

Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

September 9, 2015

To: Natural Resources Committee Members

From: Majority Committee Staff, Sub. on Energy and Minerals x5-9297

Hearing: Full Committee Markup of H.R. 1644 (Mooney), the “*Supporting Transparent Regulatory and Environmental Actions in Mining Act*” (STREAM Act)

Summary of the Bill

On Thursday, March 26, 2015, Congressmen Alex Mooney (WV-02), Bill Johnson (OH-06), and Doug Lamborn (CO-05) introduced H.R. 1644, the “*Supporting Transparent Regulatory and Environmental Actions in Mining Act*” (STREAM Act). This legislation increases scientific transparency for rulemakings affecting mining, directs a transparent third party to evaluate the existing stream buffer zone rule, and reduces duplicative regulation. The bill was referred to the House Committee on Natural Resources (“Committee”) and assigned to the Subcommittee on Energy and Mineral Resources.

Cosponsors (17):

Rep. Doug Lamborn (CO-5), Rep. Bill Johnson (OH-6), Rep. Andy Barr (KY-6), Rep. Paul Gosar (AZ-4), Rep. Evan Jenkins (WV-3), Rep. David McKinley (WV-1), Rep. Kevin Cramer (ND-At Large), Rep. Cynthia Lummis (WY-At Large), Rep. Don Young (AK-At Large), Rep. Paul Cook (CA-8), Rep. Luke Messer (IN-6), Rep. Harold Rogers (KY-5), Rep. Ryan Zinke (MT-At Large), Rep. Tom McClintock (CA-4), Rep. Glenn Thompson (PA-5), Rep. Bruce Westerman (AR-4), Rep. Dan Newhouse (WA-4).

Background

Over the past two Congresses, the Committee has legislatively addressed the Office of Surface Mining Reclamation and Enforcement’s (“OSM”) ongoing rulemaking process to rewrite rules governing the interaction between mining and streams. Both prior legislative attempts passed the House in bipartisan fashion.¹

The STREAM Act differs from the prior legislative attempts in two ways: first, whereas prior legislation sought to prevent OSM from promulgating new rules dealing with stream buffer zones, this legislation seeks to increase transparency in OSM’s rulemaking process by requiring the publication of scientific products, as well as the underlying raw data, relied upon by OSM, while ensuring that any such rewrite is both needed and justifiable; second, rather than limit OSM’s regulatory authority, this legislation seeks to clarify OSM’s jurisdictional and statutory

¹ See H.R.2824, 113th Cong. (2014); H.R. 3409, 112th Cong. (2011).

authority as intended under the Surface Mining Control and Reclamation Act of 1977 (“SMCRA”).

A legislative hearing on the STREAM Act was held by the Subcommittee on Energy and Minerals on May 14, 2015. In general, witnesses spoke in favor of the STREAM Act, highlighting the need for transparency in OSM’s regulatory actions, and explaining how the STREAM Act would permit for public input and scrutiny of the science used by OSM.

One of the majority’s witnesses, Dr. Lusk, a recipient of past OSM grants, spoke in support of the bill and stipulated that scientific disclosure would neither burden nor hinder his work for OSM. However, Dr. Lusk cautioned that the legislation, as written at the time of the hearing, could potentially lead to the disclosure of both confidential business interests, and personally identifiable information. Similarly, the minority’s witness Dr. Hendryx was concerned about the potential for the publication of personal health details.

To address concerns raised at the hearing, Rep. Mooney will introduce an Amendment in the Nature of a Substitute that will both prohibit disclosure of confidential and personal information, while further defining the specific requirements of the STREAM Act.

Regulatory Need for Act

Under the authority granted by SMCRA, OSM promulgated the “Stream Buffer Zones and Fish, Wildlife, and Related Environmental Values” rule in 1983.² The 1983 rule remained unchanged until December 12, 2008, when OSM published its final rule on “Excess Spoil, Coal Mine Waste, and Buffers for Perennial and Intermittent Streams” commonly referred to as the ‘Stream Buffer Zone Rule’ in the Federal Register. The publication came after a five-year deliberative process that included extensive scientific research, environmental analyses, public comment, and a concurrence from the Environmental Protection Agency³ and was to go into effect on January 12, 2009.⁴

However, before the new regulation could go into effect, the National Parks Conservation Association (“NPCA”) and Coal River Mountain Watch filed suit against the Department and OSM for failing to consult with the U.S. Fish and Wildlife Service (FWS) pursuant to the Endangered Species Act.⁵ To resolve the litigation, OSM reached a settlement with the

² See Stream Buffer Zones and Fish, Wildlife, and Related Environmental Values, 48 Fed. Reg. 30312 (June 30, 1983) (codified at 30 C.F.R. pt. 816 and 817).

³ December 2, 2008 letter from Stephen Johnson, U.S. Environmental Protection Agency, to Dirk Kempthorne, Secretary, U.S. Department of the Interior, *available at*

http://s3.amazonaws.com/propublica/assets/docs/johnson_kempthorne_letter_081204.pdf.

⁴ Excess Spoil, Coal Mine Waste, and Buffers for Perennial and Intermittent Streams, 73 Fed. Reg. 75814 (codified at 30 C.F.R. § 817.57 (2014))

<http://www.gpo.gov/fdsys/pkg/FR-2008-12-12/html/E8-29150.htm>.

⁵ Referenced lawsuits were filed in December 2008 and January 2009, effectively stopping the implementation of the Stream Buffer Zone Rule. Coal River Mountain Watch, et. al v. Salazar No. 08-2212 (D.D.C) filed; National Parks Conservations Ass’n v. Salazar No 09-115 (D.D.C)

environmental groups, and agreed to an expedited rulemaking process with a deadline of February 28, 2011.

A month before the deadline, on January 26, 2011, portions of the environmental impact statement being prepared for the new “Stream Protection Rule” were leaked to the public. The Associated Press reported that OSM’s preferred “Stream Protection Rule” could cost at least 7,000 jobs and reduce coal production in 22 states.⁶ Through oversight conducted by the Committee, it was revealed that the expedited time frame, coupled with an inexperienced contractor and gross mismanagement of the rulemaking process, led to major issues with the rulemaking.⁷ The leak, as well as the congressional investigation, led OSM to restart the rulemaking process with new contractors, thereby missing the settlement-imposed deadline.

After OSM missed the initial and subsequent negotiated deadlines for completion of the rule, the environmental groups reinitiated their lawsuit, which led to the court’s invalidation of the 2008 Rule. Pursuant to that ruling, the Department of the Interior reinstated the 1983 Rule.⁸

On July 27, 2015, after a six year process, and at a cost to the taxpayers of roughly \$10 million, OSM published a draft Stream Protection rule and a draft environmental impact study.⁹ Despite these documents’ respective lengths of 1,238 and 1,267 pages OSM has opted for just a 60 day public input period. This comment period is scheduled to close September 25, 2015. Thirty-seven of the forty comments received to date call for an extension of the comment period.¹⁰ On July 29, 2015 46 Members of Congress sent a letter to OSM to extend the comment period.¹¹ The proposed Stream Protection Rule amends or modifies 475 existing rules within SMCRA.

Throughout the entire process of rewriting the rule, OSM, under the leadership of Director Pizarchik, has repeatedly premised the rulemaking on the availability of new science and technological advances.¹² However, such “new science” is frequently unavailable to the public, and therefore unlikely to ever be scrutinized by industry or state stakeholders.

⁶ *New rules would cut thousands of coal jobs*, W. Va. Gazette, January 26, 2011, available at <http://www.wvgazette.com/News/MiningtheMountains/201101280708>.

⁷ For more background information into the congressional investigation see: MAJORITY STAFF OF H. COMM. ON NATURAL RESOURCES, 112TH CONG., PRESIDENT OBAMA’S COVERT AND UNORTHODOX EFFORTS TO IMPOSE NEW REGULATION ON COAL MINING AND DESTROY AMERICAN JOBS.

⁸ See *Nat’l Parks Conservation Assoc. v. Jewell*, 2014 U.S. Dist. LEXIS 152383, *35 (D.D.C. 2014).

⁹ Stream Protection Rule publication in the Federal Register <https://www.federalregister.gov/articles/2015/07/27/2015-17308/stream-protection-rule>

¹⁰ Electronic Comments Submissions on the proposed rule through the *Federal eRulemaking Portal*: <http://www.regulations.gov/#!docketBrowser:rpp=25;po=0;dct=PS;D=OSM-2010-0018;refD=OSM-2010-0018-0001>

¹¹ 46 Members Criticize Obama Admin. for Sidelining States on Stream Rule, Request 120 Day Public Comment Extension http://naturalresources.house.gov/uploadedfiles/150729_-_osm_spr_final.pdf

¹² See e.g., *Supporting Transparent Regulatory and Environmental Actions in Mining Act: Legislative Hearing on H.R. 1644 Before the Subcommittee on Energy and Mineral Resources of the H. Comm. on Natural Resources*, 114th Cong. (2015) (statement for the record of the Office of Surface Mining Reclamation and Enforcement).

This legislation ensures the publication of all scientific products used by OSM, thereby providing stakeholders the opportunity to comment on the validity of such products. Furthermore, it seeks to restate the original intent of OSM’s jurisdiction as envisioned by SMCRA, and requires OSM, in cooperation with the Interstate Mining Compact Commission, to conduct a comprehensive study through the National Academy of Sciences on the regulatory effectiveness of the 1983 regulation.

Section by Section

Section 1: Short Title

This Act may be cited as the “Supporting Transparent Regulatory and Environmental Actions in Mining Act” or the “STREAM Act.”

Section 2: Publication of Scientific Products

This section ensures transparency in the rulemaking process by requiring OSM to make available online its “scientific products” that are relied upon in its regulatory actions. In the past, OSM has utilized internal studies that are not made public to justify regulatory actions. To address this issue, the Act would require OSM to publish all scientific products it relies on in regulatory actions – including the scientific productions used to produce environmental impact statements or environmental assessments (collectively “environmental analyses”), and economic assessments; and, for federally-funded scientific products, the STREAM Act requires OSM to also publish raw data.

Should OSM fail to make available such scientific products, the comment period or effective date of the regulatory action relying upon those products shall be extended by one day for each day such product is withheld. If a scientific product is withheld for longer than six months, then the Secretary must withdraw the regulatory action.

Section 3: Study of the SBZ Rule

Section 3 of the STREAM Act requires the Secretary of the Interior, in consultation with the Interstate Mining Compact Commission, to enter into an agreement with the National Academy of Sciences to conduct a study on the regulatory effectiveness of the 1983 Rule. While the study is ongoing, the Secretary is prohibited from issuing any regulations addressing stream buffer zones or stream protection, including the recently proposed rule. Once the study has been published, the Secretary is required to take into consideration any findings or recommendations made by the study should the Secretary seek to continue work on a Stream Protection rule.

Section 4: Compliance with Other Federal Laws

The final section of HR 1644 seeks to inhibit OSM's regulatory overreach by curtailing regulatory actions that are beyond OSM's explicit jurisdictional authority as defined by SMCRA. For instance, a concern related to the ongoing rewrite is that OSM has sought to interpret and enforce the Clean Water Act outside its authority by establishing a new set of water quality monitoring and evaluation standards and procedures. The final section of the STREAM Act would prevent such actions, thereby ensuring future regulatory actions would be confined to express statutory authority.

Amendments

Rep. Mooney is expected to introduce an Amendment in the Nature of a Substitute. The amendment will provide clarity to the STREAM Act and address several of the concerns iterated at the May 14 legislative hearing.

First, the amendment modifies Section 2 by providing definitions for "publicly available," "environmental analysis," "scientific product," and "raw data." These definitions clarify what OSM must publish, and explicitly prevent OSM from disclosing raw data that is protected by copyright, that contains personally identifiable information, trade secrets, or business-sensitive information, and that would be prohibited from disclosure under the Health Insurance Portability and Accountability Act of 1996. Furthermore, it expands the scope of the original proposal beyond rulemakings to also include policies and guidance issued by OSM. Additionally, the amendment removes from Section 2 the requirement that OSM publish background information for the authors of scientific products.

Second, the amendment removes the requirement in Section 3 that a "Report" be conducted and provided to the Committee. Rather, it authorizes OSM, in cooperation with the Interstate Mining Compact Commission and its corresponding state members, to enter into an agreement with the National Academies of Sciences to conduct a study on the regulatory effectiveness of the 1983 Stream Buffer Zone rule, and thereby determine whether the 1983 rule is in need of a regulatory update.

Finally, the amendment expands Section 4 by ensuring OSM's policies and guidance, in addition to rules, regulations, notices, and orders, are within OSM's jurisdictional bounds as envisioned by SMCRA, and further clarifies that OSM is not entitled to "implement" or "interpret" any act outside of its jurisdictional scope.

Effect on Current Law

Showing Current Law of H.R. 1644 were enacted

Surface Mining Control and Reclamation Act of 1977

[new text in yellow; text deleted in brackets]

CHAPTER 25-SURFACE MINING CONTROL AND RECLAMATION

SUBCHAPTER I-STATEMENT OF FINDINGS AND POLICY

Sec. 1201. Congressional findings.

Sec. 1202. Statement of purpose.

SUBCHAPTER II-OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Sec. 1211. Office of Surface Mining Reclamation and Enforcement.

SUBCHAPTER III-STATE MINING AND MINERAL RESOURCES RESEARCH INSTITUTES

Sec. 1221. Authorization of State allotments to institutes.

Sec. 1222. Research funds to institutes.

Sec. 1223. Funding criteria.

Sec. 1224. Duties of Secretary.

Sec. 1225. Effect on colleges and universities.

Sec. 1226. Research.

Sec. 1227. Center for cataloging.

Sec. 1228. Interagency cooperation.

Sec. 1229. Committee on Mining and Mineral Resources Research.

Sec. 1230. Eligibility criteria.

Sec. 1230a. Strategic Resources Generic Mineral Technology Center.

SUBCHAPTER IV-ABANDONED MINE RECLAMATIONS

Sec. 1231. Abandoned Mine Reclamation Fund.

Sec. 1232. Reclamation fee.

Sec. 1233. Objectives of fund.

Sec. 1234. Eligible lands and water.

Sec. 1235. State reclamation program.

Sec. 1236. Reclamation of rural lands.

Sec. 1237. Acquisition and reclamation of land adversely affected by past coal mining practices.

Sec. 1238. Liens.

Sec. 1239. Filling voids and sealing tunnels.

- Sec. 1240. Emergency powers.
- Sec. 1240a. Certification.
- Sec. 1241. Omitted.
- Sec. 1242. Powers of Secretary or State.
- Sec. 1243. Interagency cooperation.
- Sec. 1244. Remining incentives.

SUBCHAPTER V-CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

- Sec. 1251. Environmental protection standards.
- Sec. 1251a. Abandoned coal refuse sites.
- Sec. 1252. Initial regulatory procedures.
- Sec. 1253. State programs.
- Sec. 1254. Federal programs.
- Sec. 1255. State laws.
- Sec. 1256. Permits.
- Sec. 1257. Application requirements.
- Sec. 1258. Reclamation plan requirements.
- Sec. 1259. Performance bonds.
- Sec. 1260. Permit approval or denial.
- Sec. 1261. Revision of permits.
- Sec. 1262. Coal exploration permits.
- Sec. 1263. Public notice and public hearings.
- Sec. 1264. Decisions of regulatory authority and appeals.
- Sec. 1265. Environmental protection performance standards.
- Sec. 1266. Surface effects of underground coal mining operations.
- Sec. 1267. Inspections and monitoring.
- Sec. 1268. Penalties.
- Sec. 1269. Release of performance bonds or deposits.
- Sec. 1270. Citizens suits.
- Sec. 1271. Enforcement.
- Sec. 1272. Designating areas unsuitable for surface coal mining.
- Sec. 1273. Federal lands.
- Sec. 1274. Public agencies, public utilities, and public corporations.
- Sec. 1275. Review by Secretary.
- Sec. 1276. Judicial review.
- Sec. 1277. Special bituminous coal mines.
- Sec. 1278. Surface mining operations not subject to this chapter.
- Sec. 1279. Anthracite coal mines.
- Sec. 1279a. Publication of Scientific Products for Proposed Rules and Related Environmental Impacts Statements, Environmental Assessments, and Economic Assessments.

SUBCHAPTER VI-DESIGNATION OF LANDS UNSUITABLE FOR NONCOAL MINING

Sec. 1281. Designation procedures.

SUBCHAPTER VII-ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 1291. Definitions.

Sec. 1292. Other Federal laws.

Sec. 1293. Employee protection.

Sec. 1294. Penalty.

Sec. 1295. Grants to States.

Sec. 1296. Annual report to President and Congress.

Sec. 1297. Separability.

Sec. 1298. Alaskan surface coal mine study.

Sec. 1299. Study of reclamation standards for surface mining of other minerals.

Sec. 1300. Indian lands.

Sec. 1301. Environmental practices.

Sec. 1302. Authorization of appropriations.

Sec. 1303. Coordination of regulatory and inspection activities.

Sec. 1304. Surface owner protection.

Sec. 1305. Federal lessee protection.

Sec. 1306. Effect on rights of owner of coal in Alaska to conduct surface mining operations.

Sec. 1307. Water rights and replacement.

Sec. 1308. Advance appropriations.

Sec. 1308a. Use of civil penalty funds to reclaim lands.

Sec. 1308b. Transfer of computer hardware, software and other technical equipment.

Sec. 1309. Certification and training of blasters.

Sec. 1309a. Subsidence.

Sec. 1309b. Research.

Sec. 1309c. Study of the “Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Stream Buffer Zones and Fish, Wildlife, and Related Environmental Values” final rule published June 30, 1983 (48 Fed. Reg. 30312 et seq.), and amended September 30, 1983 (48 Fed. Reg. 44777 et seq.).

SUBCHAPTER VIII-UNIVERSITY COAL RESEARCH LABORATORIES

Sec. 1311. Establishment of university coal research laboratories.

Sec. 1312. Financial assistance.

Sec. 1313. Limitation on payments.

Sec. 1314. Payments; Federal share of operating expenses.

Sec. 1315. Advisory Council on Coal Research.

Sec. 1316. Authorization of appropriations.

SUBCHAPTER IX-ENERGY RESOURCE GRADUATE FELLOWSHIPS

- Sec. 1321. Fellowship awards.
- Sec. 1322. Fellowship recipients.
- Sec. 1323. Distribution of fellowships.
- Sec. 1324. Stipends and allowances.
- Sec. 1325. Limitation on fellowships.
- Sec. 1326. Fellowship conditions.
- Sec. 1327. Authorization of appropriations.
- Sec. 1328. Research, development projects, etc., relating to alternative coal mining technologies.

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TITLE V –CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL MINING

SEC. 530. PUBLICATION OF SCIENTIFIC PRODUCTS FOR PROPOSED RULES AND RELATED ENVIRONMENTAL IMPACT STATEMENTS, ENVIRONMENTAL ASSESSMENTS, AND ECONOMIC ASSESSMENTS.

(a) Requirement-

(1) IN GENERAL- The Secretary shall make publicly available, by online publication and in the Federal Register, 90 days before the publication of any draft, supplemental, final, or emergency rule under this Act, or any related environmental analysis or economic assessment, each scientific product the Secretary relied on in developing the rule, environmental analysis, or economic assessment.

(2) FEDERALLY FUNDED SCIENTIFIC PRODUCTS- For those scientific products receiving Federal funds in part, or in full, the Secretary shall also make publicly available--

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

(B) background information of the authors of the scientific study.

(b) Compliance-

(1) IN GENERAL- Failure to make publicly available any scientific product 90 days prior to the publication of--

(A) any draft, or supplemental rule, environmental analysis, or economic assessment shall extend by one day the notice and comment period for each day such scientific study is not made available; or

(B) any final or emergency rule shall delay the effective date of the final rule by 60 days plus each day the scientific product is withheld.

(2) DELAY LONGER THAN 6 MONTHS- If the Secretary withholds any scientific product for longer than 6 months, the Secretary shall withdraw the rule, environmental analysis, or economic assessment.

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TITLE VII – ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 722. STUDY OF THE `SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM; STREAM BUFFER ZONES AND FISH, WILDLIFE, AND RELATED ENVIRONMENTAL VALUES' FINAL RULE PUBLISHED JUNE 30, 1983 (48 FED. REG. 30312 ET SEQ.), AND AMENDED SEPTEMBER 30, 1983 (48 FED. REG. 44777 ET SEQ.).

(a) Study- No later than 90 days after the date of the enactment of the STREAM Act, the Secretary of the Interior, in consultation with the Interstate Mining Compact Commission, shall contract with the National Academy of Sciences, for execution by the Board on Earth Sciences and Resources, to conduct a detailed, comprehensive study of the effectiveness of the `Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Stream Buffer Zones and Fish, Wildlife, and Related Environmental Values' Final Rule published June 30, 1983 (48 Fed. Reg. 30312 et seq.), and amended September 30, 1983 (48 Fed. Reg. 44777 et seq.), in protecting perennial and intermittent streams through the use of stream buffer zones.

(b) Report- Not later than 2 years after execution of the contract under subsection (a), the Board on Earth Sciences and Resources shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, appropriate Federal agencies, and the Governor of each of the States represented on the Interstate Mining Compact Commission a report containing--

- (1) the findings of the study conducted under subsection (a); and
- (2) recommendations, if any, regarding changes that would improve the effectiveness of the permitted activities as covered by the rule described in subsection (a).

(c) Funding- There is authorized to be appropriated to the Secretary of the Interior \$1,000,000 for fiscal year 2016 and \$1,000,000 for fiscal year 2017 for the purposes of this section.

(d) Prohibition on New Regulations- The Secretary may not issue any proposed or final regulations under this Act relating to stream buffer zones or stream protection until one year after the publication of the report described in subsection (b). If the Secretary proposes any such regulations after the date of publication of the report, the Secretary shall take into consideration the findings and recommendations of the report.

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§1292. Other Federal laws

(a) Construction of chapter as superseding, amending, modifying, or repealing certain laws

Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47), or any of the following Acts or with any rule or regulation promulgated thereunder, including, but not limited to-

(1) The Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740).

(2) The Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742) [30 U.S.C. 801 et seq.].

(3) The Federal Water Pollution Control Act (79 Stat. 903), as amended [33 U.S.C. 1251 et seq.], the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality.

(4) The Clean Air Act, as amended [42 U.S.C. 7401 et seq.].

(5) The Solid Waste Disposal Act [42 U.S.C. 6901 et seq.].

(6) The Refuse Act of 1899 (33 U.S.C. 407).

(7) The Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661–666c).

(8) The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

(b) Effect on authority of Secretary or heads of other Federal agencies

Nothing in this chapter shall affect in any way the authority of the Secretary or the heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations on land under their jurisdiction.

(c) Compliance with other federal laws.

Nothing in this Act authorizes the Secretary to take any action by rule, regulation, notice, or order that duplicates, enforces, or determines compliance with any of the Acts listed in subsection (1) or any regulation or rule promulgated thereunder.

[(c)](d) Cooperation

To the greatest extent practicable each Federal agency shall cooperate with the Secretary and the States in carrying out the provisions of this chapter.

[(d)](e) Major Federal action

Approval of the State programs, pursuant to [section 1253\(b\) of this title](#), promulgation of Federal programs, pursuant to [section 1254 of this title](#), and implementation of the Federal lands programs, pursuant to [section 1273 of this title](#), shall not constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Adoption of regulations under [section 1251\(b\) of this title](#) shall constitute a major action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(Pub. L. 95–87, title VII, §702, Aug. 3, 1977, 91 Stat. 519 .)

Cost

There is no estimate for the cost of the legislation available at this time.

Administration Position

The Administration opposes the legislation.