

118TH CONGRESS
1ST SESSION

H. R. 5022

To place a moratorium on the issuance and renewal of certain Federal authorizations for mountaintop removal coal mining until a health study is conducted, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2023

Mr. MCGARVEY (for himself, Mr. HUFFMAN, Mr. BEYER, Mr. TONKO, Ms. MCCOLLUM, Ms. NORTON, Mr. TRONE, Mr. CONNOLLY, and Mr. COHEN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To place a moratorium on the issuance and renewal of certain Federal authorizations for mountaintop removal coal mining until a health study is conducted, 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 “Appalachian Commu-
5 nities Health Equity Act” or the “ACHE Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Communities surrounding mountaintop re-
4 moval coal mining projects, which involve surface
5 coal mining including blasting with explosives in the
6 steep slope regions of Kentucky, Tennessee, West
7 Virginia, and Virginia, have raised concerns that
8 pollution of the water, air, and soil that results from
9 mountaintop removal coal mining may be causing
10 health crises in their communities.

11 (2) Peer-reviewed scientific research and re-
12 ports have raised serious concerns about mountain-
13 top removal mining with respect to elevated risks in
14 categories of birth defects studied, including cir-
15 culatory, respiratory, central nervous system, mus-
16 culoskeletal, and gastrointestinal.

17 (3) Mountaintop removal coal mining has also
18 been associated with elevated levels of adult hos-
19 pitalizations for chronic pulmonary disorders and hy-
20 pertension that are elevated as a function of county-
21 level coal production, as are rates of mortality, lung
22 cancer, and chronic heart, lung, and kidney disease.
23 These health problems strike both women and men
24 in mountaintop removal coal mining communities
25 and these elevated levels of disease, defects, and

1 mortality persist even after controlling for other
2 variables.

3 (4) Scientific evidence, and the level of public
4 concern, warrant immediate action to stop new
5 mountaintop removal coal mining permits and in-
6 crease environmental and human health monitoring
7 at existing mountaintop removal coal mining
8 projects while the reported links between health ef-
9 fects and mountaintop removal coal mining are in-
10 vestigated by Federal health agencies.

11 (5) The National Institute of Environmental
12 Health Sciences is uniquely qualified to manage a
13 working group of Federal health agencies with ex-
14 pertise that is relevant to study of the reported
15 links.

16 **SEC. 3. HEALTH STUDY.**

17 (a) STUDY.—The Director of the National Institute
18 of Environmental Health Sciences, in consultation with
19 the Administrator of the Environmental Protection Agen-
20 cy and the heads of such other Federal agencies as the
21 Director determines appropriate, shall conduct or support
22 a comprehensive study regarding the health impacts, if
23 any, of mountaintop removal coal mining on individuals
24 who reside in communities in close proximity to mountain-
25 top removal coal mining projects.

1 (b) REPORT.—The Director of the National Institute
2 of Environmental Health Sciences shall submit to the Sec-
3 retary, and make publicly available, a report regarding the
4 results of the study conducted or supported under sub-
5 section (a).

6 (c) DETERMINATION.—After receipt of the report re-
7 quired under subsection (b), the Secretary shall publish
8 on the website of the Department of Health and Human
9 Services a determination regarding whether mountaintop
10 removal coal mining presents any health risks to individ-
11 uals who reside in communities in close proximity to
12 mountaintop removal coal mining projects.

13 **SEC. 4. MOUNTAINTOP REMOVAL COAL MINING FEDERAL**
14 **AUTHORIZATION MORATORIUM.**

15 No Federal authorization may be issued or renewed
16 for any mountaintop removal coal mining project, or for
17 any expansion of such a project, by any of the following
18 individuals before the date on which the Secretary pub-
19 lishes a determination under section 3(e) concluding that
20 mountaintop removal coal mining does not present any
21 health risks to individuals who reside in communities in
22 close proximity to mountaintop removal coal mining
23 projects:

24 (1) The Secretary of the Army, acting through
25 the Chief of Engineers, or a State, under section

1 404 of the Federal Water Pollution Control Act (33
2 U.S.C. 1344).

3 (2) The Administrator of the Environmental
4 Protection Agency, or a State, under section 402 of
5 the Federal Water Pollution Control Act (33 U.S.C.
6 1342).

7 (3) The Secretary of the Interior, acting
8 through the Director of the Office of Surface Mining
9 Reclamation and Enforcement, or a State, under the
10 Surface Mining Control and Reclamation Act of
11 1977 (30 U.S.C. 1201 et seq.).

12 **SEC. 5. MOUNTAINTOP REMOVAL COAL MINING MONI-**
13 **TORING.**

14 (a) **MONITORING REQUIREMENT.**—Any person that
15 conducts a mountaintop removal coal mining project
16 shall—

17 (1) with respect to the site of the project, carry
18 out monitoring for pollution that occurs as a result
19 of the project, including—

20 (A) continuous monitoring for water, air,
21 and noise pollution; and

22 (B) consistent monitoring for soil pollu-
23 tion; and

24 (2) based on the results of the monitoring car-
25 ried out under paragraph (1)—

1 (A) identify any pollution that occurs as a
2 result of the project; and

3 (B) identify ways in which individuals who
4 reside in communities in close proximity to the
5 project might be exposed to such pollution.

6 (b) RESULTS OF MONITORING.—

7 (1) SUBMISSION TO SECRETARY.—Each person
8 that carries out monitoring under subsection (a)(1)
9 for a mountaintop removal coal mining project shall
10 submit to the Secretary, on a monthly basis, the re-
11 sults of such monitoring.

12 (2) PUBLIC AVAILABILITY.—Not later than 7
13 days after the date on which the Secretary receives
14 results under paragraph (1), the Secretary shall
15 make such results publicly available on the website
16 of the Department of Health and Human Services in
17 a searchable database format.

18 (c) ENFORCEMENT.—If a person that conducts a
19 mountaintop removal coal mining project fails to comply
20 with either subsection (a) or (b) with respect to the
21 project, no Federal authorization may be issued or re-
22 newed for the project, or for any expansion of the project,
23 by any of the following individuals:

24 (1) The Secretary of the Army, acting through
25 the Chief of Engineers, or a State, under section

1 404 of the Federal Water Pollution Control Act (33
2 U.S.C. 1344).

3 (2) The Administrator of the Environmental
4 Protection Agency, or a State, under section 402 of
5 the Federal Water Pollution Control Act (33 U.S.C.
6 1342).

7 (3) The Secretary of the Interior, acting
8 through the Director of the Office of Surface Mining
9 Reclamation and Enforcement, or a State, under the
10 Surface Mining Control and Reclamation Act of
11 1977 (30 U.S.C. 1201 et seq.).

12 (d) APPLICABILITY.—The requirements under sub-
13 sections (a) and (b) shall terminate on the date on which
14 the Secretary publishes the determination described in sec-
15 tion 3(c).

16 **SEC. 6. FEDERAL COST FEE.**

17 (a) COLLECTION AND ASSESSMENT.—The Secretary
18 of the Interior, acting through the Director of the Office
19 of Surface Mining Reclamation and Enforcement, shall as-
20 sess and collect a one-time fee from each person that, as
21 of the date of the enactment of this Act, is conducting
22 or has previously completed a mountaintop removal coal
23 mining project in the United States, in an amount suffi-
24 cient to recover the Federal cost of implementing sections
25 3 and 5.

1 (b) USE OF FEE.—Amounts collected under this sec-
2 tion may be used, to the extent and in the amount pro-
3 vided in advance in appropriations Acts, only to pay the
4 Federal cost of carrying out sections 3 and 5.

5 **SEC. 7. DEFINITIONS.**

6 In this Act:

7 (1) FEDERAL AUTHORIZATION.—The term
8 “Federal authorization” means a permit, license, or
9 other authorization that is issued by a Federal agen-
10 cy.

11 (2) MOUNTAINTOP REMOVAL COAL MINING.—
12 The term “mountaintop removal coal mining” means
13 surface coal mining that—

14 (A) uses blasting with explosives; and

15 (B) is carried out in the steep slope re-
16 gions of Kentucky, Tennessee, West Virginia,
17 and Virginia.

18 (3) SECRETARY.—The term “Secretary” means
19 the Secretary of Health and Human Services.

20 (4) STEEP SLOPE.—The term “steep slope” has
21 the meaning given the term in section 515(d)(4) of
22 the Surface Mining Control and Reclamation Act of
23 1977 (30 U.S.C. 1265(d)(4)).

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