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January 31, 2017

The Honorable Paul Ryan  
Speaker  
U.S. House of Representatives  
H-232, U.S. Capitol  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, DC 20510

Dear Speaker Ryan and Majority Leader McConnell:

On behalf of the Competitive Enterprise Institute (CEI), we write to express CEI's support for using the Congressional Review Act to repeal the U.S. Department of Interior's Stream Protection Rule, a coal mining regulation issued under the Obama administration. CEI supports this resolution of disapproval because the stream buffer zone rulemaking demonstrated much that is wrong with the regulatory state.

This rule is supposed to replace a rule promulgated by the George W. Bush administration. At the outset of President Obama's presidency, the Interior Department simply revoked the Bush rule, but a federal court blocked this action because it bypassed procedural safeguards. As a result, the Obama administration undertook a seven-year rulemaking, and the final Stream Protection Rule was issued during Obama's lame duck session.

This timing raises an obvious question: If the Bush rule was so inadequate to protect the environment, then why did the administration spend so much time on the replacement rule? Further, the rulemaking itself was characterized by an unacceptable absence of transparency.

After reports of job losses connected to the rule made the news, the House Natural Resources Committee was repeatedly rebuffed in its efforts to oversee the rulemaking. The Interior Department even ignored subpoenas issued by the committee. Eight of ten states withdrew from agreements to cooperate on the rule because the Interior Department would not share key information, and the Interior Department subsequently ignored a letter from 19 states requesting that it re-engage with them on the rule.

By themselves, these procedural abuses would be sufficient grounds for lawmakers to prevent the Stream Protection Rule from taking effect. But the rule itself is also bad policy. The rule would have a profound impact on coal miners and threaten one-third of the nation's coal mining workforce.

The entire point of the Surface Mining Control and Reclamation Act is to sanction surface mining. But Obama's rule would effectively preclude mining in much of the steep terrain of Appalachia—hitting this region's economy the hardest. This is contrary to the law's fundamental purpose.

We urge you and your colleagues in Congress to pass this joint resolution of disapproval under the Congressional Review Act and to eliminate the Interior Department's harmful Stream Protection Rule. Thank you for your careful consideration of this issue.

Sincerely,

Kent Lassman  
President & CEO  
Competitive Enterprise Institute

William Yeatman  
Senior Fellow  
Competitive Enterprise Institute