



H.R. 1644 — Supporting Transparent Regulatory and Environmental Actions in Mining Act (Rep. Mooney, R-WV)

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FLOOR SCHEDULE:

Scheduled for consideration on January 12, 2016, under a [structured rule](#)

TOPLINE SUMMARY:

[H.R. 1644](#) would authorize the National Academy of Sciences (NAS) to study the effectiveness of an existing rule governing surface coal mining near streams and would prohibit any new rulemaking until that study is complete. The bill would additionally direct the Department of Interior to make public any draft proposal or assessment that the Department relied upon to issue an environmental rule.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing the bill would cost \$2 million over the FY 2016-2017 period, assuming appropriation of the authorized amounts for National Academy of Sciences (NAS) to complete a required 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 FY 2020-2023 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 1644 would not affect revenues.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 1644 would amend the [Surface Mining Control and Reclamation Act of 1977](#) to direct the Secretary of the Interior to make any draft, final, or emergency rule as well as any related environmental analysis, or economic assessment relied on in the issuance of a rule, publicly available 90 days prior to its publication. The Secretary would additionally be required to make publicly available the raw data used for a federally funded scientific product. If the Department of Interior were to fail to make publicly available any such data within 6 months, the Secretary of the Interior would be required to withdraw the rule or guidance.

The Department would be required to enter into an arrangement with the National Academy of Sciences directing its Board on Earth Sciences and Resources to conduct a 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 on September 30, 1983 ([48 Fed. Reg. 44777](#)), measuring the rule’s effectiveness in protecting perennial and intermittent streams through the use of stream buffer zones.

H.R. 1644 would authorize \$1,000,000 for fiscal year 2016 and \$1,000,000 for fiscal year 2017 to be appropriated to the Secretary of the Interior for the purposes of H.R. 1644. Additionally the bill would prohibit the Secretary of the Interior from issuing any further rules relating to stream buffer zones, until one year after the Secretary has submitted to Congress the report conducted by the National Academy of Sciences. The bill would further clarify that nothing in the Surface Mining Control and Reclamation Act of 1977 authorizes the Department Interior to take any action that implements, enforces, or determines compliance with specified mining, environmental, or fish and wildlife law.

The House report (H. Rept. 114-277) accompanying H.R. 1644 can be found [here](#). The hearing memo related to H.R. 1644 provided by the House Committee on Natural Resources can be found [here](#).

AMENDMENTS MADE IN ORDER:

- [#1 Lamborn \(R-CO\)](#) (Manager’s Amendment): would make technical corrections and would correct a U.S. Code citation. The amendment would clarify the definition of scientific product as a product that is additionally not protected under copyright laws.
- [#2\) Kildee \(D-MI\)](#): would allow for an exception to a requirement that the Secretary of the Interior withdraw a rule if the supporting data is not made publically available, if the rule improves drinking water quality. The amendment would further allow the Secretary to propose a new rule on stream protection if it improves drinking water quality.
- [#5 Cartwright \(D-PA\)](#): would amend title IV of the [Surface Mining Control and Reclamation Act of 1977](#) to direct amounts, subject to appropriation, to states and Indian tribes to promote the economic revitalization, diversification, and development in economically distressed communities adversely affected by coal mining.
- [#7 Sewell \(D-AL\)](#): would allow for an exception to a requirement that the Secretary of the Interior withdraw a rule if not made publically available, if a delay in the publication of a rule will cause or significantly contribute to the development of negative chronic or long-term health conditions.

OUTSIDE GROUPS IN SUPPORT:

- [Industrial Energy Consumers of America](#)
- [National Mining Association](#)
- [U.S. Chamber of Commerce \(Key Vote\)](#)

COMMITTEE ACTION:

H.R. 1644 was introduced on March 26, 2015 and was referred to the House Committee on Natural Resources, where it was reported amended on October 1, 2015.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available. A statement for the record from the Department of Interior’s Office of Surface Mining Reclamation and Enforcement in opposition to the bill can be found [here](#).

CONSTITUTIONAL AUTHORITY:

According to the sponsor: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, clause 18.” No specific enumerating clause was included.

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