

EPA/Corps of Engineers Definition of “Fill Material” Rule FACT SHEET

Overview

- Today the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) are taking action to better coordinate Federal programs that protect wetlands and streams.
- EPA and the Corps are reconciling conflicting definitions of “fill material” under the Clean Water Act, by adopting EPA’s approach that has been in place since 1977.
- The Corps of Engineers is also attaching new environmental conditions to permits regulating the dirt and rock from mountaintop mining placed in streams.
- The Department of Interior is developing regulations that will reduce the volume of fill produced by mining operations and placed in streams.
- EPA, Corps, OSM, FWS, and West Virginia are preparing an Environmental Impact Statement evaluating the impacts of mountaintop mining in Appalachia and recommending additional environmental improvements in the regulation of this practice.

Fill Material Rule

- Specifically, the Corps and EPA are publishing in the Federal Register a rule to harmonize differences in their existing regulations by adopting EPA’s longstanding approach for defining “fill material.”
- The final rule being promulgated by EPA and the Corps was proposed in 2000 under the previous Administration. The final rule is substantially identical to the proposed rule but includes improvements.
- Today’s clarification, for example, will ensure that any proposal to site a landfill in wetlands would be subject to Clean Water Act review. Moreover, the rule will clarify in regulation that garbage and trash are not permitted in the Nation’s waters.

Additional Improvements

- As a result of improvements already implemented in West Virginia in 1998, we are seeing the number of valley fills cut by 30% and the average size of a valley fill reduced by 25%. These reductions mean fewer impacts to streams and watersheds and are now being applied elsewhere in Appalachia.
- The Administration is also taking several additional actions to further bolster protection of Appalachian watersheds impacted by mining.
 - The Corps is taking steps now to put tougher new restrictions on mining activities that can be permitted by establishing limits on the size of valley fills that can be built in Appalachian streams. The Corps is also requiring more effective mitigation to compensate for environmental impacts.
 - EPA, the Corps and the Office of Surface Mining (OSM) are now coordinating to improve the environmental review of proposed new coal mining operations under the Clean Water Act and surface mining regulations to provide greater protection for human health and the environment.
 - OSM will be proposing changes to its regulations intended to ensure that mining discharges in streams are avoided and minimized and to require better information so that adverse environmental impacts can be more effectively addressed.
- EPA, Corps, OSM, U.S. Fish and Wildlife Service, and the State of West Virginia will soon release a joint Environmental Impact Statement (EIS) that evaluates the environmental impacts of mountaintop mining and recommends improvements to Federal programs for reviewing proposed mining operations. A draft EIS for public review and comment is scheduled for release later this year.