

# The "Wrong Rock" in Coal Mine Reclamation

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## The Game

Many people in childhood, play a game called "wrong rock." The game consists of a child, a dog, and a variety of rocks. "Wrong rock" begins with the child throwing a rock and encouraging the dog to go fetch. When the dog returns with the rock, the child simply says "wrong rock" and throws another rock, continuing the game until the dog tires. There is an analogy that exists between this game and the coal regulatory program. Regulatory requirements are rarely described to the extent a mine operator knows or understands what is needed by a regulatory agency to approve a permit application. The regulator simply encourages the operator to obtain a permit, while stating the regulations in song and verse. The operator then proceeds to develop a permit application based on his interpretation of the regulations. Returning, he finds that the rock he has provided is not the right color or shape and the game of "wrong rock" begins. "Wrong rock" can be found throughout the system forming a circle between federal, state, and private groups. The game began with the politicians, but a review of the game rules demonstrates the extent of the dilemma.

## The Rules

Within the framework of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) the game of "wrong rock" is the breeder of the inconsistencies in the interpretation and implementation of reclamation programs. Each of the SMCRA players whether politician, civil servant, or mine operator has a rock that he is fetching at all times. The political rock was initially tossed by the mine lobbyist and special interest groups in their attempt to define reclamation. The rock that was retrieved (SMCRA) contained veins of environmental and economic concerns. The politician thinking he had found the right rock in SMCRA sent the regulators out to locate a rock called regulations. This in turn was passed on to industry by the regulatory agencies so they could also find a rock (reclamation plans) that matched the political and regulatory rocks. As the mine operators became disgruntled with the search for the perfect rock, their frustrations were again voiced in the lobbyist scream of "WRONG ROCK!!". The cycle begins anew.

## The Dilemma

The Surface Mining Control and Reclamation Act emphasizes the reduction of federal regulatory involvement and the transfer of regulatory responsibility to state and local government (PL 95-87 Sec. 101). The present cosmetic attempt to improve the federal regulatory program is delaying and diverting the intent of the Act through regulatory inconsistency and will result in the creation of more "wrong rocks" not less. It is inconceivable to expect anything but chaos when you realize that federal regulatory agencies are being reorganized, federal regulations are being rewritten, state programs are being reviewed, and mine permits are being approved, all at the same time.

The Surface Mining Control and Reclamation Act of 1977 is a law, and like many other Acts passed by Congress it has games being played around it. The games occur because of short sightedness that focus on extreme interpretations of regulations rather than the achievement of the original intent of the Act. Regulations when left to individual interpretation by regulators and mine operators produce right rocks some of the time and wrong rocks most of the time. It is not until guidelines accompany regulations that clarity and consistent interpretations of the Act are realized. Federal regulations direct reclamation by providing a framework of minimum federal requirements (PL 95-87 Sec. 201). These requirements include phrases such as productive landuse, diverse effective and permanent vegetation cover, proper management, and good husbandry practices to name but a few. Each of these phrases represent different types and methods of land management, depending on your location within the nation. Yet these regional differences must comply with the federal regulation and meet the intent of the Act. Thus it is the role of the guidelines rather than the federal regulations to emphasize local needs and demands, while maintaining the accuracy and integrity of the program. It is time to direct our concerns away from the political games and back to the national goal of reclaiming mined land to a state that will be beneficial to the nation in future generations. This can only be achieved when guidelines are provided at the state and local level, but guidelines cannot be developed while the rules for the right rock are constantly being changed.

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