

114TH CONGRESS
1ST SESSION

S. 1458

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

IN THE SENATE OF THE UNITED STATES

MAY 22, 2015

Mr. COATS (for himself, Mr. MANCHIN, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to ensure scientific 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 Trans-
5 parent Regulatory and Environmental Actions in Mining
6 Act of 2015” or the “STREAM Act of 2015”.

1 **SEC. 2. PUBLICATION OF SCIENTIFIC PRODUCTS FOR**
 2 **RULES AND RELATED ENVIRONMENTAL IM-**
 3 **PACT STATEMENTS, ENVIRONMENTAL AS-**
 4 **SESSMENTS, AND ECONOMIC ASSESSMENTS.**

5 (a) IN GENERAL.—Title V of the Surface Mining
 6 Control and Reclamation Act of 1977 (30 U.S.C. 1251
 7 et seq.) is amended by adding at the end the following:

8 **“SEC. 530. PUBLICATION OF SCIENTIFIC PRODUCTS FOR**
 9 **RULES AND RELATED ENVIRONMENTAL IM-**
 10 **PACT STATEMENTS, ENVIRONMENTAL AS-**
 11 **SESSMENTS, AND ECONOMIC ASSESSMENTS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) AGENCY ACTION.—The term ‘agency ac-
 14 tion’ has the meaning given the term in section 551
 15 of title 5, United States Code.

16 “(2) BACKGROUND INFORMATION.—The term
 17 ‘background information’ means—

18 “(A) a biographical document, including a
 19 curriculum vitae or resume, that details the ex-
 20 haustive, professional work history, education,
 21 and any professional memberships of a person;
 22 and

23 “(B) the amount and date of any Federal
 24 grants or contracts received by that person.

25 “(3) ECONOMIC ASSESSMENT.—The term ‘eco-
 26 nomic assessment’ means any assessment prepared

1 by a Federal agency in accordance with section
 2 6(a)(3)(C) of Executive Order 12866 (5 U.S.C. 601
 3 note; relating to regulatory planning and review).

4 “(4) ENVIRONMENTAL ASSESSMENT.—The
 5 term ‘environmental assessment’ has the meaning
 6 given the term in section 1508.9 of title 40, Code of
 7 Federal Regulations.

8 “(5) ENVIRONMENTAL IMPACT STATEMENT.—
 9 The term ‘environmental impact statement’ means
 10 any environmental impact statement or similar anal-
 11 ysis required under the National Environmental Pol-
 12 icy Act of 1969 (42 U.S.C. 4321 et seq.).

13 “(6) PUBLICLY AVAILABLE.—The term ‘pub-
 14 licly available’ means published online on—

15 “(A) a publicly accessible website that al-
 16 lows the submission of comments on proposed
 17 regulations and related documents published by
 18 the Federal Government;

19 “(B) a publicly accessible website of the
 20 Secretary; and

21 “(C) the website of the Federal Register.

22 “(7) RAW DATA.—The term ‘raw data’ means
 23 any computational process or quantitative or quali-
 24 tative data processed from a source that is relied

1 upon in a scientific product to support a finding or
2 observation.

3 “(8) RELIED UPON.—The term ‘relied upon’
4 means explicitly cited or referenced in a rule, envi-
5 ronmental impact statement, environmental assess-
6 ment, or economic assessment.

7 “(9) RULE.—The term ‘rule’ has the meaning
8 given the term in section 551 of title 5, United
9 States Code.

10 “(10) SCIENTIFIC METHOD.—The term ‘sci-
11 entific method’ means a method of research under
12 which—

13 “(A) a problem is identified;

14 “(B) relevant data are gathered;

15 “(C) a hypothesis is formulated from the
16 data; and

17 “(D) the hypothesis is empirically tested in
18 a manner specified by documented protocols
19 and procedures.

20 “(11) SCIENTIFIC PRODUCT.—The term ‘sci-
21 entific product’ means any product that—

22 “(A) employs the scientific method for
23 inventorying, monitoring, experimenting, study-
24 ing, researching, and modeling purposes; and

1 “(B) is relied upon by the Secretary in de-
2 velopment of any rule, environmental impact
3 statement, environmental assessment, or eco-
4 nomic assessment.

5 “(b) REQUIREMENTS.—The Secretary shall—

6 “(1) make publicly available on the date of the
7 publication of any draft, final, emergency, or supple-
8 mental rule under this Act, or any related environ-
9 mental impact statement, environmental assessment,
10 or economic assessment, each scientific product the
11 Secretary relied upon in developing the rule, environ-
12 mental impact statement, environmental assessment,
13 or economic assessment; and

14 “(2) for those scientific products receiving Fed-
15 eral funds, also make publicly available—

16 “(A) the raw data used for the federally
17 funded scientific product; and

18 “(B) background information of the au-
19 thors of the scientific study.

20 “(c) COMPLIANCE.—

21 “(1) IN GENERAL.—Subject to paragraph (2),
22 failure to comply with the publication requirements
23 of subsection (b)—

24 “(A) with respect to draft or supplemental
25 rules, environmental impact statements, envi-

ronmental assessments, or economic assessments shall extend by 1 day the notice and comment period for each day of noncompliance; or

“(B) with respect to final or emergency rules, shall delay the effective date of the final rule by 60 days plus an additional day for each day of noncompliance.

“(2) WITHDRAWAL.—If the Secretary fails to comply with the publication requirements of subsection (b) for more than 180 days after the date of publication of any rule, or any related environmental impact statement, environmental assessment, or economic assessment, under this Act, the Secretary shall withdraw the rule, environmental impact statement, environmental assessment, or economic assessment.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) is amended by inserting after the item relating to section 529 the following:

“Sec. 530. Publication of scientific products for rules and related environmental impact statements, environmental assessments, and economic assessments.”.

SEC. 3. COMPLIANCE WITH OTHER FEDERAL LAWS.

Section 702 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1292) is amended—

1 (1) by redesignating subsections (c) and (d) as
2 subsection (e) and (f), respectively; and

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c) COMPLIANCE WITH OTHER FEDERAL LAWS.—
6 Nothing in this Act authorizes the Secretary to take any
7 action by rule, interpretive rule, policy, regulation, notice,
8 or order that duplicates any action taken under an Act
9 referred to in subsection (a) (including regulations and
10 rules).

11 “(d) DEFERENCE TO IMPLEMENTING AGENCIES AND
12 STATE AUTHORITIES.—In carrying out this Act (including
13 rules, interpretive rules, policies, regulations, notices, or
14 orders), the Secretary—

15 “(1) shall defer to the determinations of an
16 agency or State authority implementing an Act re-
17 ferred to in subsection (a) with respect to any agen-
18 cy action under the jurisdiction of the agency or
19 State authority, as applicable; and

20 “(2) shall not make any determination regard-
21 ing any agency action subject to an Act referred to
22 in subsection (a).”.

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