

1 HR86
2 182617-2
3 By Representative Ledbetter
4 RFD: Rules
5 First Read: 02-MAR-17

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8 URGING CONGRESS TO OVERTURN THE STREAM PROTECTION
9 RULE.

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11 WHEREAS, under existing rules, 90 percent of all
12 coal mines have no offsite impact, and, in many states, 100
13 percent of coal mine operations are free of any offsite impact
14 according to United States Department of the Interior
15 oversight reports; and

16 WHEREAS, following a five-year period of
17 development, the Office of Surface Mining Reclamation and
18 Enforcement (OSMRE), within the Department of the Interior,
19 published a proposed rule on July 19, 2015, (80 Fed. Reg.
20 44435) that addressed, among other things, the protection of
21 streams affected by surface coal mining and reclamation
22 operations; and

23 WHEREAS, the rule exceeds the Office of Surface
24 Mining's statutory authority and infringes on the authority
25 and ability of states to implement the Surface Mining Control
26 and Reclamation Act; and

1 WHEREAS, the rule imposes extensive monitoring and
2 reclamation requirements without sound scientific
3 justification; and

4 WHEREAS, the Office of Surface Mining asks the
5 United States Fish and Wildlife Service to take over primary
6 responsibility for permitting mine sites by giving the service
7 veto authority over every mining project; permitting mines is
8 the purview of the Office of Surface Mining regulators, not
9 the Fish and Wildlife Service; and

10 WHEREAS, the rule fails to recognize critical
11 differences between eastern and western mining conditions; and

12 WHEREAS, the Office of Surface Mining's own internal
13 analysis of an earlier version of the rule showed a loss of
14 more than 7,000 high paying jobs in 22 states; an independent
15 analysis showed a far worse impact with job losses approaching
16 80,000 people; its impact will be felt beyond the coalfields,
17 driving up energy costs for families and businesses; and

18 WHEREAS, during the five-year development period of
19 these documents, states with primacy under SMCRA attempted to
20 engage with OSMRE either as cooperating agency states under
21 the National Environmental Policy Act (NEPA) or as state
22 commentators on the rule; and

23 WHEREAS, nine of the 10 states that signed a
24 memorandum of understanding with the Office of Surface Mining
25 to assist in the development of accurate information to
26 determine the need or scope of the rule terminated their

1 participation after being subjected to a four-year blackout
2 period of any dialogue or consultation; and

3 WHEREAS, report language accompanying the
4 Consolidated Appropriations Act of 2016, P.I. 114-113, enacted
5 on December 18, 2015, included language requiring the Office
6 of Surface Mining to reengage the primacy states in a
7 meaningful way prior to finalizing any rulemaking; and

8 WHEREAS, coal mining contributes more than \$18.5
9 billion annually in state and federal tax revenues; the
10 proposed rule would reduce annual tax revenues by 15 to 35
11 percent; and

12 WHEREAS, the United States possesses the largest
13 single energy resource on the globe with over 400 billion tons
14 of demonstrated coal reserves; the proposal could sterilize
15 two-thirds of the recoverable reserve base, more than half the
16 underground reserves could be rendered unrecoverable, a result
17 at direct odds with SMCRA which finds that the regulatory
18 policies should encourage underground mining; and

19 WHEREAS, if the states had been given adequate
20 opportunity to provide their policy and technical expertise
21 through a meaningful process, and had the Office of Surface
22 Mining welcomed that input, the rule would have better
23 accounted for the diversity in regional and ecological
24 conditions, the impact to state program implementation, and
25 the appropriate discretion vested by the Surface Mining
26 Control and Reclamation Act in primary states that have been

1 regulating coal mining operations for more than 30 years; now
2 therefore,

3 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF
4 THE LEGISLATURE OF ALABAMA, That this body supports early,
5 meaningful, and substantial state involvement in the
6 development and implementation of environmental and natural
7 resources statutes, policies, rules, programs, reviews,
8 budgets, and strategic plans.

9 BE IT FURTHER RESOLVED, That we urge the Department
10 of the Interior to withdraw its Stream Protection Rule and
11 fully comply with the congressional directive to work with the
12 states, regulated industry, and other members of the public to
13 put forth a more appropriate proposal.

14 BE IT FURTHER RESOLVED, That we urge all state
15 attorneys general to engage in opposition to the rule if the
16 Department of the Interior and the Office of Surface Mining
17 have not engaged the states in a meaningful process.

18 BE IT FURTHER RESOLVED, That we urge Congress to
19 pursue options to overturn the rule and that copies of this
20 resolution be forwarded to the Alabama Congressional
21 Delegation that they may know of our deep concerns regarding
22 this matter.