

CRA the SPR

STREAM PROTECTION RULE

The Obama Administration could not restrain itself from throwing another job-crushing regulatory punch at America's coal miners on its way out the door. Just days before Christmas, the Department of the Interior (DOI) published its extreme stream rule—a midnight regulation that has little to do with streams and everything to do about empowering the federal government at the expense of States and coal miners' jobs.



A swift and decisive response from Congress to the Office of Surface Mining and Reclamation Enforcement's final Stream Protection Rule (SPR) is required and well-deserved: passing a joint disapproval resolution under the Congressional Review Act.

DOI's extreme stream rule carries all the hallmarks of past Obama administration policies where the costs are real but the benefits are not.

- **Real World vs. Rulemaking.** Early in the rulemaking process a DOI official was quoted as saying: *"It's not the real world. This is rulemaking."* Not once during the seven years in developing the rule did DOI bother to visit mines and assess the impact of the rule on operating mines. Instead, it defaulted to "computer models" and not surprisingly concluded the rule will create as many jobs as it destroys. Of course, *this is not the real world.*
- **No Discernable Environmental Benefits.** Indeed, this is not about reality. The DOI's own reports show virtually all coal mines have no off-site impacts. The reports year-over-year show that coal mines are being operated safely and the lands restored successfully. Why then issue a rule that rewrites over 400 regulations? Because the Obama administration feels unconstrained by the real world and real consequences.
- **Disregards State Authority and Expertise.** The States which regulate 97% of the coal mines in the U.S. were shut-out of the process. They were told essentially by DOI to "sit-down and shut-up—do it our way or get out of our way."
- **Defies Congressional Intent and Oversight.** DOI defied Congress repeatedly over the past seven years. The rule represents a direct assault on the State primacy framework Congress embedded in the Surface Mining Control and Reclamation Act (SMCRA). Moreover, DOI refused to turn over many documents it requested repeatedly in the course of numerous congressional hearings. Finally, DOI refused to reengage the States in the rulemaking process as mandated under the Consolidated Appropriations Act of 2016.
- **Harms U.S. Jobs.** A real-world analysis performed at 36 operating mines in every coal producing region of the country concluded the rule threatens the jobs of at least **one-third** of the coal mining workforce.
- **Blocks Access to Important American Resources.** Under the rule, one half or more of total U.S. coal reserves could be off limits to mining—a result at direct odds with SMCRA, which finds that the regulatory policies should encourage surface and underground mining. A coal company in North Dakota recently estimated that the rule will prevent it from mining half the coal at just one of its mines and prevent it from restoring the land to conditions suitable for farming. That is the real world—one foreign to DOI.

Decisive congressional action under the CRA is required to restore reality, send a message of common sense and protect high-wage jobs.