

# NO SUBSIDIES WITHOUT VERIFICATION ACT

(Mrs. BLACK asked and was given permission to address the House for 1 minute.)

Mrs. BLACK. Mr. Speaker, over the July 4th holiday, the Obama administration updated the Federal Register. And buried in more than 600 pages of new regulations was a controversial decision to delay verification of eligibility for ObamaCare's subsidies and instead use the honor system, which more accurately should be described as an open invitation for fraud and abuse.

In a desperate attempt to try to save the President's failing health care law, the administration is willing to give out billions of dollars in fraudulent payments, racking up even more debt for current and future generations. This is indefensible.

That is why I have introduced H.R. 2775, the No Subsidies Without Verification Act. My bill would stop this irresponsible action by requiring verification systems be put in place before any subsidy is paid with taxpayer money.

I urge my colleagues to join me in this fight and support H.R. 2775.

□ 0915

## SAFE CLIMATE CAUCUS

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker and my colleagues, every day a member of the Safe Climate Caucus has come to the floor to raise concern about climate change, and we know about climate change from hurricanes and tornadoes and droughts and all of the other things that we're seeing.

But yesterday, the prestigious science journal, *Nature*, published an analysis of the cost of the rapid warming in the Arctic. That analysis found that the cost could range from \$10 trillion to over \$200 trillion. The mean cost is \$60 trillion. I'm not misspeaking. It's not \$60 million, it's not \$60 billion, but it's \$60 trillion.

These enormous costs are the consequence of the release of 50 gigatons of methane now trapped in the Arctic ice shelves, which experts believe will be released into the air within the next 50 years, if not sooner, if we don't stop spewing carbon pollution into our atmosphere.

The Arctic is pivotal to the functioning of the Earth's systems, such as the oceans and the climate, but we're recklessly endangering it. We need to stop acting like members of the Flat Earth Society and start listening to the urgent warnings of the scientists.

## RE-REFERRAL OF H.R. 2315, PRESERVING ACCESS TO ORPHAN DRUGS ACT OF 2013

Mr. SHIMKUS. Madam Speaker, I ask unanimous consent that H.R. 2315,

Preserving Access to Orphan Drugs Act of 2013, be re-referred to the Committee on Ways and Means and, in addition, to the Committee on Energy and Commerce.

The SPEAKER pro tempore (Mrs. BLACK). Is there objection to the request of the gentleman from Illinois?

There was no objection.

## COAL RESIDUALS REUSE AND MANAGEMENT ACT OF 2013

The SPEAKER pro tempore. Pursuant to House Resolution 315 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2218.

The Chair appoints the gentleman from Utah (Mr. BISHOP) to preside over the Committee of the Whole.

□ 0917

### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2218) to amend subtitle D of the Solid Waste Disposal Act to encourage recovery and beneficial use of coal combustion residuals and establish requirements for the proper management and disposal of coal combustion residuals that are protective of human health and the environment, with Mr. BISHOP of Utah in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Illinois (Mr. SHIMKUS) and the gentleman from California (Mr. WAXMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. SHIMKUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have spent much time talking about the need for Congress to consider jobs legislation. This is a piece of pro-jobs legislation. This bill is unique because it is also a pro-states' rights legislation and pro-environment legislation.

But focusing on jobs for a minute, let me explain why a "no" vote is anti-jobs, placing anywhere from 39,000 to 316,000 jobs at risk at a time when we can least afford it.

We are here because over 3 years ago the EPA put out three proposals on coal ash, including regulating coal ash as a hazardous waste. This caused massive uncertainty in the marketplace and created an unnecessary stigma on legitimate recycling of this product, and I have a piece of shingle that's made and produced by coal ash.

And the States agree. As highlighted in a letter from the State of Michigan in support of H.R. 2218:

Enactment would end the regulatory uncertainty that has hindered our efforts to promote the beneficial use of coal combustion residuals.

EPA announced in litigation proceedings recently that it will not have

a final coal ash rule before 2014. The fact that EPA continues to leave a "hazardous waste" designation on the table even though three decades of science and fact point the other way, that coal ash is not hazardous, it directly is contributing to the loss of current and future recycling.

Coal ash is not an abstract substance. It is used in important infrastructure in this country. The American Coal Ash Association informed us that uncertainty in the marketplace caused by EPA's proposal to regulate coal ash as hazardous waste is diminishing their economic prospects down to just 40 percent of eligible coal wastes—and they support this bill.

This bill establishes a solid framework for regulation of coal combustion residuals in a manner that is protective of human health and the environment, or the State environmental regulators—including the Environmental Council of States, ECOS, and the Association of State and Territorial Solid Waste Management officials—would not be endorsing this bill.

Coal ash makes concrete stronger, more durable, and cheaper. A "no" vote against this bill means that you support less durable, more expensive highways, schools, and green buildings. Don't take my word for it. The American Road and Transportation Builders Association and many other road and bridge builders, and also the Building and Construction Trades Union, want this bill because they want high-quality construction material for buildings, roads, and bridges.

For Members concerned about wall board from China, coal ash is a stable, domestic source for wall board and will control costs. Don't take my word for it. The American Forest and Paper Association supports this bill.

Mine workers across this country need a stable way of having America's energy future secured. This bill accomplishes that. Don't take my word for it. Ask the United Mine Workers, who supports this bill.

Coal ash is recycled and used as a raw material in making cement. Voting "no" means you choose to put coal ash in landfills rather than putting it back into roads and building projects. Don't take my word for it. Organizations like Portland Cement Association, the Phoenix Cement Company, the Wisconsin Ready Mix Concrete Association, and the Washington Aggregates and Concrete Association all support this bill.

A vote against this bill is a vote for prolonged regulatory uncertainty. A vote against this bill is a vote to increase costs on the Federal, State, and local governments and infrastructures. A vote against this bill is a vote to increase costs on all Americans and to dare unemployment to go even higher. A vote against this bill is a direct message to career State employees in States across this country that you do not trust them to do the right thing regarding regulation of coal ash.

This bill is a pro-jobs, pro-environment, anti-bureaucracy bill. If you want progress instead of process, protection instead of politics, and jobs instead of continued uncertainty, vote for this bill.

We find ourselves in this morass of regulatory uncertainty because of the existing approach to environmental regulation. This bill presents a new approach that will reduce the inefficiencies of the Federal rulemaking process by setting a national standard in the statute and charging the States with implementation.

If you support protecting jobs and preserving states' rights, and if you trust your State environmental regulators to protect your communities, you need to support this bill and vote "yes" on final passage.

With this, Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Today, the House is considering legislation to block EPA from acting to ensure that toxic coal ash is safely disposed of. Coal ash is the result of the coal that has been burned, and this coal ash needs to be disposed of.

Now, what the Republicans who are suggesting this bill be adopted are suggesting is that we remove public health protections in order to allow polluting disposal sites to continue with business as usual. That's a little tough to justify. As we led up to today's debate, we've heard some outlandish justifications, and I just want to set the record straight.

First of all, we've been told this is a states' rights bill because we need this legislation in order for the States to impose adequate regulation on dangerous coal ash disposal sites. Well, that's not true. The States can regulate coal ash disposal today and, in fact, many do. The problem is that many States are not doing a good job.

For example, in Ohio, four coal ash disposal sites have serious groundwater contamination problems. The coal ash at these sites has contaminated groundwater with arsenic, mercury, and radioactive levels of materials higher than allowed under the Safe Drinking Water Act. Well, in total, EPA has identified 133 cases of groundwater and surface water contamination at coal ash disposal sites. All of this has occurred under existing law, where State laws can be effective and States can act. The problem is they're not all acting.

Secondly, the proponents of this bill have argued that we have to pass this legislation to allow coal ash to be recycled. They argue that EPA wants to designate coal ash as "hazardous." Well, that isn't what EPA proposed at all.

They say that this designation would be a stigma on coal ash and would ensure there would no longer be any market for recycled coal ash, but that argument is just plain wrong. Hazardous labeling and restrictions on beneficial reuse are simply not at issue.

When EPA issued its proposed coal ash rule, the agency offered a couple of alternatives. Neither of these proposals would involve labeling coal ash as "hazardous." Quite frankly, even if it were designated "hazardous," that doesn't mean it can't be reused. It can be reused.

Third, we've been told that we must pass this legislation because it's a careful compromise from the version of the last Congress. Well, I'm not sure who was in that compromise because the bill is even worse than the bill from the last Congress. The Republicans have refused to work with the Democrats on the committee. There's no bipartisan coal ash bill in the Senate. And the administration has identified five problems with the bill that cause it to fall short of protecting human health and the environment.

Let's focus on reality. This debate is not about a "war on coal" or putting a stigma on coal ash. It's not about whether State governments are inherently better than the Federal Government. It's not about job-killing regulations. This debate is about whether or not we're going to allow coal ash disposal sites to contaminate our water supplies and threaten human health.

If this bill is enacted, coal ash disposal sites will continue to pollute our groundwater; and once contamination is confirmed, well, this bill would allow it to continue for another 10 years—and do nothing. Then, after that, they might even continue it for another indefinite period of time. So it will continue to pollute groundwater, the water we drink, and our water supplies and our water sources.

This bill says that a dump site that is contaminating groundwater today can pollute for 10 years—more arsenic, more mercury, more lead. Is that what Members of the House want to vote for? If the owners of the polluting structure can't control their contamination within 10 years, this bill says States can give them even more time to keep polluting.

New information released yesterday reveals that three-quarters of existing unlined coal ash impoundments do not have the space at their existing location to construct an additional disposal facility. Those facts practically guarantee that if this legislation were to be enacted, communities across the country—many of them poor and minority—will simply have to endure contaminated water, polluted air, and the risk of catastrophic dam failure. And why? For states' rights, where the States already have the rights? It's really for polluter rights. And polluters do not have and should not have a right to pollute our water supplies.

This can be handled effectively through a serious piece of legislation that will make clear that public health protection must be enforced.

I urge my colleagues to tune out the special interest misinformation that seeks to weaken our laws and prolong pollution, and oppose this legislation.

No matter how you voted in the last Congress, this bill is worse; and I urge Members to vote against it today.

I reserve the balance of my time.

Mr. SHIMKUS. Mr. Chairman, I would ask my colleague to look at the 11 additional changes that have been made in this bill versus the last bill and realize how much we have moved in the direction that he speaks of.

I now yield 7 minutes to the author of the legislation from West Virginia (Mr. MCKINLEY).

Mr. MCKINLEY. Mr. Chairman, I rise today in support of H.R. 2218.

For 33 years, Congress has wrestled unproductively with how to deal with coal ash, an unavoidable byproduct of burning coal.

□ 0930

After countless hearings, meetings, and amendments, we come here today with a solution. Over the past 2½ years, we've listened to environmental organizations, industry, Senators, the States, the EPA.

Now the bill has strong bipartisan support with Democrat cosponsors and a broad coalition of over 300 organizations and businesses, including State environmental officials, Governors, recyclers, manufacturers, coal miners, coal operators, and labor unions, just to name a few.

If we don't act decisively, Congress will once again kick the can down the road. That would mean the status quo continues.

At the Energy and Commerce subcommittee hearing on the draft legislation earlier this year, EPA Assistant Administrator Mathy Stanislaus testified that States have the ability to ensure proper management disposal of coal ash under this legislation. At that hearing, my good friend from Illinois, Mr. SHIMKUS, asked Mr. Stanislaus if the EPA was not opposed to this language in the bill. Stanislaus' response was, "That is right."

Even the President has become engaged in this debate. The statement from the administration this past week noted they appreciate the efforts of the House and issued no veto threat; no opposition was expressed. That ought to tell you something.

The opponents of this legislation should read the last sentence of the administration's statement:

The administration would like to work with Congress . . . to allow for development, implementation, and enforcement of appropriate standards for managing coal combustion residuals, while encouraging the beneficial use of this economically important material.

Let me show you what we are talking about here. This is a jar of fly ash. Every day, coal ash is produced in 48 of our 50 States across America. This is a national issue, not just one for coal States. Over 140 million tons of coal ash are produced annually. Approximately 40 percent of the material is recycled into everyday products used in households and the construction industry. The remaining 60 percent is disposed of in landfills.

Now, 2218 deals separately with both of these issues. The first part deals with recycling. Early in the Obama administration, the EPA proposed a rule to declare coal ash as a hazardous material, despite the fact that under the Bill Clinton administration the EPA had already determined in 1993 and 2000 that coal ash was not hazardous. Let me repeat that. They've already said it's not hazardous.

No industrialized nation in the world classifies fly ash as a hazardous material. Deeming it such would essentially destroy the ability to recycle coal ash, dramatically increase the cost of electricity, and crush hundreds of thousands of jobs across America.

The United States already has a much lower rate of recycling than other countries. Europe recycles over 90 percent of the fly ash; China over 65; and Japan, 95 percent of their coal ash is recycled. We should be encouraging recycling, not standing in the way.

The second part of the bill deals with processes for disposing of coal ash that is not recycled. This section has been significantly strengthened and provides for all new and existing landfills to be State-run, using the Federal law known as RCRA, which incorporates Federal standards and requirements for protecting "human health and the environment."

RCRA's primary goals are to "protect human health and the environment, to reduce the amount of waste generated, and to ensure that wastes are managed in an environmentally sound manner."

Consequently, under his bill, disposal requirements will require "composite liners, air quality and dust controls, groundwater protection standards, emergency action plans, corrective actions for deficiencies, inspections and structural stability."

Let me make it clear. If a landfill ever becomes deficient, it must be fixed—no ifs, ands, or buts. It is just that simple.

For example, under the corrective action under section 4011, subsection (C)(2)(b):

An owner/operator of a deficient facility is not relieved of their obligation to develop alternative disposal capability regardless of whether they have space available onsite.

For anyone to argue otherwise, perhaps they haven't read the bill.

For the first time, there will be a uniform, national standard for disposal. Or Congress can do nothing—it can—just as it has been for the last 33 years. But I don't think we should continue with the status quo. Working in this bipartisan fashion we've made progress.

After 30 years of debate, it is time for action. Our constituents deserve protection for their health and environment. This legislation makes it possible.

We often hear Congress isn't voting on a jobs bill. Mr. Chairman, there is not a clear jobs bill that we are going to deal with in this Congress pro-

tecting 316,000 jobs across America and preventing utility bills to increase. We must protect these jobs.

I encourage all my colleagues on both sides of the aisle to support this pro-health, pro-environment, and pro-jobs legislation.

Mr. WAXMAN. Mr. Chairman, the administration and I would like to work out a bill with the Republicans, but this bill has two problems. After all is said and done, there is no requirement that they protect public health and the environment. There's all sorts of language that says we want them to. But if the States don't do that, the second problem is there's no enforcement; there's nothing to make them do it.

Now, if you have no real clear standard to protect public health and no enforcement to make sure public health is being protected, that's a bill that's asking for continuation of pollution of our groundwater supplies.

We can work together and get a bill, but this administration has said it does not adequately protect public health and the environment; it doesn't address the real problems. Even some of the changes that they have made have made this bill worse. It is a bill that we should reject and then go back to the negotiating table.

Mr. Chairman, at this point, I wish to yield 5 minutes to the ranking member of the subcommittee on the Energy and Commerce Committee, the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. I want to thank the gentleman for yielding.

Mr. Chairman, here we go again with the Republicans spewing their shamelessly empty rhetoric concerning jobs. Jobs for the American people might be on their minds, jobs for the American people might be in their mouths, but jobs for the American people are not in their hearts.

Mr. Chairman, my colleagues on the other side of the aisle are arguing that we need to weaken our environmental laws to create jobs. That's incredibly shortsighted. Do we really want to say to the American people that they must suffer contaminated groundwater, drink dirty water? Is that what we are saying?

A study from Tufts University shows just the opposite. It's not a fight between jobs and clean environment, clean water, clean drinking water. The Tufts study says that we can create tens of thousands of new jobs by requiring safe disposal of coal ash.

Ensuring that coal ash disposal sites protect human health and the environment will take work, will create jobs. It will take construction workers, equipment operators, and engineers to do this work. Let me add that this is not just makeshift work. These jobs will provide tremendous benefits to the communities in which they take place. But these jobs won't happen if we pass this atrocious bill. This bill simply preserves the status quo and keeps Americans out of work.

Mr. Chairman, when it comes to protecting the public health and ensuring

that all Americans have unhindered access to clean air, land, and water, I am very sensitive to the issue of ensuring that there are, at the very least, minimum State or Federal standards and that the U.S. EPA has the full authority to enforce those standards.

Mr. Chairman, due to a case in my district of Crestwood, Illinois, where contaminated drinking water was piped into the homes of my constituents for over 20 years between 1986 and 2007 and the State of Illinois refused to intervene, I cannot support legislation that bars the U.S. EPA from enforcing State or Federal standards, as this atrocious, shameful bill does.

Mr. Chairman, states' rights might mean States' inaction, as in the case of Crestwood, Illinois, where it was only the determined, courageous act of a citizen by the name of Tricia Krause, who had the courage to alert the media to this shameful act being committed by elected officials, those responsible for taking care of the public health and ensuring that the environment was safe and the water that in the morning and the evening during the day that they drank was safe. These officials, these local officials, had that responsibility, and they turned their backs on the people of the village of Crestwood.

The CHAIR. The time of the gentleman has expired.

Mr. WAXMAN. Mr. Chairman, I yield the gentleman an additional minute.

Mr. RUSH. Not only did they turn their backs, but the Illinois EPA, the State EPA, refused to even investigate this matter. I had to get the U.S. Justice Department and the U.S. EPA to end this atrocity.

If this bill is ever enacted, it will bar the Federal Government, at the very least, from serving as the last backstop for the American people against polluters who would seek to skirt the law without regard to the families and communities that they would harm.

Mr. Chairman, I ask that the people who are Members of this Congress who have a heart and a mind to not only put the American people back to work, but also to protect the environment, to resist this effort and vote "no" on this bill.

Mr. SHIMKUS. Mr. Chairman, I remind my colleagues that the administration has not issued a veto threat on this bill.

I now yield 2 minutes to the gentleman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I thank the gentleman from West Virginia for his outstanding work on this legislation, and also to Mr. SHIMKUS, who is the chairman of the subcommittee, for his leadership on the issue.

I do rise today in support of the Coal Residuals Reuse and Management Act of 2013. I am an original cosponsor on that legislation.

Now, I think it comes as no surprise to anybody that this administration has declared their war on coal. You can

listen to the comments that are coming out of the President and his advisers there at the White House. They've done everything in their power to shut down coal plants and to put American coal miners on the unemployment line.

The EPA has targeted everything from existing coal-fired plants to new plants, coal mining operations, and has been looking at labeling coal ash as a hazardous waste since 2010.

□ 0945

Now, unbeknownst to so many individuals and to so many of my constituents is the fact that the same coal ash that has been used safely to make—and get this—bricks, cement, asphalt, plastics, and is used as a filler in wood products is, all of a sudden, a hazardous waste.

I would like the administration to explain to me if coal ash were a hazardous waste when they used TARP funding for shovel-ready projects to repair roads with asphalt containing—guess what—coal ash.

Was coal ash a hazardous waste last winter when it was used in snow and ice control products to keep roads and pedestrians in Chicago safe? Or was coal ash a hazardous waste when it was used to build the EPA's new headquarters?

While I am sure most of my constituents would like to label the EPA's headquarters as a Superfund site, I would say let's support this bill.

Mr. WAXMAN. I yield myself such time as I may consume.

Mr. Chairman, if coal ash is reused, it is not a hazardous waste. If it is stored and leaks into our groundwater or into our drinking water, it can be very hazardous.

The problem with the Republican bill is that it doesn't clearly state that public health must be protected, and when they state it, there is no clear enforcement. The EPA cannot be sure that the job is being done, and even citizens cannot file lawsuits to require it to be done. This is a special interest bill that does not serve the interests of the American people.

I now yield 5 minutes to the gentleman who is the ranking member of one of our energy subcommittees, the gentleman from New York (Mr. TONKO).

Mr. TONKO. I thank the gentleman from California.

Mr. Chair, once again, the House will consider a bill that will provide the States with what they already have—the authority to regulate the disposal of coal ash.

H.R. 2218 also virtually eliminates any regulatory role for the Environmental Protection Agency. Although the bill's title suggests that it is about the beneficial reuse of coal combustion residuals, it has little, if anything, to do with promulgating that worthy goal.

No one has disputed that it is preferable to reduce the amount of coal ash that ends up in disposal facilities. It saves money and lengthens the produc-

tive life of that disposal facility, and it means that a waste product is put to productive use in cement, in wallboard and in other products. All of those things happen now, and they will happen whether this bill passes or not. Actually, if the bill encouraged stronger standards for disposal, it would likely spur increased recycling—another opportunity squandered, in my opinion.

So, if it is not about recycling, what is this bill about?

It is about maintaining the status quo. The bill virtually ensures that deficient facilities will, indeed, remain deficient.

What does that mean?

It means that communities in States with weak programs and lax enforcement remain at risk.

This bill does not set credible standards to ensure that public health and the environment are protected. Communities whose groundwater sources are known today to be contaminated by toxins leaching from unlined disposal ponds will have to wait at least 10 years before a State would have to act, and even then there are provisions for granting additional time for an operator to upgrade or repair a leaking facility. We know from recent experience that some of these facilities are structurally unsound. A breach in the dam in Kingston, Tennessee, in 2008, in eastern Wisconsin in 2011, and in Martins Creek, Pennsylvania, in 2005 all sent coal ash spilling out into waterways and onto the land.

H.R. 2218 is not going to help us avoid adding accidents to this list. Very similar bills to this one passed the House several times in the last Congress. They failed to become law, and H.R. 2218, in my opinion, is going to follow that same path.

Communities living in the shadows of these facilities deserve to be protected. There is no reason to allow deficient facilities to pollute our water and our air and to jeopardize the health of people in communities across this great Nation. We can do better. We should do better. My colleagues and I will offer several amendments this morning that, if adopted, would improve this bill. A better legislative effort could resolve the uncertainty surrounding this issue and, more importantly, could ensure that our citizens' health and safety are protected.

We cannot afford more Kingstons. We do not have to. Without improvements, this legislation will proceed no further in the legislative process. Without improvements, it should not proceed any further. I oppose H.R. 2218 in its present form, and I encourage my colleagues to do the same.

Mr. SHIMKUS. Mr. Chairman, let me remind my colleagues of some of the special interests: United Mine Workers of America, Building and Construction Trades, and the Transportation Workers of America.

I yield 2 minutes to the chairman of the full committee, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Thank you, Mr. Chairman.

I rise today in strong support of H.R. 2218, the Coal Residuals Reuse and Management Act, an important and bipartisan jobs bill.

Mr. Chairman, today's vote is the culmination of over a 2-year pursuit of a thoughtful, sensible and transparent solution to a serious regulatory challenge; and while the coal ash bill has continued to improve since we first debated and passed the legislation back in 2011, we have stayed true to our original principles.

First, the bill sets out strict standards for coal ash management, but it leaves the permitting program to the States. This approach is important because it ensures consistent environmental protection but gives the day-to-day implementation to the States, which have the combination of expertise and dedication to get the job done right for their States.

Second, it takes EPA's 3-year-old proposal to regulate coal ash as a hazardous waste off the table. When EPA first published this proposal, it knew that it had overreached, but EPA faced a very tough dilemma. It wanted a permit program for coal ash, but, in fact, the Solid Waste Disposal Act did not give EPA the authority over coal ash unless it were labeled "hazardous." This legislation offers a solution.

The administration has stopped asking for the "hazardous" designation—and good thing. Beginning this year, EPA stopped seeking that the Agency, instead of the States, do the permitting. The administration has come a long way, and we certainly commend it for that, but, meanwhile, we've been listening to and working with EPA.

On April 11 of this year, EPA testified before our committee. By moving past the notion that EPA should write regulations for each State, the administration finally acknowledged that the States are in the best position to implement coal ash permit programs. After our hearing, we had additional meetings with EPA to discuss the bill, and we ultimately made changes that EPA recommended, including adding tough deadlines for State action.

The CHAIR. The time of the gentleman has expired.

Mr. SHIMKUS. I yield the gentleman an additional 30 seconds.

Mr. UPTON. This is how the legislative process is supposed to work. The bill reflects crucial input over the last 2 years from House and Senate Republicans, Democrats and the administration.

The time has come to put our pencils down and enact this law so that we can close the regulatory gap. States, utilities, and hundreds of thousands of workers in the recycling industry have been waiting in limbo for a resolution. This bill meets those needs, and I urge a "yes" vote.

Mr. WAXMAN. Mr. Chairman, may I inquire as to how much time is left on both sides.

The CHAIR. The gentleman from California has 13 minutes remaining. The gentleman from Illinois has 15½ minutes remaining.

Mr. WAXMAN. I reserve the balance of my time.

Mr. SHIMKUS. Mr. Chairman, I yield 2 minutes to a member who has been very helpful on this legislation, the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. I thank the chairman for yielding.

I rise today, Mr. Chairman, in support of the Coal Residuals Reuse and Management Act.

Designating coal ash as a hazardous waste, which the EPA proposed in June 2010, would not only raise energy prices for families and businesses, but it would also destroy a large coal ash recycling industry and all of the jobs that go with it. H.R. 2218 will protect these jobs by setting minimum Federal standards that the States will be charged with implementing and by providing regulatory certainty that has ceased to exist within the coal ash industry since 2009.

If this legislation is not signed into law, the EPA will overturn 30 years of precedent and designate coal ash a hazardous waste despite findings from the Department of Energy, the Federal Highway Administration, State regulatory authorities, and the EPA itself, that the toxicity levels in coal ash are well below the criteria that require a "hazardous waste" designation. In fact, in the EPA's May 2000 regulatory determination, the EPA concluded that coal ash does not warrant regulation as a hazardous waste and that doing so would be environmentally counterproductive.

It is estimated that meeting the regulatory disposal requirements under the EPA's proposal would cost between \$250 and \$450 per ton as opposed to about \$100 per ton under the current system. In 2008, 136 million tons of coal ash were generated. That means not passing this bill could put an additional \$20- to \$47 billion burden on the electricity generators that use coal.

Energy costs aside, about 45 percent of the coal ash generated is recycled, being used as an additive in cement, concrete, wallboard, roofing materials, road-based fill materials, and snow and ice control. Designating coal ash as a hazardous waste could halt these beneficial uses, which the EPA estimates will lead to \$16.7 billion in increased costs per year.

It will provide certainty in the coal ash industry, and it strikes the appropriate balance of strong environmental protection without all of the economic consequences of a "hazardous waste" designation. I urge support of the legislation.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to a very distinguished member of our committee, the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. I would like to thank the ranking member for allowing me time.

Mr. Chairman, I rise to express my strong support for H.R. 2218, the Coal Residuals Reuse and Management Act.

Last Congress, this Chamber twice passed legislation on a bipartisan basis that was weaker than the bill before us today. Last Congress, the effort resulted in legislation that would create a State-run waste disposal program with minimal Federal requirements while assuring that coal ash can continue to be reused and recycled in everyday products.

The legislation before the House today continues that model but with even greater environmental protections, including: accelerated requirements for groundwater monitoring; fixed deadlines for when problems at an impoundment must be cured; and periodic inspections for the structural integrity of impoundments.

Currently, there is a patchwork of State programs to regulate the disposal of coal combustion waste with no Federal oversight.

H.R. 2218 would for the first time establish comprehensive, minimum Federal standards for coal ash management and disposal and give EPA the authority to enforce compliance if a State does not establish a coal residuals permit program or if a State's program does not conform to Federal requirements.

This legislation would assure that coal ash can continue to be reused beneficially, which puts billions of dollars in our economy annually and protects tens of thousands of jobs in the beneficial reuse industry. Encouraging the beneficial reuse of coal ash ensures that less of it ends up in landfills, which is good for the environment and good for our economy.

I know some Members have concerns about the legislation, but we have worked diligently with the majority and stakeholders to make improvements in the bill. The assertions by some of my colleagues that this legislation does nothing to protect the environment are making the perfect the enemy of the good. Part of legislating is moving the ball forward, and we cannot continue to work on legislation that simply will die in the Senate. This bill is a reasonable compromise and a win-win for the American people, as it will help protect the environment and create jobs. I urge my colleagues to support it.

Mr. WAXMAN. Mr. Chairman, before I yield back my time, I want to point out to my colleagues that this bill will not make it into law. The Senate will not accept it, and the President will not support it in its present form because it doesn't protect public health.

Coal ash contains arsenic, barium, cadmium, lead, mercury, hexavalent chromium, and other toxic materials. It's a threat, not when the coal ash is used for other purposes, but when it's in a disposal site and leaks into our drinking water, and that's what this issue is all about.

I reserve the balance of my time.

Mr. SHIMKUS. I want to thank my colleague from Texas, who has helped us move the bill forward.

I would remind my colleagues that the President has not issued a veto signal on this piece of legislation.

Mr. Chairman, I now yield 2 minutes to my friend and colleague from Florida (Mr. BILIRAKIS).

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Mr. BILIRAKIS. Mr. Chairman, I rise today to express my support for the Coal Residuals Reuse and Management Act.

I want to thank Mr. MCKINLEY and his staff for their hard work on this very important issue.

This commonsense legislation will empower States to safely regulate coal combustion products by fixed standards without overwhelming State budgets or customers' wallets. The recycling and reuse of coal combustion products has great economic and environmental benefits—creating jobs, reducing emissions, extending the life and durability of the Nation's roads and bridges, and reducing deposits in landfills and surface impoundments.

This legislation will provide the certainty States, utilities, and businesses depend on, all while giving the EPA the authority to protect the public should a State fail to enforce these strong standards.

I urge my colleagues to support this important legislation.

Mr. WAXMAN. Mr. Chairman, I continue to reserve the balance of my time.

Mr. SHIMKUS. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BUCSHON), a neighbor to my congressional district.

Mr. BUCSHON. Mr. Chairman, I rise today in support of this legislation.

Every single coal mine in the State of Indiana is in my congressional district. Coal not only provides thousands of jobs for Hoosiers, but provides over 90 percent of our State's energy. Coal is a vital part of Indiana's economy, helping to keep energy prices low and supporting a robust manufacturing sector.

I disagree with the EPA's position that coal ash should be treated as a hazardous material. Coal ash has been used in all kinds of other materials like concrete and has been proven safe when used correctly and when stored correctly. In fact, the EPA's own studies, as has also been mentioned, in 1993 and 2000 have stated that coal ash is not a hazardous material. This legislation allows States to establish their own regulations for managing coal ash as long as it meets minimum Federal standards.

Coal is necessary for an all-of-the-above energy plan and is vital to our Nation's energy production that sustains good-paying jobs, and I urge all of my colleagues to support this legislation.

Mr. WAXMAN. Mr. Chairman, I continue to reserve the balance of my time.

Mr. SHIMKUS. Mr. Chairman, the Indiana Department of Environmental Management wrote a letter in support of this bill and its safety and protection.

Now I yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, I rise in strong support of H.R. 2218.

I heard some comments today about coal ash. Let me be very clear: coal ash maybe at one point was energetic, but the coal ash we're discussing here today is inert. It's a lot like dirt, to be quite honest. As a cochair of the Congressional Cement Caucus, I have the largest cement producing district in America.

The cement and concrete folks, the industry, is by far the Nation's largest recycler of coal combustion residuals, or CCRs or coal ash as it's better known. Each year, more than 11 million tons of coal ash is recycled in the production of concrete. So this is essential to our manufacturing sector. Domestic manufacturers typically reuse an additional 3 million tons of coal ash annually as a raw material in cement production. The coal ash used in the process serves as a substitute for key ingredients in cement, which would otherwise be mined.

Without H.R. 2218, the EPA would be able to classify coal ash as a hazardous material, which in turn would put an end to this very useful recycling. Even the continued regulatory uncertainty generated by the stalled EPA rulemaking would dramatically inhibit the recycling of coal ash in domestic cement and concrete production.

This recycling includes all kinds of infrastructure products, including our roads, bridges, homes, schools, and other critical structures. Coal ash continues to be recycled in a safe and responsible manner. Whatever issues there have been with coal ash, they have largely been related to storage. This bill thoroughly addresses coal ash storage issues, which is really where we should be focused.

Again, H.R. 2218 provides the clarity needed by top recyclers to continue their efforts and to potentially increase coal ash recycling. So, again, I ask my colleagues to support passage of this important piece of legislation that will ensure the beneficial reuse of coal ash. A "yes" vote is the right vote. It is pro-manufacturing. Vote for the legislation.

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

When coal ash is recycled, it is not a waste; and, therefore, EPA has no jurisdiction. It is not a problem. When coal ash is put into a landfill or disposal site and leaches into the water, then it is a problem. This bill doesn't address that problem. It doesn't adequately ensure protection of the public health; or if they have a law at the State level that seems to talk about public health, there's no clear enforcement of it. That is our problem with the legislation.

Recycling coal ash for any purpose doesn't make it hazardous, doesn't make it toxic. It can be reused, and we want to encourage that. But we don't want public health threatened. That's what our concern is all about.

I reserve the balance of my time.

Mr. SHIMKUS. Mr. Chairman, to my colleague from California, we're waiting for a few Members. I'm not sure they are going to get here. I'm willing to have you close, and then I'll close after you're finished.

I reserve the balance of my time.

Mr. WAXMAN. Knowing that we want to wrap up this general debate, I yield myself the balance of my time.

I will just repeat that the EPA proposed to act, and that is what has caused this whole furor. Rather than to discuss what is the appropriate balance between the EPA and the States, the Republican bill would take this away from EPA, keep them from regulating, and turn it over to the States, where the States can already act and many have. They don't need us to give them the power to act. This bill says it's up to the States. It doesn't have a uniform standard of protecting public health. It doesn't require States to have the goal of protecting the public health. And if the States achieve the goal in their legislation to protect public health, there's no guarantee of it being enforced because EPA cannot come back in and enforce the State law and citizens cannot file lawsuits. That's one of the so-called "improvements" that has been made since the last time this bill was before us. It has weakened the ability to enforce protection of public health.

So I urge my colleagues to oppose this bill, and in doing so tell us to go back and work on the problem and get a real, true bipartisan bill that can be supported by the majority of the Democrats and by the President of the United States.

I urge Members to vote against the bill, and I yield back the balance of my time.

Mr. SHIMKUS. Mr. Chairman, I yield myself the balance of my time.

It's been a great debate. It's been a great process. I'll just summarize some of the issues. Yes, the issue is about beneficial reuse, like this shingle here; but it's also about the storage.

We were very close to passing this legislation the last Congress, as the ranking member knows. This bill is better, as my colleague from Texas says. There are 12 additional changes made in this bill versus last year's bill that addresses many of the concerns that the minority asked and also concerns by the Environmental Protection Agency. We worked very closely with them. That is why—and I'll say it again—the administration has not issued a veto threat on this bill. That's a signal that they may have issues, but there's not an outright veto threat on this bill. That's a signal that we've worked with them to address some of the major concerns.

Again, I want to highlight some of the special interest groups that are forcing this legislation, like the United Mine Workers, the building and construction trades, the transportation workers. Those who are historically considered in the minority's coalition are now moving to the pro-job coalition of this bill and hopefully other bills in the future.

I want to reemphasize that the EPA in 1993 and 2000 stated that coal ash does not have the characteristics of hazardous waste, including toxicity, and should not be regulated under subtitle C. That's not us. That's the EPA, and that's the EPA making that ruling twice.

We believe that the Federal Government can set standards. We believe that the Federal Government can enforce that the State do certification, and we trust the States to be able to monitor and meet the standards. That's why I listed in support the Environmental Council of the States and Indiana's Department of Environmental Management, because what they want to do is get a handle on this. And let's not confuse the issue. If the EPA is able to label fly ash as toxic, it does depress the beneficial use. So the cheap concrete that's mixed with fly ash will not be put in. The road mitigation issues which we've done will not be put in. My colleague, MARSHA BLACKBURN, did a great job talking about how we use today coal ash and fly ash.

So I want to thank my colleague, Mr. MCKINLEY, for moving this bill and my colleagues on the subcommittee, who have made the changes and moved it forward. We look forward to the debates on the amendment, and we look forward to passing the bill and sending it to the other Chamber and eventually a signature by the President of the United States.

I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in strong support of H.R. 2218, the Coal Residuals Reuse and Management Act. This bipartisan legislation accomplishes the safe regulation of coal ash without jeopardizing job growth, raising energy costs, or burdening industry with costly rulemaking.

H.R. 2218 establishes minimum federal requirements for the disposal of coal combustion residuals, which would be enforced by state-based permit programs. Rigid and costly EPA rulemaking will be avoided, tens of thousands of jobs will be saved, and health and environmental concerns will be addressed in a measured, responsible way.

According to a recent nonpartisan study, the Environmental Protection Agency's latest attempt to regulate coal ash as hazardous waste could lead to net job losses of between 184,000 and 316,000. At a time of anemic economic growth, this is unacceptable.

Of course, this most recent push is part of a broader "War on Coal" by the Obama Administration, which adheres to a radical, dogmatic notion of environmentalism at the expense of American jobs. It also proves that the President's claim of an "all of the above" approach to energy policy is an empty promise to the American people.



Like my colleagues, I care deeply about the environment—Wisconsin has some of the most beautiful hills, lakes and farmland in the country. But I also believe we should be mindful of enacting environmental policies that will have an adverse effect on jobs and economic growth. Rather than rely on stale partisan talking points, which result in inflexible, overreaching policy prescriptions, the President should work with businesses and other affected stakeholders to craft workable solutions to climate change.

We owe it to the American people to offer viable alternatives to the President's agenda. The Coal Residuals Reuse and Management Act is a tremendous starting point for a bipartisan discussion on environmental issues. I urge my colleagues on both sides of the aisle to support this commonsense alternative to the President's War on Coal.

Mr. VAN HOLLEN. Mr. Chair, our country has 676 existing coal ash impoundments in 46 States, and an unknown number of "legacy sites" that continue to pose risk to our communities—risk of contaminating the groundwater with arsenic, lead, and mercury or of experiencing catastrophic failure like we saw in the 2008 Kingston disaster. That is why action must be taken to ensure that coal ash is either recycled responsibly or disposed of properly.

However, instead of taking steps to protect the public health and prevent groundwater contamination around storage sites, today's legislation authorizes each State to create its own coal waste management permitting program, with no legal standard to ensure a minimum level of public safety. Moreover, the nonpartisan Congressional Research Service has found that the bill would give EPA "no federal backstop authority" to ensure that States enforce their standards.

Mr. Chair, rather than addressing the real danger of improperly managed coal ash, this bill risks a regulatory race to the bottom, threatening the safety of all of our citizens. I urge a no vote.

Mr. DEFAZIO. Mr. Chair, in December 2008 an impoundment holding disposed ash waste generated by the Tennessee Valley Authority broke open, creating a massive spill in Kingston, TN. The spill covered the surrounding land and Clinch River with one billion gallons of coal ash, displaced residents, and resulted in \$1.2 billion in cleanup costs.

The accident underscored the need for rules to ensure structural stability and safety of coal ash impoundments given that U.S. electric utilities generate 130 million tons of coal ash every year.

In response, the Environmental Protection Agency proposed the first-ever regulations to ensure the safe disposal and management of coal ash from coal-fired power plants under the Nation's primary law for regulating solid waste, the Resource Conservation and Recovery Act, RCRA.

In June 2010, the EPA presented two regulatory options: regulating coal ash as hazardous waste under Subtitle C or regulating coal ash as a non-hazardous waste under Subtitle D. The EPA has not established a deadline for the final rule.

I have serious concerns that designating coal ash as a hazardous material, the result of regulating coal ash under Subtitle C, could have major impacts on the recycling and reuse of coal ash to manufacture wallboard, roofing materials and bricks, and especially concrete.

In 2008 alone, the concrete industry used 15.8 million tons of coal ash in the manufacturing of ready mixed concrete making it the most widely used supplemental cementing material. When combined with cement, coal ash improves the durability, strength, constructability, and economy of concrete.

It also has huge environmental benefits. Using coal ash—an industrial byproduct—in concrete results in longer lasting structures and reduction in the amount of waste materials sent to landfills, raw materials extracted, energy required for production, and air emissions, including carbon dioxide.

A "hazardous" designation of coal ash could put these benefits in jeopardy. It could make coal ash storage and transportation more expensive, and create a legal environment that would deter cement manufacturers from recycling coal ash in cement production.

The result would not only be devastating for the cement manufacturing industry and American jobs, it could also divert millions of tons of coal ash from beneficial uses to surface impoundments like the one that broke open in Kingston, Tennessee.

For these reasons, my preference is for EPA to regulate coal ash under Subtitle D of the Resources Conservation and Recovery Act. This would ensure we have strong regulations for surface impoundments of coal ash needed to protect public health and the environment without inhibiting the recycling and reuse of coal ash.

To ensure EPA gets that message, I supported H.R. 2273 in 2011. The Coal Residuals Reuse and Management Act was not a perfect bill. In fact, this bill could have been much simpler and likely noncontroversial if my Republican colleagues had just legislated Subtitle D of RCRA. It was my hope that the U.S. Senate would take this more targeted approach.

Thankfully, in June of 2013, the EPA published a Federal Register notice indicating a preference for regulating coal ash under subtitle D. I appreciate EPA's willingness to be pragmatic and balance the needs of recyclers to achieve greater environmental protection.

Today we are voting on H.R. 2218, the latest version of the Coal Residuals Reuse and Management Act. While the bill has been marginally improved, I believe it is no longer necessary. Assuming the EPA regulates coal ash under Subtitle D, the recycling and reuse of coal ash will not be jeopardized, eliminating the need for legislation. By voting against H.R. 2218, I am thanking EPA for its pragmatic reconsideration of the June 2010 draft rule and for providing certainty for coal ash recyclers.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce, printed in the bill, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2218

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Coal Residuals Reuse and Management Act of 2013".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Management and disposal of coal combustion residuals.

Sec. 3. 2000 regulatory determination.

Sec. 4. Technical assistance.

Sec. 5. Federal Power Act.

## SEC. 2. MANAGEMENT AND DISPOSAL OF COAL COMBUSTION RESIDUALS.

(a) *IN GENERAL.*—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

### "SEC. 4011. MANAGEMENT AND DISPOSAL OF COAL COMBUSTION RESIDUALS.

"(a) *STATE PERMIT PROGRAMS FOR COAL COMBUSTION RESIDUALS.*—Each State may adopt, implement, and enforce a coal combustion residuals permit program if such State provides the notification required under subsection (b)(1), and the certification required under subsection (b)(2).

"(b) *STATE ACTIONS.*—

"(1) *NOTIFICATION.*—Not later than 6 months after the date of enactment of this section (except as provided by the deadline identified under subsection (d)(3)(B)), the Governor of each State shall notify the Administrator, in writing, whether such State will adopt and implement a coal combustion residuals permit program.

"(2) *CERTIFICATION.*—

"(A) *IN GENERAL.*—Not later than 36 months after the date of enactment of this section (except as provided in subsection (f)(1)(A)), in the case of a State that has notified the Administrator that it will implement a coal combustion residuals permit program, the head of the lead State implementing agency shall submit to the Administrator a certification that such coal combustion residuals permit program meets the requirements described in subsection (c).

"(B) *CONTENTS.*—A certification submitted under this paragraph shall include—

"(i) a letter identifying the lead State implementing agency, signed by the head of such agency;

"(ii) identification of any other State agencies involved with the implementation of the coal combustion residuals permit program;

"(iii) an explanation of how the State coal combustion residuals permit program meets the requirements of this section, including a description of the State's—

"(I) process to inspect or otherwise determine compliance with such permit program;

"(II) process to enforce the requirements of such permit program;

"(III) public participation process for the promulgation, amendment, or repeal of regulations for, and the issuance of permits under, such permit program;

"(IV) statutes, regulations, or policies pertaining to public access to information, such as groundwater monitoring data; and

"(V) statutes, regulations, or policies pertaining to structural integrity or dam safety that may be applied to structures through such permit program;

"(iv) a certification that the State has in effect, at the time of certification, statutes or regulations necessary to implement a coal combustion residuals permit program that meets the requirements described in subsection (c); and

"(v) copies of State statutes and regulations described in clause (iv).

"(C) *UPDATES.*—A State may update the certification as needed to reflect changes to the coal combustion residuals permit program.

"(3) *MAINTENANCE OF 4005(c) OR 3006 PROGRAM.*—In order to adopt or implement a coal combustion residuals permit program under this

section (including pursuant to subsection (f)), the State implementing agency shall maintain an approved permit program or other system of prior approval and conditions under section 4005(c) or an authorized program under section 3006.

“(c) REQUIREMENTS FOR A COAL COMBUSTION RESIDUALS PERMIT PROGRAM.—A coal combustion residuals permit program shall consist of the following:

“(1) GENERAL REQUIREMENTS.—

“(A) IN GENERAL.—The implementing agency shall—

“(i) apply the subset of the revised criteria described in paragraph (2) to owners or operators of structures, including surface impoundments, that receive coal combustion residuals on or after the date of enactment of this section;

“(ii) with respect to structures that are receiving coal combustion residuals as of the date of enactment of this section, take the actions required under paragraph (3);

“(iii) impose requirements for surface impoundments that do not meet certain criteria pursuant to paragraph (4); and

“(iv) require that closure of structures occur in accordance with paragraph (5).

“(B) STRUCTURAL INTEGRITY.—

“(i) ENGINEERING CERTIFICATION.—The implementing agency shall require that an independent registered professional engineer certify that—

“(I) the design of each structure that receives coal combustion residuals on or after the date of enactment of this section is in accordance with recognized and generally accepted good engineering practices for containment of the maximum volume of coal combustion residuals and liquids which can be impounded therein; and

“(II) the construction and maintenance of the structure will ensure structural stability.

“(ii) EMERGENCY ACTION PLAN.—The implementing agency shall require that the owner or operator of any structure that is a surface impoundment that receives coal combustion residuals on or after the date of enactment of this section and that is classified by the State as posing a high hazard potential pursuant to the guidelines published by the Federal Emergency Management Agency entitled ‘Federal Guidelines for Dam Safety: Hazard Potential Classification System for Dams’ (FEMA Publication Number 333) prepare and maintain an emergency action plan that identifies responsible persons and actions to be taken in the event of a dam safety emergency.

“(iii) INSPECTION.—

“(I) IN GENERAL.—The implementing agency shall require that structures that are surface impoundments that receive coal combustion residuals on or after the date of enactment of this section be inspected not less than annually by an independent registered professional engineer to assure that the design, operation, and maintenance of the surface impoundment is in accordance with recognized and generally accepted good engineering practices for containment of the maximum volume of coal combustion residuals and liquids which can be impounded therein, so as to ensure dam stability.

“(II) POTENTIALLY HAZARDOUS CONDITIONS.—The implementing agency shall require that if an inspection under subclause (I), or a periodic evaluation under clause (iv), reveals a potentially hazardous condition, the owner or operator of the structure shall immediately take action to mitigate the potentially hazardous condition and notify appropriate State and local first responders.

“(iv) PERIODIC EVALUATION.—The implementing agency shall require that structures that are surface impoundments that receive coal combustion residuals on or after the date of enactment of this section be periodically evaluated for appearances of structural weakness.

“(v) DEFICIENCY.—

“(I) IN GENERAL.—If the head of the implementing agency determines that a structure is

deficient with respect to the requirements in clause (i), (iii), or (iv), the head of the agency has the authority to require action to correct the deficiency according to a schedule determined by the agency.

“(II) UNCORRECTED DEFICIENCIES.—If a deficiency is not corrected according to the schedule, the head of the implementing agency has the authority to require that the structure close in accordance with paragraph (5).

“(III) DAM SAFETY CONSULTATION.—In the case of a structure that is a surface impoundment, the head of the implementing agency shall, in making a determination under subclause (I), consult with appropriate State dam safety officials.

“(C) LOCATION.—The implementing agency shall require that structures that first receive coal combustion residuals on or after the date of enactment of this section shall be constructed with a base located a minimum of 2 feet above the upper limit of the water table, unless it is demonstrated to the satisfaction of the implementing agency that—

“(i) the hydrogeologic characteristics of a structure and surrounding land would preclude such a requirement; and

“(ii) the function and integrity of the liner system will not be adversely impacted by contact with the water table.

“(D) WIND DISPERSAL.—

“(i) IN GENERAL.—The implementing agency shall require that owners or operators of structures that receive coal combustion residuals on or after the date of enactment of this section address wind dispersal of dust by requiring cover, or by wetting coal combustion residuals with water to a moisture content that prevents wind dispersal, facilitates compaction, and does not result in free liquids.

“(ii) ALTERNATIVE METHODS.—Subject to the review and approval by the implementing agency, owners or operators of structures that receive coal combustion residuals on or after the date of enactment of this section may propose alternative methods to address wind dispersal of dust that will provide comparable or more effective control of dust.

“(E) PERMITS.—The implementing agency shall require that owners or operators of structures that receive coal combustion residuals on or after the date of enactment of this section apply for and obtain permits incorporating the requirements of the coal combustion residuals permit program.

“(F) PUBLIC AVAILABILITY OF INFORMATION.—Except for information with respect to which disclosure is prohibited under section 1905 of title 18, United States Code, the implementing agency shall ensure that—

“(i) documents for permit determinations are made available for public review and comment under the public participation process described in subsection (b)(2)(B)(iii)(III) or in subsection (e)(6), as applicable;

“(ii) final determinations on permit applications are made known to the public; and

“(iii) groundwater monitoring data collected under paragraph (2) is publicly available.

“(G) AGENCY AUTHORITY.—

“(i) IN GENERAL.—The implementing agency has the authority to—

“(I) obtain information necessary to determine whether the owner or operator of a structure is in compliance with the requirements of this subsection;

“(II) conduct or require monitoring and testing to ensure that structures are in compliance with the requirements of this subsection; and

“(III) enter, at reasonable times, any site or premise subject to the coal combustion residuals permit program for the purpose of inspecting structures and reviewing records relevant to the design, operation, and maintenance of structures.

“(ii) MONITORING AND TESTING.—If monitoring or testing is conducted under clause (i)(II) by or for the implementing agency, the implementing

agency shall, if requested, provide to the owner or operator—

“(I) a written description of the monitoring or testing completed;

“(II) at the time of sampling, a portion of each sample equal in volume or weight to the portion retained by or for the implementing agency; and

“(III) a copy of the results of any analysis of samples collected by or for the implementing agency.

“(2) REVISED CRITERIA.—The subset of the revised criteria referred to in paragraph (1)(A)(i) are as follows:

“(A) DESIGN REQUIREMENTS.—For new structures, and lateral expansions of existing structures, that first receive coal combustion residuals on or after the date of enactment of this section, the revised criteria regarding design requirements described in section 258.40 of title 40, Code of Federal Regulations, except that the leachate collection system requirements described in section 258.40(a)(2) of title 40, Code of Federal Regulations, do not apply to structures that are surface impoundments.

“(B) GROUNDWATER MONITORING AND CORRECTIVE ACTION.—For all structures that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria regarding groundwater monitoring and corrective action requirements described in subpart E of part 258 of title 40, Code of Federal Regulations, except that, for the purposes of this subparagraph, the revised criteria shall also include—

“(i) for the purposes of detection monitoring, the constituents boron, chloride, conductivity, fluoride, mercury, pH, sulfate, sulfide, and total dissolved solids; and

“(ii) for the purposes of assessment monitoring, establishing a groundwater protection standard, and assessment of corrective measures, the constituents aluminum, boron, chloride, fluoride, iron, manganese, molybdenum, pH, sulfate, and total dissolved solids.

“(C) CLOSURE.—For all structures that receive coal combustion residuals on or after the date of enactment of this section, in a manner consistent with paragraph (5), the revised criteria for closure described in subsections (a) through (c) and (h) through (j) of section 258.60 of title 40, Code of Federal Regulations.

“(D) POST-CLOSURE.—For all structures that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria for post-closure care described in section 258.61 of title 40, Code of Federal Regulations, except for the requirement described in subsection (a)(4) of that section.

“(E) LOCATION RESTRICTIONS.—The revised criteria for location restrictions described in—

“(i) for new structures, and lateral expansions of existing structures, that first receive coal combustion residuals on or after the date of enactment of this section, sections 258.11 through 258.15 of title 40, Code of Federal Regulations; and

“(ii) for existing structures that receive coal combustion residuals on or after the date of enactment of this section, sections 258.11 and 258.15 of title 40, Code of Federal Regulations.

“(F) AIR QUALITY.—For all structures that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria for air quality described in section 258.24 of title 40, Code of Federal Regulations.

“(G) FINANCIAL ASSURANCE.—For all structures that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria for financial assurance described in subpart G of part 258 of title 40, Code of Federal Regulations.

“(H) SURFACE WATER.—For all structures that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria for surface water described in section 258.27 of title 40, Code of Federal Regulations.

“(I) RECORDKEEPING.—For all structures that receive coal combustion residuals on or after the



date of enactment of this section, the revised criteria for recordkeeping described in section 258.29 of title 40, Code of Federal Regulations.

“(J) RUN-ON AND RUN-OFF CONTROL SYSTEMS FOR LAND-BASED UNITS.—For all landfills and other land-based units, other than surface impoundments, that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria for run-on and run-off control systems described in section 258.26 of title 40, Code of Federal Regulations.

“(K) RUN-OFF CONTROL SYSTEMS FOR SURFACE IMPOUNDMENTS.—For all surface impoundments that receive coal combustion residuals on or after the date of enactment of this section, the revised criteria for run-off control systems described in section 258.26(a)(2) of title 40, Code of Federal Regulations.

“(3) PERMIT PROGRAM IMPLEMENTATION FOR EXISTING STRUCTURES.—

“(A) NOTIFICATION.—Not later than the date on which a State submits a certification under subsection (b)(2), not later than 30 months after the Administrator receives notice under subsection (e)(1)(A), or not later than 36 months after the date of enactment of this section with respect to a coal combustion residuals permit program that is being implemented by the Administrator under subsection (e)(3), as applicable, the implementing agency shall notify owners or operators of structures that are receiving coal combustion residuals as of the date of enactment of this section within the State of—

“(i) the obligation to apply for and obtain a permit under subparagraph (C); and

“(ii) the requirements referred to in subparagraph (B).

“(B) COMPLIANCE WITH CERTAIN REQUIREMENTS.—Not later than 12 months after the date on which a State submits a certification under subsection (b)(2), not later than 42 months after the Administrator receives notice under subsection (e)(1)(A), or not later than 48 months after the date of enactment of this section with respect to a coal combustion residuals permit program that is being implemented by the Administrator under subsection (e)(3), as applicable, the implementing agency shall require owners or operators of structures that are receiving coal combustion residuals as of the date of enactment of this section to comply with—

“(i) the requirements under paragraphs (1)(B)(ii) and (iii), (1)(D), (2)(B), (2)(F), (2)(H), (2)(J), and (2)(K); and

“(ii) the groundwater recordkeeping requirement described in section 258.29(a)(5) of title 40, Code of Federal Regulations.

“(C) PERMITS.—

“(i) PERMIT DEADLINE.—Not later than 48 months after the date on which a State submits a certification under subsection (b)(2), not later than 78 months after the Administrator receives notice under subsection (e)(1)(A), or not later than 84 months after the date of enactment of this section with respect to a coal combustion residuals permit program that is being implemented by the Administrator under subsection (e)(3), as applicable, the implementing agency shall issue, with respect to a structure that is receiving coal combustion residuals as of the date of enactment of this section, a final permit incorporating the requirements of the coal combustion residuals permit program, or a final denial for an application submitted requesting such a permit.

“(ii) APPLICATION DEADLINE.—The implementing agency shall identify, in collaboration with the owner or operator of a structure described in clause (i), a reasonable deadline by which the owner or operator shall submit a permit application under such clause.

“(D) INTERIM OPERATION.—

“(i) PRIOR TO DEADLINES.—With respect to any period of time on or after the date of enactment of this section but prior to the applicable deadline in subparagraph (B), the owner or operator of a structure that is receiving coal combustion residuals as of the date of enactment of

this section may continue to operate such structure until such applicable deadline under the applicable authority in effect.

“(ii) PRIOR TO PERMIT.—Unless the implementing agency determines that the structure should close pursuant to paragraph (5), if the owner or operator of a structure that is receiving coal combustion residuals as of the date of enactment of this section meets the requirements referred to in subparagraph (B) by the applicable deadline in such subparagraph, the owner or operator may operate the structure until such time as the implementing agency issues, under subparagraph (C), a final permit incorporating the requirements of the coal combustion residuals permit program, or a final denial for an application submitted requesting such a permit.

“(4) REQUIREMENTS FOR SURFACE IMPOUNDMENTS THAT DO NOT MEET CERTAIN CRITERIA.—

“(A) SURFACE IMPOUNDMENTS THAT REQUIRE ASSESSMENT OF CORRECTIVE MEASURES WITHIN 10 YEARS OF THE DATE OF ENACTMENT.—

“(i) IN GENERAL.—In addition to the groundwater monitoring and corrective action requirements described in paragraph (2)(B), the implementing agency shall require a surface impoundment that receives coal combustion residuals on or after the date of enactment of this section to comply with the requirements in clause (ii) of this subparagraph and clauses (i) and (ii) of subparagraph (D) if the surface impoundment—

“(I) does not—

“(aa) have a liner system described in section 258.40(b) of title 40, Code of Federal Regulations; and

“(bb) meet the design criteria described in section 258.40(a)(1) of title 40, Code of Federal Regulations; and

“(II) within 10 years after the date of enactment of this section, is required under section 258.56(a) of title 40, Code of Federal Regulations, to undergo an assessment of corrective measures for any constituent covered under subpart E of part 258 of title 40, Code of Federal Regulations, or otherwise identified in paragraph (2)(B)(ii) of this subsection, for which assessment groundwater monitoring is required.

“(ii) DEADLINE TO MEET GROUNDWATER PROTECTION STANDARD.—Except as provided in subparagraph (C), the implementing agency shall require that the groundwater protection standard, for surface impoundments identified in clause (i) of this subparagraph, established by the implementing agency under section 258.55(h) or 258.55(i) of title 40, Code of Federal Regulations, for any constituent for which corrective measures are required shall be met—

“(I) as soon as practicable at the relevant point of compliance, as described in section 258.40(d) of title 40, Code of Federal Regulations; and

“(II) not later than 10 years after the date of enactment of this section.

“(B) SURFACE IMPOUNDMENTS SUBJECT TO A STATE CORRECTIVE ACTION REQUIREMENT AS OF THE DATE OF ENACTMENT.—

“(i) IN GENERAL.—In addition to the groundwater monitoring and corrective action requirements described in paragraph (2)(B), the implementing agency shall require a surface impoundment that receives coal combustion residuals on or after the date of enactment of this section to comply with the requirements in clause (ii) of this subparagraph and clauses (i) and (ii) of subparagraph (D) if the surface impoundment—

“(I) does not—

“(aa) have a liner system described in section 258.40(b) of title 40, Code of Federal Regulations; and

“(bb) meet the design criteria described in section 258.40(a)(1) of title 40, Code of Federal Regulations; and

“(II) as of the date of enactment of this section, is subject to a State corrective action requirement.

“(ii) DEADLINE TO MEET GROUNDWATER PROTECTION STANDARD.—Except as provided in sub-

paragraph (C), the implementing agency shall require that the groundwater protection standard, for surface impoundments identified in clause (i) of this subparagraph, established by the implementing agency under section 258.55(h) or 258.55(i) of title 40, Code of Federal Regulations, for any constituent for which corrective measures are required shall be met—

“(I) as soon as practicable at the relevant point of compliance, as described in section 258.40(d) of title 40, Code of Federal Regulations; and

“(II) not later than 8 years after the date of enactment of this section.

“(C) EXTENSION OF DEADLINE.—

“(i) IN GENERAL.—Except as provided in clause (ii) of this subparagraph, the deadline for meeting a groundwater protection standard under subparagraph (A)(ii) or (B)(ii) may be extended by the implementing agency, after opportunity for public notice and comment under the public participation process described in subsection (b)(2)(B)(iii)(III), or in subsection (e)(6) based on—

“(I) the effectiveness of any interim measures implemented by the owner or operator of the facility under section 258.58(a)(3) of title 40, Code of Federal Regulations;

“(II) the level of progress demonstrated in meeting the groundwater protection standard;

“(III) the potential for other adverse human health or environmental exposures attributable to the contamination from the surface impoundment undergoing corrective action; and

“(IV) the lack of available alternative management capacity for the coal combustion residuals and related materials managed in the impoundment at the facility at which the impoundment is located if the owner or operator has used best efforts, as necessary, to design, obtain any necessary permits, finance, construct, and render operational the alternative management capacity during the time period for meeting a groundwater protection standard in subparagraph (A)(ii) or (B)(ii).

“(ii) EXCEPTION.—The deadline under subparagraph (A)(ii) or (B)(ii) shall not be extended if there has been contamination of public or private drinking water systems attributable to a surface impoundment undergoing corrective action, unless the contamination has been addressed by providing a permanent replacement water system.

“(D) ADDITIONAL REQUIREMENTS.—

“(i) CLOSURE.—If the deadline under subparagraph (A)(ii), (B)(ii), or (C) is not satisfied, the surface impoundment shall cease receiving coal combustion residuals and initiate closure under paragraph (5).

“(ii) INTERIM MEASURES.—

“(I) IN GENERAL.—Except as provided in subclause (II), not later than 90 days after the date on which the assessment of corrective measures is initiated, the owner or operator of a surface impoundment described in subparagraph (A) or (B) shall implement interim measures, as necessary, under the factors in section 258.58(a)(3) of title 40, Code of Federal Regulations.

“(II) IMPOUNDMENTS SUBJECT TO STATE CORRECTIVE ACTION REQUIREMENT AS OF THE DATE OF ENACTMENT.—Subclause (I) shall only apply to surface impoundments subject to a State corrective action requirement as of the date of enactment of this section if the owner or operator has not implemented interim measures, as necessary, under the factors in section 258.58(a)(3) of title 40, Code of Federal Regulations.

“(E) SURFACE IMPOUNDMENTS THAT REQUIRE ASSESSMENT OF CORRECTIVE MEASURES MORE THAN 10 YEARS AFTER DATE OF ENACTMENT.—

“(i) IN GENERAL.—In addition to the groundwater monitoring and corrective action requirements described in paragraph (2)(B), the implementing agency shall require a surface impoundment that receives coal combustion residuals on or after the date of enactment of this section to comply with the requirements in clause (ii) if the surface impoundment—

“(I) does not—

“(aa) have a liner system described in section 258.40(b) of title 40, Code of Federal Regulations; and

“(bb) meet the design criteria described in section 258.40(a)(1) of title 40, Code of Federal Regulations; and

“(II) more than 10 years after the date of enactment of this section, is required under section 258.56(a) title 40, Code of Federal Regulations, to undergo an assessment of corrective measures for any constituent covered under subpart E of part 258 of title 40, Code of Federal Regulations, or otherwise identified in paragraph (2)(B)(ii) of this subsection, for which assessment groundwater monitoring is required.

“(ii) REQUIREMENTS.—

“(I) CLOSURE.—The surface impoundments identified in clause (i) shall cease receiving coal combustion residuals and initiate closure in accordance with paragraph (5) after alternative management capacity at the facility is available for the coal combustion residuals and related materials managed in the impoundment.

“(II) BEST EFFORTS.—The alternative management capacity shall be developed as soon as practicable with the owner or operator using best efforts to design, obtain necessary permits for, finance, construct, and render operational the alternative management capacity.

“(III) ALTERNATIVE CAPACITY MANAGEMENT PLAN.—The owner or operator shall, in collaboration with the implementing agency, prepare a written plan that describes the steps necessary to develop the alternative management capacity and includes a schedule for completion.

“(IV) PUBLIC PARTICIPATION.—The plan described in subclause (III) shall be subject to public notice and comment under the public participation process described in subsection (b)(2)(B)(iii)(III) or in subsection (e)(6), as applicable.

“(5) CLOSURE.—

“(A) IN GENERAL.—If it is determined by the implementing agency that a structure should close because the requirements of a coal combustion residuals permit program are not being satisfied with respect to such structure, or if it is determined by the owner or operator that a structure should close, the time period and method for the closure of such structure shall be set forth in a closure plan that establishes a deadline for completion of closure as soon as practicable and that takes into account the nature and the site-specific characteristics of the structure to be closed.

“(B) SURFACE IMPOUNDMENT.—In the case of a surface impoundment, the closure plan under subparagraph (A) shall require, at a minimum, the removal of liquid and the stabilization of remaining waste, as necessary to support the final cover.

“(d) FEDERAL REVIEW OF STATE PERMIT PROGRAMS.—

“(I) IN GENERAL.—The Administrator shall provide to a State written notice and an opportunity to remedy deficiencies in accordance with paragraph (3) if at any time the State—

“(A) does not satisfy the notification requirement under subsection (b)(1);

“(B) has not submitted a certification required under subsection (b)(2);

“(C) does not satisfy the maintenance requirement under subsection (b)(3);

“(D) is not implementing a coal combustion residuals permit program, with respect to which the State has submitted a certification under subsection (b)(2), that meets the requirements described in subsection (c);

“(E) is not implementing a coal combustion residuals permit program, with respect to which the State has submitted a certification under subsection (b)(2)—

“(i) that is consistent with such certification; and

“(ii) for which the State continues to have in effect statutes or regulations necessary to implement such program; or

“(F) does not make available to the Administrator, within 90 days of a written request, specific information necessary for the Administrator to ascertain whether the State has satisfied the requirements described in subparagraphs (A) through (E).

“(2) REQUEST.—If a request described in paragraph (1)(F) is proposed pursuant to a petition to the Administrator, the Administrator shall only make the request if the Administrator does not possess the information necessary to ascertain whether the State has satisfied the requirements described in subparagraphs (A) through (E) of such paragraph.

“(3) CONTENTS OF NOTICE; DEADLINE FOR RESPONSE.—A notice provided under paragraph (1) shall—

“(A) include findings of the Administrator detailing any applicable deficiencies described in subparagraphs (A) through (F) of paragraph (1); and

“(B) identify, in collaboration with the State, a reasonable deadline by which the State shall remedy such applicable deficiencies, which shall be—

“(i) in the case of a deficiency described in subparagraphs (A) through (E) of paragraph (1), not earlier than 180 days after the date on which the State receives the notice; and

“(ii) in the case of a deficiency described in paragraph (1)(F), not later than 90 days after the date on which the State receives the notice.

“(4) CRITERIA FOR DETERMINING DEFICIENCY OF STATE PERMIT PROGRAM.—In making a determination whether a State has failed to satisfy the requirements described in subparagraphs (A) through (E) of paragraph (1), or a determination under subsection (e)(1)(B), the Administrator shall consider, as appropriate—

“(A) whether the State's statutes or regulations to implement a coal combustion residuals permit program are not sufficient to meet the requirements described in subsection (c) because of—

“(i) failure of the State to promulgate or enact new statutes or regulations when necessary; or

“(ii) action by a State legislature or court striking down or limiting such State statutes or regulations;

“(B) whether the operation of the State coal combustion residuals permit program fails to comply with the requirements of subsection (c) because of—

“(i) failure of the State to issue permits as required in subsection (c)(1)(E);

“(ii) repeated issuance of permits by the State which do not meet the requirements of subsection (c);

“(iii) failure of the State to comply with the public participation requirements of this section; or

“(iv) failure of the State to implement corrective action requirements as described in subsection (c)(2)(B); and

“(C) whether the enforcement of a State coal combustion residuals permit program fails to comply with the requirements of this section because of—

“(i) failure to act on violations of permits, as identified by the State; or

“(ii) repeated failure by the State to inspect or otherwise determine compliance pursuant to the process identified in subsection (b)(2)(B)(iii)(I).

“(e) IMPLEMENTATION BY ADMINISTRATOR.—

“(1) FEDERAL BACKSTOP AUTHORITY.—The Administrator shall implement a coal combustion residuals permit program for a State only if—

“(A) the Governor of the State notifies the Administrator under subsection (b)(1) that the State will not adopt and implement a permit program;

“(B) the State has received a notice under subsection (d) and the Administrator determines, after providing a 30-day period for notice and public comment, that the State has failed, by the deadline identified in the notice under subsection (d)(3)(B), to remedy the deficiencies detailed in the notice under subsection (d)(3)(A); or

“(C) the State informs the Administrator, in writing, that such State will no longer implement such a permit program.

“(2) REVIEW.—A State may obtain a review of a determination by the Administrator under this subsection as if the determination was a final regulation for purposes of section 7006.

“(3) OTHER STRUCTURES.—For structures that receive coal combustion residuals on or after the date of enactment of this section located on property within the exterior boundaries of a State that the State does not have authority or jurisdiction to regulate, the Administrator shall implement a coal combustion residuals permit program only for those structures.

“(4) REQUIREMENTS.—If the Administrator implements a coal combustion residuals permit program for a State under paragraph (1) or (3), the permit program shall consist of the requirements described in subsection (c).

“(5) ENFORCEMENT.—

“(A) IN GENERAL.—If the Administrator implements a coal combustion residuals permit program for a State under paragraph (1)—

“(i) the authorities referred to in section 4005(c)(2)(A) shall apply with respect to coal combustion residuals and structures for which the Administrator is implementing the coal combustion residuals permit program; and

“(ii) the Administrator may use those authorities to inspect, gather information, and enforce the requirements of this section in the State.

“(B) OTHER STRUCTURES.—If the Administrator implements a coal combustion residuals permit program under paragraph (3)—

“(i) the authorities referred to in section 4005(c)(2)(A) shall apply with respect to coal combustion residuals and structures for which the Administrator is implementing the coal combustion residuals permit program; and

“(ii) the Administrator may use those authorities to inspect, gather information, and enforce the requirements of this section for the structures for which the Administrator is implementing the coal combustion residuals permit program.

“(6) PUBLIC PARTICIPATION PROCESS.—If the Administrator implements a coal combustion residuals permit program for a State under this subsection, the Administrator shall provide a 30-day period for the public participation process required in paragraphs (1)(F)(i), (4)(C)(i), and (4)(E)(ii)(IV) of subsection (c).

“(f) STATE CONTROL AFTER IMPLEMENTATION BY ADMINISTRATOR.—

“(1) STATE CONTROL.—

“(A) NEW ADOPTION, OR RESUMPTION OF, AND IMPLEMENTATION BY STATE.—For a State for which the Administrator is implementing a coal combustion residuals permit program under subsection (e)(1)(A), or subsection (e)(1)(C), the State may adopt and implement such a permit program by—

“(i) notifying the Administrator that the State will adopt and implement such a permit program;

“(ii) not later than 6 months after the date of such notification, submitting to the Administrator a certification under subsection (b)(2); and

“(iii) receiving from the Administrator—

“(I) a determination, after providing a 30-day period for notice and public comment, that the State coal combustion residuals permit program meets the requirements described in subsection (c); and

“(II) a timeline for transition of control of the coal combustion residuals permit program.

“(B) REMEDYING DEFICIENT PERMIT PROGRAM.—For a State for which the Administrator is implementing a coal combustion residuals permit program under subsection (e)(1)(B), the State may adopt and implement such a permit program by—

“(i) remedying only the deficiencies detailed in the notice pursuant to subsection (d)(3)(A); and

“(ii) receiving from the Administrator—

“(I) a determination, after providing a 30-day period for notice and public comment, that the deficiencies detailed in such notice have been remedied; and

“(II) a timeline for transition of control of the coal combustion residuals permit program.

“(2) REVIEW OF DETERMINATION.—

“(A) DETERMINATION REQUIRED.—The Administrator shall make a determination under paragraph (1) not later than 90 days after the date on which the State submits a certification under paragraph (1)(A)(ii), or notifies the Administrator that the deficiencies have been remedied pursuant to paragraph (1)(B)(i), as applicable.

“(B) REVIEW.—A State may obtain a review of a determination by the Administrator under paragraph (1) as if such determination was a final regulation for purposes of section 7006.

“(3) IMPLEMENTATION DURING TRANSITION.—

“(A) EFFECT ON ACTIONS AND ORDERS.—Program requirements of, and actions taken or orders issued pursuant to, a coal combustion residuals permit program shall remain in effect if—

“(i) a State takes control of its coal combustion residuals permit program from the Administrator under paragraph (1); or

“(ii) the Administrator takes control of a coal combustion residuals permit program from a State under subsection (e).

“(B) CHANGE IN REQUIREMENTS.—Subparagraph (A) shall apply to such program requirements, actions, and orders until such time as—

“(i) the implementing agency changes the requirements of the coal combustion residuals permit program with respect to the basis for the action or order; or

“(ii) the State or the Administrator, whichever took the action or issued the order, certifies the completion of a corrective action that is the subject of the action or order.

“(4) SINGLE PERMIT PROGRAM.—If a State adopts and implements a coal combustion residuals permit program under this subsection, the Administrator shall cease to implement the permit program implemented under subsection (e)(1) for such State.

“(g) EFFECT ON DETERMINATION UNDER 4005(c) OR 3006.—The Administrator shall not consider the implementation of a coal combustion residuals permit program by the Administrator under subsection (e) in making a determination of approval for a permit program or other system of prior approval and conditions under section 4005(c) or of authorization for a program under section 3006.

“(h) AUTHORITY.—

“(1) STATE AUTHORITY.—Nothing in this section shall preclude or deny any right of any State to adopt or enforce any regulation or requirement respecting coal combustion residuals that is more stringent or broader in scope than a regulation or requirement under this section.

“(2) AUTHORITY OF THE ADMINISTRATOR.—

“(A) IN GENERAL.—Except as provided in subsections (d) and (e) and section 6005, the Administrator shall, with respect to the regulation of coal combustion residuals, defer to the States pursuant to this section.

“(B) IMMINENT HAZARD.—Nothing in this section shall be construed as affecting the authority of the Administrator under section 7003 with respect to coal combustion residuals.

“(C) ENFORCEMENT ASSISTANCE ONLY UPON REQUEST.—Upon request from the head of a lead State agency that is implementing a coal combustion residuals permit program, the Administrator may provide to such State agency only the enforcement assistance requested.

“(D) CONCURRENT ENFORCEMENT.—Except as provided in subparagraph (C), the Administrator shall not have concurrent enforcement authority when a State is implementing a coal combustion residuals permit program, including during any period of interim operation described in subsection (c)(3)(D).

“(E) OTHER AUTHORITY.—The Administrator shall not have authority to finalize the proposed

rule published at pages 35128 through 35264 of volume 75 of the Federal Register (June 21, 2010).

“(F) OTHER RESPONSE AUTHORITY.—Nothing in this section shall be construed as affecting the authority of the Administrator under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) with respect to coal combustion residuals.

“(3) CITIZEN SUITS.—Nothing in this section shall be construed to affect the authority of a person to commence a civil action in accordance with section 7002.

“(i) MINE RECLAMATION ACTIVITIES.—A coal combustion residuals permit program implemented by the Administrator under subsection (e) shall not apply to the utilization, placement, and storage of coal combustion residuals at surface mining and reclamation operations.

“(j) DEFINITIONS.—In this section:

“(1) COAL COMBUSTION RESIDUALS.—The term ‘coal combustion residuals’ means—

“(A) the solid wastes listed in section 3001(b)(3)(A)(i), including recoverable materials from such wastes;

“(B) coal combustion wastes that are co-managed with wastes produced in conjunction with the combustion of coal, provided that such wastes are not segregated and disposed of separately from the coal combustion wastes and comprise a relatively small proportion of the total wastes being disposed in the structure;

“(C) fluidized bed combustion wastes;

“(D) wastes from the co-burning of coal with non-hazardous secondary materials, provided that coal makes up at least 50 percent of the total fuel burned; and

“(E) wastes from the co-burning of coal with materials described in subparagraph (A) that are recovered from monofills.

“(2) COAL COMBUSTION RESIDUALS PERMIT PROGRAM.—The term ‘coal combustion residuals permit program’ means all of the authorities, activities, and procedures that comprise the system of prior approval and conditions implemented by or for a State to regulate the management and disposal of coal combustion residuals.

“(3) CODE OF FEDERAL REGULATIONS.—The term ‘Code of Federal Regulations’ means the Code of Federal Regulations (as in effect on the date of enactment of this section) or any successor regulations.

“(4) IMPLEMENTING AGENCY.—The term ‘implementing agency’ means the agency responsible for implementing a coal combustion residuals permit program for a State, which shall either be the lead State implementing agency identified under subsection (b)(2)(B)(i) or the Administrator pursuant to subsection (e).

“(5) PERMIT; PRIOR APPROVAL AND CONDITIONS.—Except as provided in subsections (b)(3) and (g), the terms ‘permit’ and ‘prior approval and conditions’ mean any authorization, license, or equivalent control document that incorporates the requirements of subsection (c).

“(6) REVISED CRITERIA.—The term ‘revised criteria’ means the criteria promulgated for municipal solid waste landfill units under section 4004(a) and under section 1008(a)(3), as revised under section 4010(c).

“(7) STRUCTURE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘structure’ means a landfill, surface impoundment, or other land-based unit which receives, or is intended to receive, coal combustion residuals.

“(B) DE MINIMIS RECEIPT.—The term ‘structure’ does not include any land-based unit that receives only de minimis quantities of coal combustion residuals if the presence of coal combustion residuals is incidental to the material managed in the unit.”.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1001 of the Solid Waste Disposal Act is amended by inserting after the item relating to section 4010 the following:

“Sec. 4011. Management and disposal of coal combustion residuals.”.

**SEC. 3. 2000 REGULATORY DETERMINATION.**

Nothing in this Act, or the amendments made by this Act, shall be construed to alter in any manner the Environmental Protection Agency’s regulatory determination entitled “Notice of Regulatory Determination on Wastes From the Combustion of Fossil Fuels”, published at 65 Fed. Reg. 32214 (May 22, 2000), that the fossil fuel combustion wastes addressed in that determination do not warrant regulation under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.).

**SEC. 4. TECHNICAL ASSISTANCE.**

Nothing in this Act, or the amendments made by this Act, shall be construed to affect the authority of a State to request, or the Administrator of the Environmental Protection Agency to provide, technical assistance under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

**SEC. 5. FEDERAL POWER ACT.**

Nothing in this Act, or the amendments made by this Act, shall be construed to affect the obligations of an owner or operator of a structure (as defined in section 4011 of the Solid Waste Disposal Act, as added by this Act) under section 215(b)(1) of the Federal Power Act (16 U.S.C. 824o(b)(1)).

The CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part A of House Report 113-174. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the 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.

AMENDMENT NO. 1 OFFERED BY MR. CONNOLLY

The CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 113-174.

Mr. CONNOLLY. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 6, line 4, strike “and”.

Page 6, line 6, strike the period and insert “; and”.

Page 6, after line 6, insert the following new clause:

“(vi) an emergency action plan for State response to a leak or spill at a structure that receives coal combustion residuals.

The CHAIR. Pursuant to House Resolution 315, the gentleman from Virginia (Mr. CONNOLLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. CONNOLLY. Mr. Chairman, I rise to offer a commonsense amendment to ensure that every State that chooses to allow coal ash impoundments as outlined in this bill has a strong emergency response plan in the unfortunate event of a leak or spill.

Sadly, the 2008 failure of a coal ash impoundment in Kingston, Tennessee, highlights the very devastation a spill can have on a community. As was widely reported at the time, a breach in a surface impoundment pond at the Tennessee Valley Authority’s Kingston

facility released more than 5 million cubic yards of coal ash, covering more than 300 acres in toxic sludge, damaging and destroying homes and property. As we speak, there is still a Federal Superfund cleanup site where the total cost could top more than \$1.2 billion. Absent a plan, what could go wrong?

Beyond that staggering price tag, let us not forget that the lasting economic and health impacts in the surrounding communities resulting from this spill are catastrophic. Families were displaced from their homes. Some residents still suffer from respiratory illnesses and other side effects. Arsenic levels where the Kingston coal ash runoff were disposed of are measured at 80 times higher than the amount legally allowed under the Safe Drinking Water Act, and the EPA already has said such exposure significantly increases a lifetime risk of cancer. These are just the impacts we know of today. Who knows what the unknown health consequences might be.

The Kingston incident is not an isolated event, sadly. According to Earthjustice, there have been more than 211 known cases of coal ash contamination and spills in 37 different States. According to the EPA, 45 impoundments are currently considered high hazard, meaning that a failure will probably cause loss of human life. Of course, this bill doesn't concern itself with those problems or apply the lessons learned.

In response to the Kingston incident, former Tennessee Governor Phil Bredesen even acknowledged that "the State's environmental regulations, mostly written in the 1970s, don't take into account a disaster such as the ash spill and need a top to bottom review."

□ 1015

And he said we need a top-to-bottom review of those policies.

As we have already seen, the Federal Government is forced to step in when disasters such as these take place. Yet, rather than make the Federal Government a partner, or even a resource, this bill turns sole responsibility over to the States. There ought to be a clear minimum set of standards for EPA to identify and remedy State program deficiencies, stronger groundwater protection standards, and clear and appropriate authority for taking potential corrective action on unlined or leaking impoundments. That seems common sense.

The original amendment would have ensured that States certify their coal ash permitting plans annually, including up-to-date emergency response plans. The House majority thought regular reporting was nothing more than a paperwork exercise, so I now offer this revised amendment in keeping with their concerns to ensure, at a minimum, that States have thorough and comprehensive emergency response plans to address a spill or a leak. We cannot simply count on private enter-

prise to be prepared for a spill. The State and local governments, who are the first responders, must be active partners. By requiring them to provide EPA simply their own emergency response plans, we are taking a modest step to ensure they are prepared to respond to an emergency.

I reserve the balance of my time.

Mr. SHIMKUS. I claim the time in opposition, but I don't oppose the amendment.

The CHAIR. Without objection, the gentleman from Illinois is recognized for 5 minutes.

There was no objection.

Mr. SHIMKUS. Mr. Chairman, I want to thank my colleague for working with us and making some changes that we thought were appropriate.

We agree with my colleague from Virginia that States should identify what their emergency response procedures are in the certification process, and so we are prepared to accept the amendment. He's made it a better bill.

I yield back the balance of my time.

Mr. CONNOLLY. Mr. Chairman, I thank my colleague, and I look forward to working with him.

I yield to the distinguished ranking member.

Mr. WAXMAN. I thank the gentleman for yielding.

I support your amendment and urge all of our colleagues to support it as well.

Mr. CONNOLLY. I thank the gentleman.

With that, Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. CONNOLLY).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. WAXMAN

The CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 113-174.

Mr. WAXMAN. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 6, strike lines 22 and 23 and insert the following:

"(A) IN GENERAL.—The implementing agency shall apply, and structures shall meet, requirements as necessary to protect human health and the environment.

"(B) CRITERIA.—The implementing agency shall—

The CHAIR. Pursuant to House Resolution 315, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Mr. Chairman, under all of our environmental laws, the Federal Government sets a standard, and then the States implement the law looking at the different circumstances in their community. For example, the Clean Air Act says, in effect, everywhere in this country, we cannot have air pollution that exceeds the standard

to protect the public health, but the States decide the implementation to achieve that standard.

Under this bill, we're not setting a national standard. We're telling the States to set a standard. If we're going to let the States set the standard, my amendment would require that the standard in every State be to protect the public health, to protect human health and the environment. That's the goal of these laws, and that should be the requirement under this law.

The standards are the yardsticks under which we determine whether a State's effort measures up and ensures a consistent level of protection throughout the Nation. If we're not going to have a national standard by EPA, let's require the State to set that standard. This is an approach that has worked well because it ensures that all Americans enjoy a minimum level of protection and residents of one State are not threatened by inadequate laws in a neighboring State.

For example, if one State has a good, strong law to protect the public health, another State, trying to get the business away from that State to locate in theirs, will drop their standards lower to try to entice that business to relocate. The laxest protection becomes the dumping ground for the neighboring States. We don't want to put States in a race to the bottom.

When Congress passed the Resource Conservation and Recovery Act, we assigned EPA a simple mission: to protect human health and the environment from unsafe disposal of solid waste. Achieving that mission can be complex, but we have a clear goal. It provides direction for the Agency's technical work. But the bill we are considering today doesn't contain this standard.

Disposal of household garbage, for example, must be disposed of in a way that protects human health. But under this bill, coal ash would not be required to be disposed of in a way that protects human health.

My amendment would fix this serious problem by calling on the States to require measures necessary to protect human health and the environment. If we had the Republicans willing to accept the amendment that every State have an emergency plan, we're simply asking that every State have a goal, clearly stated, to achieve the protection of human health and the environment, otherwise a State's plan is not adequate; there would be no recourse as long as a State meets all of the other requirements of this law but still does not get to the goal.

The Congressional Research Service examined this legislation, and they told us that nothing in H.R. 2218 requires the States to establish programs that will achieve any specified level of Federal standard or protection. CRS concluded:

The degree to which a State program may protect human health from risks specific to coal ash disposal would not be known until individual States begin to interpret the bill.

That means the one thing we know for sure is that this bill will take EPA off the beat—take the EPA off the beat, like we took the SEC and other regulators off the beat, where Wall Street took huge risks and drove our economy over the cliff. It'll take EPA off the beat, and then we'll gamble on each State government doing a good job. That's a pretty risky gamble. And if it doesn't pay off, who's going to suffer? Well, the price will be borne by communities in Michigan, Ohio, Pennsylvania, Alabama and elsewhere whose water supplies will suffer from toxic contamination.

Members from some of those States come in here and argue we need those jobs. Well, of course we need the jobs, and we're going to keep those jobs. But why shouldn't we, in keeping jobs, have waste disposals be constructed in a way that will not pollute our drinking water and harm human health?

So I would urge that we set this standard in the bill and adopt this amendment.

I yield back the balance of my time.

Mr. MCKINLEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from West Virginia is recognized for 5 minutes.

Mr. MCKINLEY. First, I want to just add a congratulations to my colleague from California whose position apparently has evolved over the last couple of years, because I remember back in 2011, he had a problem and voted against the recycling material. So to hear him today say how he favors, I appreciate that. That was on H.R. 1 in February of 2011.

But as for this amendment, this is not necessary because H.R. 2218 establishes a minimum standard of protection for coal ash permit programs. The standard of protection is the minimum requirements that are set out in this bill and includes protections such as groundwater monitoring; corrective action; financial assurance; specific cleanup and closure requirements for unlined, leaking impoundments; stringent structural stability requirements; and fugitive dust controls.

Furthermore, H.R. 2218 establishes a minimum national standard that is based on the existing criteria for municipal solid waste landfills which were promulgated by EPA to "protect human health and the environment."

This chart is a collection of some of the elements that are included in the bill already to deal with standards. Things like requiring that the structure be located above water tables. Groundwater monitoring is to be included in this. We have surface water controls under section 4011, controls for CCR landfills, control runoffs for CCR surface, accelerated corrective action for unlined surface impoundments.

We included in this bill, and if people would read the bill, they would see that under 4011, there are areas where the EPA can help to identify deficiencies, including specific criteria for

undertaking a deficiency review. It has a backstop authority to enforce that these requirements are upheld and to correct any EPA-identified deficiency.

My colleague continues to use this "race to the bottom" among States, and they will compete with each other to become the dumping ground for neighbor States. That's a misguided assumption and, frankly, an insult to the hardworking State environmental regulators. It is unfortunate that he also does not trust the environmental regulators in his State, or any other State for that matter, to establish permit programs that are protective. My colleague ignores that the State regulators are tasked every day with protecting human health and the environment.

Another problem with this amendment is that, since it is not well defined, the EPA or a judge would have the sole discretion to determine what constitutes "protecting human health and the environment." Any State failing to meet this subjective and ambiguous standard would have their permit program stripped from them to be run by the EPA.

This amendment diminishes the important role of the States and let's the EPA meddle in a program the States have proven that they are capable of handling. This amendment is not about protecting human health and the environment; it's about growing Federal control at the expense of the States. States have been tasked with implementing RCRA, and this bill allows them to continue to do just that.

If you support bigger government, support this amendment; but if you trust your State to take care of its own people, then we should oppose it. I urge opposition to this amendment.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

#### AMENDMENT NO. 3 OFFERED BY MR. TONKO

The CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 113-174.

Mr. TONKO. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 34, line 11, strike "program; or" and insert "program;"

Page 34, line 17, strike "(E)." and insert "(E); or"

Page 34, after line 17, insert the following subparagraph:

"(G) is subject to a determination under paragraph (5).

Page 35, line 6, insert "or in paragraph (5)" after "paragraph (1)".

Page 35, line 14, insert "or in paragraph (5)" after "paragraph (1)".

Page 36, line 1, after "(e)(1)(B)" insert "other than a determination with respect to a deficiency described in paragraph (1)(G)".

Page 37, after line 13, insert the following paragraph:

"(5) DEFICIENCY BASED ON INTERSTATE RISKS.—The Administrator shall determine a State coal combustion residuals permit program to be deficient if, at any time, the State permit program, or the implementation of the State permit program, threatens human health or the environment in another State. Any State may request that the Administrator review another State's coal combustion residuals permit program for deficiency under this paragraph.

The CHAIR. Pursuant to House Resolution 315, the gentleman from New York (Mr. TONKO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. TONKO. Mr. Chairman, we are a Nation of 50 States, but we are bound together by common history, purpose, and laws.

Prior to the passage of national environmental laws, States had individual regulatory programs that offered a patchwork of protection. We tried this system for air, for water, for toxic waste, and for many other things. That is the system we have today for the disposal of coal combustion residuals that cannot be recycled. It did not work; it does not work.

H.R. 2218 will not correct the problems with coal ash disposal. We have a State-by-State program for coal ash disposal now. H.R. 2218 codifies that situation and goes further to prevent the EPA from exercising its authority to require that State programs provide a basic standard to ensure that all citizens are indeed protected.

□ 1030

My amendment authorizes a proper Federal role, a role of oversight for the EPA to ensure the actions of one State do not result in negative impacts on a State with which it shares an important resource.

In addition, my amendment would enable a State to request that EPA review the permitting program of another State to ensure that the program offered sufficient protection of its citizens and its resources.

We do not allow northern States along the Mississippi River to dump toxic substances into the river for downstream States to clean up. We do not allow individual States to pollute the air and send the pollution well beyond their borders.

We need a better system for dealing with coal combustion waste, a system that applies fairly across our great country.

You might wonder how often the location of a coal ash facility is near enough to a shared resource or a State's border to cause a potential problem. Well, it turns out it is common.

The failure of a coal ash facility associated with the Martins Creek Power

Plant in Pennsylvania affected communities in New Jersey when coal ash spilled into the Delaware River.

Residents of the State of Michigan were upset when the failure of an old coal ash impoundment in Wisconsin sent coal ash, mud, and machinery into Lake Michigan.

And several of the coal combustion disposal facilities on the high-hazard list in Ohio and West Virginia are located along the Ohio River, a shared border and resource of these two States.

Well, I could go on. It turns out that because these facilities are often located in close proximity to coal-fired utilities where the waste is generated, they are also close to water required for cooling and steam generation. A number are located near sizable water sources that serve multiple communities and often multiple States.

So, in order to ensure good relations between neighboring States, and to ensure that all our citizens are protected from exposure to the toxic substances contained in coal ash, I believe the EPA should have the authority to step in when necessary.

The system we have used successfully, based upon common standards that ensure the protection of human health and the environment, should be applied to this situation. We cannot afford another episode like the one in Kingston, Tennessee.

The choice is not about whether we can have a clean, healthy environment or a robust economy. We can have both. Part of the formula for ensuring a robust economy includes having a clean environment.

Pollution is not cost-free. It costs us lost work days, illness, and premature deaths. It devalues property and results in expensive, unnecessary cleanup costs. We can do better.

My amendment will improve this bill and protect all our citizens and their shared resources. I urge my colleagues to support the amendment.

With that, I reserve the balance of my time.

Mr. SHIMKUS. Mr. Chairman, I claim time in opposition.

The CHAIR. The gentleman from Illinois is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Chairman, the State permit program must incorporate minimum requirements which are based on regulations promulgated by the EPA to "protect human health and the environment," which include groundwater monitoring of all structures, fugitive dust control, structural stability requirements and closure of structures that cannot be corrected.

The premise of this is, if you have Federal standards, that they're not protective, and that the States will not do that.

We find this debate very curious, in that my colleagues on the other side have so much of a disrespect for the States and their environmental communities and the ability of States to ensure the protection of human health,

the environment from a State position, Federal standards, State certification process, States.

Under RCRA, the States do this anyway. This is what the States do. Under the Municipal Solid Waste Disposal Act, the States are the ones who are enforcing this. All we're doing is saying we can do this now for fly ash and coal ash.

So while my colleague's amendment is well-intentioned, it really undercuts the purpose of the legislation and is unnecessary because the bill contains specific criteria by which the EPA will judge State permit programs, and I listed those earlier.

This is a politically appealing amendment, but it has many flaws, not the least of which is that any State can request that EPA review another State's coal combustion residual permit program, regardless of the location, and whether there is actually a cross-border impact.

As my colleague pointed out in the Rules Committee on Tuesday, there's no requirement in this amendment that a State that requests a review needs to even be impacted by the contamination allegedly coming from another State.

While my colleague has probably scoured the country to come up with an example or two of coal ash contamination crossing State lines, the fact of the matter is that cross boundary is not really an issue with respect to coal ash disposal because regulation of solid waste disposal is typically an issue that remains within the State.

This amendment attempts to create another hook for the EPA to measure State coal combustion residuals permit programs using the subjective yardstick of what is protective of human health and the environment, which my colleague did a good job defending in the other amendment.

I understand that my colleague believes that the Federal Government must step in to save the day, but I trust that our State environmental regulators are up to the task of making sure that our communities are protected.

This amendment diminishes the important role of the States, and I urge opposition to this amendment.

I yield back the balance of my time.

Mr. TONKO. Mr. Chair, I respect the work done by my colleague from Illinois, but respectfully disagree with his assessment. There's ample evidence that States have poorly regulated, in some cases, this waste stream, and it puts at risk innocent bystanders who are impacted by their actions.

And so I stand by the worthiness of this amendment, and again, encourage my colleagues to support it.

With that, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. TONKO).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. TONKO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part A of House Report 113-174 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. WAXMAN of California.

Amendment No. 3 by Mr. TONKO of New York.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. WAXMAN

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. WAXMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 231, not voting 17, as follows:

[Roll No. 415]

AYES—185

Andrews	Dingell	Kuster
Barrow (GA)	Doggett	Langevin
Bass	Doyle	Larsen (WA)
Beatty	Duckworth	Larson (CT)
Becerra	Edwards	Lee (CA)
Bera (CA)	Ellison	Levin
Bishop (NY)	Engel	Lewis
Blumenauer	Enyart	Lipinski
Bonamici	Eshoo	Loebsack
Brady (PA)	Esty	Lofgren
Braley (IA)	Farr	Lowenthal
Brownley (CA)	Fattah	Lowe
Bustos	Foster	Lujan Grisham
Butterfield	Frankel (FL)	(NM)
Capps	Fudge	Luján, Ben Ray
Capuano	Gabbard	(NM)
Cardenas	Galleo	Lynch
Carney	Garamendi	Maffei
Carson (IN)	Garcia	Maloney,
Cartwright	Gibson	Carolyn
Castor (FL)	Grayson	Maloney, Sean
Castro (TX)	Green, Al	Matheson
Chu	Green, Gene	Matsui
Cicilline	Grijalva	McCollum
Clarke	Gutiérrez	McDermott
Clay	Hahn	McGovern
Cleaver	Hastings (FL)	McNerney
Clyburn	Heck (WA)	Meeks
Cohen	Higgins	Meng
Connolly	Hinojosa	Michaud
Conyers	Honda	Miller, George
Cooper	Hoyer	Moran
Courtney	Huffman	Murphy (FL)
Crowley	Israel	Nadler
Cuellar	Jackson Lee	Napolitano
Cummings	Jeffries	Neal
Davis (CA)	Johnson (GA)	Negrete McLeod
Davis, Danny	Johnson, E. B.	Nolan
DeFazio	Kaptur	O'Rourke
DeGette	Keating	Pascarell
Delaney	Kelly (IL)	Pastor (AZ)
DeLauro	Kennedy	Payne
DelBene	Kildee	Pelosi
Deutch	Kilmer	Perlmutter



Peters (CA) Schiff  
 Peters (MI) Schneider  
 Pingree (ME) Schrader  
 Pocan Schwartz  
 Polis Scott (VA)  
 Price (NC) Scott, David  
 Quigley Serrano  
 Rahall Sewell (AL)  
 Rangel Shea-Porter  
 Richmond Sherman  
 Roybal-Allard Sires  
 Ruiz Slaughter  
 Ruppertsberger Smith (NJ)  
 Rush Smith (WA)  
 Ryan (OH) Speier  
 Sánchez, Linda Swallow (CA)  
 T. Takano  
 Sanchez, Loretta Thompson (CA)  
 Sarbanes Thompson (MS)  
 Schakowsky Tierney

## NOES—231

Aderholt  
 Alexander  
 Amash  
 Amodei  
 Bachmann  
 Bachus  
 Barber  
 Barr  
 Barton  
 Benishek  
 Bentivolio  
 Bilirakis  
 Bishop (GA)  
 Bishop (UT)  
 Black  
 Blackburn  
 Bonner  
 Boustany  
 Brady (TX)  
 Bridenstine  
 Brooks (AL)  
 Brooks (IN)  
 Broun (GA)  
 Buchanan  
 Bucshon  
 Calvert  
 Camp  
 Cantor  
 Capito  
 Carter  
 Chabot  
 Chaffetz  
 Coble  
 Coffman  
 Cole  
 Collins (GA)  
 Collins (NY)  
 Conaway  
 Cook  
 Costa  
 Cotton  
 Cramer  
 Crawford  
 Crenshaw  
 Culberson  
 Daines  
 Davis, Rodney  
 Denham  
 Dent  
 DeSantis  
 DesJarlais  
 Diaz-Balart  
 Duffy  
 Duncan (SC)  
 Duncan (TN)  
 Ellmers  
 Farenthold  
 Fincher  
 Fitzpatrick  
 Fleischmann  
 Fleming  
 Flores  
 Forbes  
 Fortenberry  
 Foxx  
 Franks (AZ)  
 Frelinghuysen  
 Gardner  
 Garrett  
 Gerlach  
 Gibbs  
 Gingrey (GA)  
 Gohmert  
 Goodlatte  
 Gosar  
 Gowdy

Granger  
 Graves (GA)  
 Graves (MO)  
 Griffin (AR)  
 Griffith (VA)  
 Grimm  
 Guthrie  
 Hall  
 Hanna  
 Harper  
 Harris  
 Hartzler  
 Hastings (WA)  
 Heck (NV)  
 Hensarling  
 Holding  
 Hudson  
 Huelskamp  
 Huizenga (MI)  
 Hultgren  
 Hunter  
 Hurt  
 Issa  
 Jenkins  
 Johnson (OH)  
 Johnson, Sam  
 Jones  
 Jordan  
 Joyce  
 Kelly (PA)  
 Kind  
 King (IA)  
 King (NY)  
 Kingston  
 Kinzinger (IL)  
 Kirkpatrick  
 Kline  
 Labrador  
 LaMalfa  
 Lamborn  
 Lance  
 Lankford  
 Latham  
 Latta  
 LoBiondo  
 Long  
 Lucas  
 Luetkemeyer  
 Lummis  
 Marchant  
 Marino  
 Massie  
 McCarthy (CA)  
 McCaul  
 McClintock  
 McHenry  
 McKeon  
 McKinley  
 McMorris  
 Rodgers  
 Meadows  
 Meehan  
 Messer  
 Mica  
 Miller (FL)  
 Miller (MI)  
 Miller, Gary  
 Mullin  
 Mulvaney  
 Murphy (PA)  
 Neugebauer  
 Noem  
 Nunes  
 Nunelee  
 Olson  
 Owens

Palazzo  
 Paulsen  
 Pearce  
 Perry  
 Peterson  
 Petri  
 Pittenger  
 Pitts  
 Poe (TX)  
 Pompeo  
 Posey  
 Price (GA)  
 Radel  
 Reed  
 Reichert  
 Renacci  
 Ribble  
 Rice (SC)  
 Rigell  
 Roby  
 Roe (TN)  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Rooney  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothfus  
 Royce  
 Runyan  
 Ryan (WI)  
 Salmon  
 Sanford  
 Scalise  
 Schock  
 Schweikert  
 Scott, Austin  
 Sensenbrenner  
 Sessions  
 Shimkus  
 Shuster  
 Simpson  
 Sinema  
 Smith (MO)  
 Smith (NE)  
 Smith (TX)  
 Southerland  
 Stewart  
 Stivers  
 Stockman  
 Stutzman  
 Terry  
 Thompson (PA)  
 Thornberry  
 Tiberi  
 Tipton  
 Conyers  
 Cooper  
 Courtney  
 Crowley  
 Cummings  
 Davis (CA)  
 Davis, Danny  
 DeFazio  
 DeGette  
 Delaney  
 DeLauro  
 DelBene  
 Deutsch  
 Dingell  
 Doggett  
 Doyle  
 Duckworth  
 Edwards

Womack  
 Woodall  
 Yoder  
 Yoho  
 Young (AK)  
 Young (IN)

## NOT VOTING—17

Barletta  
 Brown (FL)  
 Burgess  
 Campbell  
 Cassidy  
 Hanabusa  
 Herrera Beutler  
 Himes  
 Holt  
 Horsford  
 McCarthy (NY)  
 McIntyre

## □ 1106

Mr. TIPTON and Mrs. KIRKPATRICK changed their vote from “aye” to “no.” Messrs. COHEN, CUELLAR, and VELA changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT NO. 3 OFFERED BY MR. TONKO

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. TONKO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 239, not voting 18, as follows:

[Roll No. 416]

## AYES—176

Andrews  
 Bass  
 Beatty  
 Becerra  
 Bera (CA)  
 Bishop (NY)  
 Blumenauer  
 Bonamici  
 Brady (PA)  
 Braley (IA)  
 Brownley (CA)  
 Bustos  
 Butterfield  
 Capps  
 Capuano  
 Cárdenas  
 Carney  
 Carson (IN)  
 Cartwright  
 Castor (FL)  
 Castro (TX)  
 Chu  
 Cicilline  
 Clarke  
 Clay  
 Cleaver  
 Clyburn  
 Cohen  
 Connolly  
 Conyers  
 Cooper  
 Courtney  
 Crowley  
 Cummings  
 Davis (CA)  
 Davis, Danny  
 DeFazio  
 DeGette  
 Delaney  
 DeLauro  
 DelBene  
 Deutsch  
 Dingell  
 Doggett  
 Doyle  
 Duckworth  
 Edwards

Ellison  
 Engel  
 Enyart  
 Eshoo  
 Esty  
 Farr  
 Fattah  
 Bonamici  
 Foster  
 Frankel (FL)  
 Gabbard  
 Gallego  
 Garamendi  
 Garcia  
 Gibson  
 Grayson  
 Green, Al  
 Grijalva  
 Gutiérrez  
 Hahn  
 Hastings (FL)  
 Heck (WA)  
 Higgins  
 Hinojosa  
 Honda  
 Hoyer  
 Huffman  
 Israel  
 Jackson Lee  
 Jeffries  
 Johnson (GA)  
 Johnson, E. B.  
 Kaptur  
 Keating  
 Kelly (IL)  
 Kennedy  
 Kildee  
 Kilmer  
 Kuster  
 Langevin  
 Larsen (WA)  
 Larson (CT)  
 Lee (CA)  
 Levin  
 Lewis  
 Lipinski  
 Loebsack  
 Lofgren

Lowenthal  
 Lowey  
 Lujan Grisham (NM)  
 Luján, Ben Ray (NM)  
 Lynch  
 Maffei  
 Maloney,  
 Carolyn  
 Maloney, Sean  
 Matsui  
 McCollum  
 McDermott  
 McGovern  
 McNerney  
 Meeks  
 Meng  
 Michaud  
 Miller, George  
 Moore  
 Moran  
 Murphy (FL)  
 Nadler  
 Napolitano  
 Neal  
 Negrete McLeod  
 Nolan  
 O'Rourke  
 Pascarelli  
 Pastor (AZ)  
 Payne  
 Perlmutter  
 Peters (CA)  
 Peters (MI)  
 Pingree (ME)  
 Pocan  
 Polis  
 Price (NC)  
 Quigley  
 Rangel  
 Richmond  
 Roybal-Allard  
 Ruiz  
 Ruppertsberger  
 Rush  
 Ryan (OH)

Sánchez, Linda  
 T.  
 Sanchez, Loretta  
 Sarbanes  
 Schakowsky  
 Schiff  
 Schneider  
 Schrader  
 Schwartz  
 Scott (VA)  
 Scott, David  
 Serrano  
 Sewell (AL)  
 Shea-Porter

Sherman  
 Sires  
 Slaughter  
 Smith (WA)  
 Speier  
 Swalwell (CA)  
 Takano  
 Thompson (CA)  
 Thompson (MS)  
 Tierney  
 Titus  
 Tonko  
 Tsongas  
 Van Hollen

## NOES—239

Aderholt  
 Alexander  
 Amash  
 Amodei  
 Bachmann  
 Bachus  
 Barber  
 Barr  
 Barrow (GA)  
 Barton  
 Benishek  
 Bentivolio  
 Bilirakis  
 Bishop (GA)  
 Bishop (UT)  
 Black  
 Blackburn  
 Bonner  
 Boustany  
 Brady (TX)  
 Bridenstine  
 Brooks (AL)  
 Brooks (IN)  
 Broun (GA)  
 Buchanan  
 Bucshon  
 Burgess  
 Calvert  
 Camp  
 Cantor  
 Capito  
 Carter  
 Cassidy  
 Chabot  
 Chaffetz  
 Coble  
 Coffman  
 Cole  
 Collins (GA)  
 Collins (NY)  
 Conaway  
 Cook  
 Costa  
 Cotton  
 Cramer  
 Crawford  
 Crenshaw  
 Cuellar  
 Culberson  
 Daines  
 Davis, Rodney  
 Denham  
 Dent  
 DeSantis  
 DesJarlais  
 Diaz-Balart  
 Duffy  
 Duncan (SC)  
 Duncan (TN)  
 Ellmers  
 Farenthold  
 Fincher  
 Fitzpatrick  
 Fleischmann  
 Fleming  
 Flores  
 Forbes  
 Fortenberry  
 Foxx  
 Franks (AZ)  
 Frelinghuysen  
 Fudge  
 Gardner  
 Garrett  
 Gerlach  
 Gibbs  
 Gingrey (GA)  
 Gohmert  
 Goodlatte  
 Gosar

Gowdy  
 Granger  
 Graves (GA)  
 Graves (MO)  
 Green, Gene  
 Griffin (AR)  
 Griffith (VA)  
 Grimm  
 Guthrie  
 Hall  
 Hanna  
 Harper  
 Harris  
 Hartzler  
 Hastings (WA)  
 Heck (NV)  
 Hensarling  
 Holding  
 Huelskamp  
 Huizenga (MI)  
 Hultgren  
 Hunter  
 Hurt  
 Issa  
 Jenkins  
 Johnson (OH)  
 Johnson, Sam  
 Jones  
 Jordan  
 Joyce  
 Kelly (PA)  
 Kind  
 King (IA)  
 King (NY)  
 Kingston  
 Kinzinger (IL)  
 Kirkpatrick  
 Kline  
 Labrador  
 LaMalfa  
 Lamborn  
 Lance  
 Costa  
 Latham  
 Latta  
 LoBiondo  
 Long  
 Lucas  
 Luetkemeyer  
 Lummis  
 Marchant  
 Marino  
 Massie  
 Matheson  
 McCarthy (CA)  
 McCaul  
 McClintock  
 McHenry  
 McKeon  
 McKinley  
 McMorris  
 Rodgers  
 Meadows  
 Meehan  
 Mica  
 Miller (FL)  
 Miller (MI)  
 Miller, Gary  
 Mullin  
 Mulvaney  
 Murphy (PA)  
 Neugebauer  
 Noem  
 Nunes  
 Nunelee  
 Olson  
 Owens  
 Palazzo  
 Paulsen  
 Pearce

Perry  
 Peterson  
 Petri  
 Pittenger  
 Pitts  
 Poe (TX)  
 Pompeo  
 Posey  
 Price (GA)  
 Radel  
 Rahall  
 Reed  
 Reichert  
 Renacci  
 Ribble  
 Rice (SC)  
 Rigell  
 Roby  
 Roe (TN)  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Rooney  
 Ros-Lehtinen  
 Roskam  
 Ross  
 Rothfus  
 Royce  
 Runyan  
 Ryan (WI)  
 Salmon  
 Sanford  
 Scalise  
 Schock  
 Schweikert  
 Scott, Austin  
 Sensenbrenner  
 Sessions  
 Shimkus  
 Shuster  
 Simpson  
 Sinema  
 Smith (MO)  
 Smith (NE)  
 Smith (TX)  
 Southerland  
 Stewart  
 Stivers  
 Stockman  
 Stutzman  
 Terry  
 Thompson (PA)  
 Thornberry  
 Tiberi  
 Tipton  
 Turner  
 Upton  
 Valadao  
 Vela  
 Visclosky  
 Wagner  
 Walberg  
 Walden  
 Walorski  
 Weber (TX)  
 Webster (FL)  
 Wenstrup  
 Westmoreland  
 Whitfield  
 Williams  
 Wilson (SC)  
 Wittman  
 Wolf  
 Womack  
 Woodall  
 Yoder  
 Yoho  
 Young (AK)  
 Young (IN)

## NOT VOTING—18

Barletta	Holt	Nugent
Brown (FL)	Horsford	Pallone
Campbell	Hudson	Pelosi
Hanabusa	McCarthy (NY)	Rokita
Herrera Beutler	McIntyre	Smith (NJ)
Himes	Messer	Young (FL)

## ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). There is 1 minute remaining.

□ 1110

So the amendment was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. MCINTYRE. Mr. Chair, on rollcall Nos. 415 Waxman Amend, and 416 Tonko Amend, had I been present, I would have voted "yes" on both.

The CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WOODALL) having assumed the chair, Mr. BISHOP of Utah, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2218) to amend subtitle D of the Solid Waste Disposal Act to encourage recovery and beneficial use of coal combustion residuals and establish requirements for the proper management and disposal of coal combustion residuals that are protective of human health and the environment, and, pursuant to House Resolution 315, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1115

## MOTION TO RECOMMIT

Ms. MCCOLLUM. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Ms. MCCOLLUM. I am opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. MCCOLLUM moves to recommit the bill, H.R. 2218 to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Page 7, after line 14, insert the following new clause:

"(i) PROTECTING DRINKING WATER AND THE GREAT LAKES.—The implementing agency shall require that all wet disposal structures meet criteria for design, construction, operation, and maintenance sufficient to prevent contamination of groundwater and sources of drinking water including the Great Lakes.

Mr. SHIMKUS. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. A point of order is reserved.

The gentleman from Minnesota is recognized for 5 minutes.

Ms. MCCOLLUM. Mr. Speaker, this is the final amendment to the bill, which does not kill the bill or send it back to committee. If adopted, it will immediately proceed to final passage, as amended.

This bill is about coal ash. Coal ash is a toxic substance. It contains lead, selenium, mercury, cadmium, and arsenic. Coal ash is a deadly poison, and it must be kept out of America's drinking water.

This bill needlessly puts millions of Americans at risk by doing nothing to prevent coal ash from contaminating groundwater, surface water, and the greatest supply of freshwater on the Earth—the Great Lakes. The Great Lakes provide drinking water to more than 30 million people. Over 1.5 million jobs are connected to the Great Lakes and more than \$60 billion in annual wages.

My amendment protects the Great Lakes from improper and dangerous storage of coal ash. This amendment "requires that all wet disposal structures meet criteria for design, construction, operation, and maintenance sufficient to prevent contamination of surface and groundwater." This amendment recognizes that the Great Lakes are unique.

Mayors and Governors in eight States are working together to maintain this vital ecosystem and economy for families, businesses, and future generations—even while this House considers an 80 percent cut to the Great Lakes Restorative Initiative.

In addition, the Federal Government coordinates our efforts to protect, conserve, and restore the Great Lakes with our partner, Canada.

The great United States has both a national and international interest in keeping these lakes clean and safe. Protecting the Great Lakes should be a priority for this Congress. I am certain it's a priority for the 30 million people who drink Great Lakes water. Without this amendment, they will be at risk of drinking cancer-causing toxins. Right now, coal ash is placed in unlined ponds, some that are leaking, leaching, and spilling into our soils, lakes, rivers, and aquifers.

In 2011, near Milwaukee, a bluff collapsed, sending a utility company's coal ash directly into Lake Michigan. Residents could no longer drink their local water because of severe health threats imposed by the coal ash.

Should a utility company be able to store tons and tons of coal ash in an unregulated ravine? The answer is, simply, "no."

Unless Congress changes how coal ash is stored, the Great Lakes and America's drinking water will continue to be at risk. Congress can do something right here, right now by passing this amendment.

If you want clean and safe drinking water, vote for this amendment. If you want to protect the Great Lakes, vote for this amendment. And if you want to protect recreation, manufacturing, and service jobs, vote for this amendment. If you have the courage to stand up to the polluters and say no longer will I allow coal ash to be inadvertently put in our drinking water, causing cancer for millions of Americans, vote for this amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. SHIMKUS. Mr. Speaker, I withdraw my point of order, and I claim the time in opposition.

The SPEAKER pro tempore. The point of order is withdrawn.

The gentleman from Illinois is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, the basic premise of this bill is that the Federal Government can set safety standards and the States can enforce it, so reject the motion to instruct.

I am going to turn my comments to people who live in the coal areas of our country. Coal is just not a commodity product, it is, really, a way of lifestyle if you live in coal country.

I am a fourth-generation Lithuanian immigration family. My great-grandfather went directly into the coalfields. My grandfather went into the coal mines at age 10. He performed the job of a trapper.

In my hometown of Collinsville, Illinois, we have Miner's Theater; in a community up north, we have Miner's Park; and in Gillespie, Illinois, we have Black Diamond Days.

Coal is a culture. Coal is who we are. That is why I really appreciate my colleagues from West Virginia, DAVID MCKINLEY and SHELLEY MOORE CAPITO. There are some States in this Union that coal is their only job, and that's why they fight and they stand up for coal.

I remember being with the late Senator Byrd in a rally on The Mall to save coal jobs. He held up his hands and he said, "There's coal in these veins." This was Senator Byrd—"There's coal in these veins."

My colleagues and my friends, that's how we feel in coal-producing States in this country. It is part of who we are. It is our culture.

Now, don't think this is a passe debate. There's a young Iraqi vet named Jimmy Rose. You may have seen him. He's 32 years old. He's also a coal miner. He's competing on "America's Got Talent." Do you know what his song is? His song is "Coal Keeps the Lights On." He talks about feeding his

family. He talks about putting coal in the family household. He talks about that's their livelihood, that's their culture. It's an impassioned ballad for areas of our country that feel under attack, left behind, attacked by this administration.

Mayor Dietz from McLeansboro, Illinois, is happy when new coal is opening up. Coal is keeping the lights on in the small communities and the shops and stores for a community that's kind of been left behind for 40 years. He's excited about the jobs and the tax base that's coming because of coal.

I'm asking you, my colleagues, to stand up for coal, because coal keeps the lights on. I request that you reject this amendment and support the underlying bill, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Ms. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 5-minute vote on the motion to recommit will be followed by 5-minute votes on the question on passage of the bill, if ordered, and the question on agreeing to the Speaker's approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 225, answered "present" 1, not voting 15, as follows:

#### [Roll No. 417]

##### AYES—192

Andrews	Cuellar	Higgins
Barber	Cummings	Hinojosa
Barrow (GA)	Davis (CA)	Honda
Bass	Davis, Danny	Hoyer
Beatty	DeFazio	Huffman
Becerra	DeGette	Israel
Bera (CA)	Delaney	Jackson Lee
Bishop (GA)	DeLauro	Jeffries
Bishop (NY)	DelBene	Johnson (GA)
Blumenauer	Deutch	Johnson, E. B.
Bonamici	Dingell	Kaptur
Brady (PA)	Doggett	Keating
Braley (IA)	Doyle	Kelly (IL)
Brownley (CA)	Duckworth	Kennedy
Bustos	Edwards	Kildee
Butterfield	Ellison	Kilmer
Capps	Engel	Kind
Capuano	Enyart	Kirkpatrick
Cárdenas	Eshoo	Kuster
Carney	Esty	Langevin
Carson (IN)	Farr	Larsen (WA)
Cartwright	Fattah	Larsen (CT)
Castor (FL)	Foster	Lee (CA)
Castro (TX)	Frankel (FL)	Levin
Chu	Fudge	Lewis
Ciilline	Gabbard	Lipinski
Clarke	Gallego	Loeb
Clay	Garamendi	Loeb
Cleaver	Garcia	Lofgren
Clyburn	Grayson	Lowenthal
Cohen	Green, Al	Lowe
Connolly	Green, Gene	Lujan Grisham
Conyers	Grijalva	(NM)
Cooper	Gutiérrez	Luján, Ben Ray
Costa	Hahn	(NM)
Courtney	Hastings (FL)	Lynch
Crowley	Heck (WA)	Maffei

Maloney,	Peters (CA)	Shea-Porter
Carolyn	Peters (MI)	Sherman
Maloney, Sean	Peterson	Sinema
Matheson	Pingree (ME)	Slaughter
Matsui	Pocan	Smith (WA)
McCollum	Polis	Speier
McDermott	Price (NC)	Swalwell (CA)
McGovern	Quigley	Takano
McIntyre	Rahall	Thompson (CA)
McNerney	Rush	Thompson (MS)
Meeks	Rangel	Tierney
Meng	Richmond	Titus
Michaud	Roybal-Allard	Tonko
Miller, George	Ruiz	Tsongas
Moore	Ruppersberger	Van Hollen
Moran	Rush	Vargas
Murphy (FL)	Ryan (OH)	Veasey
Nadler	Sánchez, Linda	Vela
Napolitano	T.	Velázquez
Neal	Sanchez, Loretta	Visclosky
Negrete McLeod	Sarbanes	Walz
	Schakowsky	Wasserman
	Nolan	Schiff
O'Rourke	Schneider	Schultz
Owens	Schrader	Waters
Pascarell	Schwartz	Watt
Pastor (AZ)	Scott (VA)	Waxman
Payne	Scott, David	Welch
Pelosi	Serrano	Wilson (FL)
Perlmutter	Sewell (AL)	Yarmuth

#### NOES—225

Aderholt	Gibbs	Mica
Alexander	Gibson	Miller (FL)
Amash	Gingrey (GA)	Miller (MI)
Amodei	Gohmert	Miller, Gary
Bachmann	Goodlatte	Mullin
Bachus	Gosar	Mulvaney
Barr	Gowdy	Murphy (PA)
Barton	Granger	Neugebauer
Bentivolio	Graves (GA)	Noem
Bilirakis	Graves (MO)	Nugent
Bishop (UT)	Griffin (AR)	Nunnelee
Black	Griffith (VA)	Olson
Blackburn	Grimm	Palazzo
Bonner	Guthrie	Paulsen
Boustany	Hall	Pearce
Brady (TX)	Hanna	Perry
Bridenstine	Harper	Petri
Brooks (AL)	Harris	Pittenger
Brooks (IN)	Hartzler	Pitts
Broun (GA)	Hastings (WA)	Poe (TX)
Buchanan	Heck (NV)	Pompeo
Bucshon	Hensarling	Posey
Burgess	Holding	Price (GA)
Calvert	Hudson	Radel
Camp	Huelskamp	Reed
Cantor	Huizenga (MI)	Reichert
Capito	Hultgren	Renauci
Carter	Hunter	Ribble
Cassidy	Hurt	Rice (SC)
Chabot	Issa	Rigell
Chaffetz	Jenkins	Roby
Coble	Johnson (OH)	Roe (TN)
Coffman	Johnson, Sam	Rogers (AL)
Cole	Jones	Rogers (KY)
Collins (GA)	Jordan	Rogers (MI)
Collins (NY)	Joyce	Rohrabacher
Conaway	Kelly (PA)	Rooney
Cook	King (IA)	Ros-Lehtinen
Cotton	King (NY)	Roskam
Cramer	Kingston	Ross
Crawford	Kinzingler (IL)	Rothfus
Crenshaw	Kline	Royce
Culberson	Labrador	Runyan
Daines	LaMalfa	Ryan (WI)
Davis, Rodney	Lamborn	Salmon
Denham	Lance	Sanford
Dent	Lankford	Scalise
DeSantis	Latham	Schock
DesJarlais	Latta	Schweikert
Diaz-Balart	LoBiondo	Scott, Austin
Duffy	Long	Sensenbrenner
Duncan (SC)	Lucas	Sessions
Duncan (TN)	Luetkemeyer	Shimkus
Ellmers	Lummis	Shuster
Farenthold	Marchant	Simpson
Fincher	Marino	Smith (MO)
Fitzpatrick	Massie	Smith (NE)
Fleischmann	McCarthy (CA)	Smith (NJ)
Fleming	McCauley	Smith (TX)
Flores	McClintock	Southerland
Forbes	McHenry	Stewart
Fortenberry	McKeon	Stivers
Fox	McKinley	Stockman
Franks (AZ)	McMorris	Stutzman
Frelinghuysen	Rodgers	Terry
Gardner	Meadows	Thompson (PA)
Garrett	Meehan	Thornberry
Gerlach	Messer	Tiberi

Tipton	Weber (TX)	Womack
Turner	Webster (FL)	Woodall
Upton	Wenstrup	Yoder
Valadao	Westmoreland	Yoho
Wagner	Whitfield	Young (AK)
Walberg	Williams	Young (IN)
Walden	Wilson (SC)	
Walorski	Wittman	

#### ANSWERED "PRESENT"—1

Benishek

#### NOT VOTING—15

Barletta	Himes	Pallone
Brown (FL)	Holt	Rokita
Campbell	Horsford	Sires
Hanabusa	McCarthy (NY)	Wolf
Herrera Beutler	Nunes	Young (FL)

#### □ 1129

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

#### PERSONAL EXPLANATION

Mr. HIMES. Mr. Speaker, on Thursday, July 25, 2013, I was unable to be present for rollcall votes 415, 416 and 417 on H.R. 2218. Had I been present, I would have voted: "yea" on rollcall vote 415, "yea" on rollcall vote 416, "yea" on rollcall vote 417.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. WAXMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 265, noes 155, not voting 13, as follows:

#### [Roll No. 418]

##### AYES—265

Aderholt	Collins (GA)	Gingrey (GA)
Alexander	Collins (NY)	Gohmert
Amash	Conaway	Goodlatte
Amodei	Cook	Gosar
Bachmann	Costa	Gowdy
Bachus	Cotton	Granger
Barber	Cramer	Graves (GA)
Barr	Crawford	Graves (MO)
Barrow (GA)	Crenshaw	Green, Gene
Barton	Cuellar	Griffin (AR)
Beatty	Culberson	Griffith (VA)
Benishek	Daines	Grimm
Bentivolio	Davis, Danny	Guthrie
Bilirakis	Davis, Rodney	Hall
Bishop (GA)	Denham	Hanna
Bishop (UT)	Dent	Harper
Black	DeSantis	Harris
Blackburn	DesJarlais	Hartzler
Bonner	Diaz-Balart	Hastings (WA)
Boustany	Doyle	Heck (NV)
Brady (PA)	Duffy	Hensarling
Brady (TX)	Duncan (SC)	Holding
Bridenstine	Duncan (TN)	Hudson
Brooks (AL)	Ellmers	Huelskamp
Brooks (IN)	Enyart	Huizenga (MI)
Broun (GA)	Farenthold	Hultgren
Buchanan	Fincher	Hunter
Bucshon	Fitzpatrick	Hurt
Burgess	Fleischmann	Issa
Bustos	Fleming	Jenkins
Calvert	Forbes	Johnson (OH)
Camp	Fortenberry	Johnson, Sam
Cantor	Fox	Jones
Capito	Franks (AZ)	Jordan
Carter	Frelinghuysen	Joyce
Cassidy	Fudge	Kaptur
Chabot	Gallego	Kelly (PA)
Chaffetz	Gardner	Kind
Clay	Garrett	King (IA)
Clyburn	Gerlach	King (NY)
Coble	Gibbs	Kingston
Coffman	Gibson	Kinzingler (IL)
Cole		Kirkpatrick

Kline	Owens	Sensenbrenner	Waters	Welch	Yarmuth
Labrador	Palazzo	Sessions	Watt	Wilson (FL)	
LaMalfa	Pastor (AZ)	Shimkus	Waxman	Wolf	
Lamborn	Paulsen	Shuster			
Lance	Pearce	Simpson			
Lankford	Perlmutter	Smith (MO)	Barletta	Holt	Serrano
Latham	Perry	Smith (NE)	Brown (FL)	Horsford	Sires
Latta	Peterson	Smith (NJ)	Campbell	McCarthy (NY)	Young (FL)
LoBiondo	Pittenger	Smith (TX)	Hanabusa	Pallone	
Loebback	Pitts	Southerland	Herrera Beutler	Rokita	
Long	Poe (TX)	Stewart			
Lucas	Pompeo	Stivers			
Luetkemeyer	Posey	Stockman			
Lummis	Price (GA)	Stutzman			
Maloney, Sean	Radel	Terry			
Marchant	Rahall	Thompson (MS)			
Marino	Reed	Thompson (PA)			
Massie	Reichert	Thornberry			
Matheson	Renacci	Tiberi			
McCarthy (CA)	Ribble	Tipton			
McCaul	Rice (SC)	Turner			
McClintock	Richmond	Upton			
McHenry	Rigell	Valadao			
McIntyre	Roby	Vargas			
McKeon	Roe (TN)	Vela			
McKinley	Rogers (AL)	Visclosky			
McMorris	Rogers (KY)	Wagner			
	Rogers (MI)	Walberg			
	Rohrabacher	Walden			
Meehan	Rooney	Walorski			
Messer	Ros-Lehtinen	Walz			
Mica	Roskam	Weber (TX)			
Miller (FL)	Ross	Webster (FL)			
Miller (MI)	Rothfus	Wenstrup			
Miller, Gary	Royce	Westmoreland			
Moore	Runyan	Whitfield			
Mullin	Ryan (OH)	Williams			
Mulvaney	Ryan (WI)	Wilson (SC)			
Murphy (PA)	Salmon	Wittman			
Neugebauer	Sanford	Womack			
Noem	Scalise	Woodall			
Nolan	Schock	Yoder			
Nugent	Schrader	Yoho			
Nunes	Schweikert	Young (AK)			
Nunnelee	Scott, Austin	Young (IN)			
Olson	Scott, David				

## NOT VOTING—13

□ 1139

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETRI. Mr. Speaker, during rollcall 418 on final passage of H.R. 2218, the Coal Residuals Reuse and Management Act of 2013, I incorrectly recorded my vote as “no.” I intended to vote “yes.”

## PERSONAL EXPLANATION

Mr. BARLETTA. Mr. Speaker, on rollcall No. 415 on the Waxman amendment, I am not recorded. Had I been present, I would have voted “no.”

Mr. Speaker, on rollcall No. 416 on the Tonko amendment, I am not recorded. Had I been present, I would have voted “no.”

Mr. Speaker, on rollcall No. 417 on the Motion to Recommit, I am not recorded. Had I been present, I would have voted “no.”

Mr. Speaker, on rollcall No. 418 on final passage of H.R. 2218, the Coal Residuals Reuse and Management Act of 2013, I am not recorded. Had I been present, I would have voted “aye.”

## PERSONAL EXPLANATION

Mr. HOLT. Mr. Speaker, I missed the following votes during this week:

On rollcall vote 375, on Passage of H.R. 1542, I would have voted “aye.”

On rollcall vote 376, on Passage of H. Con. Res. 44, I would have voted “aye.”

On rollcall vote 377, on Ordering the Previous Question to H. Res. 312, I would have voted “aye.”

On rollcall vote 378, on Agreeing to H. Res. 312, I would have voted “no.”

On rollcall vote 379, Gabbard amendment to H.R. 2397, I would have voted “nay.”

On rollcall vote 380, Blumenauer amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 381, Polis amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 382, Blumenauer amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 383, Nugent amendment to H.R. 2397, I would have voted “nay.”

On rollcall vote 384, Nadler amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 385, Moran amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 386, Poe amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 387, Walberg amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 388, Cicilline amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 389, Cohen amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 390, Coffman amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 391, Garamendi amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 392, Fleming amendment to H.R. 2397, I would have voted “nay.”

On rollcall vote 393, Rigell amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 394, Flores amendment to H.R. 2397, I would have voted “nay.”

On rollcall vote 395, DeLauro amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 396, Lee amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 397, Quigley amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 398, Denham amendment to H.R. 2397, I would have voted “aye.”

On rollcall vote 415, on agreeing to the Waxman amendment, I would have voted “aye.”

On rollcall vote 416, on agreeing to the Tonko amendment, I would have voted “aye.”

On rollcall vote 417, on Democratic Motion to Recommit H.R. 2218, I would have voted “aye.”

On rollcall vote 418, on Passage of H.R. 2218, I would have voted “no.”

## THE JOURNAL

The SPEAKER pro tempore (Mr. MEADOWS). Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

## GENERAL LEAVE

Mr. SHIMKUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 2218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 1092. An act to designate the air route traffic control center located in Nashua, New Hampshire, as the “Patricia Clark Boston Air Route Traffic Control Center”.

□ 1145

## LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the majority leader, Mr. CANTOR of Virginia, for the purpose of inquiring as to the schedule for the week to come.

Mr. CANTOR. I thank the Democratic whip for yielding.

Mr. Speaker, on Monday, the House is not in session.

On Tuesday, the House will meet at noon for morning-hour and 2 p.m. for legislative business. Votes will be postponed until 6:30 p.m.

On Wednesday and Thursday, the House will meet at 10 a.m. for morning-hour and noon for legislative business.

## NOES—155

Andrews	Grayson	Moran
Bass	Green, Al	Murphy (FL)
Becerra	Grijalva	Nadler
Bera (CA)	Gutiérrez	Napolitano
Bishop (NY)	Hahn	Neal
Blumenauer	Hastings (FL)	Negrete McLeod
Bonamici	Heck (WA)	O'Rourke
Braley (IA)	Higgins	Pascarell
Brownley (CA)	Himes	Payne
Butterfield	Hinojosa	Pelosi
Capps	Honda	Peters (CA)
Capuano	Hoyer	Peters (MI)
Cárdenas	Huffman	Petri
Carney	Israel	Pingree (ME)
Carson (IN)	Jackson Lee	Pocan
Cartwright	Jeffries	Polis
Castor (FL)	Johnson (GA)	Price (NC)
Castro (TX)	Johnson, E. B.	Quigley
Chu	Keating	Rangel
Cicilline	Kelly (IL)	Roybal-Allard
Clarke	Kennedy	Ruiz
Cleaver	Kildee	Ruppersberger
Cohen	Kilmer	Rush
Connolly	Kuster	Sánchez, Linda
Conyers	Langevin	T.
Cooper	Larsen (WA)	Sanchez, Loretta
Courtney	Larson (CT)	Sarbanes
Crowley	Lee (CA)	Schakowsky
Cummings	Levin	Schiff
Davis (CA)	Lewis	Schneider
DeFazio	Lipinski	Schwartz
DeGette	Lofgren	Scott (VA)
Delaney	Lowenthal	Sewell (AL)
DeLauro	Lowey	Shea-Porter
DelBene	Lujan Grisham	Sherman
Deutch	(NM)	Sinema
Dingell	Luján, Ben Ray	Slaughter
Doggett	(NM)	Smith (WA)
Duckworth	Lynch	Speier
Edwards	Maffei	Swalwell (CA)
Ellison	Maloney,	Takano
Engel	Carolyn	Thompson (CA)
Eshoo	Matsui	Tierney
Esty	McCollum	Titus
Farr	McDermott	Tonko
Fattah	McGovern	Tsongas
Foster	McNerney	Van Hollen
Frankel (FL)	Meeks	Veasey
Gabbard	Meng	Velázquez
Garamendi	Michaud	Wasserman
Garcia	Miller, George	Schultz