

CHAPTER 99. [Reserved]**Source**

The provisions of this Chapter 99 adopted September 2, 1971, effective September 3, 1971, 1 Pa.B. 1804; amended June 5, 1981, effective June 6, 1981, 11 Pa.B. 1927; reserved July 30, 1982, effective July 31, 1982, 12 Pa.B. 2382. Immediately preceding text appears at serial pages (62410) to (62420).

Notes of Decisions

Mine drainage permit regulations are unclear as to whether permit applications are to be for operations including discharges or for separate discharges. *In re Consolidation Coal Co.*, 73 Pa. D. & C.2d 564 (1976).

Under 25 Pa. Code § 99.11, the DER has the authority to require a showing from an applicant for a transfer permit that it can conduct mining so as to prevent pollution of the waters of the Commonwealth, and the DER may do so prior to issuing the requested transfer permit. *Fossil Fuels, Inc., v. Department of Environmental Resources*, 19 Pa. D.&C. 3d 392 (1981).

Unless a permit has become void by operation of 25 Pa. Code § 99.21 (relating to voiding of permits) or has been voided by the DER itself, it is within the discretion of the DER to determine whether the mine is active for the purpose of allowing the mining permit to be transferred. *Fossil Fuels, Inc. v. Department of Environmental Resources*, 19 Pa. D. & C. 3d 392 (1981).

The phrase “active mine”, as used in 25 Pa. Code § 99.22 (relating to name changes), comprehends something less than the phrase “mine in operation” as used in 25 Pa. Code § 99.23 since the safeguards in the former section greatly exceed those set forth in the latter section. *Fossil Fuels, Inc. v. Department of Environmental Resources*, 19 Pa. D. & C.3d 392 (1981).

If the DER has knowledge of the active status of a mining site due to actual participation in litigation with the current permittee, it is an abuse of discretion for the DER to deny a transfer of the permit based on the inactive status of the mine. *Fossil Fuels, Inc. v. Department of Environmental Resources*, 19 Pa. D. & C.3d 392 (1981).

Cross References

This chapter cited in 25 Pa. Code § 92.17 (relating to other chapters applicable).

§ 99.1. [Reserved].

§§ 99.11—99.17.]Reserved].

§§ 99.21—99.26. [Reserved].

§§ 99.31—99.40. [Reserved].

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