



Approximate Original Contour (AOC) and Exceptions

GENERAL RULE:

Mined land must be restored to its approximate original contour.

Two Principal Exceptions:

Mountaintop removal mining operations (MTR)

Requires industrial, commercial, agricultural, residential, or public facility postmining land use.

Steep-slope variance (SS)

Requires industrial, commercial, residential, or public postmining land use.

Current Regulations

- The landowner must knowingly request a variance. (SS)
- Must meet requirements for approval of alternative postmining land uses. (MTR, SS) (Also applies under proposed rule)
- There must be specific plans, assurances of investment in any necessary public facilities, and documentation of private financial capability to complete the postmining land use. (MTR) (Also applies under proposed rule)
- The postmining land use does not have to be implemented before final bond release. (MTR, SS)
- Natural watercourses below the lowest coal seam to be mined must not be damaged. (MTR)
- The toe of the lowest coal seam mined and associated overburden must be left in place as an outcrop barrier. (MTR) (Also applies under proposed rule)
- The variance must result in a reduction in pollutants OR flood hazards when compared to premining conditions or, alternatively, to conditions that would exist if the site were mined and restored to AOC. (SS)
- Flows from the permit area will not vary in a way that would adversely affect surface water ecology or any existing or planned use of surface water or groundwater. (SS)
- The final surface configuration must be a plateau or rolling contour that drains inward from the outcrops except at specified locations. (MTR) (Also applies under proposed rule)

Proposed Rule

- The landowner must knowingly request a variance without receiving any monetary or other consideration for doing so. (SS)
- Postmining land use must be implemented before the end of the revegetation responsibility period. (MTR, SS)
- Bond must be adequate to fund restoration to AOC if postmining land use is not implemented before the end of the revegetation responsibility period. (MTR, SS)
- The variance must result in a reduction in pollutants AND flood hazards when compared to premining conditions or, alternatively, to conditions that would exist if the site were mined and restored to AOC. (SS)
- The operation must not increase pollutants or flood hazards when compared to conditions that would exist if the site were mined and restored to AOC. (MTR)
- Flows from the permit area must not vary in a way that would adversely affect any existing or reasonably foreseeable use of groundwater or surface water or any designated use of streams. (MTR, SS)
- The impact on perennial and intermittent streams must be less than the impact that would occur if the site were mined and restored to AOC. (SS)
- There will be a lesser adverse impact on the aquatic ecology of the cumulative impact area than if the site were mined and restored to AOC. (SS)
- The proposed deviation from the premining surface configuration is necessary and appropriate to achieve the postmining land use. (SS)
- The variance must not result in the construction of an excess spoil fill in a perennial or intermittent stream. (SS)
- Drains must be constructed through the outcrop barrier to prevent saturation of the backfill. (MTR)
- Natural watercourses within the permit and adjacent areas must not be damaged. The following criteria would apply to the no-damage determination:
 - There would be no increase in the amount or concentration of parameters of concern in discharges to surface water and groundwater.
 - There would be no increase in damage from flooding compared to the impacts that would occur if the site were mined and restored to AOC.
 - The total volume of flow from the permit area during every season of the year would not vary in a way that would adversely affect any existing or reasonably foreseeable use of surface water or groundwater or any designated use of surface water. (MTR)



Mine site restored to AOC and planted with trees.



Reclaimed mountaintop removal mine site with industrial postmining land use.