



November 21, 2008

Mr. Stephen Johnson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Johnson,

On behalf of the membership of the Freshwater Mollusk Conservation Society (FMCS), I write to you today to express our opposition to the modifications proposed by the Office of Surface Mining (OSM) for the “Excess Spoil Minimization – Stream Buffer Zone” rule. It is our position, supported by numerous scientific peer-reviewed publications, that the Stream Buffer Zone Rule is critical to the protection of aquatic life.

Founded in 1998, FMCS is a non-profit organization dedicated to the conservation of and advocacy for freshwater mollusks, North America’s most imperiled animals. Our membership includes individuals affiliated with state and federal government, academia, as well as amateur collectors and citizen scientists, many of whom work directly with the nearly 150 endangered and threatened mollusks.

The ban on mining within 100 feet of a stream, enacted by the stream buffer zone rule in 1983, is one of the few protections afforded streams in coal mining regions. Given the documented importance of water quality in headwater streams to receiving waters, protection of those streams that could be affected by the repeal of this rule is critical. While the inclusion of provisions to review alternatives for handling excess spoil and mine waste and minimize the area impacted by these activities is positive, the exclusion of the (4) activities from explicit regulatory review is a concern. The four excluded activities (mining through waters, building access corridors through waters, constructing sediment retention structures in waters, and construction of excess spoil fills and coal waste facilities in waters) are the surface mining activities that have the most direct impact on stream ecological integrity and biota. Therefore, they should receive careful and explicit review by the regulatory agencies and any allowed negative impacts should be justified in the permitting approval process. This step will help ensure the survival of rare, endangered, and threatened mollusk species in the Appalachian region.

We recognize the importance of coal as a valuable energy resource for the U.S.; however, the impacts to aquatic systems caused by environmentally irresponsible extraction of coal and disposal of coal mining wastes are unacceptable.

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In order to continue to protect aquatic biota and waters of the U.S. for the continuing benefit of the American public, FMCS respectfully requests that you not approve the recommendation to modify the stream buffer zone rule.

Thank you for all considerations.

Sincerely,

A handwritten signature in black ink that reads "Steven Ahlstedt". The signature is written in a cursive, slightly slanted style.

Steven Ahlstedt, President
Freshwater Mollusk Conservation Society

cc: Members of the FMCS