safety

- **SB 656** “whistleblower” protection for non-union miners
- **HB 4779** mandatory, state-administered drug and alcohol testing for coal miners
- **SB 761** Required mantrip available on working section at all times
- **HB 2004** Battery stations ventilated on return split of air
- Prohibiting use of belt air

Challenges:

2006-2007

Organizational

- All staff focused on mine safety and coping with media frenzy
- Intense activities on all fronts- enviro, safety and PR
- “Firestorm” has passed- attention to primary areas of assignment with managed attention to safety matters
- Time Management

External Communications

- Crisis training for WVCA staff
- “Disaster Plan” for use by members
- Continue grass-roots PR program
- New “Coal Facts-style” public education program

Mine Safety

- Find a functional device for communications from underground to the surface
- Restore common sense to federal mine safety discussions
- Safest Mines in the World

Mitigation

- New federal rule
- Watershed approach to mitigation
- Functional Assessment
- Needs more clarity

State Mitigation

- State mitigation MUST agree with federal mitigation
- State believes that it should be the final authority on mitigation
- Conflicts with federal authorities in section 404

Long-Term Water Treatment

- OSM has released long awaited proposal
- SMCRA bond released with trust funds for long-term treatment
- Ignored questions regarding legality of the AMD Policy
- Comments by the end of May

Triennial Review

- Aluminum standard permanent
- Trout Streams
- Selenium

Permitting

- Continued cooperation with WV DEP
- Expect better things from NPDES
 - awaiting revised BWQ procedure
- More development in the North
 - AMD
 - Subsidence

404 Litigation

- “Usual Suspects” have challenged FONSI and Individual Permits issued to three surface mines
- Actually a programmatic challenge veiled as permit specific
- Battle of the Experts again

Summary

- Rebuild safety reputation
- Restore awareness of coal's benefits
- Continue to build cooperative spirit with regulators
- Balance mountaintop / valley fill issues with AMD and subsidence concerns
- Always with an eye towards the future