



U.S. Office of Surface Mining

News Release



October 10, 2007
For immediate release

Contact: Tom Geoghegan
(202) 208-2565
tgeoghegan@osmre.gov

OSM Expands Effort to Solicit Public Comment on the Proposed Rules for “Stream Buffer Zones” And to Limit Impacts of Valley Fills from Coal Mining

(Washington DC) – The U.S. Office of Surface Mining Reclamation and Enforcement (OSM) today announced its expanded efforts to allow public comment on proposed rule changes that will reduce the environmental impacts of surface coal mining and give operators clear standards for mining near bodies of water.

OSM published the proposed rules and an accompanying draft environmental impact statement (DEIS) on August 24, 2007. To solicit more public participation, OSM is extending the public comment period for both documents from October 23rd to November 23rd. This will give the public 90 days to comment on the proposed rule and the DEIS.

Additionally, four public hearing will be held at 6 p.m. on October 24, 2007, at:

- Holiday Inn Charleston (Charleston House), 600 Kanawha Boulevard East, Charleston, West Virginia.
- Hazard Community & Technical College, Hazard Campus, Jolly Center, Room 208, One Community College Drive, Hazard, Kentucky.
- Pellissippi State Technical Community College, Goins Auditorium, 10915 Hardin Valley Road, Knoxville, Tennessee.

- Ramada Inn Washington, 1170 West Chestnut Street, Washington, Pennsylvania.

The proposed rule addresses environmental concerns about the disposal of excess mine spoil and coal preparation waste outside the mine area. It also proposes to 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.

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, wildlife and related environmental resources “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 with which they must comply.

All mining activities must still avoid increases in sedimentation and protect fish, wildlife and related environmental resources “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 and DEIS

Please submit comments by one of the methods listed below.

- **Federal eRulemaking Portal:** www.regulations.gov. The proposed rule and DEIS are listed under the agency name “OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.” The proposed rule has been assigned Docket ID: OSM-2007-0007. The DEIS has been assigned Docket ID: OSM-2007-0008.

If you would like to submit comments through the Federal eRulemaking Portal, go to www.regulations.gov and do the following. Find the blue banner with the words "Search Documents" and go to "Optional Step 2." Select "Office of Surface Mining Reclamation and Enforcement" from the agency drop-down menu, then click the "Submit" button at the bottom of the page. The next screen will have the title "Document Search Results." The proposed

rule is listed under the Docket ID as OSM-2007-0007. If you click on OSM-2007-0007, you can view the proposed rule, add comments, and view comments submitted by other persons. The DEIS is listed under the Docket ID as OSM-2007-0008. If you click on OSM-2007-0008, you can view the DEIS, add comments, and view comments submitted by other persons.

- **Mail/Hand-Delivery/Courier:** Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252 SIB, 1951 Constitution Avenue, N.W., Washington, DC 20240.

-OSM-