



## Legislative Bulletin.....September 21, 2012

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Amendments to H.R. 3409 - Coal Miner Employment and Domestic Energy Infrastructure Protection Act

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### H.R. 3409 – Coal Miner Employment and Domestic Energy Infrastructure Protection Act (Johnson, R-OH)

**Order of Business:** The bill is scheduled to be considered as early as September 20, 2012, under a structured rule, H.Res. 788.

The rule provides for the consideration of H.R. 3409 in the Committee of the Whole House on the state of the Union. The rule provides for 60 minutes of general debate that is equally divided by the chair and ranking minority member. After debate, the legislation shall be considered for amendment under the five minute rule. The rule makes in order only those amendments that are printed in Rules Committee Report 112-32. After amendment debate, the Committee shall rise and report the legislation to the House. At that time, any Member may demand a separate vote on any amendment that was adopted in the Committee of the Whole. The rule also provides for one motion to recommit, with or without instructions.

**Outside Groups:** The following groups have expressed support for passage of H.R. 3409:

Freedom Action – *scoring as a key vote*

Freedom Works – [\*scoring as a key vote\*](#)

Heritage Action for America – [\*scoring as a key vote\*](#)

National Association of Manufacturers – *scoring as a key vote*

National Taxpayers Union – *scoring as a key vote*

**Amendments Made in Order:** The rule makes in order the following amendments:

1. **Markey (D-MA):** The amendment would add language that would allow the Interior Secretary to promulgate rules under the Surface Mining Control and Reclamation Act if such rule would reduce the prevalence of pulmonary disease, lung cancer, or cardiovascular disease or reduce the prevalence of birth defects or reproductive problems in pregnant women or children.
2. **Bucshon (R-IN):** The amendment requires the Secretary, or any other federal official proposing a rule, to publish with each rule proposed under this Act each scientific study the Secretary or other official, respectively, relied on in developing the rule.

3. **Waxman (D- CA):** The amendment strikes language from the bill that repeals the following rule: Endangerment and Cause or Contribute Findings for Greenhouse Gases Under the Clean Air Act.
4. **Kelly (R-PA):** The amendment would strike language in the legislation pertaining to the Clean Air Act and replaces it with language with that requires that not later than 60 days within enactment, the Secretary of Transportation shall submit a report to the Congress that assumes the implementation and enforcement of the final rule entitled “2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards” (issued on August 28, 2012) and estimates—
  - a. the total number of jobs that will be lost due to decreased demand by year caused by the rule;
  - b. the number of additional fatalities and injuries that will be caused by the rule; and
  - c. the additional cost to the economy of the redundant regulation of fuel economy and greenhouse gas emissions by the Environmental Protection Agency and State agencies for model years 2011 through 2025.

The legislation also would require the Secretary to not consult with the EPA or the California Air Resources Board to complete the report.

5. **Markey (D-MA):** The amendment allows the Administrator of the Environmental Protection Agency to use any authority under the Clean Air Act, as in effect prior to the date of enactment of this Act, to promulgate any regulation concerning, take any action relating to, or take into consideration the emission of a green house gas to address climate change, if the Administrator determines that such promulgation, action or consideration will increase North American energy independence by reducing demand for oil.
6. **Benishek (R-MI):** This amendment requires the Committee for the Cumulative Analysis of Regulations established in the bill to include the health effects associated with its assessment of regulatory costs.
7. **Harris (R-MD):** The amendment requires the Environmental Protection Agency (EPA) to make data and modeling inputs publicly available in an effort to reinforce the transparency and sound science requirements in the bill. It also requires a Regulatory Impact Analysis that includes an external peer review according to the EPA’s own peer review guidelines.
8. **Jackson Lee (D-TX):** The amendment strikes section 503 of the bill which shortens the deadline for the Secretary of the Interior to submit comments about applications or general permits for the discharge of dredged or fill material into navigable waters from ninety days to thirty days (or sixty days if additional days are requested).
9. **McKinley (R-WV):** The amendment prohibits the Administrator of the Environmental Protection Agency (EPA) to revoke the use of any defined area for specification as a disposal site after the Secretary of the Army has issued a permit for dredged or fill material. This amendment is similar to [H.R. 457](#) introduced this Congress.

10. **Markey (D - MA):** The amendment creates a national electricity and energy efficiency standard. The amendment adds a title to the legislation that for each of calendar years 2014 through 2040, not later than March 31 of the following calendar year, each retail electric supplier shall submit to the Secretary an amount of federal renewable electricity credits and demonstrated total annual electricity savings that, in the aggregate, is equal to such retail electric supplier's annual combined target.

11. **DeFazio (D-OR):** The amendment adds a title to the legislation that requires that not later than 6 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Secretary of Transportation shall submit to Congress a joint report on the health, environmental, and public safety impacts of fugitive dust emissions from coal transport.

12. **Berg (R-ND), Flake (R-AZ), Gosar (R-AZ), and Lankford (R-OK):** The amendment would add language to the legislation that would allow states to revoke any existing federal implementation plan for the regulation of visibility. The amendment would require the Administrator to promulgate a federal implementation plan at any time after the date that is 2 years after the date on which the Administrator:

- a. Finds that a state has failed to make a required submission or finds that the plan or plan revision submitted by the state does not satisfy the minimum criteria established
- b. Disapproves a State implementation plan submission.

The conditions before the date on which the Administrator promulgates a federal implementation plan:

- c. A state corrects a deficiency in a State implementation plan or plan revision submitted by the state; and
- d. The Administrator approves the plan or plan revision.

In the case of a federal implementation plan promulgated after the date of enactment of this law in place of a state implementation plan the Administrator shall promulgate such federal implementation plan only if:

- e. the Administrator makes a finding that the state submitting the state implementation plan failed to consider the factors in preparing and submitting the plan; and
- f. compliance with the requirements of such federal implementation plan shall not be required earlier than 5 years after the date of promulgation.

13. **Gosar (R-AZ):** The amendment would add language that would limit the authority of the Administrator of the EPA to promulgate an regional haze regulation on the coal powered Navajo generation station. The amendment restricts the EPA Administrator from promulgating any federal implementation plan relating to visibility protection that would:

- a. Adversely impact employment at the coal powered Navajo Generating Station or other coal fired power plants and coal mines on tribal lands in northern Arizona;

- b. Directly or indirectly diminish the revenue received by the Federal Government or any State, tribal or local government by reducing through regulation the amount of coal that is available for mining on Navajo and Hopi Reservation lands;
- c. Cause a reduction in coal-based revenue to meet financial obligations required by federally authorized Indian water rights settlements, pursuant to section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f));
- d. Reduce the amount of coal, or increase the cost of coal, available for the Navajo Generating Station's Federal responsibility to deliver water and power, as authorized by the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.); or
- e. Expose the United States to liability for taking the value of tribally-owned coal in northern Arizona through regulation.

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