

117TH CONGRESS  
1ST SESSION

# H. R. 2073

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2021

Mr. YARMUTH introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on 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,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Appalachian Commu-  
5 nities Health Emergency Act” or the “ACHE Act”.

### 6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

9           (2) Peer-reviewed scientific research and re-  
10          ports have raised serious concerns about mountain-  
11          top removal mining with respect to elevated risks in  
12          categories of birth defects studied: circulatory, res-  
13          piratory, central nervous system, musculoskeletal,  
14          and gastrointestinal.

15          (3) Mountaintop removal coal mining has also  
16          been associated with elevated levels of adult hos-  
17          pitalizations for chronic pulmonary disorders and hy-  
18          pertension that are elevated as a function of county-  
19          level coal production, as are rates of mortality; lung  
20          cancer; and chronic heart, lung, and kidney disease.  
21          These health problems strike both women and men  
22          in mountaintop removal coal mining communities.  
23          These elevated levels of disease, defects, and mor-  
24          tality persist even after controlling for other vari-  
25          ables.

1           (4) Initial scientific evidence, and the level of  
2           public concern, warrant immediate action to stop  
3           new mountaintop removal coal mining permits and  
4           increase environmental and human health moni-  
5           toring at existing mountaintop removal coal mining  
6           projects while the reported links between health ef-  
7           fects and mountaintop removal coal mining are in-  
8           vestigated by Federal health agencies.

9           (5) The National Institute of Environmental  
10          Health Sciences is uniquely qualified to manage a  
11          working group of Federal health agencies with ex-  
12          pertise that is relevant to study of the reported  
13          links.

14   **SEC. 3. HEALTH STUDIES.**

15          (a) STUDIES.—The Director of the National Institute  
16          of Environmental Health Sciences, in consultation with  
17          the Administrator of the Environmental Protection Agen-  
18          cy and the heads of such other Federal departments and  
19          agencies as the Director deems appropriate, shall—

20                (1) conduct or support comprehensive studies  
21                on the health impacts, if any, of mountaintop re-  
22                moval coal mining on individuals in the surrounding  
23                communities; and

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

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

6 **SEC. 4. MOUNTAINTOP REMOVAL COAL MINING PERMIT**  
7 **MORATORIUM.**

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

15 (1) the Secretary of the Army, acting through  
16 the Chief of Engineers, or a State, under section  
17 404 of the Federal Water Pollution Control Act (33  
18 U.S.C. 1344);

19 (2) the Administrator of the Environmental  
20 Protection Agency, or a State, under section 402 of  
21 the Federal Water Pollution Control Act (33 U.S.C.  
22 1342); or

23 (3) the Secretary of the Interior, acting through  
24 the Office of Surface Mining Reclamation and En-  
25 forcement, or a State, under the Surface Mining

1 Control and Reclamation Act of 1977 (30 U.S.C.  
2 1201 et seq.).

3 **SEC. 5. MOUNTAINTOP REMOVAL COAL MINING CONTIN-**  
4 **UOUS HEALTH AND ENVIRONMENTAL MONI-**  
5 **TORING.**

6 (a) REQUIREMENT.—Until the Secretary of Health  
7 and Human Services publishes a determination under sec-  
8 tion 3(b)—

9 (1) any person conducting a mountaintop re-  
10 moval coal mining project shall—

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

15 (i) characterizing any pollution emit-  
16 ted from the project; and

17 (ii) identifying ways in which mem-  
18 bers of affected communities might be ex-  
19 posed to these emissions; and

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

22 (2) the Secretary shall make such results avail-  
23 able to the public through the World Wide Web in  
24 a searchable database format not later than 7 days

1 after the date on which the Secretary receives such  
2 results.

3 (b) ENFORCEMENT.—If a person conducting a moun-  
4 taintop removal coal mining project fails to conduct moni-  
5 toring and submit results in connection with such project  
6 as required by subsection (a), a permit or other authoriza-  
7 tion may not be issued for the mountaintop removal coal  
8 mining project, or for an expansion of such project, by—

9 (1) the Secretary of the Army, acting through  
10 the Chief of Engineers, or a State, under section  
11 404 of the Federal Water Pollution Control Act (33  
12 U.S.C. 1344);

13 (2) the Administrator of the Environmental  
14 Protection Agency, or a State, under section 402 of  
15 the Federal Water Pollution Control Act (33 U.S.C.  
16 1342); or

17 (3) the Secretary of the Interior, acting through  
18 the Office of Surface Mining Reclamation and En-  
19 forcement, or a State, under the Surface Mining  
20 Control and Reclamation Act of 1977 (30 U.S.C.  
21 1201 et seq.).

22 **SEC. 6. FEE TO PAY FOR HEALTH STUDIES AND MONI-**  
23 **TORING.**

24 (a) COLLECTION AND ASSESSMENT.—The President,  
25 acting through the Office of Surface Mining Reclamation

1 and Enforcement of the Department of the Interior, shall  
2 assess and collect from each person that, as of the date  
3 of the enactment of this Act, is conducting a mountaintop  
4 removal coal mining project in the United States a one-  
5 time fee in an amount sufficient to recover the Federal  
6 cost of implementing sections 3 and 5.

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

12 **SEC. 7. DEFINITIONS.**

13 In this Act—

14 (1) the term “mountaintop removal coal min-  
15 ing” means surface coal mining that uses blasting  
16 with explosives in the steep slope regions of Ken-  
17 tucky, Tennessee, West Virginia, and Virginia; and

18 (2) the term “steep slope” has the meaning  
19 that term has under section 515(d)(4) of the Sur-  
20 face Mining Control and Reclamation Act of 1977  
21 (30 U.S.C. 1265(d)(4)).

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