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Oppose Effort by the Bush Administration to Blow Up Mountains and Destroy Streams in Appalachia

Introduction:

On August 24, 2007, the Bush administration proposed repealing another longstanding environmental protection law in order to allow the coal mining industry to engage in “mountaintop removal” mining. In mountaintop removal mining, coal companies actually blow up entire mountaintops and dump millions of tons of waste into nearby streams, burying them forever. This parting gift from the administration to its coal industry friends will allow coal companies to continue their assault on the forests, streams and communities of Appalachia.

The Bush administration has already relaxed Clean Water Act safeguards that protected Appalachian mountain streams from mountaintop removal mines. Now, the administration is targeting a Reagan-era rule known as the “buffer zone rule” that prohibits coal-mining activities from disturbing areas within 100 feet of streams. If the new Bush rule goes forward, coal companies will be allowed to dump massive amounts of waste directly into streams, destroying them completely. Already, nearly 2000 miles of mountain streams in Appalachia have been buried by mountaintop removal waste, wiping out these streams and causing flooding and destruction in the surrounding communities. The Bush administration’s failure to enforce the buffer zone law led to an additional 535 miles of stream impacts nationwide during between 2001 and 2005. Thus, the repeal of the buffer zone rule allows more than 1,000 miles of streams to be destroyed each decade into the future. Permanently destroying thousands of miles of mountain streams is more than irresponsible; it is insane.

The Bush administration prepared a draft environmental impact study (DEIS) on the elimination of buffer zone protections. The DEIS is required by federal law to analyze to alternatives to repealing the buffer zone rule rule. Remarkably, the administration failed to even consider leaving in place and enforcing the existing rule in its alternatives analysis.

You can [view the proposal here](#) by searching for Document ID “OSM-2007-0007-0001”

Talking points for comments to the agency:

- The Bush administration is relentlessly pursuing anti-environmental policies to allow coal companies to continue to bury thousands of miles of streams in Appalachia under enormous piles of rubble created by Mountaintop Removal coal mining.
- Mountaintop removal mining takes place in states in the Appalachian region, including West Virginia, Kentucky, southern Virginia and Tennessee.
- In this destructive process, entire peaks, mountaintops and ridges are literally blown off in order to reach the coal seams that lie underneath.
- The resulting millions of tons of waste rock, dirt, and vegetation are then dumped into the neighboring valleys and streams.
- These valley fills bury streams and aquatic habitat under piles of rubble hundreds of feet high, destroying the entire surrounding ecosystem and disrupting nearby communities.

- Rather than enforce the law against this kind of destruction, the Bush administration is repealing protections like the buffer zone rule.
- The proposed rule changes would eviscerate stream protections that have been in effect for over two decades.
- Lapses in the enforcement of the buffer zone rule, which prohibits coal-mining activities from disrupting areas within 100 feet of streams unless those activities in no way impact water quality or quantity, have allowed significantly more than the reported 1200 miles of streams to be buried or degraded by mining waste.
- If the new Bush rule goes forward, coal companies will be allowed to dump massive amounts of waste directly into streams, destroying them completely.
- According to the U.S. Office of Surface Mining's (OSM) own figures, 1,208 miles of streams in Appalachia were destroyed from 1992 to 2002, and regulators approved 1,603 more valley fills between 2001 and 2005 that will destroy 535 more miles of streams.
- Thus, the repeal of the buffer zone rule would allow more than 1,000 miles of streams to be destroyed each decade into the future.
- Those actions were taken in defiance of the plain language of the existing rule.
- Under the plan announced last week, OSM proposes to change the rule to conform with its deviant behavior rather than requiring the coal industry to comply with the law.
- It would exempt from the stream buffer zone rule those very mountaintop removal activities that are most destructive to streams, including "permanent excess spoil fills, and coal waste disposal facilities" -- in other words, giant valley fills and sludge-filled lagoons.
- OSM impermissibly failed to consider retaining the current buffer zone rule that restricts the dumping of mining waste in all streams, effectively limiting mountaintop removal coal mining.
- At a minimum the proposed stream buffer zone rule should be withdrawn and the existing buffer zone rule should be enforced so that intermittent and perennial streams are fully protected.
- OSM must honestly assess the cumulative impacts of mountaintop removal. OSM says the impacts from the rule change will be insignificant but ignores the cumulative impacts of mountaintop removal and other mining in central Appalachia.
- OSM justifies this conclusion by illogically relying on mitigation to offset the harm caused by the filling of streams while also admitting that mitigation generally doesn't work.

Sample comments to the agency:

RE: Excess Spoil, Coal Mine Waste, and Buffers for Waters of the United States: Docket Number RIN 1029-AC04

I am opposed to any attempt to weaken or eliminate the stream buffer zone rule that has protected streams from coal mining activities for nearly 25 years. The buffer zone rule is an important protection for coal mining regions that prohibits coal-mining activities from disrupting areas within 100 feet of streams unless those activities in no way impact water quality or quantity. The changes to this rule proposed by the Bush administration would eliminate these important protections for streams and

allow Mountaintop Removal coal mining companies to further bury, destroy and degrade waters in the Appalachian region with their waste.

The Bush administration should withdraw this attempt to weaken stream protections and, instead, leave the existing stream buffer zone rule in place.

According to the administration's own studies on mountaintop removal coal mining, the immediate and long-term environmental impacts of this form of coal mining are severe and irreversible. Lapses in the enforcement of the buffer zone rule have allowed almost 2000 miles of streams to be buried or degraded by mining waste.

The Bush administration released a draft Environmental Impact Statement (EIS) on August 24 to go along with the proposed rule change. That study was supposed to examine the environmental effects of alternatives to repealing the buffer zone rule, which prohibits valley fills and sludge ponds from burying and destroying streams. Yet, incredibly, the EIS did not even study the option of enforcing the buffer zone rule as currently written. This fact alone proves the administration never considered enforcing the law, but only wants to repeal it, regardless of the facts about the harm that will result.

The proposed rule changes would repeal stream safeguards that have been in effect for over two decades. The result, using the administration's own figures, will be that more than 1000 miles of streams will be destroyed every decade into the future, sapping the lifeblood of an entire region.

The administration should not go forward with any rulemaking that would weaken existing laws like the buffer zone rule that protect our vital natural resources from Mountaintop Removal coal mining. Instead, it should rely on sound science and enforce the rules as they are currently written, as this is the best way to safeguard streams from the destructive effects of Mountaintop Removal mining.

Background information:

The Buffer Zone Rule: A 1983 rule which prohibits coal mining activities from disturbing areas within a 100-foot "buffer" of an intermittent or perennial stream. The buffer zone rule states that coal mining activities cannot disturb these sensitive areas unless water quality and quantity will not be adversely impacted.

Bush's 'No Buffer' Rule: The Bush proposal essentially repeals this important regulation and would allow coal companies to permanently bury Appalachian streams beneath hundreds of millions of tons of mining waste. This proposal takes the "buffer" right out of the "buffer zone" rule and **allows coal companies to dump waste directly into streams.**

Mountaintop Removal Mining: Mountaintop removal mining takes place in states in the Appalachian region, including West Virginia, Kentucky, Virginia and Tennessee. In this destructive process, entire peaks, hillsides and mountaintops are literally blown off in order to reach the coal seams that lie underneath. The resulting millions of tons of waste rock, dirt, and vegetation are then dumped into the neighboring valleys and streams. These valley fills bury streams and aquatic habitat under piles of rubble hundreds of feet high, destroying the entire surrounding ecosystem and disrupting nearby communities. Surface mining has destroyed more than one million acres of Appalachian forests, the most productive and diverse temperate hardwood forests in the world. Rather than enforce the law against this kind of destruction, the Bush administration is repealing protections like the buffer zone rule.

This Sounds Familiar:

The Bush administration is relentlessly pursuing anti-environmental policies to allow coal companies

to continue to bury hundreds of miles of streams in Appalachia under enormous piles of rubble created by Mountaintop Removal coal mining.

In May 2002, the Bush administration eliminated a 25-year-old Clean Water Act regulation that prohibited the Army Corps of Engineers from allowing industrial wastes to bury and destroy U.S. waters. Then, one year later, the administration released a draft Environmental Impact Statement detailing the harm caused by this practice, including:

- Nearly 2000 miles of streams have been damaged or destroyed by mountaintop removal
- Case studies demonstrate that direct impacts to streams may be greatly lessened by reducing the size of the valley fills where mining wastes are dumped
- When past, present and future areas that have been or will be effected are added together, the estimated area of forest impacts is 1.4 million acres
- Forest loss in West Virginia alone has the potential of directly impacting as many as 244 vertebrate wildlife species
- Without additional limits, an additional 350 square miles of mountains, streams, and forests will be flattened and destroyed by mountaintop removal.

Despite these findings, the administration recommended easing the permitting process to allow even more destruction. The most significant weakening of existing standards they are pursuing is the evisceration of the Buffer Zone rule.

Speak Out against the Bush Rule!

Send written comments by November 23, 2007 to:

- **Identify communication by Docket number 1029-AC04.**
- **You can use the federal rule-making portal at <http://www.regulations.gov>. The rule is listed under the agency name of OSM**
- **By mail/hand delivery or courier: OSMRE, Administrative Record, Room 252 SIB, 1951 Constitution Avenue, NW, Washington DC 20240. Please identify comments by RIN 1029-AC04.**