



# Maryland

Department of  
the Environment

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Larry Hogan  
Governor

Boyd Rutherford  
Lieutenant Governor

Ben Grumbles  
Secretary

February 2, 2017

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Paul Ryan  
Speaker  
United States House of Representatives  
H-232, US Capitol  
Washington, DC 20515

Dear Majority Leader McConnell and Speaker Ryan:

Thank you for the opportunity to express our concern regarding the Stream Protection Rule (the rule) enacted by the Interior Department's Office of Surface Mining Regulation and Enforcement (OSM) at 81 Fed. Reg. 93,066 (December 20, 2016). The Maryland Department of Environment (the Department) has long had primacy to enforce State law for coal mining operations in Maryland. Because the rule was adopted without sufficient coordination with the states, fails to preserve the principles of cooperative federalism on which the Surface Mine Reclamation Act (the Act) is based, and is extremely lengthy and confusing, the Department requests that you disapprove the rule under the procedures of the Congressional Review Act, 5 U.S.C. 801, et.seq.

The rule would have significant fiscal impact to Maryland. Compliance with this unfunded mandate is expected to cost the Department more than 50 percent of the amount of its current Title V grant from OSM. This additional cost includes expenditures to: update State statutes and regulations; implement electronic permitting and electronic submission of other documents, hire additional staff (e.g. forester, biologist, engineer); and expand the Department's right of entry to beyond the permit-affected lands for off-site monitoring. The Department is unable to absorb these additional costs without a significant increase in grant funding.

We greatly appreciate the attention that Congress already has shown in ensuring state participation in the rulemaking process, including having directed OSM to share relevant environmental data and drafts with the states prior to finalizing the rule. Maryland requested the data in a letter to OSM on February 24, 2016 but never received a response. Instead we find that OSM moved forward with the rule without significant and genuine consultation with the states. On December 19, 2016, the agency announced the substance of the rule and its publication in the Federal Register the next day, with an effective date of January 19, 2017. The lack of communication with the states ignores Congress's instruction in the original Act that the states should be the primary regulators of coal mining.

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The Congressional Review Act provides Congress the authority to take action immediately to avoid the adverse impacts of this rule and protect both the states and the federal government from having to engage in potentially lengthy litigation.

If you need specific detail regarding the impact of the rule in Maryland, please do not hesitate to have your staff contact me or Jeff Fretwell, Director of Legislation and Intergovernmental Relations at 410-537-4187 or via email at [jeffrey.fretwell@maryland.gov](mailto:jeffrey.fretwell@maryland.gov).

Sincerely,

A handwritten signature in cursive script that reads "Ben Grumbles". The signature is written in dark ink and is positioned above the printed name and title.

Ben Grumbles  
Secretary

cc: Tiffany S. Waddell, Director of Federal Relations, Office of the Governor