



COMMONWEALTH OF KENTUCKY  
**OFFICE OF THE GOVERNOR**

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GOVERNOR

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November 17, 2008

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

Dear Administrator Johnson:

I am writing to express my opposition to the modifications proposed by the Office of Surface Mining (OSM) for the "Excess Spoil Minimization—Stream Buffer Zone" rule.

As you know, on Friday, October 17, the United States Department of the Interior advanced a proposal to modify restrictions on dumping mountaintop mining waste near rivers and streams. The proposed rule change would rewrite a regulation enacted in 1983, a regulation that has been a clearly stated rule for our state regulators to administer.

The safety and security of Kentucky is my highest priority and most important duty, and that includes protecting Kentucky's beautiful natural resources. Kentucky's vast water resources are critical to our health and economic development, and I do not believe the newly proposed waivers can be effectively and uniformly applied to protect these water resources. OSM's proposal creates a rule that, at a minimum, will be very difficult to apply consistently and fairly and leaves open increased opportunities for abuse.

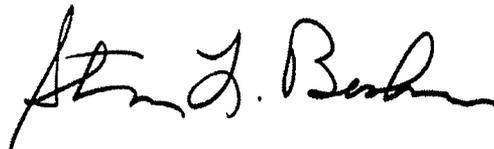
While protecting our natural resources, I also know that coal is a vital resource in Kentucky; as a state, we are the third largest producer of coal in the United States. It is a crucial energy resource for us and for the nation overall now and into the future. However, I am strongly committed to environmentally responsible coal mining and cannot support rules that may be subject to arbitrary administration or enforcement. These proposed changes have the likely effect of lessening the intent of the 1983 regulation. This will not serve our state well, nor will it provide more regulatory certainty for the industry.



MR. STEPHEN JOHNSON  
November 17, 2008  
Page 2

Thank you for the opportunity to address our concerns with the proposed rule change. Please contact Kentucky's Secretary of the Energy and Environment Cabinet, Dr. Len Peters, if you have questions. He may be reached by calling 502-564-7192.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Beshear". The signature is fluid and cursive, with the first name "Steven" and last name "Beshear" clearly legible.

Steven L. Beshear