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113TH CONGRESS
1ST SESSION

H. R. 526

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

FEBRUARY 6, 2013

Mr. YARMUTH (for himself, Ms. SLAUGHTER, Mr. CONYERS, Mr. HOLT, Mr. GRIJALVA, Mr. SARBANES, Mr. MORAN, Ms. EDWARDS, Ms. CHU, Mr. BLUMENAUER, Mr. ELLISON, Mr. RANGEL, Mr. HUFFMAN, Ms. LEE of California, Mr. HONDA, Ms. SCHAKOWSKY, Mr. DEFAZIO, Mr. CARTWRIGHT, Ms. DELAURO, Ms. ROYBAL-ALLARD, Ms. PINGREE of Maine, Mr. MCDERMOTT, Ms. NORTON, and Mr. POLIS) 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

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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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Appalachian Communities Health Emergency Act'' or the ''ACHE Act''.

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) Peer-reviewed scientific research and reports have raised serious concerns about mountaintop removal mining with respect to elevated risks in categories of birth defects studied: circulatory/respiratory, central nervous system, musculoskeletal, and gastrointestinal.

(3) Mountaintop removal coal mining has also been associated with elevated levels of adult hospitalizations for chronic pulmonary disorders and hypertension that are elevated as a function of county-level coal production, as are rates of mortality; lung cancer; and chronic heart, lung, and kidney disease. These health problems strike both women and men

in mountaintop removal coal mining communities. These elevated levels of disease, defects, and mortality persist even after controlling for other variables.

(4) Initial scientific evidence, and the level of public concern, warrant immediate action to stop new mountaintop removal coal mining permits and increase environmental and human health monitoring at existing mountaintop removal coal mining projects while the reported links between health effects and mountaintop removal coal mining are investigated by Federal health agencies.

(5) The National Institute of Environmental Health Sciences is uniquely qualified to manage a working group of Federal health agencies with expertise that is relevant to study of the reported links.

SEC. 3. HEALTH STUDIES.

(a) STUDIES.—The Director of the National Institute of Environmental Health Sciences, in consultation with the Administrator of the Environmental Protection Agency and the heads of such other Federal departments and agencies as the Director deems appropriate, shall—

(1) conduct or support comprehensive studies on the health impacts, if any, of mountaintop re-

moval coal mining on individuals in the surrounding communities; and

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

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

SEC. 4. MOUNTAINTOP REMOVAL COAL MINING PERMIT MORATORIUM.

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

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

(2) the Administrator of the Environmental Protection Agency, or a State, under section 402 of

the Federal Water Pollution Control Act (33 U.S.C. 1342); or

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

SEC. 5. MOUNTAINTOP REMOVAL COAL MINING CONTINUOUS HEALTH AND ENVIRONMENTAL MONITORING.

(a) REQUIREMENT.—Until the Secretary of Health and Human Services publishes a determination under section 3(b)—

(1) any person conducting a mountaintop removal coal mining project shall—

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

(i) characterizing any pollution emitted from the project; and

(ii) identifying ways in which members of affected communities might be exposed to these emissions; and

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

(2) the Secretary shall make such results available to the public through the World Wide Web in a searchable database format not later than 7 days after the date on which the Secretary receives such results.

(b) ENFORCEMENT.—If a person conducting a mountaintop removal coal mining project fails to conduct monitoring and submit results in connection with such project as required by subsection (a), a permit or other authorization may not be issued for the mountaintop removal coal mining project, or for an expansion of such project, by—

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

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

(3) the Secretary of the Interior, acting through the Office of Surface Mining Reclamation and Enforcement, or a State, under the Surface Mining

Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

SEC. 6. FEE TO PAY FOR HEALTH STUDIES AND MONITORING.

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

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

SEC. 7. DEFINITIONS.

In this Act:

(1) MOUNTAINTOP REMOVAL COAL MINING.—The term ''mountaintop removal coal mining'' means surface coal mining that uses blasting with explosives in the steep slope regions of Kentucky, Tennessee, West Virginia, and Virginia.

(2) STEEP SLOPE.—The term ''steep slope'' has the meaning that term has under section 515(d)(4) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(d)(4)).

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