

Statement at Hearing on Proposed Rule Changes (OSM 30 CFR Parts 780, 784, 816, 817) and Environmental Impact Statement (OSM EIS-34) 10/24/07
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Summary

The **goal** of revising surface mining rules to clarify and improve environmental protection is admirable.

However, the **actual new rules** oppose this goal. The new rules for buffer zone and valley fills allow mining companies too many options and lower standards for compliance. This substantially reduces environmental safety in mining.

Furthermore, the EIS (OSM-EIS-34) for these misguided revisions is **misleading and inadequate**. Without a proper EIS, the proposed rule changes cannot be evaluated by the public and cannot be enacted.

I present 3 examples of why the rules and EIS are misleading and inadequate:

1. In their **summary for the public**, EIS authors state they prefer new regulations that allow variations in buffer zones and valley fills because such plans provide better protection for almost every environmental factor on the EIS list, such as wildlife and water quality. In Table S-1 they present Alternative 1 with Plus 2 and Plus 3 values for most of factors. This misleads the public into believing the revised rules will result in less environmental harm and improved compliance.

However, the **remaining 200 pages** of the EIS, contain not one published peer-reviewed research article on mining to support any of the author's claims, only a few contractor reports

The only contractor study that could stand up to the simplest scientific standards had to be dug out of a previous EIS. This report noted **significant, negative environmental impacts** from mining, and could not predict the relative role of environmental factors in each mining situation. Thus **there is no scientific foundation for the OSM claims** that the new rules provide improved environmental outcomes.

All the scientifically reviewed articles I found on my own **confirmed** this position.

Furthermore the **uncertainty** of mining outcomes was not represented in the OSM or EPA documents, and the **dominant reports of negative outcomes** was not represented.

2. The new rules replace the term "**adversely affect**" with "**significantly degrade**". This violates mining laws that state, "mining must minimize disturbances AND ADVERSE EFFECTS on fish, wildlife and environmental values."

3. New rules use **undefined key terms** such as "practicable" "possible" in rules for selecting among the new alternative mining plans. Any time a mining

operator wishes to reject a more expensive and difficult plan for a buffer zone or valley fill, they can claim that plan is not “practicable” or “possible “

My suggestions: Officers of Surface mining can return to their goal to clarify mining rules and protect the environment if they

1. **Tell the truth** about gains, losses, and risks in any proposed rule change using the “best technology available” –that is, the best research available with peer-reviewed studies.
2. **Adhere** to the wording and intent in SMCRA laws and protect streams fully with at least a 100 foot buffer zone.
3. **Help** mine inspectors do a thorough job by closing loopholes.

In conclusion:

American coal regions have **suffered greatly** from mining mistakes over the last century.

We spend much government and industry money, and many volunteer hours (as shown by the many people here tonight) to **clean up** from mines abandoned 50 yrs. ago.

Now, newly permitted mines plan are burying 500 miles and impact even more stream miles, which future citizens will have to **clean up again** 50 years from now.

America’s streams are its **lifeblood**, with the headwaters as its most precious capillaries, *exchanging oxygen and nutrients through intimate contact between land and water.*

Headwaters sustain and define much of the coal regions, attracting economic growth in tourism (such as the white water group we heard from tonight) and developments (such as the developers and landscapers that we heard from tonight) These sustainable economies require **natural landscapes**.

WE must ask, if the coal in each mountain is truly essential for American’s energy needs, (and we heard tonight that experts predict that we can steadily diminish our need for coal). We must ask **if** mining jobs are truly essential for a sustainable economy, (and we heard tonight that non-coal energy jobs are steadily increasing.) As we head into this transition time, we must find better rules to guide mining.

The Officers of Surface Mining must learn to “think like a mountain”, as Aldo Leopold said. They must take the long term view. This is not a case of jobs versus environment. This is a case of short-term versus long-term thinking.

The Officers of Surface mining must be able to tell their grandchildren they used “the best technologies available”, so that they did not exchange the **short-term gains** from destructive mining for the **long-term biological, cultural and economic** wealth in our irreplaceable lands and waters.

Thank you for listening.