

Immediate Stream Protection Measures

OSM is initiating a rulemaking process to modify the 2008 stream buffer zone rule to be more protective of streams. We will implement the measures described below to provide increased protection for streams until that rule is finalized.

1. OSM will establish a practice that the review and approval of SMCRA permits must be coordinated with reviews and authorizations required under the Clean Water Act. OSM will also work with the Corps of Engineers and the Environmental Protection Agency to coordinate these permitting processes and ensure effective and coordinated compliance with provisions of the Clean Water Act.
2. OSM will convene meetings in each state with the appropriate state and federal agencies to discuss the best means of coordinating issuance of the various permits and authorizations required under SMCRA and the Clean Water Act. The agencies may be able to use these meetings to, among other things, clearly delineate the numerical and narrative (biological) water quality standards that apply within each state.
3. OSM will instruct its inspectors to pay particular attention to the following performance standards and terms and conditions of the permit when conducting oversight inspections:
 - Verify that the permittee has complied with any permit terms or conditions requiring the permittee to obtain an authorization or certification under section 401, 402, or 404 of the Clean Water Act before initiating certain activities.
 - Ensure that the permittee has constructed or is constructing excess spoil fills and coal mine waste disposal facilities in accordance with the designs approved in the permit.
 - Ensure that sedimentation ponds, diversions, and other sediment control measures are in place and have been constructed in accordance with the designs approved in the permit and the performance standards in the state counterparts to 30 CFR 816.43 through 816.49.
 - Ensure that roads have been located and constructed in accordance with the approved permit and the performance standards in the state program counterparts to 30 CFR 816.150 and 816.151.
 - Ensure that the permittee is in compliance with the fish and wildlife protection and enhancement plan approved in the permit.

- Ensure that the permittee is in compliance with the state program counterpart to 30 CFR 816.97(f), which requires that the operator “avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes. Surface mining activities shall avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife.”
- Ensure that stream-channel diversions and restorations have been constructed in accordance with the designs and plans in the approved permit, and with the requirement in the state program counterpart to 30 CFR 816.43(a) that the new channel approximate the characteristics of the original channel—including natural riparian vegetation—to promote the recovery and enhancement of the aquatic habitat.