

Congressman Hal Rogers  
OSMRE Stream Protection Rule Hearing – Comments  
Lexington, KY

September 3, 2015

I regret that I cannot be there in person today to speak in opposition to the so-called Stream Protection Rule proposed by the Office of Surface Mining Reclamation and Enforcement (OSMRE) earlier this summer. This proposed rule will have serious implications for my District, in the far eastern reaches of the state.

For years now, the Obama Administration has been determined to unilaterally discard and rewrite the 2008 Stream Buffer Zone rule. The 2008 rule was carefully crafted and studied over a period of 5 years before its implementation, and this Administration has invested millions of dollars in dismantling it in order to further a radical, anti-coal agenda. It has been a complete boondoggle since Day 1.

Now that the agency is unveiled its proposal, it is clear that its purpose is less about protecting streams than it is to put hardworking people in Appalachia out of work. Department of Interior officials have stated that this rule would save only about 15 miles of stream once it's all said and done. In reality, this rule will simply push the coal industry out of Appalachia, where surface mining employs thousands of my constituents – and where, historically, the industry has supported many more.

The requirements set forth by this rule would cause employers to shoulder tremendous compliance costs and could threaten an estimated 80,000 jobs across 22 states. In Kentucky, these are good paying jobs in a region that is already struggling with high unemployment rates. It is important for agency officials to take heed that this rule as proposed would risk these jobs for what most would agree are minute environmental gains.

It is my understanding that OSMRE has been developing this rule in coordination with several states, including my home state of Kentucky. As you know, the Surface Mining Control and Reclamation Act, or SMCRA, requires that the States possess the lead authority in regulating mining operations. OSMRE merely has oversight capacity of the regulatory process - meaning that this agency is legally bound to work with the impacted states in order for this rule to be viable.

It has further come to my attention that OSMRE has been stubbornly reticent to work with the 20 states that originally collaborated in the development of this rule. I am also aware that OSMRE has received letters from several of the cooperating state agencies expressing strong concerns that their input has not been adequately solicited or incorporated throughout this process.

As the rule is expected to eliminate a considerable number of jobs in my District, I am particularly alarmed to hear that the States' input has been disregarded, despite their fervent attempts to play a strong role in the rule's development and their successful experience in managing environmental components of the Clean Water Act for decades. Even when OSMRE

has asked for comments from the States, the timelines given for response have been arguably unrealistic. In fact, it is unclear to me whether OSMRE ever saw the States as partners in this process, even while the law, as enacted by Congress, mandates that they should play a sizeable role.

Beyond the States' rightful concern, there has been an outpouring of opposition to this wrongheaded rule from interested parties around the country, so much so that I, along with several of my colleagues, felt it necessary to request an extension of the comment period. The agency is offering interested parties only 60 days to take full stock of the proposal and submit their concerns for the record. Given the magnitude of the rule and its potential to threaten thousands of jobs, we felt that this was woefully inadequate. However, the agency has yet to respond to our request and has forged ahead with a rule that lacks consensus or any meaningful support.

I am also dismayed by this agency's decision to host these hearings far away from the coal fields, where those who will be most affected by this rule reside. These are the people whose jobs and communities are threatened, and yet you chose to make it as difficult as possible for them to have their voices be heard. This certainly calls into question whether OSMRE is truly serious about hearing from all stakeholders.

Nevertheless, they have made the trip here today because they know that this agency needs to hear what they have to say. It is time for this Administration to change its dismissive attitude toward coal miners, their families and the mining culture that has been rooted for centuries in the hills of Appalachia. I encourage you to carefully consider their comments and understand that this rule will have a very real impact on their communities. Thank you for your consideration and I yield back.