



U.S. Office of Surface Mining

# News Release



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## **Proposed OSM Rules Would Require Coal Operators to Minimize Impact of Excess Spoil in Stream Buffer Zones**

(Washington) The U.S. Office of Surface Mining is proposing rules to increase environmental protection in the construction of excess spoil fill, associated with Appalachia energy production.

The new rules will also clarify the circumstances in which mining activities, such as the construction of excess spoil fills, may be allowed within the "stream buffer zone" (SBZ) within 100 feet of a perennial or intermittent stream, bringing the existing regulations into line with longstanding OSM interpretation and practice.

"These improvements will clarify our program requirements and reduce the confusion that has enveloped the energy producers, regulators, and the public," said Jeff Jarrett, director of OSM. "These enhancements will also reduce conflicts and improve coordination between the Surface Mining Act of 1977 (SMCRA) and Clean Water Act (CWA) programs."

The proposed rules, published today in the Federal Register, would require coal operators to demonstrate that to the extent possible:

- (1) the volume of excess spoil is minimized;
- (2) excess spoil fills associated with a mine as designed will be no larger than needed to accommodate the anticipated volume of excess spoil from that mine; and
- (3) alternative fill configurations are considered in order to develop an excess spoil disposal plan that causes the least environmental harm.

OSM also proposes to amend its stream buffer zone rule to more closely align it with its basis in SMCRA and OSM's long experience of implementing the rule. The amendment will remove language from the rule that has proved confusing, giving rise to conflicting interpretations, litigation and concern over potential conflicts with the CWA.

These changes will require the coal operators to demonstrate that the mining operation has been designed to the extent possible to minimize impacts to the hydrology, fish and wildlife, and related environmental values and to prevent

additional contributions of sediment to streams prior to allowing mining within 100 feet of a perennial or intermittent stream.

Finally, OSM proposes to amend its stream diversion regulation to be consistent with the proposed changes to the stream buffer zone rule.

The public has 60 days to comment on the proposed rule change. Interested persons may submit comments on this proposed rule by one of three methods. Comments may be mailed or hand carried to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW, Washington, DC 20240, or comments may be sent via electronic mail to [OSMRULES@OSMRE.GOV](mailto:OSMRULES@OSMRE.GOV).

Since the early 1970s, large-scale surface mining has become a more prevalent means of coal extraction in the central Appalachian coalfields. Most surface coal mining in the mountainous terrain of central Appalachia unavoidably generates excess spoil. This excess spoil is often placed in the upper reaches of valleys adjacent to the mine. In the Appalachian coalfields, even the upper reaches of valleys may contain stream channels or watercourses with continual (perennial) or intermittent flow.

As the number and size of surface mines and excess spoil fills have increased, so have the concerns regarding the adverse environmental effects from the construction of excess spoil fills.

The fill controversy has also highlighted radically different interpretations of OSM's stream buffer zone rule, especially concerning excess spoil fills. Confusion regarding the meaning of the rule has led to litigation and regulatory uncertainty.

As a result, OSM recognized the need to revise and clarify its national rules to address the environmental effects from the construction of excess spoil fills and the confusion regarding our stream buffer zone rule.