



Congress of the United States
House of Representatives
Washington, DC 20515-1705

March 17, 2015

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street Northwest
Washington, D.C. 20240-0001

Dear Secretary Jewell:

We write to express our deep concern with the Office of Surface Mining Reclamation and Enforcement's (OSM) continued efforts to develop a sweeping and unnecessary revised stream buffer zone rule.

On February 25, 2015, you testified before the House Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies. During this hearing, you stated that, despite your intent to move forward with a proposed rule in the near future, no study or analysis is available to assess the potential impacts of that proposal on either the environment or on surface mining activity in Appalachia. We believe that relying on the notice and comment procedure to test the viability of a massive proposed rule is inappropriate, particularly when OSM and the Department of the Interior have failed to identify the problem that this proposal purports to fix.

Issues surrounding the development of this proposed rule change have been long-standing and systemic. Beginning in 2011, OSM's mismanagement in preparing an Environmental Impact Statement (EIS) for the proposed rule resulted in the dismissal of third-party contractors who refused to falsify job loss numbers at the agency's command. At issue between OSM and its contractors was whether to use the 1983 rule or the 2008 rule as the baseline for projected job loss impacts. At the time, the 2008 rule had recently been promulgated but was not yet implemented in coal mining states. Utilizing the 2008 rule as a baseline would have resulted in lower projected job loss numbers. Environ International eventually completed an analysis of OSM's proposal using the 1983 baseline and found that a new rule would eliminate an additional 79,000 coal mining jobs. This is a truly staggering figure, especially considering that the industry has already experienced the loss of some 9,000 jobs since 2009. The majority of these jobs are in the Appalachian coalfields that we represent.

On December 22, 2014, OSM reinstated the 1983 stream buffer zone regulations following a federal court decision vacating OSM's 2008 rule. As a result, the economic impact will have to

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be once again reevaluated under any new rulemaking. We are dismayed that this massive regulatory rewrite has occurred largely in secret, without any meaningful communication with state regulators who will ultimately be responsible for adopting and implementing these new federal standards. We understand that OSM recently received a letter from 11 primacy states revealing that OSM has offered no communication with the states since 2011, and very minimal consultation prior to that.

The states have expressed serious concerns regarding the economic consequences of this massive rewrite of the Surface Mining Control and Reclamation Act (SMCRA) regulatory program. States will be required to develop counterpart laws and regulations, adapted for local considerations, at a tremendous cost of time and financial expense. The states are also at substantial risk of suffering significant job losses. In fact, this rule threatens as many as 270,000 jobs across 22 states. Even OSM's own preliminary analysis of its preferred alternative regulation shows the loss of thousands of coal mining jobs.

With OSM's preferred 1983 regulations now in place, the expenditure of millions in taxpayer dollars to develop another rule is both unnecessary and counterproductive. There is simply no need to do away with this existing framework in exchange for a rule that your Department has not properly analyzed.

In the Appropriations hearing, you indicated a "jobs impact" analysis had been conducted by region and your willingness to provide its findings to the Committee prior to publication of the draft environmental impact statement and proposed rule in the Federal Register. We ask you to please provide all documentation relating to this analysis, as well as the estimated cost incurred to date to prepare the analysis, particularly the cost of completing the new economic assessment, and any other materials examining the new rule to the House Appropriations Committee by March 31, 2015.

Thank you for your attention to this matter.

Sincerely,



Chairman Hal Rogers



Representative Evan Jenkins