



U.S. Office of Surface Mining

# News Release



August 24, 2007  
For immediate release

Contact: Ben Owens  
(202) 208-2565  
bowens@osmre.gov

## **Proposal Would Revise “Stream Buffer Zone” Rule And Limit Impacts of Valley Fills from Coal Mining**

(Washington) – A new federal rule proposed today would reduce the environmental impacts of surface coal mining and give operators clear standards for mining near bodies of water.

The rule would address environmental concerns about the disposal of excess mine spoil and coal preparation waste outside the mine area. It also would clarify existing requirements for mining in and around streams – requirements that currently are not being interpreted consistently. This rule would go a long way to achieving the long-term regulatory stability so important to maintaining effective environmental protections in Appalachia.

While the protections in the existing “Stream Buffer Zone” rule apply only to intermittent and perennial streams, OSM is proposing to extend those protections to all waters of the United States, including lakes, ponds and wetlands. These bodies of water are less likely to be affected by coal mining than streams, but this change recognizes that they contain fish, wildlife, and other environmental resources that also deserve this higher level of protection.

The rule would limit mine “spoil” (excess rock and soil) placed outside mining pits and reduce the environmental impacts of building valley fills and disposing of coal processing waste. The rule also clearly identifies mining activities subject to the “Stream Buffer Zone” requirement and the circumstances under which these activities may be allowed within 100 feet of a water body.

“With this proposal, we can establish a consistent, nationwide means to reduce the impacts of surface coal mining and provide clear rules specifying what mining activities can and cannot be conducted near bodies of water,” said C. Stephen Allred, Assistant Secretary of Interior for Land and Minerals Management.

The U.S. Office of Surface Mining Reclamation and Enforcement (OSM) is seeking public comments on the proposed rule, published today in the Federal Register, and the accompanying Draft Environmental Impact Statement.

## **Revisions to “Stream Buffer Zone Rule”**

A “Stream Buffer Zone” is not required by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). SMCRA does require that operators avoid increases in sedimentation and protect fish and wildlife and related environmental values “to the extent possible” using the “best technology currently available.” OSM created the existing “Stream Buffer Zone” rule as a framework for making sure this standard is met. While the law does not prohibit most mining activities within and around streams, OSM and States have used the “Stream Buffer Zone” rule to require mine operators to take additional precautions within that zone.

The existing rule has been given conflicting interpretations by courts in the years since it was written. OSM’s proposed rule would not change the overall policy allowing certain types of mining within or near streams, but would provide much greater clarity on the types of mining activities allowed and the performance standards they must comply with.

All mining activities must still avoid increases in sedimentation and protect fish and wildlife and related environmental values “to the extent possible” using the “best technology currently available.” The coal operator must demonstrate how this standard will be met before receiving a State or Federal permit to mine. In addition, the operator must show that the standard continues to be met throughout the life of the operation in order to continue to mine under the permit.

Thus, the proposed rule is fully consistent with the provisions of SMCRA and would provide one standard interpretation of what is required when coal is mined near water bodies while clarifying that the “Stream Buffer Zone” rule is a form of “best technology currently available” applicable to certain types of surface mining operations.

### **Mine Operators Required to Reduce the Impacts of Spoil and Coal Waste**

The proposed rule would re-affirm that mining operations must be designed to minimize environmental impacts of excess spoil fills, refuse piles, and slurry impoundments by requiring mine operators to (1) minimize the volume of excess soil and rock (“spoil”) created, (2) design and construct fills to be no larger than needed to accommodate the anticipated volume of excess spoil, (3) consider alternative excess spoil fill, refuse pile, and slurry impoundment configurations and analyze the environmental effects of the alternatives, and (4) use the most environmentally protective alternative or explain why that alternative is not possible.

## **How to Comment on the Proposed Rule**

Interested persons may submit comments on the proposed rule by mail or courier addressed to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252-SIB, 1951 Constitution Avenue, NW, Washington, DC 20240, or by internet through the Federal e-Rulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Please identify the comments by including docket number 1029-AC04 in the subject line.

## **Draft Environmental Impact Statement**

Along with the rule, OSM prepared a draft environmental impact statement (EIS) in which the agency considered the effects of the proposed rule and several possible alternatives, including the alternative of leaving the existing rules as they are. The draft EIS is available via the internet at [www.regulations.gov](http://www.regulations.gov). Copies of the EIS have also been sent to centrally located libraries in the coalfields.

Interested parties may submit comments on the draft EIS by mail or courier to David Hartos, Supervisory Physical Scientist, Office of Surface Mining, 3 Parkway Center, Pittsburgh, PA 15220, or by the internet through the Federal e-Rulemaking Portal: [www.regulations.gov](http://www.regulations.gov).

[Read Stream Buffer Zone Fact Sheet](#)

[Read Stream Buffer Zone FAQs](#)

-OSM-