

# EPA holds up 79 permits for Appalachian surface mines

September 15 2009, By Renee Schoof

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The Environmental Protection Agency announced Friday that 79 applications for surface coal-mine permits in Kentucky, West Virginia, Ohio and Tennessee might violate the nation's Clean Water Act and require closer scrutiny.

Many of the 79 applications would remove mountaintops and dump debris in valley streams.

The EPA's action was an abrupt shift from the last big batch of surface mining permits that it's considered during the Obama administration. In May, the agency said it had no concerns with 42 of 48 permits, and blocked six.

The latest decision is in line with the Obama administration's call in June for a closer review of surface mining in Appalachia. Final decisions by the EPA in the 79 cases are weeks or months away. The agency said in a report that the review doesn't mean that the permits may not be authorized later.

After another two weeks of review, the agency will issue a final list of the permits it's concerned about. As each case comes up, the EPA and the Army Corps of Engineers will meet with the mining company for up to 60 days to see whether mining methods can be changed to reduce impacts and be deemed environmentally responsible.

The EPA said in a statement that it would work with the corps "to ensure

compliance with the Clean Water Act and the protection of this nation's public health and environment."

EPA Administrator Lisa Jackson said the release of the list Friday was the first step to make sure that any permits issued would protect water quality and ecosystems.

"We look forward to working closely with the Army Corps of Engineers, with the involvement of the mining companies, to achieve a resolution of EPA's concerns that avoids harmful environmental impacts and meets our energy and economic needs," Jackson said in a statement issued with the assistant secretary of the Army for public works, Jo-Ellen Darcy.

Rob Perks of the Natural Resources Defense Council said it was impossible to limit the damage of mountaintop removal projects because they were so massive.

"Our feeling is mountaintop removal is not compatible with the Clean Water Act," he said. Lax enforcement and loopholes "have allowed streams in the Southeast to be treated as waste dumps."

Some environmental groups, including Perks', want the administration to ban mountaintop-removal mining.

"They haven't said it's a policy goal. We hope it will be," said Joan Mulhern, an attorney with Earthjustice, an environmental law firm.

The National Mining Association criticized the EPA for holding up the permits. Further review jeopardizes jobs and damages a weak economy, it said in a statement from its CEO, Hal Quinn.

"No one outside of EPA -- not even the corps -- knows what criteria EPA has used to now find these 79 permits insufficient," the statement

said. The mining group accused the EPA of inventing rules in violation of the law.

Bill Caylor, the president of the Kentucky Coal Association, said the enhanced reviews were frustrating and causing uncertainty in the industry. Ultimately, the agency's decision could harm Appalachia's economy, he said, noting that 6,000 miners work at Kentucky surface mines.

The EPA said that all 79 applications were potentially inconsistent with one or more guidelines in the Clean Water Act. The majority "may not have adequately demonstrated avoidance and minimization of impacts," it said.

More than 80 percent of them might violate state water standards and more than half "raise concerns regarding the potential for significant degradation of the aquatic ecosystem," the agency said.

Under the Bush administration, the Corp of Engineers approved mining permits that filled streams. About half of the 42 permits that the Obama administration approved earlier this year also involved stream fills, Mulhern said.

Shortly before leaving office, the Bush administration changed a rule that had required a buffer zone within 100 feet of streams. The new rule allows valley fills if a company can show that it tried to avoid environmental damage. However, the Clean Water Act still contains other provisions that would justify denying the permits, Mulhern said.

The latest batch originally had 108 permit applications, but 29 were dropped, in some cases because companies withdrew them.

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Citation: EPA holds up 79 permits for Appalachian surface mines (2009, September 15)  
retrieved 26 April 2024 from <https://phys.org/news/2009-09-epa-appalachian-surface.html>

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