

Calendar No. 191

113TH CONGRESS
1ST SESSION

S. 1514

To save coal jobs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2013

Mr. McCONNELL introduced the following bill; which was read the first time

SEPTEMBER 18, 2013

Read the second time and placed on the calendar

A BILL

To save coal jobs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Saving Coal Jobs Act of 2013”.

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

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITION ON ENERGY TAX

Sec. 101. Prohibition on energy tax.

TITLE II—PERMITS

Sec. 201. National pollutant discharge elimination system.

Sec. 202. Permits for dredged or fill material.

Sec. 203. Impacts of Environmental Protection Agency regulatory activity on employment and economic activity.

Sec. 204. Identification of waters protected by the Clean Water Act.

Sec. 205. Limitations on authority to modify State water quality standards.

Sec. 206. State authority to identify waters within boundaries of the State.

1 **TITLE I—PROHIBITION ON**
 2 **ENERGY TAX**

3 **SEC. 101. PROHIBITION ON ENERGY TAX.**

4 (a) FINDINGS; PURPOSES.—

5 (1) FINDINGS.—Congress finds that—

6 (A) on June 25, 2013, President Obama
 7 issued a Presidential memorandum directing
 8 the Administrator of the Environmental Protec-
 9 tion Agency to issue regulations relating to
 10 power sector carbon pollution standards for ex-
 11 isting coal fired power plants;

12 (B) the issuance of that memorandum cir-
 13 cumvents Congress and the will of the people of
 14 the United States;

15 (C) any action to control emissions of
 16 greenhouse gases from existing coal fired power
 17 plants in the United States by mandating a na-
 18 tional energy tax would devastate major sectors
 19 of the economy, cost thousands of jobs, and in-
 20 crease energy costs for low-income households,
 21 small businesses, and seniors on fixed income;

1 (D) joblessness increases the likelihood of
2 hospital visits, illnesses, and premature deaths;

3 (E) according to testimony on June 15,
4 2011, before the Committee on Environment
5 and Public Works of the Senate by Dr. Harvey
6 Brenner of Johns Hopkins University, “The
7 unemployment rate is well established as a risk
8 factor for elevated illness and mortality rates in
9 epidemiological studies performed since the
10 early 1980s. In addition to influences on mental
11 disorder, suicide and alcohol abuse and alco-
12 holism, unemployment is also an important risk
13 factor in cardiovascular disease and overall de-
14 creases in life expectancy.”;

15 (F) according to the National Center for
16 Health Statistics, “children in poor families
17 were four times as likely to be in fair or poor
18 health as children that were not poor”;

19 (G) any major decision that would cost the
20 economy of the United States millions of dollars
21 and lead to serious negative health effects for
22 the people of the United States should be de-
23 bated and explicitly authorized by Congress, not
24 approved by a Presidential memorandum or
25 regulations; and

1 (H) any policy adopted by Congress should
2 make United States energy as clean as prac-
3 ticable, as quickly as practicable, without in-
4 creasing the cost of energy for struggling fami-
5 lies, seniors, low-income households, and small
6 businesses.

7 (2) PURPOSES.—The purposes of this section
8 are—

9 (A) to ensure that—

10 (i) a national energy tax is not im-
11 posed on the economy of the United
12 States; and

13 (ii) struggling families, seniors, low-
14 income households, and small businesses
15 do not experience skyrocketing electricity
16 bills and joblessness;

17 (B) to protect the people of the United
18 States, particularly families, seniors, and chil-
19 dren, from the serious negative health effects of
20 joblessness;

21 (C) to allow sufficient time for Congress to
22 develop and authorize an appropriate mecha-
23 nism to address the energy needs of the United
24 States and the potential challenges posed by se-
25 vere weather; and

1 (D) to restore the legislative process and
 2 congressional authority over the energy policy
 3 of the United States.

4 (b) PRESIDENTIAL MEMORANDUM.—Notwith-
 5 standing any other provision of law, the head of a Federal
 6 agency shall not promulgate any regulation relating to
 7 power sector carbon pollution standards or any substan-
 8 tially similar regulation on or after June 25, 2013, unless
 9 that regulation is explicitly authorized by an Act of Con-
 10 gress.

11 **TITLE II—PERMITS**

12 **SEC. 201. NATIONAL POLLUTANT DISCHARGE ELIMINATION** 13 **SYSTEM.**

14 (a) APPLICABILITY OF GUIDANCE.—Section 402 of
 15 the Federal Water Pollution Control Act (33 U.S.C. 1342)
 16 is amended by adding at the end the following:

17 “(s) APPLICABILITY OF GUIDANCE.—

18 “(1) DEFINITIONS.—In this subsection:

19 “(A) GUIDANCE.—

20 “(i) IN GENERAL.—The term ‘guid-
 21 ance’ means draft, interim, or final guid-
 22 ance issued by the Administrator.

23 “(ii) INCLUSIONS.—The term ‘guid-
 24 ance’ includes—

1 “(I) the comprehensive guidance
2 issued by the Administrator and dated
3 April 1, 2010;

4 “(II) the proposed guidance enti-
5 tled ‘Draft Guidance on Identifying
6 Waters Protected by the Clean Water
7 Act’ and dated April 28, 2011;

8 “(III) the final guidance pro-
9 posed by the Administrator and dated
10 July 21, 2011; and

11 “(IV) any other document or
12 paper issued by the Administrator
13 through any process other than the
14 notice and comment rulemaking proc-
15 ess.

16 “(B) NEW PERMIT.—The term ‘new per-
17 mit’ means a permit covering discharges from a
18 structure—

19 “(i) that is issued under this section
20 by a permitting authority; and

21 “(ii) for which an application is—

22 “(I) pending as of the date of en-
23 actment of this subsection; or

24 “(II) filed on or after the date of
25 enactment of this subsection.

1 “(C) PERMITTING AUTHORITY.—The term
2 ‘permitting authority’ means—

3 “(i) the Administrator; or

4 “(ii) a State, acting pursuant to a
5 State program that is equivalent to the
6 program under this section and approved
7 by the Administrator.

8 “(2) PERMITS.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of law, in making a determina-
11 tion whether to approve a new permit or a re-
12 newed permit, the permitting authority—

13 “(i) shall base the determination only
14 on compliance with regulations issued by
15 the Administrator or the permitting au-
16 thority; and

17 “(ii) shall not base the determination
18 on the extent of adherence of the applicant
19 for the new permit or renewed permit to
20 guidance.

21 “(B) NEW PERMITS.—If the permitting
22 authority does not approve or deny an applica-
23 tion for a new permit by the date that is 270
24 days after the date of receipt of the application
25 for the new permit, the applicant may operate

1 as if the application were approved in accord-
2 ance with Federal law for the period of time for
3 which a permit from the same industry would
4 be approved.

5 “(C) SUBSTANTIAL COMPLETENESS.—In
6 determining whether an application for a new
7 permit or a renewed permit received under this
8 paragraph is substantially complete, the permit-
9 ting authority shall use standards for deter-
10 mining substantial completeness of similar per-
11 mits for similar facilities submitted in fiscal
12 year 2007.”.

13 (b) STATE PERMIT PROGRAMS.—

14 (1) IN GENERAL.—Section 402 of the Federal
15 Water Pollution Control Act (33 U.S.C. 1342) is
16 amended by striking subsection (b) and inserting the
17 following:

18 “(b) STATE PERMIT PROGRAMS.—

19 “(1) IN GENERAL.—At any time after the pro-
20 mulgation of the guidelines required by section
21 304(a)(2), the Governor of each State desiring to
22 administer a permit program for discharges into
23 navigable waters within the jurisdiction of the State
24 may submit to the Administrator—

1 “(A) a full and complete description of the
2 program the State proposes to establish and ad-
3 minister under State law or under an interstate
4 compact; and

5 “(B) a statement from the attorney gen-
6 eral (or the attorney for those State water pol-
7 lution control agencies that have independent
8 legal counsel), or from the chief legal officer in
9 the case of an interstate agency, that the laws
10 of the State, or the interstate compact, as ap-
11 plicable, provide adequate authority to carry out
12 the described program.

13 “(2) APPROVAL.—The Administrator shall ap-
14 prove each program for which a description is sub-
15 mitted under paragraph (1) unless the Adminis-
16 trator determines that adequate authority does not
17 exist—

18 “(A) to issue permits that—

19 “(i) apply, and ensure compliance
20 with, any applicable requirements of sec-
21 tions 301, 302, 306, 307, and 403;

22 “(ii) are for fixed terms not exceeding
23 5 years;

24 “(iii) can be terminated or modified
25 for cause, including—

1 “(I) a violation of any condition
2 of the permit;

3 “(II) obtaining a permit by mis-
4 representation or failure to disclose
5 fully all relevant facts; and

6 “(III) a change in any condition
7 that requires either a temporary or
8 permanent reduction or elimination of
9 the permitted discharge; and

10 “(iv) control the disposal of pollutants
11 into wells;

12 “(B)(i) to issue permits that apply, and
13 ensure compliance with, all applicable require-
14 ments of section 308; or

15 “(ii) to inspect, monitor, enter, and require
16 reports to at least the same extent as required
17 in section 308;

18 “(C) to ensure that the public, and any
19 other State the waters of which may be af-
20 fected, receives notice of each application for a
21 permit and an opportunity for a public hearing
22 before a ruling on each application;

23 “(D) to ensure that the Administrator re-
24 ceives notice and a copy of each application for
25 a permit;

1 “(E) to ensure that any State (other than
2 the permitting State), whose waters may be af-
3 fected by the issuance of a permit may submit
4 written recommendations to the permitting
5 State and the Administrator with respect to any
6 permit application and, if any part of the writ-
7 ten recommendations are not accepted by the
8 permitting State, that the permitting State will
9 notify the affected State and the Administrator
10 in writing of the failure of the State to accept
11 the recommendations, including the reasons for
12 not accepting the recommendations;

13 “(F) to ensure that no permit will be
14 issued if, in the judgment of the Secretary of
15 the Army (acting through the Chief of Engi-
16 neers), after consultation with the Secretary of
17 the department in which the Coast Guard is op-
18 erating, anchorage and navigation of any of the
19 navigable waters would be substantially im-
20 paired by the issuance of the permit;

21 “(G) to abate violations of the permit or
22 the permit program, including civil and criminal
23 penalties and other means of enforcement;

24 “(H) to ensure that any permit for a dis-
25 charge from a publicly owned treatment works

1 includes conditions to require the identification
2 in terms of character and volume of pollutants
3 of any significant source introducing pollutants
4 subject to pretreatment standards under section
5 307(b) into the treatment works and a program
6 to ensure compliance with those pretreatment
7 standards by each source, in addition to ade-
8 quate notice, which shall include information on
9 the quality and quantity of effluent to be intro-
10 duced into the treatment works and any antici-
11 pated impact of the change in the quantity or
12 quality of effluent to be discharged from the
13 publicly owned treatment works, to the permit-
14 ting agency of—

15 “(i) new introductions into the treat-
16 ment works of pollutants from any source
17 that would be a new source (as defined in
18 section 306(a)) if the source were dis-
19 charging pollutants;

20 “(ii) new introductions of pollutants
21 into the treatment works from a source
22 that would be subject to section 301 if the
23 source were discharging those pollutants;
24 or

1 “(iii) a substantial change in volume
2 or character of pollutants being introduced
3 into the treatment works by a source intro-
4 ducing pollutants into the treatment works
5 at the time of issuance of the permit; and

6 “(I) to ensure that any industrial user of
7 any publicly owned treatment works will comply
8 with sections 204(b), 307, and 308.

9 “(3) ADMINISTRATION.—Notwithstanding para-
10 graph (2), the Administrator may not disapprove or
11 withdraw approval of a program under this sub-
12 section on the basis of the following:

13 “(A) The failure of the program to incor-
14 porate or comply with guidance (as defined in
15 subsection (s)(1)).

16 “(B) The implementation of a water qual-
17 ity standard that has been adopted by the State
18 and approved by the Administrator under sec-
19 tion 303(e).”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 309 of the Federal Water Pol-
22 lution Control Act (33 U.S.C. 1319) is amend-
23 ed—

24 (i) in subsection (c)—

1 (I) in paragraph (1)(A), by strik-
2 ing “402(b)(8)” and inserting
3 “402(b)(2)(H)”; and

4 (II) in paragraph (2)(A), by
5 striking “402(b)(8)” and inserting
6 “402(b)(2)(H)”; and

7 (ii) in subsection (d), in the first sen-
8 tence, by striking “402(b)(8)” and insert-
9 ing “402(b)(2)(H)”.

10 (B) Section 402(m) of the Federal Water
11 Pollution Control Act (33 U.S.C. 1342(m)) is
12 amended in the first sentence by striking “sub-
13 section (b)(8) of this section” and inserting
14 “subsection (b)(2)(H)”.

15 (c) SUSPENSION OF FEDERAL PROGRAM.—Section
16 402(c) of the Federal Water Pollution Control Act (33
17 U.S.C. 1342(c)) is amended—

18 (1) by redesignating paragraph (4) as para-
19 graph (5); and

20 (2) by inserting after paragraph (3) the fol-
21 lowing:

22 “(4) LIMITATION ON DISAPPROVAL.—Notwith-
23 standing paragraphs (1) through (3), the Adminis-
24 trator may not disapprove or withdraw approval of

1 a State program under subsection (b) on the basis
2 of the failure of the following:

3 “(A) The failure of the program to incor-
4 porate or comply with guidance (as defined in
5 subsection (s)(1)).

6 “(B) The implementation of a water qual-
7 ity standard that has been adopted by the State
8 and approved by the Administrator under sec-
9 tion 303(e).”.

10 (d) NOTIFICATION OF ADMINISTRATOR.—Section
11 402(d)(2) of the Federal Water Pollution Control Act (33
12 U.S.C. 1342(d)(2)) is amended—

13 (1) by striking “(2)” and all that follows
14 through the end of the first sentence and inserting
15 the following:

16 “(2) OBJECTION BY ADMINISTRATOR.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (C), no permit shall issue if—

19 “(i) not later than 90 days after the
20 date on which the Administrator receives
21 notification under subsection (b)(2)(E), the
22 Administrator objects in writing to the
23 issuance of the permit; or

24 “(ii) not later than 90 days after the
25 date on which the proposed permit of the

1 State is transmitted to the Administrator,
2 the Administrator objects in writing to the
3 issuance of the permit as being outside the
4 guidelines and requirements of this Act.”;

5 (2) in the second sentence, by striking “When-
6 ever the Administrator” and inserting the following:

7 “(B) REQUIREMENTS.—If the Adminis-
8 trator”; and

9 (3) by adding at the end the following:

10 “(C) EXCEPTION.—The Administrator
11 shall not object to or deny the issuance of a
12 permit by a State under subsection (b) or (s)
13 based on the following:

14 “(i) Guidance, as that term is defined
15 in subsection (s)(1).

16 “(ii) The interpretation of the Admin-
17 istrator of a water quality standard that
18 has been adopted by the State and ap-
19 proved by the Administrator under section
20 303(e).”.

21 **SEC. 202. PERMITS FOR DREDGED OR FILL MATERIAL.**

22 (a) IN GENERAL.—Section 404 of the Federal Water
23 Pollution Control Act (33 U.S.C. 1344) is amended—

1 (1) by striking the section heading and all that
2 follows through “SEC. 404. (a) The Secretary may
3 issue” and inserting the following:

4 **“SEC. 404. PERMITS FOR DREDGED OR FILL MATERIAL.**

5 “(a) PERMITS.—

6 “(1) IN GENERAL.—The Secretary may issue”;

7 and

8 (2) in subsection (a), by adding at the end the
9 following:

10 “(2) DEADLINE FOR APPROVAL.—

11 “(A) PERMIT APPLICATIONS.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), if an environmental as-
14 sessment or environmental impact state-
15 ment, as appropriate, is required under the
16 National Environmental Policy Act of
17 1969 (42 U.S.C. 4321 et seq.), the Sec-
18 retary shall—

19 “(I) begin the process not later
20 than 90 days after the date on which
21 the Secretary receives a permit appli-
22 cation; and

23 “(II) approve or deny an applica-
24 tion for a permit under this sub-
25 section not later than the latter of—

1 “(aa) if an agency carries
2 out an environmental assessment
3 that leads to a finding of no sig-
4 nificant impact, the date on
5 which the finding of no signifi-
6 cant impact is issued; or

7 “(bb) if an agency carries
8 out an environmental assessment
9 that leads to a record of decision,
10 15 days after the date on which
11 the record of decision on an envi-
12 ronmental impact statement is
13 issued.

14 “(ii) PROCESSES.—Notwithstanding
15 clause (i), regardless of whether the Sec-
16 retary has commenced an environmental
17 assessment or environmental impact state-
18 ment by the date described in clause (i)(I),
19 the following deadlines shall apply:

20 “(I) An environmental assess-
21 ment carried out under the National
22 Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.) shall be com-
24 pleted not later than 1 year after the

1 deadline for commencing the permit
2 process under clause (i)(I).

3 “(II) An environmental impact
4 statement carried out under the Na-
5 tional Environmental Policy Act of
6 1969 (42 U.S.C. 4321 et seq.) shall
7 be completed not later than 2 years
8 after the deadline for commencing the
9 permit process under clause (i)(I).

10 “(B) FAILURE TO ACT.—If the Secretary
11 fails to act by the deadline specified in clause
12 (i) or (ii) of subparagraph (A)—

13 “(i) the application, and the permit
14 requested in the application, shall be con-
15 sidered to be approved;

16 “(ii) the Secretary shall issue a permit
17 to the applicant; and

18 “(iii) the permit shall not be subject
19 to judicial review.”.

20 (b) STATE PERMITTING PROGRAMS.—Section 404 of
21 the Federal Water Pollution Control Act (33 U.S.C. 1344)
22 is amended by striking subsection (c) and inserting the
23 following:

24 “(c) AUTHORITY OF ADMINISTRATOR.—

1 “(1) IN GENERAL.—Subject to paragraphs (2)
2 through (4), until the Secretary has issued a permit
3 under this section, the Administrator is authorized
4 to prohibit the specification (including the with-
5 drawal of specification) of any defined area as a dis-
6 posal site, and deny or restrict the use of any de-
7 fined area for specification (including the withdrawal
8 of specification) as a disposal site, if the Adminis-
9 trator determines, after notice and opportunity for
10 public hearings, that the discharge of the materials
11 into the area will have an unacceptable adverse ef-
12 fect on municipal water supplies, shellfish beds or
13 fishery areas (including spawning and breeding
14 areas), wildlife, or recreational areas.

15 “(2) CONSULTATION.—Before making a deter-
16 mination under paragraph (1), the Administrator
17 shall consult with the Secretary.

18 “(3) FINDINGS.—The Administrator shall set
19 forth in writing and make public the findings of the
20 Administrator and the reasons of the Administrator
21 for making any determination under this subsection.

22 “(4) AUTHORITY OF STATE PERMITTING PRO-
23 GRAMS.—This subsection shall not apply to any per-
24 mit if the State in which the discharge originates or
25 will originate does not concur with the determination

1 of the Administrator that the discharge will result in
2 an unacceptable adverse effect as described in para-
3 graph (1).”.

4 (c) STATE PROGRAMS.—Section 404(g)(1) of the
5 Federal Water Pollution Control Act (33 U.S.C.
6 1344(g)(1)) is amended in the first sentence by striking
7 “for the discharge” and inserting “for all or part of the
8 discharges”.

9 **SEC. 203. IMPACTS OF ENVIRONMENTAL PROTECTION**
10 **AGENCY REGULATORY ACTIVITY ON EMPLOY-**
11 **MENT AND ECONOMIC ACTIVITY.**

12 (a) DEFINITIONS.—In this section:

13 (1) ADMINISTRATOR.—The term “Adminis-
14 trator” means the Administrator of the Environ-
15 mental Protection Agency.

16 (2) COVERED ACTION.—The term “covered ac-
17 tion” means any of the following actions taken by
18 the Administrator under the Federal Water Pollu-
19 tion Control Act (33 U.S.C. 1251 et seq.):

20 (A) Issuing a regulation, policy statement,
21 guidance, response to a petition, or other re-
22 quirement.

23 (B) Implementing a new or substantially
24 altered program.

1 (3) MORE THAN A DE MINIMIS NEGATIVE IM-
2 PACT.—The term “more than a de minimis negative
3 impact” means the following:

4 (A) With respect to employment levels, a
5 loss of more than 100 jobs, except that any off-
6 setting job gains that result from the hypo-
7 thetical creation of new jobs through new tech-
8 nologies or government employment may not be
9 used in the job loss calculation.

10 (B) With respect to economic activity, a
11 decrease in economic activity of more than
12 \$1,000,000 over any calendar year, except that
13 any offsetting economic activity that results
14 from the hypothetical creation of new economic
15 activity through new technologies or govern-
16 ment employment may not be used in the eco-
17 nomic activity calculation.

18 (b) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOY-
19 MENT AND ECONOMIC ACTIVITY.—

20 (1) ANALYSIS.—Before taking a covered action,
21 the Administrator shall analyze the impact,
22 disaggregated by State, of the covered action on em-
23 ployment levels and economic activity, including esti-
24 mated job losses and decreased economic activity.

25 (2) ECONOMIC MODELS.—

1 (A) IN GENERAL.—In carrying out para-
2 graph (1), the Administrator shall use the best
3 available economic models.

4 (B) ANNUAL GAO REPORT.—Not later
5 than December 31st of each year, the Comp-
6 troller General of the United States shall sub-
7 mit to Congress a report on the economic mod-
8 els used by the Administrator to carry out this
9 subsection.

10 (3) AVAILABILITY OF INFORMATION.—With re-
11 spect to any covered action, the Administrator
12 shall—

13 (A) post the analysis under paragraph (1)
14 as a link on the main page of the public Inter-
15 net Web site of the Environmental Protection
16 Agency; and

17 (B) request that the Governor of any State
18 experiencing more than a de minimis negative
19 impact post the analysis in the Capitol of the
20 State.

21 (c) PUBLIC HEARINGS.—

22 (1) IN GENERAL.—If the Administrator con-
23 cludes under subsection (b)(1) that a covered action
24 will have more than a de minimis negative impact on
25 employment levels or economic activity in a State,

1 the Administrator shall hold a public hearing in each
2 such State at least 30 days prior to the effective
3 date of the covered action.

4 (2) TIME, LOCATION, AND SELECTION.—

5 (A) IN GENERAL.—A public hearing re-
6 quired under paragraph (1) shall be held at a
7 convenient time and location for impacted resi-
8 dents.

9 (B) PRIORITY.—In selecting a location for
10 such a public hearing, the Administrator shall
11 give priority to locations in the State that will
12 experience the greatest number of job losses.

13 (d) NOTIFICATION.—If the Administrator concludes
14 under subsection (b)(1) that a covered action will have
15 more than a de minimis negative impact on employment
16 levels or economic activity in any State, the Administrator
17 shall give notice of such impact to the congressional dele-
18 gation, Governor, and legislature of the State at least 45
19 days before the effective date of the covered action.

20 **SEC. 204. IDENTIFICATION OF WATERS PROTECTED BY THE**
21 **CLEAN WATER ACT.**

22 (a) IN GENERAL.—The Secretary of the Army and
23 the Administrator of the Environmental Protection Agen-
24 cy may not—

1 (1) finalize, adopt, implement, administer, or
2 enforce the proposed guidance described in the no-
3 tice of availability and request for comments entitled
4 “EPA and Army Corps of Engineers Guidance Re-
5 garding Identification of Waters Protected by the
6 Clean Water Act” (EPA–HQ–OW–2011–0409) (76
7 Fed. Reg. 24479 (May 2, 2011)); and

8 (2) use the guidance described in paragraph
9 (1), any successor document, or any substantially
10 similar guidance made publicly available on or after
11 December 3, 2008, as the basis for any decision re-
12 garding the scope of the Federal Water Pollution
13 Control Act (33 U.S.C. 1251 et seq.) or any rule-
14 making.

15 (b) RULES.—The use of the guidance described in
16 subsection (a)(1), or any successor document or substan-
17 tially similar guidance made publicly available on or after
18 December 3, 2008, as the basis for any rule shall be
19 grounds for vacating the rule.

20 **SEC. 205. LIMITATIONS ON AUTHORITY TO MODIFY STATE**
21 **WATER QUALITY STANDARDS.**

22 (a) STATE WATER QUALITY STANDARDS.—Section
23 303(c)(4) of the Federal Water Pollution Control Act (33
24 U.S.C. 1313(c)(4)) is amended—

1 (1) by redesignating subparagraphs (A) and
2 (B) as clauses (i) and (ii), respectively, and indent-
3 ing appropriately;

4 (2) by striking “(4) The” and inserting the fol-
5 lowing:

6 “(4) PROMULGATION OF REVISED OR NEW
7 STANDARDS.—

8 “(A) IN GENERAL.—The”;

9 (3) by striking “The Administrator shall pro-
10 mulgate” and inserting the following:

11 “(B) DEADLINE.—The Administrator shall
12 promulgate;” and

13 (4) by adding at the end the following:

14 “(C) STATE WATER QUALITY STAND-
15 ARDS.—Notwithstanding any other provision of
16 this paragraph, the Administrator may not pro-
17 mulgate a revised or new standard for a pollut-
18 ant in any case in which the State has sub-
19 mitted to the Administrator and the Adminis-
20 trator has approved a water quality standard
21 for that pollutant, unless the State concurs with
22 the determination of the Administrator that the
23 revised or new standard is necessary to meet
24 the requirements of this Act.”.

1 (b) FEDERAL LICENSES AND PERMITS.—Section
 2 401(a) of the Federal Water Pollution Control Act (33
 3 U.S.C. 1341(a)) is amended by adding at the end the fol-
 4 lowing:

5 “(7) STATE OR INTERSTATE AGENCY DETER-
 6 MINATION.—With respect to any discharge, if a
 7 State or interstate agency having jurisdiction over
 8 the navigable waters at the point at which the dis-
 9 charge originates or will originate determines under
 10 paragraph (1) that the discharge will comply with
 11 the applicable provisions of sections 301, 302, 303,
 12 306, and 307, the Administrator may not take any
 13 action to supersede the determination.”.

14 **SEC. 206. STATE AUTHORITY TO IDENTIFY WATERS WITHIN**
 15 **BOUNDARIES OF THE STATE.**

16 Section 303(d) of the Federal Water Pollution Con-
 17 trol Act (33 U.S.C. 1313(d)) is amended by striking para-
 18 graph (2) and inserting the following:

19 “(2) STATE AUTHORITY TO IDENTIFY WATERS
 20 WITHIN BOUNDARIES OF THE STATE.—

21 “(A) IN GENERAL.—Each State shall sub-
 22 mit to the Administrator from time to time,
 23 with the first such submission not later than
 24 180 days after the date of publication of the
 25 first identification of pollutants under section

1 304(a)(2)(D), the waters identified and the
2 loads established under subparagraphs (A), (B),
3 (C), and (D) of paragraph (1).

4 “(B) APPROVAL OR DISAPPROVAL BY AD-
5 MINISTRATOR.—

6 “(i) IN GENERAL.—Not later than 30
7 days after the date of submission, the Ad-
8 ministrators shall approve the State identi-
9 fication and load or announce the disagree-
10 ment of the Administrator with the State
11 identification and load.

12 “(ii) APPROVAL.—If the Adminis-
13 trator approves the identification and load
14 submitted by the State under this sub-
15 section, the State shall incorporate the
16 identification and load into the current
17 plan of the State under subsection (e).

18 “(iii) DISAPPROVAL.—If the Adminis-
19 trator announces the disagreement of the
20 Administrator with the identification and
21 load submitted by the State under this
22 subsection, the Administrator shall submit,
23 not later than 30 days after the date that
24 the Administrator announces the disagree-
25 ment of the Administrator with the sub-

1 mission of the State, to the State the writ-
2 ten recommendation of the Administrator
3 of those additional waters that the Admin-
4 istrator identifies and such loads for such
5 waters as the Administrator believes are
6 necessary to implement the water quality
7 standards applicable to the waters.

8 “(C) ACTION BY STATE.—Not later than
9 30 days after receipt of the recommendation of
10 the Administrator, the State shall—

11 “(i) disregard the recommendation of
12 the Administrator in full and incorporate
13 its own identification and load into the
14 current plan of the State under subsection
15 (e);

16 “(ii) accept the recommendation of
17 the Administrator in full and incorporate
18 its identification and load as amended by
19 the recommendation of the Administrator
20 into the current plan of the State under
21 subsection (e); or

22 “(iii) accept the recommendation of
23 the Administrator in part, identifying cer-
24 tain additional waters and certain addi-
25 tional loads proposed by the Administrator

1 to be added to the State's identification
2 and load and incorporate the State's iden-
3 tification and load as amended into the
4 current plan of the State under subsection
5 (e).

6 “(D) NONCOMPLIANCE BY ADMINIS-
7 TRATOR.—

8 “(i) IN GENERAL.—If the Adminis-
9 trator fails to approve the State identifica-
10 tion and load or announce the disagree-
11 ment of the Administrator with the State
12 identification and load within the time
13 specified in this subsection—

14 “(I) the identification and load of
15 the State shall be considered ap-
16 proved; and

17 “(II) the State shall incorporate
18 the identification and load that the
19 State submitted into the current plan
20 of the State under subsection (e).

21 “(ii) RECOMMENDATIONS NOT SUB-
22 MITTED.—If the Administrator announces
23 the disagreement of the Administrator with
24 the identification and load of the State but
25 fails to submit the written recommendation

1 of the Administrator to the State within 30
2 days as required by subparagraph
3 (B)(iii)—

4 “(I) the identification and load of
5 the State shall be considered ap-
6 proved; and

7 “(II) the State shall incorporate
8 the identification and load that the
9 State submitted into the current plan
10 of the State under subsection (e).

11 “(E) APPLICATION.—This section shall
12 apply to any decision made by the Adminis-
13 trator under this subsection issued on or after
14 March 1, 2013.”.

Calendar No. 191

113TH CONGRESS
1ST Session

S. 1514

A BILL

To save coal jobs, and for other purposes.

SEPTEMBER 18, 2013

Read the second time and placed on the calendar