

SUPPORTING TRANSPARENT REGULATORY AND
ENVIRONMENTAL ACTIONS IN MINING ACT

OCTOBER 1, 2015.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1644]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1644) to amend the Surface Mining Control and Reclamation Act of 1977 to ensure transparency in the development of environmental regulations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Supporting Transparent Regulatory and Environmental Actions in Mining Act” or the “STREAM Act”.

SEC. 2. PUBLICATION OF SCIENTIFIC PRODUCTS FOR RULES AND RELATED ENVIRONMENTAL IMPACT STATEMENTS, ENVIRONMENTAL ASSESSMENTS, AND ECONOMIC ASSESSMENTS.

(a) **REQUIREMENT.**—Title V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1251 et seq.) is amended by adding at the end the following:

“SEC. 530. PUBLICATION OF SCIENTIFIC PRODUCTS FOR RULES AND RELATED ENVIRONMENTAL ANALYSES, AND ECONOMIC ASSESSMENTS.

“(a) **REQUIREMENT.**—

“(1) **IN GENERAL.**—The Secretary shall make publicly available 90 days before the publication of any draft, proposed, supplemental, final, or emergency rule under this Act, or any related environmental analysis, economic assessment,

policy, or guidance, each scientific product the Secretary relied on in developing the rule, environmental analysis, economic assessment, policy, or guidance.

“(2) **FEDERALLY FUNDED SCIENTIFIC PRODUCTS.**—For those scientific products receiving Federal funds in part, or in full, the Secretary shall also make publicly available the raw data used for the federally funded scientific product.

“(b) **COMPLIANCE.**—

“(1) **IN GENERAL.**—Failure to make publicly available any scientific product 90 days before the publication of—

“(A) any draft, proposed, or supplemental rule, environmental analysis, economic assessment, policy or guidance shall extend by one day the comment period for each day such scientific product is not made available; or

“(B) any final or emergency rule shall delay the effective date of the final or emergency rule by 60 days plus each day the scientific product is withheld.

“(2) **DELAY LONGER THAN 6 MONTHS.**—If the Secretary fails to make publicly available any scientific product for longer than 6 months, the Secretary shall withdraw the rule, environmental analysis, economic assessment, policy, or guidance.

“(3) **EXCEPTION.**—This subsection shall not apply if a delay in the publication of a rule will pose an imminent and severe threat to human life.

“(c) **DEFINITIONS.**—In this section:

“(1) **PUBLICLY AVAILABLE.**—The term ‘publicly available’ means published on the Internet via a publicly accessible website under the Secretary’s control.

“(2) **ENVIRONMENTAL ANALYSIS.**—The term ‘environmental analysis’ means environmental impact statements and environmental assessments prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(3) **SCIENTIFIC PRODUCT.**—The term ‘scientific product’ means any product that—

“(A) employs the scientific method for inventorying, monitoring, experimenting, studying, researching, or modeling purposes; and

“(B) is relied upon by the Secretary in the development of any rule, environmental analysis, economic assessment, policy, or guidance.

“(4) **RAW DATA.**—The term ‘raw data’—

“(A) except as provided in subparagraph (B), means any computational process, or quantitative or qualitative data, that is relied on in a scientific product to support a finding or observation; and

“(B) does not include such data or processes—

“(i) that are protected by copyright;

“(ii) that contain personally identifiable information, sensitive intellectual property, trade secrets, or business-sensitive information; or

“(iii) to the extent that such data and processes are covered by the provisions of part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.), regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), and the provisions of subtitle D of title XIII of the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. 17921 et seq.).”

(b) **CLERICAL AMENDMENT.**—The table of contents in the first section of such Act is amended by adding at the end of the items relating to such title the following:

“Sec. 530. Publication of scientific products for rules and related environmental analyses, and economic assessments.”

SEC. 3. STUDY OF THE EFFECTIVENESS OF CERTAIN RULE.

(a) **REQUIREMENT.**—Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 et seq.) is amended by adding at the end the following:

“SEC. 722. STUDY OF THE EFFECTIVENESS OF CERTAIN RULE.

“(a) **STUDY.**—No later than 90 days after the date of the enactment of the STREAM Act, the Secretary of the Interior, in consultation with the Interstate Mining Compact Commission and its State members, shall enter into an arrangement with the National Academy of Sciences, for execution by the Board on Earth Sciences and Resources, to conduct a comprehensive study on the regulatory effectiveness of the ‘Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Stream Buffer Zones and Fish, Wildlife, and Related Environmental Values’ Final Rule published June 30, 1983 (48 Fed. Reg. 30312), and amended September 30, 1983 (48 Fed. Reg. 44777), in protecting perennial and intermittent streams through the use of stream buffer zones. If the study determines the existence of regulatory inefficiencies, then the study shall include suggestions and recommendations for increasing the effectiveness of the rule.

“(b) RESULTS OF THE STUDY.—Not later than 2 years after execution of the arrangements under subsection (a), the Board on Earth Sciences and Resources shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, appropriate Federal agencies, and the Governor of each of the States represented on the Interstate Mining Compact Commission the results of the study conducted under subsection (a).

“(c) FUNDING.—There is authorized to be appropriated to the Secretary of the Interior \$1,000,000 for fiscal year 2016 and \$1,000,000 for fiscal year 2017 for the purposes of this section.

“(d) PROHIBITION ON NEW REGULATIONS.—The Secretary shall not issue any final or other regulations pertaining to the proposed rule entitled ‘Stream Protection Rule’ (80 Fed. Reg. 44436) or relating to stream buffer zones, until one year after the Secretary has submitted the results of the study in accordance with subsection (b). If the Secretary proposes any such regulations after such submission, the Secretary shall take into consideration the findings of the study.”.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by adding at the end of the items relating to such title the following:

“Sec. 720. Subsidence.

“Sec. 721. Research.

“Sec. 722. Study of the effectiveness of certain rule.”.

SEC. 4. COMPLIANCE WITH OTHER FEDERAL LAWS.

Section 702 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended—

(1) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) COMPLIANCE WITH OTHER FEDERAL LAWS.—Nothing in this Act authorizes the Secretary to take any action by rule, regulation, notice, policy, guidance, or order that duplicates, implements, interprets, enforces, or determines any action taken under an Act referred to in subsection (a) or any regulation or rule promulgated thereunder.”.

PURPOSE OF THE BILL

The purpose of H.R. 1644 is to amend the Surface Mining Control and Reclamation Act of 1977 to ensure transparency in the development of environmental regulations.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1644, the “Supporting Transparent Regulatory and Environmental Actions in Mining Act” or “STREAM Act,” seeks to improve overall transparency in the Office of Surface Mining Reclamation and Enforcement’s (OSMRE) regulatory actions. Drafted partially in response to the OSMRE’s ongoing rulemaking process governing the interaction between surface mining operations and streams—known as the Stream Buffer Zone rule (SBZ Rule)—the STREAM Act: 1) requires OSMRE to make publicly available all scientific products used in its regulatory actions; 2) calls for a study to investigate the regulatory efficiencies of the rule OSMRE seeks to amend; and 3) clarifies OSMRE’s statutory boundaries.

OSMRE’s rewrite of the SBZ rule has been an ongoing process for over six years, costing taxpayers roughly \$10 million. Consistently scrutinized by the public, an early draft of the rewrite, which was leaked to the Associated Press, indicated the rule would result in a loss of at least 7,000 jobs in Appalachia alone and drastically reduce coal production in 22 states. Furthermore, investigations conducted by the Committee on Natural Resources revealed gross mismanagement of the rulemaking process, including the use of unqualified contractors. Accordingly, OSMRE restarted the rulemaking process, finally releasing a draft rule and corresponding environmental impact statement on July 27, 2015. Past legislative at-

tempts to address this controversial rulemaking have experienced bipartisan support, with H.R. 3409 passing 233–175 in the 112th Congress, and H.R. 2824 passing 229–192 in the 113th Congress.

Throughout the rulemaking process, Director Pizarchik of the OSMRE has repeatedly premised the rulemaking on the availability of new science and technological advances. However, such “new science” is frequently unavailable to the public. For instance, the recently released rule relies on a 2014 study, which was conducted by OSMRE in cooperation with the Environmental Protection Agency (EPA). This study, entitled “The Long-Term Impacts of Macroinvertebrates Downstream of Reclaimed Mountaintop Mining Valley Fills in Central Appalachia,” is only available behind a paywall—despite being wholly funded by the federal government. This legislation would ensure the publication of all scientific products used by OSMRE, thereby providing stakeholders the opportunity to comment on the validity of such products. Such transparency will not only allow the public the opportunity to ensure the science being used is the “best available,” but will also promote stronger, more scientifically-sound rulemakings.

Secondly, this legislation requires an independent study on the regulatory effectiveness of the currently in-place SBZ rule to be conducted by the National Academy of Sciences, in coordination with the Interstate Mining Compaction Commission and its member states. This will resolve two dominant issues currently plaguing the rewrite: 1) the lack of cooperation with the states; and 2) questions concerning the independence of the studies justifying the rulemaking. This year, 11 states withdrew as cooperating agencies from the rewrite’s rulemaking process, citing an unwillingness by OSMRE to permit them to participate in the development of the rule, and a lack of communications since 2011. The independent study would provide the states a chance for substantive input, as well as an independent examination of the need for a regulatory update, while putting on hold OSMRE’s controversial rulemaking.

Finally, the STREAM Act restates the original intent of OSMRE’s jurisdiction as envisioned by the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.). For foundational support of the rule, OSMRE cites a memorandum of understanding between the EPA, the U.S. Department of the Army, and the Department of the Interior. In part, the memorandum was premised on the authority of the Clean Water Act (33 U.S.C. 1251 et seq.). OSMRE is an entity that exists to administer “programs for controlling surface coal mining operations and reclaiming abandoned mine lands” and to “insure compliance with [SMCRA]”. Nowhere in SMCRA is OSMRE granted authority to interpret the provisions of the Clean Water Act. This provision expressly precludes OSMRE from expanding its authority or statutory mandate beyond the duties prescribed by SMCRA.

To ensure sensitive data will be protected, the STREAM Act includes provisions prohibiting the publication of raw data: 1) that would reveal information protected by copyright; 2) that contains personally identifiable information, sensitive intellectual property, trade secrets, or business-sensitive information; and 3) that would violate health privacy laws. Furthermore, the legislation ensures OSMRE can regulate efficiently during emergencies in which the imminent health of persons is threatened by providing exceptions

to the enforcement mechanism that ensures OSMRE will publish scientific products.

COMMITTEE ACTION

H.R. 1644 was introduced on March 26, 2015, by Congressman Alexander X. Mooney (R-WV). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On May 14, 2015, the Subcommittee held a hearing on the bill. On September 9, 2015, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Mooney offered an amendment in the nature of a substitute (ANS). Congressman Alan S. Lowenthal (D-CA) offered an amendment designated 001 to the ANS. The Lowenthal amendment was not adopted by a bipartisan vote of 12–23, as follows:

Committee on Natural Resources
U.S. House of Representatives
114th Congress

Date: 09-10-15

Recorded Vote # 3

Meeting on / Amendment on: **Lowenthal_001 Amendment to H.R. 1644 (Rep. Alexander Mooney),
"STREAM Act"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mrs. Dingell, MI</i>	X		
Mr. Young, AK		X		Mr. Denham, CA		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Gallego, AZ</i>	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
<i>Mrs. Bordallo, Guam</i>	X			<i>Mrs. Capps, CA</i>			
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
<i>Mr. Costa, CA</i>		X		<i>Mr. Polis, CO</i>	X		
Mr. Wittman, VA		X		Mr. Graves, LA			
<i>Mr. Sablan, CNMI</i>				<i>Mr. Clay, MO</i>	X		
Mr. Fleming, LA		X		Mr. Newhouse, WA		X	
<i>Mrs. Tsongas, MA</i>	X			Mr. Zinke, MT		X	
Mr. McClintock, CA				Mr. Hice, GA		X	
<i>Mr. Peirluisi, Puerto Rico</i>				Ms. Radewagen, AS		X	
Mr. Thompson, PA		X		Mr. MacArthur, NJ		X	
<i>Mr. Huffman, CA</i>	X			Mr. Mooney, WV		X	
Mrs. Lummis, WY		X		Mr. Hardy, NV			
<i>Mr. Ruiz, CA</i>	X						
Mr. Benishek, MI		X					
<i>Mr. Lowenthal, CA</i>	X						
Mr. Duncan, SC		X					
<i>Mr. Cartwright, PA</i>	X						
Mr. Gosar, AZ		X					
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID		X					
<i>Mrs. Torres, CA</i>				TOTALS	12	23	

No further amendments were offered and the amendment in the nature of a substitute was adopted by voice vote. On September 10, 2015, the bill, as amended, was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 23 to 12, as follows:

Committee on Natural Resources
U.S. House of Representatives
114th Congress

Date: 09-10-15

Recorded Vote # 4

Meeting on / Amendment on: **On favorably reporting H.R. 1644 (Rep. Alexander Mooney), "STREAM Act"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>		X	
Mr. Young, AK	X			Mr. Denham, CA	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
Mr. Gohmert, TX	X			Mr. Cook, CA	X		
<i>Mrs. Bordallo, Guam</i>		X		<i>Mrs. Capps, CA</i>			
Mr. Lamborn, CO	X			Mr. Westerman, AR	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>		X	
Mr. Wittman, VA	X			Mr. Graves, LA			
<i>Mr. Sablan, CNMI</i>				<i>Mr. Clay, MO</i>		X	
Mr. Fleming, LA	X			Mr. Newhouse, WA	X		
<i>Mrs. Tsongas, MA</i>		X		Mr. Zinke, MT	X		
Mr. McClintock, CA				Mr. Hice, GA	X		
<i>Mr. Peirluisi, Puerto Rico</i>				Ms. Radewagen, AS	X		
Mr. Thompson, PA	X			Mr. MacArthur, NJ	X		
<i>Mr. Huffman, CA</i>		X		Mr. Mooney, WV	X		
Mrs. Lummis, WY	X			Mr. Hardy, NV			
<i>Mr. Ruiz, CA</i>		X					
Mr. Benishek, MI	X						
<i>Mr. Lowenthal, CA</i>		X					
Mr. Duncan, SC	X						
<i>Mr. Cartwright, PA</i>		X					
Mr. Gosar, AZ	X						
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID	X						
<i>Mrs. Torres, CA</i>				TOTALS	23	12	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1644—STREAM Act

H.R. 1644 would authorize the appropriation of \$1 million a year over the 2016–2017 period for the National Academy of Sciences (NAS) to study the effectiveness of an existing rule governing coal mining activities near streams. The bill also would prevent the Office of Surface Mining Reclamation and Enforcement (OSMRE) from issuing any final rules related to such activities until one year after NAS completes the study.

CBO estimates that implementing the bill would cost \$2 million over the 2016–2017 period, assuming appropriation of the authorized amounts for NAS to complete the study. In addition, CBO estimates that enacting the bill would increase net offsetting receipts, which are treated as reductions in direct spending, by roughly \$1 million over the 2020–2023 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 1644 would not affect revenues.

Under current law, OSMRE plans to fully implement a proposed rule governing coal mining activities near streams by 2020. Based on information from the agency, CBO expects that if the proposed rule is implemented it will increase operating costs for the coal industry and reduce coal production. The rule will mainly affect coal mining activities in eastern states, which, in 2014, accounted for a very small portion of the gross receipts from coal production on federal lands.

Based on information from OSMRE, CBO estimates that implementing the proposed rule also will reduce coal production on federal lands in western states by about two-tenths of a percent. Based on CBO's projection of federal royalties from the affected areas over the 2020–2025 period (roughly \$650 million a year), we estimate that implementing the proposed rule will reduce gross offsetting receipts from federal coal leases by \$1.3 million a year over that period. Because the federal government distributes about half of those receipts to states, CBO estimates that under current law implementing the proposed rule will reduce net receipts by \$650,000 a year over the 2020–2025 period.

Under the bill, CBO expects that OSMRE would be prohibited from finalizing that proposed rule for at least three years after enactment of the bill (one year after the completion of the NAS study). Thus, the higher operating costs and reduced production that will result from implementing the rule would not occur until 2023. As result, CBO estimates that, over the 2020–2023 period, net offsetting receipts from federal coal leases under the bill would be about \$650,000 a year higher than those expected under current law. However, there is some probability that OSMRE may not finalize the proposed rule under current law. After accounting for the uncertainty regarding implementation of the proposed rule, CBO estimates that enacting the bill would increase net offsetting receipts, relative to current law, by \$325,000 a year over the 2020–2023 period, for a total savings of \$1 million.

H.R. 1644 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not impose costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, implementation of the bill could cost \$2 million, subject to appropriation, over the 2015–2016 time period, to complete the National Academy of Sciences study and also generate \$1 million in increased offsetting receipts compared to current law.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Surface Mining Control and Reclamation Act of 1977 to ensure transparency in the development of environmental regulations.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the

most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1977".

* * * * *

TITLE V—CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

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Sec. 530. Publication of scientific products for rules and related environmental analyses, and economic assessments.

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TITLE VII—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

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Sec. 720. Subsidence.
Sec. 721. Research.
Sec. 722. Study of the effectiveness of certain rule.

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TITLE V—CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

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SEC. 530. PUBLICATION OF SCIENTIFIC PRODUCTS FOR RULES AND RELATED ENVIRONMENTAL ANALYSES, AND ECONOMIC ASSESSMENTS.

(a) **REQUIREMENT.**—

(1) **IN GENERAL.**—*The Secretary shall make publicly available 90 days before the publication of any draft, proposed, supplemental, final, or emergency rule under this Act, or any related environmental analysis, economic assessment, policy, or guidance, each scientific product the Secretary relied on in developing the rule, environmental analysis, economic assessment, policy, or guidance.*

(2) **FEDERALLY FUNDED SCIENTIFIC PRODUCTS.**—*For those scientific products receiving Federal funds in part, or in full, the*

Secretary shall also make publicly available the raw data used for the federally funded scientific product.

(b) COMPLIANCE.—

(1) IN GENERAL.—Failure to make publicly available any scientific product 90 days before the publication of—

(A) any draft, proposed, or supplemental rule, environmental analysis, economic assessment, policy or guidance shall extend by one day the comment period for each day such scientific product is not made available; or

(B) any final or emergency rule shall delay the effective date of the final or emergency rule by 60 days plus each day the scientific product is withheld.

(2) DELAY LONGER THAN 6 MONTHS.—If the Secretary fails to make publicly available any scientific product for longer than 6 months, the Secretary shall withdraw the rule, environmental analysis, economic assessment, policy, or guidance.

(3) EXCEPTION.—This subsection shall not apply if a delay in the publication of a rule will pose an imminent and severe threat to human life.

(c) DEFINITIONS.—In this section:

(1) PUBLICLY AVAILABLE.—The term “publicly available” means published on the Internet via a publicly accessible website under the Secretary’s control.

(2) ENVIRONMENTAL ANALYSIS.—The term “environmental analysis” means environmental impact statements and environmental assessments prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) SCIENTIFIC PRODUCT.—The term “scientific product” means any product that—

(A) employs the scientific method for inventorying, monitoring, experimenting, studying, researching, or modeling purposes; and

(B) is relied upon by the Secretary in the development of any rule, environmental analysis, economic assessment, policy, or guidance.

(4) RAW DATA.—The term “raw data”—

(A) except as provided in subparagraph (B), means any computational process, or quantitative or qualitative data, that is relied on in a scientific product to support a finding or observation; and

(B) does not include such data or processes—

(i) that are protected by copyright;

(ii) that contain personally identifiable information, sensitive intellectual property, trade secrets, or business-sensitive information; or

(iii) to the extent that such data and processes are covered by the provisions of part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.), regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note), and the provisions of subtitle D of title XIII of the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. 17921 et seq.).

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TITLE VII—ADMINISTRATIVE AND MISCELLANEOUS
PROVISIONS

* * * * *

OTHER FEDERAL LAWS

SEC. 702. (a) Nothing in this Act shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), or any of the following Acts or with any rule or regulation promulgated thereunder, including, but not limited to—

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742).

(3) The Federal Water Pollution Control Act (79 Stat. 903), as amended (33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(5) The Solid Waste Disposal Act (42 U.S.C. 3251–3259).

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–666c).

(8) The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

(b) Nothing in this Act shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

(c) *COMPLIANCE WITH OTHER FEDERAL LAWS.*—*Nothing in this Act authorizes the Secretary to take any action by rule, regulation, notice, policy, guidance, or order that duplicates, implements, interprets, enforces, or determines any action taken under an Act referred to in subsection (a) or any regulation or rule promulgated thereunder.*

[(c)] (d) To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this Act.

[(d)] (e) Approval of the State programs, pursuant to section 503(b), promulgation of Federal programs, pursuant to section 504, and implementation of the Federal lands programs, pursuant to section 523 of this Act, shall not constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Adoption of regulations under section 501(b) shall constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

* * * * *

SEC. 722. STUDY OF THE EFFECTIVENESS OF CERTAIN RULE.

(a) *STUDY.*—No later than 90 days after the date of the enactment of the *STREAM Act*, the Secretary of the Interior, in consultation with the Interstate Mining Compact Commission and its State members, shall enter into an arrangement with the National Academy of Sciences, for execution by the Board on Earth Sciences and Resources, to conduct a comprehensive study on the regulatory effectiveness of the “Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Stream Buffer Zones and Fish, Wildlife, and Related Environmental Values” Final Rule published June 30, 1983 (48 Fed. Reg. 30312), and amended September 30, 1983 (48 Fed. Reg. 44777), in protecting perennial and intermittent streams through the use of stream buffer zones. If the study determines the existence of regulatory inefficiencies, then the study shall include suggestions and recommendations for increasing the effectiveness of the rule.

(b) *RESULTS OF THE STUDY.*—Not later than 2 years after execution of the arrangements under subsection (a), the Board on Earth Sciences and Resources shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, appropriate Federal agencies, and the Governor of each of the States represented on the Interstate Mining Compact Commission the results of the study conducted under subsection (a).

(c) *FUNDING.*—There is authorized to be appropriated to the Secretary of the Interior \$1,000,000 for fiscal year 2016 and \$1,000,000 for fiscal year 2017 for the purposes of this section.

(d) *PROHIBITION ON NEW REGULATIONS.*—The Secretary shall not issue any final or other regulations pertaining to the proposed rule entitled “Stream Protection Rule” (80 Fed. Reg. 44436) or relating to stream buffer zones, until one year after the Secretary has submitted the results of the study in accordance with subsection (b). If the Secretary proposes any such regulations after such submission, the Secretary shall take into consideration the findings of the study.

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DISSENTING VIEWS

H.R. 1644: “SUPPORTING TRANSPARENT REGULATORY AND ENVIRONMENTAL ACTIONS IN MINING (STREAM) ACT”

We oppose H.R. 1644 because it would do nothing except delay the protection of Appalachian communities from the destructive effects of mountaintop removal mining, and is simply the next salvo in a 5-year-long political attack the Majority has been waging on the Stream Protection Rule, a rule that was just released in July 2015 and has not been the subject of any committee hearings since then.

This bill is an unwarranted ambush on an ongoing rulemaking process, an uncharacteristic attack by the Majority on the principle of federalism and states’ rights, and an unconscionable assault on the health of the residents of Appalachian communities suffering from the devastating impacts of mountaintop removal mining.

As documented by a 2005 Environmental Impact Statement, nearly 2,000 miles of streams were buried or degraded by mountaintop removal mining from 1985 through 2002. Mountaintop removal mining destroys wildlife habitat, contaminates surface and drinking water, leads to flooding, and as an increasing number of studies show, raises the rates of cancer, birth defects, lung disease, and heart disease in people who live nearby.

The Majority has attempted to manufacture doubt behind the science of health impacts from mountaintop removal mining by raising the standards for data disclosure in Section 2 of H.R. 1644. These actions are unfounded and unnecessary, and create an unfair standard for science that is used to inform decisions on coal mining as opposed to other regulatory issues. The requirements established by this bill serve only to distract from the reality that people are suffering, and to further delay OSM from carrying out its statutory duty to protect people and the environment from the negative impacts from coal mining.

The Majority has turned a blind eye to the destructive environmental and health impacts of mountaintop removal mining, however, and instead focused on attacking the rulemaking process every step of the way. They conducted a multi-year investigation into the drafting of the Stream Protection Rule, holding three oversight hearings with the Director of the Office of Surface Mining (OSM), issuing two subpoenas, receiving over 13,500 pages of documents and 25 hours of audio recordings. However, this witch hunt uncovered no misconduct on the part of the Department of the Interior (DOI) or the Office of Surface Mining—a conclusion also reached by the DOT Office of Inspector General in a report released in December 2013. However, the investigation did succeed in delaying the Department from issuing the proposed rule and wasting taxpayer money; the Department reported that in 2013, re-

sponding to all the document requests from the Majority took over 19,000 staff hours at a cost of nearly \$1.5 million.

The complaints from the Majority are also inconsistent with their actions and this bill. While they protest that the Administration has been too secretive about the rule and is hiding data, they have also sent a letter requesting four extra months to comment on the proposed Stream Protection Rule because the Administration has put out over 2,500 pages of information on it. While they say that this rulemaking has taken far too long, Section 3 of H.R. 1644 would add an additional three years and millions of dollars to that process. During that time, streams will continue to get buried, habitat will continue being destroyed, threatened and endangered species will continue being harmed, and communities throughout the region will continue to suffer from degraded water quality, flooding, and health impacts.

During markup up on H.R. 1644, the Majority rejected an amendment by Energy and Mineral Resources Subcommittee Ranking Member Lowenthal that would have allowed the Secretary of the Interior to take into account the growing body of peer-reviewed scientific evidence that mountaintop removal mining is harmful to the health of people living in nearby communities.

For these reasons, we strongly oppose H.R. 1644, a bill that would prohibit the Administration from implementing thoughtful protections for the environment and communities from the impacts of mountaintop removal mining.

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