

116TH CONGRESS  
1ST SESSION

# H. R. 4435

To amend the Surface Mining Control and Reclamation Act of 1977 to protect taxpayers from liability associated with the reclamation of surface coal mining operations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2019

Mr. CARTWRIGHT (for himself, Mr. GRIJALVA, Mrs. DINGELL, Mrs. NAPOLITANO, Mr. RASKIN, Mr. LOWENTHAL, and Ms. LEE of California) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to protect taxpayers from liability associated with the reclamation of surface coal mining operations, 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 “Coal Cleanup Taxpayer  
5 Protection Act of 2019”.

1 **SEC. 2. SURFACE COAL MINING BONDING.**

2 Section 509 of the Surface Mining Control and Rec-  
3 lamation Act of 1977 (30 U.S.C. 1259) is amended—

4 (1) by striking subsection (c) and inserting the  
5 following:

6 “(c) ALTERNATIVE BONDING SYSTEM.—

7 “(1) IN GENERAL.—Subject to paragraph (2),  
8 the Secretary may approve as part of a State or  
9 Federal program an alternative system that will—

10 “(A) achieve the objectives and purposes of  
11 the bonding program pursuant to this section;  
12 and

13 “(B) result in no greater risk of financial  
14 liability to the Federal Government or a State  
15 government than the bonding program under  
16 this section.

17 “(2) REPORT REQUIRED.—The Secretary may  
18 only approve an alternative bonding system for a  
19 State under paragraph (1) if such State submits a  
20 report to the Secretary that provides the following  
21 information:

22 “(A) A history of bond forfeitures and rec-  
23 lamation costs in such State in the seven-year  
24 period ending on the date on which the report  
25 is submitted, including—

1           “(i) in the case of any bond forfeiture,  
2           whether the money collected to make up  
3           the difference between the bond and rec-  
4           lamation cost was sufficient to complete  
5           the reclamation as specified in the permit;  
6           and

7           “(ii) an engineer’s estimate of the cost  
8           to complete reclamation of mines for which  
9           such State has not yet determined the cost  
10          of reclamation.

11          “(B) A five-year forecast proving the pro-  
12          posed bond pool will be financially sound based  
13          on—

14                 “(i) the proposed annual or per ton  
15                 fees paid by mining operators;

16                 “(ii) the past and anticipated financial  
17                 performance of participating mining opera-  
18                 tors;

19                 “(iii) market projections for the five-  
20                 year period beginning on the date of the  
21                 submission of such report;

22                 “(iv) the anticipated number of min-  
23                 ing operators participating in each year;  
24                 and

1                   “(v) anticipated reclamation costs, in-  
2                   cluding known reclamation costs and an  
3                   engineer’s estimate of costs not yet  
4                   known.”; and

5                   (2) by adding at the end the following:

6                   “(f) SELF-BONDING.—

7                   “(1) FEDERAL PROGRAMS.—

8                   “(A) IN GENERAL.—Effective on the date  
9                   of enactment of this subsection, the Secretary—

10                   “(i) may not accept the bond of the  
11                   applicant itself (referred to in this sub-  
12                   section as a ‘self-bond’); and

13                   “(ii) may accept a separate surety or  
14                   collateral bond, consistent with subsection  
15                   (b).

16                   “(B) EXISTING SELF-BONDS.—For coal  
17                   mining operations covered by a self-bond ac-  
18                   cepted by the Secretary prior to the date of en-  
19                   actment of this subsection, the permittee shall  
20                   replace the self-bond with another form of bond  
21                   acceptable to the Secretary under this section  
22                   by not later than the earlier of—

23                   “(i) the date of renewal of the permit  
24                   under section 506(d); and

1                   “(ii) the date of any major permit  
2                   modification under section 506.

3                   “(2) STATE PROGRAMS.—Not later than 90  
4                   days after the date of enactment of this subsection,  
5                   the Secretary shall notify all State regulatory au-  
6                   thorities that allow applicants to self-bond that the  
7                   approved regulatory programs of the State regu-  
8                   latory authority must be amended—

9                   “(A) to remove the authority for applicants  
10                  to self-bond; and

11                  “(B) to require coal mining operations cov-  
12                  ered by a self-bond accepted by the State regu-  
13                  latory authority prior to the date of enactment  
14                  of this subsection to replace the self-bond with  
15                  another form of bond acceptable under this sec-  
16                  tion by not later than the earlier of—

17                         “(i) the date of renewal of the permit  
18                         under section 506(d); and

19                         “(ii) the date of any major permit  
20                         modification under section 506.

21                   “(g) BONDS ISSUED BY SURETY.—

22                   “(1) IN GENERAL.—Not later than 1 year after  
23                   the date of enactment of this subsection, the Sec-  
24                   retary shall issue rules establishing limitations on  
25                   surety bonds accepted under this section to minimize

1 the risk of financial liability to the Federal Govern-  
2 ment or a State government, including rules regard-  
3 ing—

4 “(A) the maximum quantity of corporate  
5 surety bonds issued by any 1 corporate surety  
6 as a percentage of the total quantity of coal  
7 mine reclamation bonds in any 1 State;

8 “(B) the minimum percentage of surety  
9 bonds unrelated to activities regulated pursuant  
10 to this Act required to reinsure corporate surety  
11 bonds;

12 “(C) the minimum collateralization re-  
13 quired for corporate surety bonds; and

14 “(D) the minimum amount of cash assets  
15 required to be held by a corporate surety as a  
16 percentage of coal mine reclamation bonds  
17 issued by the corporate surety.

18 “(2) EXISTING CORPORATE BONDS.—Corporate  
19 surety bonds in existence on the date of enactment  
20 of this subsection must be modified or replaced as  
21 necessary by not later than 1 year after the date on  
22 which the rule is issued under paragraph (1).

23 “(h) COLLATERAL REQUIREMENTS.—

24 “(1) REAL PROPERTY.—Real property posted  
25 as collateral for a bond may not include—

1           “(A) coal;

2           “(B) a coal mine;

3           “(C) land that includes a coal mine;

4           “(D) land that is located above a coal  
5 mine;

6           “(E) a coal processing facility;

7           “(F) a coal waste disposal site;

8           “(G) coal mining equipment unlikely to re-  
9 tain salvage or resale value; or

10           “(H) any other property determined by the  
11 Secretary.

12           “(2) RE-EVALUATION.—

13           “(A) The Secretary shall re-evaluate the  
14 value of any nonliquid collateral, as that term  
15 is defined in subparagraph (B), 3 years after  
16 such collateral is posted for a bond and every  
17 three years thereafter.

18           “(B) In this paragraph, ‘nonliquid collat-  
19 eral’ has the meaning given to it by the Sec-  
20 retary, except that such term—

21           “(i) includes the first lien interests in  
22 real estate and equipment; and

23           “(ii) does not include—

24                   “(I) cash;

25                   “(II) letters of credit;

1                                   “(III) certificates of deposit;  
2                                   “(IV) Federal, State, or munic-  
3                                   ipal bonds; and  
4                                   “(V) investment grade securities.  
5           “(i) EXECUTIVE COMPENSATION.—The Secretary  
6 may require the inclusion of executive compensation, in-  
7 cluding salaries and bonuses of officers and executives, of  
8 an applicant under this section, and any affiliated com-  
9 pany, as collateral for a bond under this section.”.

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