

112TH CONGRESS
2D SESSION

H. R. 5959

To place a moratorium on permitting for mountaintop removal coal mining until health studies are conducted by the Department of Health and Human Services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2012

Mr. KUCINICH (for himself, Ms. SLAUGHTER, Ms. WOOLSEY, Ms. CHU, Mr. YARMUTH, Mr. HONDA, Mr. MORAN, Mr. GRIJALVA, Ms. ROYBAL-ALLARD, Mr. BLUMENAUER, Mr. CONYERS, Mr. HINCHEY, Mr. ELLISON, and Ms. EDWARDS) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Transportation and Infrastructure and Energy and Commerce, 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 permitting for mountaintop removal coal mining until health studies are conducted by the Department of Health and Human Services, 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 Emergency 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: circulatory/res-
15 piratory, central nervous system, musculoskeletal,
16 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 These elevated levels of disease, defects, and mor-

1 tality persist even after controlling for other vari-
2 ables.

3 (4) Initial scientific evidence, and the level of
4 public concern, warrant immediate action to stop
5 new mountaintop removal coal mining permits and
6 increase environmental and human health moni-
7 toring 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 STUDIES.**

17 (a) STUDIES.—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 departments and
21 agencies as the Director deems appropriate, shall—

22 (1) conduct or support comprehensive studies
23 on the health impacts, if any, of mountaintop re-
24 moval coal mining on individuals in the surrounding
25 communities; and

1 (2) submit to the Secretary, and make publicly
2 available, a report on the results of such studies.

3 (b) DETERMINATION.—Upon receipt of the report
4 under subsection (a)(2), the Secretary of Health and
5 Human Services shall publish a determination on whether
6 mountaintop removal coal mining presents any health
7 risks to individuals in the surrounding communities.

8 **SEC. 4. MOUNTAINTOP REMOVAL COAL MINING PERMIT**
9 **MORATORIUM.**

10 Until and unless the Secretary of Health and Human
11 Services publishes a determination under section 3(b) con-
12 cluding that mountaintop removal coal mining does not
13 present any health risk to individuals in the surrounding
14 communities, a permit or other authorization may not be
15 issued for any mountaintop removal coal mining project,
16 or for any expansion of such a project, by—

17 (1) the Secretary of the Army, acting through
18 the Chief of Engineers, or a State, under section
19 404 of the Federal Water Pollution Control Act (33
20 U.S.C. 1344);

21 (2) the Administrator of the Environmental
22 Protection Agency, or a State, under section 402 of
23 the Federal Water Pollution Control Act (33 U.S.C.
24 1342); or

1 (3) the Secretary of the Interior, acting through
2 the Office of Surface Mining Reclamation and En-
3 forcement, or a State, under the Surface Mining
4 Control and Reclamation Act of 1977 (30 U.S.C.
5 1201 et seq.).

6 **SEC. 5. MOUNTAINTOP REMOVAL COAL MINING CONTIN-**
7 **UOUS HEALTH AND ENVIRONMENTAL MONI-**
8 **TORING.**

9 (a) REQUIREMENT.—Until the Secretary of Health
10 and Human Services publishes a determination under sec-
11 tion 3(b)—

12 (1) any person conducting a mountaintop re-
13 moval coal mining project shall—

14 (A) conduct continuous monitoring for any
15 pollution of water and air (including noise) and
16 frequent monitoring of soil as a result of such
17 project for the purposes of comprehensively—

18 (i) characterizing any pollution emit-
19 ted from the project; and

20 (ii) identifying ways in which mem-
21 bers of affected communities might be ex-
22 posed to these emissions; and

23 (B) submit the results of such monitoring
24 to the Secretary on a monthly basis; and

1 (2) the Secretary shall make such results avail-
2 able to the public through the World Wide Web in
3 a searchable database format not later than 7 days
4 after the date on which the Secretary receives such
5 results.

6 (b) ENFORCEMENT.—If a person conducting a moun-
7 tain-top removal coal mining project fails to conduct moni-
8 toring and submit results in connection with such project
9 as required by subsection (a), a permit or other authoriza-
10 tion may not be issued for the mountaintop removal coal
11 mining project, or for an expansion of such project, by—

12 (1) the Secretary of the Army, acting through
13 the Chief of Engineers, or a State, under section
14 404 of the Federal Water Pollution Control Act (33
15 U.S.C. 1344);

16 (2) the Administrator of the Environmental
17 Protection Agency, or a State, under section 402 of
18 the Federal Water Pollution Control Act (33 U.S.C.
19 1342); or

20 (3) the Secretary of the Interior, acting through
21 the Office of Surface Mining Reclamation and En-
22 forcement, or a State, under the Surface Mining
23 Control and Reclamation Act of 1977 (30 U.S.C.
24 1201 et seq.).

1 **SEC. 6. FEE TO PAY FOR HEALTH STUDIES AND MONI-**
2 **TORING.**

3 (a) COLLECTION AND ASSESSMENT.—The President,
4 acting through the Office of Surface Mining Reclamation
5 and Enforcement of the Department of the Interior, shall
6 assess and collect from each person that, as of the date
7 of the enactment of this Act, is conducting a mountaintop
8 removal coal mining project in the United States a one-
9 time fee in an amount sufficient to recover the Federal
10 cost of implementing sections 3 and 5.

11 (b) USE OF FEE.—Amounts received by the United
12 States as a fee under this section may be used, to the
13 extent and in the amount provided in advance in appro-
14 priations Acts, only to pay the Federal cost of carrying
15 out sections 3 and 5.

16 **SEC. 7. DEFINITIONS.**

17 In this Act:

18 (1) MOUNTAINTOP REMOVAL COAL MINING.—

19 The term “mountaintop removal coal mining” means
20 surface coal mining that uses blasting with explo-
21 sives in the steep slope regions of Kentucky, Ten-
22 nessee, West Virginia, and Virginia.

23 (2) STEEP SLOPE.—The term “steep slope” has
24 the meaning that term has under section 515(d)(4)

1 of the Surface Mining Control and Reclamation Act
2 of 1977 (30 U.S.C. 1265(d)(4)).

