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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Surface Mining Control and Reclamation Act of 1977 to establish additional considerations with regard to the adequacy of permit performance bonds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CARTWRIGHT introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to establish additional considerations with regard to the adequacy of permit performance bonds, 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 “Bond Improvement
5 and Reclamation Assurance Act”.

1 **SEC. 2. SURFACE MINING CONTROL AND RECLAMATION**
2 **ACT OF 1977 REFORM.**

3 (a) PERMIT PERFORMANCE BONDS.—Section 509 of
4 the Surface Mining Control and Reclamation Act of 1977
5 (30 U.S.C. 1259) is amended—

6 (1) in subsection (a), to read as follows:

7 “(a)(1) After a surface coal mining and reclamation
8 permit application has been approved but before such a
9 permit is issued, the applicant shall file with the regu-
10 latory authority, on a form prescribed and furnished by
11 the regulatory authority, a bond for performance payable,
12 as appropriate, to the United States or to the State, and
13 conditional upon faithful performance of all the require-
14 ments of this Act and the permit.

15 “(2) The bond shall cover that area of land within
16 the permit area upon which the operator will initiate and
17 conduct surface coal mining and reclamation operations
18 within the initial term of the permit.

19 “(3) As succeeding increments of surface coal mining
20 and reclamation operations are to be initiated and con-
21 ducted within the permit area, the permittee shall file with
22 the regulatory authority an additional bond to cover such
23 increments in accordance with this section.

24 “(4) The amount of the bond required for each bond-
25 ed area shall—

26 “(A) be determined by the regulatory authority;

1 “(B) depend upon the reclamation requirements
2 of the approved permit;

3 “(C) reflect the probable difficulty of reclama-
4 tion giving consideration to factors including topog-
5 raphy, geology of the site, hydrology, and revegeta-
6 tion potential;

7 “(D) be sufficient to ensure the completion of
8 the reclamation plan if the work had to be per-
9 formed by the regulatory authority in the event of
10 bond forfeiture; and

11 “(E) be set at a level consistent with the rebut-
12 table presumption that the mine will close 5 years
13 after the permit is issued.

14 “(5) In setting the amount of the bond under para-
15 graph (4), the regulatory authority shall consider—

16 “(A) the impact of a reasonably expected level
17 of inflation over the time period that the reclamation
18 is likely to occur;

19 “(B) the impact of an unplanned or early mine
20 closure on the cost of reclamation, including whether
21 there will be sufficient spoil available to reclaim the
22 mine; and

23 “(C) any additional costs likely to be incurred
24 as a result of the regulatory authority undertaking
25 reclamation operations upon bond forfeiture.

1 “(6) The amount of a bond for the entire area under
2 1 permit may not be less than \$52,593, annually adjusted
3 for inflation in accordance with the Consumer Price Index
4 for all Urban Consumers, as published by the Bureau of
5 Labor Statistics.”; and

6 (2) in subsection (e), to read as follows:

7 “(e) The amount of the bond or deposit required and
8 the terms of each acceptance of the bond of the applicant
9 shall be adjusted by the regulatory authority—

10 “(1) from time to time—

11 “(A) as affected land acreages are in-
12 creased or decreased; or

13 “(B) where the cost of future rec-
14 lamation changes due to changing cir-
15 cumstances, including—

16 “(i) long-term water pollution
17 discharge;

18 “(ii) coal market conditions;

19 “(iii) unanticipated mine clo-
20 sures; and

21 “(iv) changes in the reclamation
22 plan;

23 “(2) whenever a permit is renewed; and

24 “(3) whenever a permit is transferred to a
25 new operator.”.

1 (b) REVISION OF PERMITS.—Section 511 of the Sur-
2 face Mining Control and Reclamation Act of 1977 (30
3 U.S.C. 1261) is amended—

4 (1) by redesignating subsection (c) as sub-
5 section (d); and

6 (2) by inserting after subsection (b) the fol-
7 lowing:

8 “(c)(1) Before approving a transfer, assignment, or
9 sale of the rights granted under a permit issued pursuant
10 to this Act or an application for a revision of a permit
11 submitted under subsection (a), the regulatory authority
12 shall recalculate the amount of the bond required under
13 section 509 for such permit and require the transferee,
14 assignee, or purchaser of the rights granted under the per-
15 mit or the permittee, respectively, to post such amount.

16 “(2) A permittee and each covered person—

17 “(A) may not be released from liability under
18 the permit; and

19 “(B) shall be jointly and severally liable for all
20 reclamation costs incurred by the regulatory author-
21 ity to complete reclamation under the permit, includ-
22 ing treatment of all postmining water pollution.

23 “(3) In this subsection, the term ‘covered person’
24 means, with respect to a permittee—

1 “(A) a person that owns or otherwise controls
2 30 percent or more of the capital interests of the
3 permittee; and

4 “(B) a person that owns or otherwise controls
5 30 percent or more of the capital interests of a per-
6 son described in subparagraph (A).”.

7 (c) INSPECTIONS AND MONITORING.—Section 517 of
8 the Surface Mining Control and Reclamation Act of 1977
9 (30 U.S.C. 1267) is amended—

10 (1) in subsection (e)—

11 (A) by striking “Each inspector” and in-
12 serting “(1) Each inspector”; and

13 (B) by adding at the end the following:

14 “(2) Each inspector, upon completion of an inspec-
15 tion of any surface coal mining and reclamation oper-
16 ations, shall forthwith inform the regulatory authority of
17 any changes to conditions at such surface coal mining and
18 reclamation operations that may—

19 “(A) result in an unanticipated increase in the
20 cost of reclamation of such surface coal mining and
21 reclamation operations; and

22 “(B) necessitate a change to the amount of the
23 bond established for the permit associated with such
24 surface coal mining and reclamation operations
25 under section 509.”; and

1 (2) in subsection (f), by inserting “electronically
2 and also” after “available to the public”.

3 (d) RULEMAKING.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of the enactment of this section, taking into
6 account the standards in subsections (a) and (e) of
7 section 509 of the Surface Mining Control and Rec-
8 lamation Act of 1977 (30 U.S.C. 1259) regarding
9 bond adequacy, as amended by this section, the Sec-
10 retary shall issue regulations to establish guidelines
11 and benchmarks for each Federal and State regu-
12 latory authority to determine minimum bond
13 amounts under section 509 of that Act (30 U.S.C.
14 1259).

15 (2) DATA.—In issuing the regulations described
16 in paragraph (1), the Secretary shall use data from
17 a representative sample of recent reclamation
18 projects completed by Federal and State regulatory
19 authorities as a result of bond forfeiture by a per-
20 mittee.

21 (3) DEFINITIONS.—In this subsection:

22 (A) REGULATORY AUTHORITY.—The term
23 “regulatory authority” has the meaning given
24 the term in section 701 of the Surface Mining

1 Control and Reclamation Act of 1977 (30
2 U.S.C. 1291).

3 (B) SECRETARY.—The term “Secretary”
4 means the Secretary of the Interior, acting
5 through the Director of the Office of Surface
6 Mining Reclamation and Enforcement.