

US Congress begins repeal of anti-pollution regulations

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The US Congress took its first legislative action of the new congressional term on behalf of the corporate elite, as the Senate voted by 54-45 to pass a resolution rescinding the Stream Protection Rule adopted by the Department of the Interior in December. The rule restricts the dumping of waste by coal companies engaged in a technique known as “mountaintop removal.”

Four Democrats joined 51 Republicans to approve the resolution, which passed the House of Representatives on Wednesday, in a similar near-party-line vote, by a margin of 228-194. The resolution now goes to the White House, where President Trump will sign it, repealing the regulation.

The Stream Protection Rule was finalized by the Department of the Interior’s Office of Surface Mining Reclamation and Enforcement on December 20, 2016 after years of delaying tactics by the coal companies and their legislative allies, Democratic and Republican. The rule runs to thousands of pages in an effort to counteract the various methods employed by the coal companies to evade responsibility.

At the time of the rule’s enactment, the Department of the Interior said it would protect 6,000 miles of streams and 52,000 acres of forests, preventing coal mining debris from being dumped into nearby waters. The rule also establishes stricter guidelines for exceptions to the rule banning mining within 100 feet of a waterway.

The regulation requires coal companies engaging in surface mining to set aside resources to clean up waste and prevent it from going into local rivers and streams. It requires companies to pay for the cleanup of waterways affected by the dumping of mine waste.

Prior to adoption of the rule, companies could engage in mountaintop removal while promising to remedy at some later time the environmental horrors that resulted. They could then file for bankruptcy and escape the financial consequences of the pollution disasters they created. At least 2,000 miles of waterways in coalfield regions have been devastated in this way.

The four Senate Democrats who backed repeal are from states with either significant coal industries or the headquarters of major coal companies: Joe Manchin of West Virginia, Claire McCaskill of Missouri, Joe Donnelly of Indiana and Heidi

Heitkamp of North Dakota.

Republicans portrayed the bill as a measure to liberate American industry from the stranglehold of misguided overregulation. Senate Majority Leader Mitch McConnell said Thursday, “In my home state of Kentucky and others across the nation, the stream buffer rule will cause major damage to communities and threaten coal jobs.”

House Speaker Paul Ryan of Wisconsin said, “The stream protection rule is really just a thinly veiled attempt to wipe out coal mining jobs.” He claimed, “The Department of Interior’s own reports show that mines are safe and the surrounding environment is well-protected.”

Jeb Hensarling, chairman of the House Financial Services Committee, was more explicit about the ideological basis of the repeal, calling the rule part of “a radical leftist elitist agenda against carbon-based jobs.”

Environmental organizations condemned the congressional action. Brandi Colander of the National Wildlife Federation said that “the people of coal country deserve to have states empowered with regulatory certainty to implement these rules with confidence that their water is safe to drink and land will be left behind for future generations to enjoy.”

The congressional action takes place under the auspices of the Congressional Review Act, which allows a new Congress to repeal, by a simple majority vote of each house, any regulation enacted by a federal department during the last 60 legislative working days of the previous Congress. This makes quick congressional action possible, since the repeal requires only 51 votes in the Senate and cannot be filibustered.

The law has been used only once since its passage in 1996. In 2001, the Republican-controlled Congress voted to repeal a Labor Department regulation protecting workers from repetitive-motion injuries, adopted in the final days of the Clinton administration, and the new president, George W. Bush, signed the bill into law.

House and Senate Republican leaders have set out to employ this previously obscure law as a mechanism for the wholesale repeal of environmental, workplace and other regulations enacted toward the end of the Obama administration. Some congressional aides have argued that the timeframe could be expanded to include virtually any regulation enacted by the

previous administration.

The repeal of the Stream Protection Rule was the first in a series of five House resolutions to repeal regulations enacted last year under the Obama administration. These measures demonstrate the priorities of the Republican-controlled Congress and the new Trump administration.

The second resolution to pass the House Wednesday, and awaiting a Senate vote Thursday night, will repeal a regulation enacted by the Securities and Exchange Commission. The Resource Extraction Rule requires energy companies to report payments they make to foreign governments for the right to extract oil, gas and minerals.

While seemingly arcane, the rule, authorized under the 2010 Dodd-Frank bank regulation law, is aimed at allowing the citizens of impoverished Third World countries to know what corporations are paying their governments to loot their countries' resources. It has been fiercely opposed by the oil industry because it would shed light on their payoffs to foreign government officials.

The Reuters report on the House vote Wednesday to repeal the two regulations, the Stream Protection Rule and the Resource Extraction Rule, carried the unusually blunt headline "US House axes rules to prevent corruption, pollution."

The other three regulations targeted for repeal include:

- The so-called "blacklisting" rule for federal contractors. This rule, finalized by the Department of Labor in August 2016, requires companies bidding on federal contracts to disclose any labor law violations in the previous three years, such as failure to pay the minimum wage, cheating workers out of overtime, and so on. A corporate lawsuit resulted in a court injunction temporarily blocking the rule, which would now be repealed.

- A rule enacted by the Social Security Administration requiring background checks before people who receive disability benefits because of mental illnesses are allowed to buy guns. This was opposed by right-wing politicians as an infringement of Second Amendment rights.

- The Methane Waste Rule, also established by the Department of the Interior, which requires oil and gas companies operating on federal or Native American tribal land to reduce methane leaks, capturing the methane instead of releasing it into the air. Methane is one of the most powerful greenhouse gas emissions.

According to numerous press accounts, venting and flaring of methane from oil and gas drilling has led to the creation of a methane cloud the size of the state of Delaware, situated above the Four Corners area where New Mexico, Arizona, Utah and Colorado come together. The cloud was first detected by NASA satellites.

The Congressional Review Act not only expedites the repeal of regulations, it makes it far more difficult to re-enact them later. Once a rule has been repealed, federal agencies are barred from ever again adopting new rules that are in "substantially

the same form." Such rules would have to be authorized by new legislation that would be subject to a Senate filibuster. Moreover, the law bars any judicial review of any "determination, finding, action, or omission" under the CRA.

Congressional Republicans are limited in how far they can proceed with the repeal of regulations using the CRA only by the law's provision that each regulation requires a separate resolution, and each resolution requires 10 hours of debate in the House and the Senate.

There is not enough legislative time available to pass separate resolutions for all 200 of the regulations identified by the Congressional Research Service as eligible for repeal. On January 4, to address this difficulty, the House passed the Midnight Rules Relief Act, which allows Congress to bundle an entire group of regulations into a single bill for up or down vote by a simple majority. This act, however, faces a likely filibuster in the Senate.

The following day, the House passed the Regulations from the Executive in Need of Scrutiny (REINS) Act. This bill requires regulations that cost US corporations more than \$100 million to be approved by a vote of both houses of Congress before they take effect. Passage of the REINS Act would effectively shut down all federal regulation of corporate business—the real goal of the Trump administration and its congressional allies.

While the House of Representatives has taken the lead in repealing regulations, the Senate is pushing ahead with the greatest gift to polluters, the installation of Scott Pruitt as administrator of the Environmental Protection Agency. As attorney general of the state of Oklahoma, Pruitt was widely regarded as the best friend of the oil and gas industry, filing lawsuit after lawsuit against EPA anti-pollution regulations and even directly incorporating text provided by the corporations into his legal briefs.

Pruitt's nomination was approved by the Senate Environment and Public Works Committee by an 11-0 vote after the minority Democrats boycotted the hearing and the Republicans voted to suspend the rules and proceed to a vote. The nomination now goes to the floor of the Senate for a confirmation vote, expected next week, along party lines.



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