

# Bush administration pushes for looser mining regulations

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The Department of the Interior's Office of Surface Mining has proposed new rules for large-scale mining operations that would give operators wider allowance to bury streams and mountain headwaters with rock and other mining waste.

The proposals, part of the agency's Draft Economic Impact Statement, were released for public comment August 24. Most centrally, the OSM proposes a change in the enforcement of a 1983 regulation known as the Stream Buffer Zone rule, which prohibits valley filling or mining activity within 100 feet of mountain streams.

While the buffer zone restriction has been largely ignored by both industry and the OSM, the wording of the new rule legally sanctions and encourages the expansion of the most environmentally destructive mining practices.

Specifically, the OSM proposes that applicants for surface mining permits "demonstrate that the operation would avoid the generation of excess spoil, and if that is not practicable, that the volume of excess spoil would be minimized." The agency would require simply that these "excess spoil fills be designed and constructed to be no larger than needed to accommodate the anticipated excess spoil."

The draft statement states that "surface coal mining operations [must] be conducted so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area;" and, "to the extent possible using the best technology currently available, surface coal mining and reclamation operations must minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable."

Operations involving the use of "stream crossings, sedimentation ponds, permanent excess spoil fills, and coal waste disposal facilities" would no longer be subject to the buffer zone rule.

Taken together, these allowances leave environmental management entirely in the hands of industry and on a voluntary and self-regulatory basis. In typically disdainful and anti-democratic fashion, senior Bush administration officials have already told the press that the proposed rules are not likely to be changed in response to comments they receive between now and November.

The rules directly facilitate the practice known as mountaintop removal. This is a mostly mechanized process of extracting entire coal seams by shearing off as much as 1,000 vertical feet of ridge

tops. Millions of tons of rubble, vegetation, and chemical byproducts of the coal extraction process are scraped down into surrounding valleys, burying and contaminating water supplies.

Mountaintop removal operations process coal on-site, generating a toxic waste called slurry that is stored in dammed impoundments. These impoundments, which contain billions of gallons of sludge, are often situated near towns. In February 1972 a slurry dam owned by Pittston Coal Company burst and coal waste flooded 16 coal communities along Buffalo Creek, West Virginia, killing 125 people and leaving 4,000 people homeless. Besides posing a catastrophic flood hazard, slurry impoundments can leak into local drinking water and tributaries.

The operations are extraordinarily and senselessly destructive. At least 7 percent of Appalachian forests have been clear-cut; in many cases, timber is not even salvaged before blasting begins. The Environmental Protection Agency estimates that, at current rates, mountaintop removal will have made uninhabitable 1.4 million acres—an area as large as the state of Delaware—by the end of the next decade.

By OSM data, mountaintop removal valley fills destroyed an estimated 724 miles of Appalachian headwaters from 1985 to 1991, more than 1,200 miles between 1992 and 2002. Regulators approved 1,600 valley fills from 2001 to 2005, estimated to have buried another 535 miles of streams.

All of those fills were undertaken in direct violation of the existing buffer zone rule, yet the OSM took no action against the mine operators. The new exemptions proposed by the OSM are an attempt to conform the law to such illegal activity.

Indeed, as Kentucky Coal Association president Bill Caylor put it in the *Louisville Courier-Journal* August 25, the proposed rule merely "continues the status quo. I don't see things changing at all. This rule simply recognizes existing practice."

The Bush Administration has systematically weakened environmental regulations at the behest of energy companies. It has done the same thing regarding safety regulations opening the way for a rash of deadly mine accidents, from the Sago Mine disaster in West Virginia to the recent tragedy in Utah.

The new buffer zone rule changes were first proposed in 2004, at the same time that the OSM redefined waste materials produced by strip mining operations as "fill." This change allowed companies to dump what was essentially chemical and sediment waste into waterways.

The Union of Concerned Scientists' 2004 *Scientific Integrity in*

*Policymaking* report documented the way in which senior Bush administration officials at the Department of the Interior over the OSM acted directly to scuttle scientific inquiry into the environmental implications of this change and others. Internal government documents revealed that officials “intentionally disregarded extensive scientific studies conducted by five separate federal and state agencies over four years in preparation of an environmental impact statement on mountaintop removal mining in Appalachia.”

In particular, J. Stephen Griles, former deputy secretary of the Department of the Interior, played a key role in shifting the focus of the agency away from environmental study and protection to “centralizing and streamlining coal-mining permitting.”

One of the many Bush appointees who embody the incestuous relations between oversight and industry, Griles is a former lobbyist for the National Mining Association. He also served as the Interior Department’s top representative on Dick Cheney’s dubious energy task force. An associate of Jack Abramoff, Griles was sentenced in June for obstruction of justice, a felony conviction.

Both major political parties have presented coal industry deregulation and business incentives as a matter of national security. Over the past three years, the price of coal has doubled; currently, at least 100 new coal-fired electric plants are planned in the US.

Subsidized construction of liquid coal plants has been especially promoted in coal-bearing regions of Appalachia and the Midwest as an economic boost and means of “weaning off foreign oil.” Particularly outspoken on this issue of “energy independence” are Democratic presidential contender Barack Obama of Illinois and conservative Republican Kentucky Senator Mitch McConnell.

State governments have also bent over backward to cater to the industry. On August 30, Kentucky Governor Ernie Fletcher signed a bill handing out \$300 million in state funds as incentives for the development of coal-to-liquid plants. The bill—drafted by state Democrat House Floor Leader Rocky Adkins, a coal company executive—was opposed by legal and environmental groups, who voiced concern that liquefied coal production would demand ever more expansive strip mining in the coalfields region. Passage of the bill was expedited in a special “emergency session” that circumvented legislative procedure.

Kentucky Coal Association president Caylor lauded the legislation, declaring, “This country is in such a rush to satisfy environmental activists and their perception of environmental doom that it is jeopardizing our future. We need to be more energy independent.”

West Virginia state government is likely to follow suit. A conference of the newly formed “Coal-To-Liquids Coalition” in West Virginia last month drew congressional, military, industry, and mining union representatives to the region to promote the technology as a source of jobs and so-called energy independence.

Although the region has been mined extensively for well over a century and a half, the coalfields of Appalachia are estimated by the US Department of Energy to contain at least another 28.5 billion tons of low sulfur, high heating value coal.

Pollution and blast debris from large-scale strip mines degrade

the quality of life in local communities while doing little to improve the economic standing of workers or residents. To the contrary, counties from which the biggest coal companies have built their fortunes record the deepest and most persistent poverty rates.

For example, McDowell County, West Virginia, which produces more coal than any other county in the state, suffers a 33 percent poverty rate. Per capita income stood at \$10,124, with a median household income level of \$19,090 in 2004. Median home value was only \$22,000 in 2000, the most recent Census figure available.

Similarly, the thirteen major coal-producing counties in eastern Kentucky are the poorest of the state. In 2004, poverty stood at 23 percent in Pike County, the largest coal producer statewide. Per capita income was just \$14,000, and median household income stood at \$27,625.

The practice of mountaintop removal expanded in Appalachia in the early 1990s, driven by increased coal prices and the collapse of the United Mine Workers union. Between 1990 and 1997, a period in which mining companies were issued permits to much wider areas of rural West Virginia and eastern Kentucky, 10,000 mining jobs were replaced by mountaintop removal strip mining.

“Mountaintop removal and valley fill coal mining has driven away entire communities,” Vivian Stockman, director of the West Virginia-based Ohio Valley Environmental Coalition told this reporter. “But that’s not too surprising—the Bush administration has proven over and over it loves to reward outlaws who are loyal to it.

“Plus, he has already proven he’s willing to sacrifice other lands and people for oil. Now we clearly see he’s willing to sacrifice Appalachia’s people, water and land for coal.”



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