

Arch Coal's Senior Vice President of Strategy and Public Policy Comments on Proposed Stream Protection Rule

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ST. LOUIS, September 1, 2015 – Arch Coal Senior Vice President of Strategy and Public Policy Deck Slone will present Arch Coal's initial comments on the proposed stream protection rule to the Office of Surface Mining (OSM) later this evening at a listening session in Denver.

"Six years ago, OSM viewed the stream protection rule as a 'minor regulation' pertaining strictly to surface mining in steep terrain," Slone said. "Somewhere along the way, the rule ballooned into a 1,240-page document that expands the scope to every segment of the industry – East and West, surface and underground."

"Given this massive expansion, the first thing the industry needs is more time," Slone continued. "OSM took six years to write the rule, but it's only giving stakeholders 60 days to figure out what it all means. We have just completed our first, cursory review, and still have far more questions than answers."

Slone also questioned the need for such a sweeping rule. "As OSM has made clear, the states are doing an excellent job of minimizing off-site impacts, and the trend is improving," he said. "In fact, 90% of all mines are free of even minor offsite impacts – up from 86% four years ago. In the Powder River Basin, the story is even better, with 100% of all sites impact-free."

Slone also questioned OSM's decision to exclude the states, the primary permitting and enforcement authority under the law, from participating in the rule's development.

"The states should be outraged by this intrusion into their business and, as a matter of fact, they are," Slone said. "As part of the rule-making process, OSM agreed to consult with 10 delegated states in constructing the rule; nine of those states resigned in protest, after OSM failed to involve them in even the most rudimentary fashion. We believe a more open and collaborative process is essential, and urge OSM to start now – by taking industry and state feedback seriously during the comment period."

While Slone reiterated the need for more time to analyze the rule, he highlighted several areas of concern.

"Despite its enormous size, the rule is actually far too ambiguous in key respects," Slone said. "For instance, it effectively grants OSM blanket authority to deny a permit based on any change in hydrology the agency deems 'material,' without defining what 'material' actually means. It's simply not reasonable to expect companies to plan and make investment decisions based on such vague regulatory language – particularly when that language provides such fertile ground for citizens' suits."

"To put it bluntly, the mine permitting process is already expensive, complex and protracted – and OSM is seeking to inject itself still further into the regulatory tangle," Slone said. "On top of that, the proposed rule effectively grants the U.S. Fish & Wildlife Service unilateral veto authority over every permit. Giving a single agency such broad authority threatens to derail the process altogether."

Finally, OSM has asked for comment on whether the rule should also apply to ephemeral streams – drainage channels that only carry water during rain events. The answer is unequivocally "no," according to Slone.

"The Powder River Basin is one of the nation's most strategic energy resources," Slone said. "The addition of ephemeral streams to the proposed SPR threatens to sterilize vast sections of the basin while compromising the economics of the remainder. There is simply no basis for extending still further the already massive reach of this new rule."

"We ask OSM to consider the significant improvements to water quality achieved during the six years it took to write the proposed rule, and decide if implementing a regulation with such widespread impacts – and without productive

participation from key stakeholders – is the common-sense solution it seeks," Slone concluded.

U.S.-based Arch Coal, Inc. is one of the world's top coal producers for the global steel and power generation industries, serving customers on five continents. Its network of mining complexes is the most diversified in the United States, spanning every major coal basin in the nation. Arch controls more than 5 billion tons of high-quality metallurgical and thermal coal reserves, with access to major railroads, inland waterways and a growing number of seaborne trade channels.

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