

Dated: April 6, 2010.

**John Moses,**  
Director, Collection Strategies Division.  
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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9136-3; Docket ID No. EPA-HQ-ORD-2009-0934]

### The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields and a Field-Based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public comment period.

**SUMMARY:** EPA is announcing a 60-day public comment period for two related draft documents: (1) "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" (EPA/600/R-09/138A) and (2) "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams" (EPA/600/R-10/023A). These reports were developed by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development as part of a set of actions taken by EPA to further clarify and strengthen environmental permitting requirements for Appalachian mountaintop removal and other surface coal mining projects, in coordination with Federal and State regulatory agencies (<http://www.epa.gov/owow/wetlands/guidance/mining.html>).

Both documents will be reviewed by an independent review panel convened by EPA's Science Advisory Board (SAB). The SAB's peer review meeting, which the public will be able to attend as observers, will be scheduled at a later date, and announced in the **Federal Register**. The public comment period and the SAB meeting are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted, in accordance with this notice, to the SAB review panel prior to the meeting for their consideration. When finalizing the draft documents, EPA intends to consider any significant public comments that it receives in accordance with this notice.

EPA is releasing these draft documents for the purpose of pre-

dissemination peer review under applicable information quality guidelines. The documents have not been formally disseminated by EPA. They do not represent and should not be construed to represent a final Agency policy or determination; however, the documents reflect EPA's best interpretation of the available science. The draft documents are available via the Internet on NCEA's home page under the Recent Additions and Publications menus at <http://www.epa.gov/ncea>.

**DATES:** The 60-day public comment period begins April 12, 2010, and ends June 11, 2010. Technical comments should be in writing and must be received by EPA by June 11, 2010.

**ADDRESSES:** The draft reports, "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" and "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams" are available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at <http://www.epa.gov/ncea>. A limited number of paper copies are available, contact the EPA; telephone: 703-347-8629; facsimile: 703-347-8691. If you are requesting a paper copy, please provide your name, your mailing address, and the document titles (1) "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields" and (2) "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams."

Comments may be submitted electronically via <http://www.regulations.gov>, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** For information on submitting comments to the docket, please contact the Office of Environmental Information Docket; telephone: 202-566-1752; facsimile: 202-566-1753; or e-mail: [ORD.Docket@epa.gov](mailto:ORD.Docket@epa.gov). For technical information, please leave a message at 703-347-8629 or send e-mail to [MTM-Cond@epa.gov](mailto:MTM-Cond@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purpose of the first draft report entitled "The Effects of Mountaintop Mines and Valley Fills on Aquatic Ecosystems of the Central Appalachian Coalfields," is to assess the state of the

science on the ecological impacts of Mountaintop Mining and Valley Fill (MTM-VF) operations on streams in the Central Appalachian Coal Basin. This basin covers about 12 million acres in West Virginia, Kentucky, Virginia, and Tennessee. The draft report reviews literature relevant to evaluating five potential consequences of MTM-VF operations: (1) Impacts on headwater streams; (2) impacts on downstream water quality; (3) impacts on stream ecosystems; (4) the cumulative impacts of multiple mining operations; and (5) effectiveness of mining reclamation and mitigation. The impacts of MTM-VF operations on cultural and aesthetic resources are not included in the review. EPA used two primary sources of information for the evaluation: (1) The peer reviewed, published literature and (2) the Programmatic Environmental Impact Statement (PEIS) on Mountaintop Mining/Valley Fills in Appalachia and its associated appendices prepared in draft in 2003 and finalized in 2005.

The second draft report entitled, "A Field-based Aquatic Life Benchmark for Conductivity in Central Appalachian Streams," uses field data to derive an aquatic life benchmark for conductivity. Conductivity is a measurement of the salt content of water. The saltier the water, the more it will conduct electricity. This benchmark value may be applied to waters in the Appalachian Region that are near neutral or mildly alkaline in their pH and are influenced by salts of sulfate and bicarbonate. This benchmark is intended to protect the biological integrity of waters in the region. It is derived by a method modeled on the U.S. EPA's standard methodology for deriving water quality criteria. In particular, the methodology was adapted for use of field data. Field data were used because sufficient and appropriate laboratory data were not available and because high quality field data were available to relate conductivity to effects on biotic communities. This draft report provides scientific evidence for a conductivity benchmark in a specific region rather than for the entire United States.

#### II. How To Submit Technical Comments to the Docket at <http://www.regulations.gov>

Submit your comments, identified by Docket ID No. EPA-HQ-ORD 2009-0934, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- E-mail: [ORD.Docket@epa.gov](mailto:ORD.Docket@epa.gov).
- Fax: 202-566-1753

• **Mail:** Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.

• **Hand Delivery:** The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

**Instructions:** Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0934. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked “late,” and may only be considered if time permits. It is EPA’s policy to include all comments it receives in the public docket without change and to make the comments available online at <http://www.regulations.gov>, including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be

able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** Documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: April 2, 2010.

**Peter W. Preuss,**

*Director, National Center for Environmental Assessment.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2010–0315; FRL–9136–4]

### Guidance on Improving EPA Review of Appalachian Surface Coal Mining Operations under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is soliciting public comment on the issues addressed in two EPA guidance memoranda released on April 1, 2010, titled *Improving EPA Review of Appalachian Surface Coal Mining Operations under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order*. Effective immediately, these memoranda—one labeled “Summary Guidance” and one labeled “Detailed Guidance”—seek to clarify EPA’s roles and expectations, in coordinating with its Federal and state partners, with regard to environmental review of Appalachian surface coal mining operations under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order (E.O. 12898).

**DATES:** Comments must be received on or before December 1, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OW–2010–0315, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for reviewing comments.

• E-mail: [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov).

• Mail: U.S. Environmental Protection Agency; EPA Docket Center (EPA/DC) Water Docket, MC 2822T; 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

• On Site: EPA Docket Center, 1301 Constitution Ave., NW., EPA West, Room 3334, Washington, DC 20460. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Office of Water Docket/EPA/DC, 1301 Constitution Ave., NW., EPA West, Room 3334, Washington, DC 20460. This Docket Facility is open from 8:30 a.m. until 4:30 p.m., EST, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Office of Water is (202) 566–2426.

#### FOR FURTHER INFORMATION CONTACT:

Timothy Landers, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (202) 566–2231; [landers.timothy@epa.gov](mailto:landers.timothy@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA’s draft guidance on *Improving EPA Review of Appalachian Surface Coal Mining Operations under the Clean Water Act, National Environmental Policy Act, and the Environmental Justice Executive Order* clarifies how EPA is applying its existing legal authorities in its review of Appalachian surface coal mining operations. The guidance memoranda are available at <http://www.epa.gov/owow/wetlands/guidance/mining.html>. As such, these memoranda do not represent a regulation, and are not subject to the formal provisions of the Administrative Procedure Act. However, EPA recognizes the importance of this guidance to its Federal and state partners, to the regulated community, and to the public, and therefore seeks