

PROVIDING FOR CONSIDERATION OF THE JOINT RESOLUTION (H.J. RES. 118) PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE OFFICE OF FAMILY ASSISTANCE OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES RELATING TO WAIVER AND EXPENDITURE AUTHORITY UNDER SECTION 1115 OF THE SOCIAL SECURITY ACT (42 U.S.C. 1315) WITH RESPECT TO THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3409) TO LIMIT THE AUTHORITY OF THE SECRETARY OF THE INTERIOR TO ISSUE REGULATIONS BEFORE DECEMBER 31, 2013, UNDER THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977; AND PROVIDING FOR PROCEEDINGS DURING THE PERIOD FROM SEPTEMBER 22, 2012, THROUGH NOVEMBER 12, 2012

SEPTEMBER 19, 2012.—Referred to the House Calendar and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 788]

The Committee on Rules, having had under consideration House Resolution 788, by a record vote of 8 to 2, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.J. Res. 118, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families program, under a closed rule. The resolution provides one hour of debate equally divided among and controlled by the chair and ranking minority member of the Committee on Ways and Means and the chair and ranking minority member of the Committee on Education and the Workforce. The resolution waives all points of order against consideration of the joint resolution. The resolution provides that the joint resolution shall be considered as read. The resolution waives all points of order against provisions

in the joint resolution. The resolution provides for one motion to recommit.

Section 2 of the resolution provides for consideration of H.R. 3409, the Coal Miner Employment and Domestic Energy Infrastructure Protection Act, under a structured rule. The resolution provides one hour of general debate equally divided among and controlled by the chair and ranking minority member of the Committee on Natural Resources, the chair and ranking minority member of the Committee on Energy and Commerce, and the chair and ranking minority member of the Committee on Transportation and Infrastructure. The resolution waives all points of order against consideration of the bill. The resolution makes in order an amendment in the nature of a substitute consisting of the text of Rules Committee Print 112–32 as original text for purpose of amendment and provides that it shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute. The resolution makes in order only those amendments to H.R. 3409 printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this report. The resolution provides one motion to recommit with or without instructions.

Section 3 of the resolution provides that on any legislative day during the period from September 22, 2012 through November 12, 2012: (a) the Journal of the proceedings of the previous day shall be considered as approved; (b) the Chair may adjourn the House to meet at a date and time within the limits of clause 4, section 5, article I of the Constitution; and (c) bills and resolutions introduced shall be numbered, listed in the Congressional Record, and when printed shall bear the date of introduction, but may be referred at a later time.

Section 4 of the resolution provides that the Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 3 as though under clause 8(a) of rule I.

Section 5 of the resolution provides that each day during the period addressed by section 3 shall not constitute a calendar day for purposes of section 7 of the War Powers Resolution (50 U.S.C. 1546).

Section 6 of the resolution provides that each day during the period addressed by section 3 shall not constitute a legislative day for purposes of clause 7 of rule XIII (resolutions of inquiry).

Finally, section 7 of the resolution provides that each day during the period addressed by section 3 shall not constitute a calendar or legislative day for purposes of clause 7(c)(1) of rule XXII (motions to instruct).

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of H.J. Res. 118, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the rule waives all points of order against provisions in the joint resolution, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 3409, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against the amendment in the nature of a substitute to H.R. 3409 made in order as original text includes a waiver of clause 7 of rule XVI (germaneness), which requires that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 353

Motion by Ms. Slaughter to grant H.R. 3409 and H.J. Res. 118 each an open rule. Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 354

Motion by Ms. Slaughter to make in order and provide the appropriate waivers for amendment #10 to H.R. 3409, offered by Rep. Boswell (IA), which would insert the text of the Agriculture Reform, Food, and Jobs Act of 2012. Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 355

Motion by Ms. Slaughter to make in order and provide the appropriate waivers for amendment #25 to H.R. 3409, offered by Rep. Moore (WI), which would add S. 1925, the Violence Against Women Act, at the end of H.R. 3409. Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 356

Motion by Ms. Slaughter to make in order and provide the appropriate waivers for amendment #27 to H.R. 3409, offered by Rep. Levin (MI), which would strike and replace the text of the act in consideration with the “Middle Class Tax Cut Act.” Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 357

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendments to H.R. 3409: #24, offered by Rep. Blumenauer (OR), which would strike the text of H.R. 3409 and replace it with H.R. 3307, bipartisan legislation that will extend the Production Tax Credit until January 1, 2017 and #21, offered by Rep. Boswell (IA), which would extend the Renewable Energy Production Tax Credit through the end of 2016. Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 358

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendment #19 to H.R. 3409, offered by Rep. Connolly (VA), which would insert the text of S. 1789, the “21st Century Postal Service Act of 2012.” Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 359

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendments to H.R. 3409: #20, offered by Rep. Connolly (VA), which would provide protection from illness and death that may result from H.R. 3409, #2, offered by Rep. DeFazio (OR), which would clarify that nothing in Title I of the bill would preempt other federal departments or state and local agencies from enforcing rules to protect the environment, public health, and public safety from the impacts of mining and transporting coal, #4, offered by Rep. Deutch (FL), which would block the provisions of the Act until the National Cancer Institute determines that the Act will not result in an increased cancer risk for vulnerable populations, #17, offered by Rep. Holt (NJ), which would ensure that underlying bill does not prohibit the Secretary of Interior from issuing regulations that are necessary to protect public health, protect the safety of workers, or to ensure a proper return to American taxpayers, and #3, offered by Rep. Tonko (NY), which would prohibit the Secretary from awarding a lease to a bidder on coal leases if the bidder does not disclose information about the campaign and SuperPac contributions the bidder made to influence an election for federal office during the 5-year period preceding the submission of the bid to the Secretary. Defeated: 2–8

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Bishop of Utah	Nay		
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 360

Motion by Mr. Sessions to report the rule. Adopted: 8–2

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Yea	Ms. Slaughter	Nay
Ms. Foxx	Yea	Mr. McGovern	Nay
Mr. Bishop of Utah	Yea		
Mr. Woodall	Yea		
Mr. Nugent	Yea		
Mr. Scott of South Carolina	Yea		
Mr. Webster	Yea		
Mr. Dreier, Chairman	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 3409 MADE IN ORDER

1. Markey, Edward (MA): Would allow the Secretary of Interior to promulgate rules under the Surface Mining Control and Reclamation Act, if such rule would reduce the prevalence of pulmonary diseases, lung cancer, cardiovascular disease or reduce the prevalence of birth defects or reproductive problems in pregnant women or children. (10 minutes)

2. Bucshon (IN): Would require that the Secretary, or any other Federal official proposing a rule under this Act, shall publish with each rule proposed under this Act each, scientific study the Secretary or other official, respectively, relied on in developing the rule. This amendment will ensure that rules being issued are based on scientific study. (10 minutes)

3. Waxman (CA): Would strike the language that would repeal EPA's scientific finding that carbon pollution endangers the public health and welfare. (10 minutes)

4. Kelly (PA): Would require the Secretary of Transportation to submit a report to Congress estimating the number of jobs, the fatalities and injuries, and the cost to the economy caused by the "2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards" rule. Would require that the Secretary shall not consult with the EPA or the California Air Resources Board to complete the report. (10 minutes)

5. Markey, Edward (MA): Would allow the Environmental Protection Agency to take any action using its authority under the Clean Air Act if such action would increase North American energy independence by reducing demand for oil. (10 minutes)

6. Benishek (MI): Would require the Committee for the Cumulative Analysis of Regulations that Impact Energy and Manufacturing in the United States to include the health effects associated with regulatory costs in its assessment. (10 minutes)

7. Harris (MD): Would reinforce the transparency and sound science requirements in the bill. Specifically, it would require EPA to make data and modeling inputs available to the public, and would require Regulatory Impact Analysis to undergo external peer review according to the agency's own peer review guidelines. (10 minutes)

8. Jackson Lee (TX): Would strike section 503 of the committee print. The existing deadlines in subsections (m) and (q) of section 404 of the Clean Water Act would remain unchanged. (10 minutes)

9. McKinley (WV): Would prohibit the EPA from retroactively vetoing a Section 404 Permit under the Clean Water Act, just as Mr. McKinley's bill H.R. 457 would do. (10 minutes)

10. Markey, Edward (MA): Would create a national renewable electricity and energy efficiency standard. (10 minutes)

11. DeFazio (OR): Would require EPA and the Department of Transportation to submit a report to Congress within 6 months on the health, environmental, and public health impacts of fugitive coal dust. (10 minutes)

12. Berg (ND), Flake, Jeff (AZ), Gosar (AZ), Lankford (OK): Would give power to the states to revoke any existing federal implementation plan (FIP) with regard to the regulation of visibility. In revoking the FIP, the state must propose a state implementation

plan (SIP) to regulate visibility within 2 years. Would also give the states a minimum of five years to become compliant with federal standards if they choose to accept the FIP, allowing businesses time to plan for the changes. (10 minutes)

13. Gosar (AZ): Would add language to the end of the “Stop the War on Coal Act of 2012” which would limit the authority of the Environmental Protection Agency to issue regulations on the Navajo Generating Station, located near Page, Arizona. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, strike the period at line 12 and insert a semicolon, and after line 12 insert the following:

unless it is found by the Secretary of Interior, in consultation with Secretary of Health and Human Services, that such a rule would reduce the prevalence of pulmonary disease, lung cancer, or cardiovascular disease or reduce the prevalence of birth defects or reproductive problems in pregnant women or children.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUCSHON OF INDIANA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title I (page 3, after line 12) add the following:

SEC. ____ . PUBLICATION OF SCIENTIFIC STUDIES FOR PROPOSED RULES.

(a) REQUIREMENT.—Title VI of the Surface Mining Control and Reclamation Act of 1977 (16 U.S.C. 1291 et seq.) is amended by adding at the end the following:

“PUBLICATION OF SCIENTIFIC STUDIES FOR PROPOSED RULES

“SEC. 722. (a) REQUIREMENT.—The Secretary, or any other Federal official proposing a rule under this Act, shall publish with each rule proposed under this Act each scientific study the Secretary or other official, respectively, relied on in developing the rule.

“(b) SCIENTIFIC STUDY DEFINED.—In this section the term ‘scientific study’ means a study that—

“(1) applies rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to the subject matter involved;

“(2) presents findings and makes claims that are appropriate to, and supported by, the methods that have been employed; and

“(3) includes, appropriate to the rule being proposed—

“(A) use of systematic, empirical methods that draw on observation or experiment;

“(B) use of data analyses that are adequate to support the general findings;

“(C) reliance on measurements or observational methods that provide reliable and generalizable findings;

“(D) strong claims of causal relationships, only with research designs that eliminate plausible competing expla-

nations for observed results, such as, but not limited to, random-assignment experiments;

“(E) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

“(F) acceptance by a peer-reviewed journal or critique by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

“(G) consistency of findings across multiple studies or sites to support the generality of results and conclusions.”.

(b) CLERICAL AMENDMENT.—The table of contents at the end of the first section of such Act is amended by adding at the end of the items relating to such title the following:

“Sec. 722. Publication of scientific studies for proposed rules.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WAXMAN OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, lines 18 to 21, strike subparagraph (B) (and redesignate the following subparagraphs accordingly).

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KELLY OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 202 of the Rules Committee Print, strike “Section 209(b) of the Clean Air Act” and insert the following:

(a) FINDING.—Congress finds that the emissions of greenhouse gases from a motor vehicle tailpipe are related to fuel economy.

(b) REPORT REQUIRED.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Congress that, notwithstanding section 201, assumes the implementation and enforcement of the final rule entitled “2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards” (issued on August 28, 2012) and estimates—

(1) the total number of jobs that will be lost due to decreased demand by year caused by the rule;

(2) the number of additional fatalities and injuries that will be caused by the rule; and

(3) the additional cost to the economy of the redundant regulation of fuel economy and greenhouse gas emissions by the Environmental Protection Agency and State agencies for model years 2011 through 2025.

(c) CONSULTATION.—Other than to gather basic factual information, the Secretary of Transportation shall not consult with the Administrator of the Environmental Protection Agency or any official from the California Air Resources Board in fulfilling the requirement described in subsection (b).

(d) AMENDMENT TO THE CLEAN AIR ACT.—Section 209(b) of the Clean Air Act

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title II of the Rules Committee Print, add the following new section:

SEC. 203. REDUCING DEMAND FOR OIL.

Notwithstanding any limitation on agency action contained in the amendment made by section 201 of this Act, the Administrator of the Environmental Protection Agency may use any authority under the Clean Air Act, as in effect prior to the date of enactment of this Act, to promulgate any regulation concerning, take any action relating to, or take into consideration the emission of a greenhouse gas to address climate change, if the Administrator determines that such promulgation, action or consideration will increase North American energy independence by reducing demand for oil.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BENISHEK OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 16, insert “, including health effects associated with regulatory costs” before the semicolon.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HARRIS OF MARYLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 21, line 18, strike “and”.

Page 22, line 2, strike the period and insert a semicolon.

Page 22, after line 2, insert the following:

(iii) shall not issue any proposed or final rule under section 109 of the Clean Air Act (42 U.S.C. 7409) that relies upon scientific or technical data that have not been made available to the public; and

(iv) shall not issue any proposed or final rule under section 109 of the Clean Air Act (42 U.S.C. 7409), unless the accompanying regulatory impact analysis, as required under Executive Order 12866, is peer reviewed in a manner consistent with the Office of Management and Budget’s “Final Information Quality Bulletin for Peer Review” and the third edition of the Environmental Protection Agency’s “Peer Review Handbook”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 503 of the committee print.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCKINLEY OF WEST VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 75, line 8, before the closing quotation marks insert the following:

“(3) Following the date of issuance of a permit by the Secretary in accordance with this section, the Administrator may not take

any action under paragraph (1) to retroactively invalidate the permit.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the Rules Committee Print, add the following new title:

TITLE VI—COMBINED EFFICIENCY AND RENEWABLE ELECTRICITY STANDARD

SEC. 601. COMBINED EFFICIENCY AND RENEWABLE ELECTRICITY STANDARD.

(a) DEFINITIONS.—For purposes of this section:

(1) DISTRIBUTED RENEWABLE GENERATION FACILITY.—The term “distributed renewable generation facility” means a facility that—

(A) generates renewable electricity;

(B) primarily serves 1 or more electricity consumers at or near the facility site; and

(C) is no greater than 2 megawatts in capacity.

(2) ELECTRIC CONSUMER.—The term “electric consumer” has the meaning given that term in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(3) ELECTRIC UTILITY.—The term “electric utility” has the meaning given that term in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602), except that, for the purposes of this section, such term does not include any agency, authority, or instrumentality of the United States Government.

(4) ELECTRICITY SAVINGS.—The term “electricity savings” means reductions in electricity consumption, relative to business-as-usual projections, achieved through measures implemented after the date of enactment of this section.

(5) FEDERAL RENEWABLE ELECTRICITY CREDIT.—The term “Federal renewable electricity credit” means a credit, representing one megawatt hour of renewable electricity, issued pursuant to subsection (e).

(6) RENEWABLE ELECTRICITY.—The term “renewable electricity” means electricity generated (including by means of a fuel cell) from a renewable energy resource.

(7) RENEWABLE ENERGY RESOURCE.—The term “renewable energy resource” means each of the following:

(A) Wind energy.

(B) Solar energy.

(C) Geothermal energy.

(D) Renewable biomass.

(E) Biogas or biofuels derived from renewable biomass.

(F) Hydropower generated by a hydroelectric facility placed in service after January 1, 2001.

(G) Marine and hydrokinetic renewable energy, as that term is defined in section 632 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17211).

(H) Such other energy resources as the Secretary determines appropriate.

(8) RETAIL ELECTRIC SUPPLIER.—The term “retail electric supplier” means, for any given year, an electric utility that sold not less than 1,000,000 megawatt hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year.

(9) RETAIL ELECTRIC SUPPLIER’S BASE AMOUNT.—The term “retail electric supplier’s base amount” means the total amount of electric energy sold by the retail electric supplier, expressed in megawatt hours, to electric customers for purposes other than resale during the relevant calendar year, excluding—

(A) electricity generated by a hydroelectric facility that was placed in service prior to January 1, 2001;

(B) electricity generated by the combustion of municipal solid waste;

(C) electricity generated by a nuclear generating unit placed in service after the date of enactment of this section; and

(D) the proportion of electricity generated by a fossil-fueled generating unit that is equal to the proportion of greenhouse gases produced by such unit that are captured and geologically sequestered.

(10) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(11) TOTAL ANNUAL ELECTRICITY SAVINGS.—The term “total annual electricity savings” means electricity savings during a specified calendar year from measures implemented since the date of the enactment of this section, taking into account verified measure lifetimes or verified annual savings attrition rates, as determined in accordance with such regulations as the Secretary may promulgate and measured in megawatt hours.

(b) ANNUAL COMPLIANCE OBLIGATION.—

(1) IN GENERAL.—For each of calendar years 2014 through 2040, not later than March 31 of the following calendar year, each retail electric supplier shall submit to the Secretary an amount of Federal renewable electricity credits and demonstrated total annual electricity savings that, in the aggregate, is equal to such retail electric supplier’s annual combined target as set forth in subsection (d), except as otherwise provided in subsection (g).

(2) DEMONSTRATION OF SAVINGS.—For purposes of this subsection, submission of demonstrated total annual electricity savings means submission of a report that demonstrates, in accordance with the requirements of subsection (f), the total annual electricity savings achieved by the retail electric supplier within the relevant compliance year.

(3) RENEWABLE ELECTRICITY CREDITS PORTION.—Except as provided in paragraph (4), each retail electric supplier must submit Federal renewable electricity credits equal to at least three quarters of the retail electric supplier’s annual combined target.

(4) STATE PETITION.—Upon written request from the Governor of any State (including, for purposes of this paragraph,

the Mayor of the District of Columbia), the Secretary shall increase, to not more than half, the proportion of the annual combined targets of retail electric suppliers located within such State that may be met through submission of demonstrated total annual electricity savings, provided that such increase shall be effective only with regard to the portion of a retail electric supplier’s annual combined target that is attributable to electricity sales within such State.

(c) ESTABLISHMENT OF PROGRAM.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to implement and enforce the requirements of this section.

(d) ANNUAL COMPLIANCE REQUIREMENT.—

(1) ANNUAL COMBINED TARGETS.—For each of calendar years 2014 through 2040, a retail electric supplier’s annual combined target shall be the product of—

- (A) the required annual percentage for such year, as set forth in paragraph (2); and
- (B) the retail electric supplier’s base amount for such year.

(2) REQUIRED ANNUAL PERCENTAGE.—

(A) IN GENERAL.—For each of calendar years 2014 through 2040, the required annual percentage shall be as follows:

Year	Required annual percentage
2014	8
2015	10
2016	12
2017	14
2018	16
2019	18
2020	20
2021	22
2022	24
2023	26
2024	28
2025	30
2026	32
2027	34
2028	36
2029	38
2030	40
2031	42
2032	44
2033	46
2034	48
2035 through 2040	50

(B) ADJUSTMENTS PERMITTED.—The Secretary may adjust the required annual percentages described in subparagraph (A) if the Secretary finds that such percentages are not technically or economically feasible or pose a threat to electric reliability.

(e) FEDERAL RENEWABLE ELECTRICITY CREDITS.—

(1) IN GENERAL.—The regulations promulgated under this section shall include provisions governing the issuance, tracking, and verification of Federal renewable electricity credits. Except as provided in paragraph (2) of this subsection, the Sec-

retary shall issue to each generator of renewable electricity, 1 Federal renewable electricity credit for each megawatt hour of renewable electricity generated by such generator after December 31, 2013. The Secretary shall assign a unique serial number to each Federal renewable electricity credit.

(2) CREDIT MULTIPLIER FOR DISTRIBUTED RENEWABLE GENERATION.—The Secretary shall issue 3 Federal renewable electricity credits for each megawatt hour of renewable electricity generated by a distributed renewable generation facility.

(3) TRADING.—The lawful holder of a Federal renewable electricity credit may sell, exchange, transfer, submit for compliance in accordance with subsection (b).

(4) BANKING.—A Federal renewable electricity credit may be submitted in satisfaction of the compliance obligation set forth in subsection (b) for the compliance year in which the credit was issued or for any of the 3 immediately subsequent compliance years.

(f) ELECTRICITY SAVINGS.—

(1) STANDARDS FOR MEASUREMENT OF SAVINGS.—As part of the regulations promulgated under this section, the Secretary shall prescribe standards and protocols for defining and measuring electricity savings and total annual electricity savings that can be counted towards the compliance obligation set forth in subsection (b).

(2) REPORTING SAVINGS.—The regulations promulgated under this section shall establish requirements governing the submission of reports to demonstrate, in accordance with the protocols and standards for measurement and verification established under this subsection, the total annual electricity savings achieved by a retail electric supplier within the relevant year.

(g) ALTERNATIVE COMPLIANCE PAYMENTS.—

(1) IN GENERAL.—A retail electric supplier may satisfy the requirements of subsection (b) in whole or in part by submitting in accordance with this subsection, in lieu of each Federal renewable electricity credit or megawatt hour of demonstrated total annual electricity savings that would otherwise be due, a payment equal to \$25, adjusted for inflation on January 1 of each year following calendar year 2014, in accordance with such regulations as the Secretary may promulgate.

(2) PAYMENTS.—Payments made under this subsection shall be deposited into the general fund of the Treasury and shall be available, subject to appropriations, to the Secretary for the administrative costs of implementing this section.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DEFazio OF OREGON OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the Rules Committee Print, add the following title:

TITLE VI—REPORT ON FUGITIVE COAL DUST

SEC. 601. REPORT.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Secretary of Transportation shall submit to Congress a joint report on the health, environmental, and public safety impacts of fugitive dust emissions from coal transport.

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BERG OF NORTH DAKOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the Rules Committee Print, add the following new title:

TITLE VI—REGIONAL HAZE REGULATORY RELIEF

SEC. 601. IMPLEMENTATION PLANS.

Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended—

(1) in subsection (c), by striking “(c)(1) The Administrator” and all that follows through the end of paragraph (1) and inserting the following:

“(c) FEDERAL PLANS.—

“(1) PLANS.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), unless the conditions described in subparagraph (B) are met, the Administrator shall promulgate a Federal implementation plan at any time after the date that is 2 years after the date on which the Administrator—

“(i) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under subsection (k)(1)(A); or

“(ii) disapproves a State implementation plan submission.

“(B) CONDITIONS.—The conditions described in this subparagraph are that, before the date on which the Administrator promulgates a Federal implementation plan—

“(i) a State corrects a deficiency in a State implementation plan or plan revision submitted by the State; and

“(ii) the Administrator approves the plan or plan revision.

“(C) VISIBILITY PROTECTION PLANS.—In the case of a Federal implementation plan promulgated after the date of enactment of this subparagraph in place of a State implementation plan under section 169A—

“(i) the Administrator shall promulgate such Federal implementation plan only if the Administrator makes a finding that the State submitting the State implementation plan failed to consider the factors described

in paragraphs (1) and (2) of section 169A(g) in preparing and submitting the plan; and

“(ii) compliance with the requirements of such Federal implementation plan shall not be required earlier than 5 years after the date of promulgation.”; and

(2) in subsection (k)—

(A) by striking paragraph (3) and inserting the following:

“(3) FULL APPROVAL AND DISAPPROVAL.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any submission for which the Administrator is required to act under paragraph (2), the Administrator shall approve the submission as a whole if the submission meets all of the applicable requirements of this Act.

“(B) REVIEW.—In reviewing any State implementation plan submitted pursuant to section 169A, the Administrator shall limit the review only to a determination of whether the State submitting the State implementation plan considered the factors described in paragraphs (1) and (2) of section 169A(g) in preparing and submitting the plan.

“(C) VISIBILITY PLANS.—The Administrator shall approve as a whole any implementation plan submitted pursuant to section 169A that was prepared and submitted after consideration of the factors described in paragraphs (1) and (2) of section 169A(g).”; and

(B) in paragraph (5)—

(i) in the first sentence, by striking “Whenever” and inserting the following:

“(A) IN GENERAL.—Whenever”; and

(ii) by adding at the end the following:

“(B) VISIBILITY PLANS.—Notwithstanding subparagraph (A), with respect to an implementation plan approved pursuant to section 169A, the Administrator shall only find that such a plan is substantially inadequate to meet standards for air pollutants that cause or contribute to the impairment of visibility, or any other applicable standard or requirement, under that section if the Administrator makes a finding that, in preparing the plan, the submitting State failed to consider the factors described in paragraphs (1) and (2) of section 169A(g).

“(C) EXISTING VISIBILITY PLANS.—

“(i) REQUEST FOR REVOCATION.—At any time after the date of enactment of this subparagraph—

“(I) a State may request that the existing Federal or State implementation plan for the State regarding visibility, or any determination made in calendar year 2012 or 2013 of best available retrofit technology pursuant to section 169A, be revoked; and

“(II) upon receipt of such a request, the Administrator shall revoke the implementation plan.

“(ii) SUBMISSION OF NEW OR REVISED PLAN.—Upon a revocation under clause (i)(II), the State that requested the revocation shall, not later than 2 years

after such revocation, submit to the Administrator a new or revised visibility plan in accordance with this Act.”.

SEC. 602. VISIBILITY PROTECTION FOR FEDERAL CLASS I AREAS.

Section 169A of the Clean Air Act (42 U.S.C. 7491) is amended—

(1) in subsection (b)(2), in the matter preceding subparagraph (A), by striking “as may be necessary” and inserting “as the State determines, at the sole discretion of the State after considering factors described in this section and providing adequate opportunity for public comment, may be necessary”; and
(2) in subsection (g)—

(A) by striking paragraph (1) and inserting the following:
“(1)(A) in determining reasonable progress, there shall be taken into consideration—

“(i) the costs of compliance;

“(ii) the time necessary for compliance;

“(iii) the energy and nonair quality environmental impacts of compliance;

“(iv) the remaining useful life of any existing source subject to requirements under this section;

“(v) the degree of improvement in visibility that may reasonably be anticipated to result from measures described in the applicable implementation plan; and

“(vi) the economic impacts to the State (including people of the State);

“(B) in consideration of costs of compliance pursuant to subparagraph (A)(i), the State may use source-specific cost estimations developed by a licensed professional engineer as an alternate to other methods of estimation approved by the Administrator; and

“(C) in consideration of the degree of improvement in visibility pursuant to subparagraph (A)(v), the State may use alternate modeling techniques or methods than those prescribed by the Administrator in the Agency’s ‘Guideline on Air Quality Models’ under appendix W to part 51 of title 40, Code of Federal Regulations, and, where available, measured emissions and monitoring data shall be used;”;

(B) in paragraph (2)—

(i) by striking “(2) in determining best available retrofit technology the State” and inserting the following:

“(2) in determining the best available retrofit technology—

“(A) the State”;

(ii) in subparagraph (A) (as designated by clause (i)), by inserting “the economic impacts to the State (including people of the State),” after “life of the source;”;

(iii) by striking “technology;” and inserting “technology; and”;

(iv) by adding at the end the following:

“(B) in consideration of the costs of compliance pursuant to subparagraph (A), the State may use source-specific cost estimations developed by a licensed professional engineer as an alternate to other methods of estimation approved by the Administrator;

“(C) with respect to consideration of the degree of improvement in visibility pursuant to subparagraph (A)—

“(i) the State may use alternate modeling techniques or methods than those prescribed by the Administrator in the Agency’s ‘Guideline on Air Quality Models’ under appendix W to part 51 of title 40, Code of Federal Regulations;

“(ii) the State may consider the degree of improvement in visibility in the mandatory class I Federal area that is most affected by emissions from the source without considering the degree of improvement in visibility in any other such area; and

“(iii) the Administrator (in any case in which the Administrator has authority to determine emission limitations which reflect such technology) may not consider the degree of improvement in visibility in any area other than the mandatory class I Federal area that is most affected by emissions from the source; and

“(D) the determination of best available retrofit technology by the State for any source shall be subject to review by the Administrator, an administrative entity, or a Federal or State court only pursuant to a clearly erroneous standard of review;” and

(C) in paragraph (4), by striking “(or the date of promulgation of such a plan revision in the case of action by the Administrator under section 110(c) for purposes of this section)”.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOSAR OF ARIZONA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the Rules Committee Print, add the following:

TITLE VI—NO REGIONAL HAZE REGULATION ON THE COAL-POWERED NAVAJO GENERATING STATION

SEC. 601. LIMITATION ON AUTHORITY TO ISSUE REGULATIONS.

The Administrator of the Environmental Protection Agency shall not promulgate any Federal implementation plan pursuant to section 169A or 169B of the Clean Air Act (42 U.S.C. 7491, 7492; relating to visibility protection) that would—

(1) adversely impact employment at the coal-powered Navajo Generating Station or other coal-fired power plants and coal mines on tribal lands in northern Arizona;

(2) directly or indirectly diminish the revenue received by the Federal Government or any State, tribal or local government by reducing through regulation the amount of coal that is available for mining on Navajo and Hopi Reservation lands;

(3) cause a reduction in coal-based revenue to meet financial obligations required by federally authorized Indian water rights settlements, pursuant to section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f));

(4) reduce the amount of coal, or increase the cost of coal, available for the Navajo Generating Station's Federal responsibility to deliver water and power, as authorized by the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.); or

(5) expose the United States to liability for taking the value of tribally-owned coal in northern Arizona through regulation.

