

Union Calendar No. 209

114TH CONGRESS
1ST SESSION

H. R. 1644

[Report No. 114-277]

To amend the Surface Mining Control and Reclamation Act of 1977 to ensure transparency in the development of environmental regulations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2015

Mr. MOONEY of West Virginia (for himself, Mr. LAMBORN, and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on Natural Resources

OCTOBER 1, 2015

Additional sponsors: Mr. BARR, Mr. GOSAR, Mr. JENKINS of West Virginia, Mr. MCKINLEY, Mr. CRAMER, Mrs. LUMMIS, Mr. YOUNG of Alaska, Mr. COOK, Mr. MESSER, Mr. ROGERS of Kentucky, Mr. ZINKE, Mr. MCCLINTOCK, Mr. THOMPSON of Pennsylvania, Mr. WESTERMAN, Mr. NEWHOUSE, Mr. RODNEY DAVIS of Illinois, Mr. GUTHRIE, Mr. ROKITA, Mr. SHIMKUS, Mr. ROTHFUS, Mr. GRIFFITH, Mrs. RADEWAGEN, Mr. LAMALFA, Mr. BOST, Mr. TIPTON, Mr. FLEISCHMANN, Mr. KELLY of Pennsylvania, Mr. CHABOT, Mr. LATTI, Mr. KELLY of Mississippi, Mr. JOYCE, and Mr. JORDAN

OCTOBER 1, 2015

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 26, 2015]

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to ensure transparency in the development of environmental regulations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. PUBLICATION OF SCIENTIFIC PRODUCTS FOR**
8 **RULES AND RELATED ENVIRONMENTAL IM-**
9 **PACT STATEMENTS, ENVIRONMENTAL AS-**
10 **SESSMENTS, AND ECONOMIC ASSESSMENTS.**

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

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

17 *“(a) REQUIREMENT.—*

18 *“(1) IN GENERAL.—The Secretary shall make*
19 *publicly available 90 days before the publication of*
20 *any draft, proposed, supplemental, final, or emer-*
21 *gency rule under this Act, or any related environ-*
22 *mental analysis, economic assessment, policy, or guid-*
23 *ance, each scientific product the Secretary relied on*
24 *in developing the rule, environmental analysis, eco-*
25 *nomics assessment, policy, or guidance.*

1 “(2) *FEDERALLY FUNDED SCIENTIFIC PROD-*
2 *UCTS.—For those scientific products receiving Federal*
3 *funds in part, or in full, the Secretary shall also*
4 *make publicly available the raw data used for the fed-*
5 *erally funded scientific product.*

6 “(b) *COMPLIANCE.—*

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

10 “(A) *any draft, proposed, or supplemental*
11 *rule, environmental analysis, economic assess-*
12 *ment, policy or guidance shall extend by one day*
13 *the comment period for each day such scientific*
14 *product is not made available; or*

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

19 “(2) *DELAY LONGER THAN 6 MONTHS.—If the*
20 *Secretary fails to make publicly available any sci-*
21 *entific product for longer than 6 months, the Sec-*
22 *retary shall withdraw the rule, environmental anal-*
23 *ysis, economic assessment, policy, or guidance.*

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

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

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

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

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

15 “(A) *employs the scientific method for*
16 *inventorying, monitoring, experimenting, study-*
17 *ing, researching, or modeling purposes; and*

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

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

22 “(A) *except as provided in subparagraph*
23 *(B), means any computational process, or quan-*
24 *titative or qualitative data, that is relied on in*

1 *a scientific product to support a finding or ob-*
2 *servation; and*

3 “(B) does not include such data or proc-

4 esses—

5 “(i) that are protected by copyright;

6 “(ii) that contain personally identifi-

7 able information, sensitive intellectual prop-

8 erty, trade secrets, or business-sensitive in-

9 formation; or

10 “(iii) to the extent that such data and

11 processes are covered by the provisions of

12 part C of title XI of the Social Security Act

13 (42 U.S.C. 1320d et seq.), regulations pro-

14 mulgated pursuant to section 264(c) of the

15 Health Insurance Portability and Account-

16 ability Act of 1996 (42 U.S.C. 1320d–2

17 note), and the provisions of subtitle D of

18 title XIII of the Health Information Tech-

19 nology for Economic and Clinical Health

20 Act (42 U.S.C. 17921 et seq.).”.

21 (b) *CLERICAL AMENDMENT.*—*The table of contents in*

22 *the first section of such Act is amended by adding at the*

23 *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.*”.

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

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

5 **“SEC. 722. STUDY OF THE EFFECTIVENESS OF CERTAIN**
6 **RULE.**

7 “(a) *STUDY.*—No later than 90 days after the date of
8 *the enactment of the STREAM Act, the Secretary of the In-*
9 *terior, in consultation with the Interstate Mining Compact*
10 *Commission and its State members, shall enter into an ar-*
11 *rangement with the National Academy of Sciences, for exe-*
12 *cution by the Board on Earth Sciences and Resources, to*
13 *conduct a comprehensive study on the regulatory effective-*
14 *ness of the ‘Surface Coal Mining and Reclamation Oper-*
15 *ations Permanent Regulatory Program; Stream Buffer*
16 *Zones and Fish, Wildlife, and Related Environmental Val-*
17 *ues’ Final Rule published June 30, 1983 (48 Fed. Reg.*
18 *30312), and amended September 30, 1983 (48 Fed. Reg.*
19 *44777), in protecting perennial and intermittent streams*
20 *through the use of stream buffer zones. If the study deter-*
21 *mines the existence of regulatory inefficiencies, then the*
22 *study shall include suggestions and recommendations for*
23 *increasing the effectiveness of the rule.*

24 “(b) *RESULTS OF THE STUDY.*—Not later than 2 years
25 *after execution of the arrangements under subsection (a),*
26 *the Board on Earth Sciences and Resources shall submit*

1 *to the Committee on Natural Resources of the House of Rep-*
2 *resentatives and the Committee on Energy and Natural Re-*
3 *sources of the Senate, appropriate Federal agencies, and the*
4 *Governor of each of the States represented on the Interstate*
5 *Mining Compact Commission the results of the study con-*
6 *ducted under subsection (a).*

7 “(c) *FUNDING.—There is authorized to be appro-*
8 *priated to the Secretary of the Interior \$1,000,000 for fiscal*
9 *year 2016 and \$1,000,000 for fiscal year 2017 for the pur-*
10 *poses of this section.*

11 “(d) *PROHIBITION ON NEW REGULATIONS.—The Sec-*
12 *retary shall not issue any final or other regulations per-*
13 *taining to the proposed rule entitled ‘Stream Protection*
14 *Rule’ (80 Fed. Reg. 44436) or relating to stream buffer*
15 *zones, until one year after the Secretary has submitted the*
16 *results of the study in accordance with subsection (b). If*
17 *the Secretary proposes any such regulations after such sub-*
18 *mission, the Secretary shall take into consideration the*
19 *findings of the study.’”*

20 “(b) *CLERICAL AMENDMENT.—The table of contents in*
21 *the first section of such Act is amended by adding at the*
22 *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.’”*

1 **SEC. 4. COMPLIANCE WITH OTHER FEDERAL LAWS.**

2 *Section 702 of the Surface Mining Control and Rec-*
3 *lamation Act of 1977 (30 U.S.C. 1291) is amended—*

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

6 *(2) by inserting after subsection (b) the fol-*
7 *lowing:*

8 *“(c) COMPLIANCE WITH OTHER FEDERAL LAWS.—*
9 *Nothing in this Act authorizes the Secretary to take any*
10 *action by rule, regulation, notice, policy, guidance, or order*
11 *that duplicates, implements, interprets, enforces, or deter-*
12 *mines any action taken under an Act referred to in sub-*
13 *section (a) or any regulation or rule promulgated there-*
14 *under.”.*

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