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Interior Strengthens Coal Mining Oversight, Announces Initiatives to Better Protect Streams in Coal Country

WASHINGTON, D.C. – The Department of the Interior is taking immediate actions to strengthen oversight of state surface coal mining programs and to promulgate Federal regulations to better protect streams affected by surface coal mining operations, Interior officials announced today.

“America’s vast coal resources are a vital component of our energy future and our economy, but we have a responsibility to ensure that development is done in a way that protects public health and safety and the environment,” said Assistant Secretary for Land and Minerals Management Wilma Lewis. “We are moving as quickly as possible under the law to gather public input for a new rule, based on sound science, that will govern how companies handle fill removed from mountaintop coal seams. Until we put a new rule in place, we will work to provide certainty to coal operations and the communities that depend on coal for their livelihood, strengthen our oversight and inspections, and coordinate with other federal agencies to better protect streams and water quality.”

Interior’s Office of Surface Mining Reclamation and Enforcement (OSM) is publishing an advance notice of proposed rulemaking regarding the protection of streams from the adverse impacts of surface coal mining operations. The notice requests comments on alternatives for revising the current regulations, which include the stream buffer zone rule issued by the Bush Administration in December 2008.

The 2008 rule modified a 1983 rule that prohibited the dumping of overburden within 100 feet of a perennial or intermittent stream except when such activities “will not cause or contribute to the violation of State or Federal water quality standards and will not adversely affect the water quantity or quality or other environmental resources of the stream.” The 2008 rule allows a surface coal mine operator to place excess material excavated by the operation into streams if the operator can show it is not reasonably possible to avoid doing so.

While the new rule is being developed, Interior is taking immediate actions to strengthen protections for streams and communities in coal country, provide regulatory certainty for industry, and bolster OSM's oversight and enforcement activities.

"We are moving as expeditiously as possible in the rulemaking process, but we will not take shortcuts around the law or the science," said OSM Director Joe Pizarchik. "Until we complete the new rule, we have to manage the shortcomings of the 2008 rule. OSM will establish a new practice for reviewing permits under the Surface Mining Control and Reclamation Act (SMCRA) that will improve consistency and coordination with other Federal agencies."

Under the new practice, the review and approval of SMCRA permits must be coordinated with reviews and authorizations required under the Clean Water Act. OSM will work with the Corps of Engineers and the Environmental Protection Agency to coordinate these permitting processes and ensure effective and coordinated compliance with provisions of the Clean Water Act.

Lewis and Pizarchik also announced a number of proposed actions to improve the agency's effectiveness in overseeing state implementation of their approved surface coal mining regulatory programs. Under these proposed actions, OSM would, for the first time since coal-producing states assumed responsibility for their regulatory programs, conduct independent inspections of operators with state-issued surface coal mining permits. OSM would also conduct more oversight inspections, place greater emphasis on reducing the off-site impacts of mining, and review more state-issued surface coal mining permits and state permitting processes in an effort to improve state permitting decisions. The new OSM oversight and enforcement policy would also include revised guidelines for conducting oversight inspections.

"Through tougher oversight and stronger enforcement of SMCRA, we are putting all hands on deck to ensure that Appalachian communities are protected," Pizarchik added. The reforms announced today are consistent with the Obama Administration's commitments in a June 11, 2009, Memorandum of Understanding (MOU) among the Department of the Interior, the Environmental Protection Agency, and the Army Corps of Engineers to reduce the harmful environmental consequences of Appalachian surface coal mining.

The public is invited to review and comment on the proposed rulemaking and on OSM's proposed Oversight Improvement Actions. The advance notice of proposed rulemaking will be sent to the *Federal Register* shortly. Beginning on the date of publication, comments may be submitted using the Federal e-Rulemaking Portal at www.regulations.gov. The document has been assigned Docket ID: OSM-2009-0009.

The public is also invited to review and comment by **December 18, 2009**, on OSM's proposed Oversight Improvement Actions, which can be accessed at (<http://www.osmre.gov/topic/Oversight/SCM/SCM.shtm>). The preferred method for submitting comments is via e-mail to Oversight@osmre.gov. Comments may also be mailed to: Administrative Record (MS 252 SIB), Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC, 20240.
