

U.S. House of Representatives

Committee on Natural Resources

Washington, DC 20515

February 8, 2011

The Honorable Joseph G. Pizarchik
Director
Office of Surface Mining, Reclamation and Enforcement
U. S. Department of Interior
1951 Constitution Avenue, NW
Washington, DC 20240

Dear Director Pizarchik,

Recent news reports have highlighted the significant job losses and economic impacts that could result from changes being considered by the Office of Surface Mining (OSM) to fifteen elements of its coal mining regulation program. According to an official document obtained by the Associated Press, the agency's preferred "Stream Protection Rule" could cost at least 7,000 jobs and reduce production in 22 states. While it's incredibly troubling that the Administration is admitting its rule would eliminate thousands of jobs, it's even more alarming that these numbers appear to be conservative estimates. It is deeply concerning that OSM is proceeding with a sweeping rulemaking that will devastate our Nation's ability to produce energy, cripple state budgets, and destroy good paying jobs for tens of thousands of families around the country.

There are real questions about the need to revise these rules given that the original "Stream Buffer Zone Rule" was finalized just two years ago in December 2008 after a multi-year deliberative process that included extensive environmental analyses and public comment. OSM's first attempt to revoke this rule was stopped by the Courts. However, it's clear that OSM and the Administration never intended to let the 2008 rule stand as stated in OSM's June 18, 2010 Federal Register Notice: "we had already decided to change the rule following the change of Administrations on January 20, 2009."¹

Clearly the Administration has preconceived notions of the changes it wants to execute and is pursuing those goals on a self-imposed deadline without any adequate consideration of the impacts on workers, jobs or communities.

The Committee intends to conduct thorough oversight on this issue and the economic impacts of the proposed rule. Please provide me the analysis OSM has conducted on the specific impacts of the present rulemaking effort with regards to:

¹ <http://edocket.access.gpo.gov/2010/pdf/2010-14727.pdf>

1. Jobs and employment in coal mining, projected decreases in U.S. coal production and the impact on other industries and coal-dependent jobs as a result of this rulemaking.
2. Revenues shared with state and tribal entities, specifically estimates of losses related to AML funds for states and tribes and tribal revenue sharing through production royalties and lease bonus bids; and lost revenues from state severance and sales taxes.
3. Efforts by OSM to consider the impacts of this rulemaking to domestic electricity costs related to coal production declines identified in the EIS.
4. Environmental analysis and supporting scientific documentation.

Also, while your office quickly prepares that information, I would seek a response to the following questions no later than February 25, 2011:

1. The current rule, which OSM is attempting to revoke, was the result of years of public participation and the product of multiple state and agency involvement. Why is OSM under such tremendous haste to conduct such an overarching rulemaking to replace the current rule?
2. How many job losses does OSM consider acceptable in selecting a preferred alternative? Please state a maximum number.
3. OSM's draft EIS states that subsidence from underground longwall mining that impacts streams on the surface will be considered material damage and will therefore not be allowed. How many underground coal mining jobs are anticipated to be lost in each impacted state because of the proposal?
4. Has OSM considered pursuing a rulemaking that would help create jobs?
5. Does OSM plan to evaluate the rulemaking under the January 18, 2011 Executive Order 13563, "Improving Regulation and Regulatory Review?" In addition, how has OSM complied with Executive Order 13211 "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use"?
6. How did OSM select the contractor for preparing the draft EIS and what experience or credentials do the contractor and any subcontractor, possess with respect to coal mine planning and operations and coal markets?

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7. Would you provide the names and affiliation of the members of the DEIS Mining Analysis team and the Subject Matter Experts used in the informal elicitation process?
8. Considering that portions of the OSM's rule have been leaked to various media outlets, would you please provide the Committee with a complete copy of the draft rule and EIS?
9. How much money was spent by OSM on the preparation of the 2008 rule throughout its development? How much money will OSM be spending on this rewrite of that rule and what is the source of these funds?
10. What is your estimate of the costs to the states to implement the 2008 rule and the additional money to implement the new rule?

The stakes are too high for the Administration to arbitrarily impose job-destroying policies and rewrite rules. OSM's hasty pursuit of new regulations that admittedly will destroy thousands of jobs will be examined by this Committee. A prompt response to these requests is appreciated.

Sincerely,



Doc Hastings
Chairman

Cc: The Honorable Ken Salazar, Secretary, Department of the Interior