

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1599) TO AMEND THE FEDERAL FOOD, DRUG, AND COSMETIC ACT WITH RESPECT TO FOOD PRODUCED FROM, CONTAINING, OR CONSISTING OF A BIOENGINEERED ORGANISM, THE LABELING OF NATURAL FOODS, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1734) 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

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July 21, 2015.—Referred to the House Calendar and ordered to be printed.

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MR. BYRNE, from the Committee on Rules, submitted the following

## R E P O R T

[To accompany H. Res. \_\_]

The Committee on Rules, having had under consideration House Resolution \_\_\_\_, by a record vote of 9 to 4, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1599, the Safe and Accurate Food Labeling Act of 2015, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114-24, modified by the amendment printed in part A of this report, and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further

amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments to H.R. 1599 printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 1734, the Improving Coal Combustion Residuals Regulation Act of 2015, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution makes in order only those amendments printed in part C of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments to H.R. 1734 printed in part C of this report. The resolution provides one motion to recommit with or without instructions.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 1599 includes a waiver of clause 3(e)(1) of rule XIII (Ramseyer), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 1599 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 1599 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 1734 includes a waiver of clause 3(e)(1) of rule XIII (Ramseyer), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected.

Although the resolution waives all points of order against provisions in H.R. 1734, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 1734 printed in part C of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waivers of clause 3(e)(1) of rule XIII (known as the “Ramseyer” rule) are provided for both measures because the submissions provided by the committees were insufficient to meet the standards established by the rule in its current form. The Committee on Rules continues to work with the House Office of Legislative Counsel and committees to determine the steps necessary to comply with the updated rule.

### COMMITTEE VOTES

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

#### Rules Committee Record Vote No. 88

Motion by Ms. Slaughter to report open rules for H.R. 1599 and H.R. 1734.

Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx.....	Nay	Ms. Slaughter.....	Yea
Mr. Cole.....	Nay	Mr. McGovern.....	Yea
Mr. Woodall.....	Nay	Mr. Hastings of Florida.....	Yea
Mr. Burgess.....	Nay	Mr. Polis.....	Yea
Mr. Stivers.....	Nay		
Mr. Collins.....	Nay		
Mr. Byrne.....	Nay		
Mr. Newhouse.....	Nay		
Mr. Sessions, Chairman.....	Nay		

Rules Committee Record Vote No. 89

Motion by Ms. Foxx to report the rule. Adopted: 9-4

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Majority Members	Vote	Minority Members	Vote
Ms. Foxx.....	Yea	Ms. Slaughter.....	Nay
Mr. Cole.....	Yea	Mr. McGovern.....	Nay
Mr. Woodall.....	Yea	Mr. Hastings of Florida.....	Nay
Mr. Burgess.....	Yea	Mr. Polis.....	Nay
Mr. Stivers.....	Yea		
Mr. Collins.....	Yea		
Mr. Byrne.....	Yea		
Mr. Newhouse.....	Yea		
Mr. Sessions, Chairman.....	Yea		

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SUMMARY OF THE AMENDMENT TO H.R. 1599 IN PART A  
CONSIDERED AS ADOPTED

Pompeo (KS): MANAGER'S Makes technical and conforming changes to text of the legislation and includes revisions to the operative sections of the bill to make it abundantly clear that the preemption applies only to the sale of GE plants for use in food. Further clarifies that it is not the intent that livestock fed GE feed are themselves GE, that the due process rights of GE/Non-GE marketing program participants are included for clarification, and further clarifies that the marketing program is designed to be voluntary and that funding for the bill is subject to appropriations.

SUMMARY OF THE AMENDMENTS TO HR. 1599 IN PART B MADE IN  
ORDER

1. DeFazio (OR): Establishes that if a U.S. company or their subsidiary labels their product as containing GMOs in any foreign country they must label the equivalent product the same way in the U.S. (10 minutes)
2. Huffman (CA), Polis (CO), McCollum (MN), Grijalva (AZ), Ruiz (CA): Ensures tribal sovereignty to prohibit or restrict the cultivation of genetically engineered plants on tribal lands. (10 minutes)
3. DeLauro (CT): Prohibits the use of the term “natural” on food when a food consists of a genetically engineered plant. (10 minutes)
4. Pingree (ME), DeFazio (OR), Polis (CO): SUBSTITUTE Strikes the entire bill and adds back the section that creates a non-GMO certification program and label at USDA. (20 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 1734 IN PART C MADE IN  
ORDER

1. Shimkus (IL): MANAGER'S Updates the reference to the final rule and instead of referencing the date it was signed by the Administrator it inserts the date the final rule was published in the Federal Register. (10 minutes)
2. Pallone (NJ): Preserves transparency requirements in EPA's final coal ash rule to ensure public access to information and accountability. (10 minutes)
3. Castor (FL): Preserves cleanup requirements in EPA's final coal ash rule to protect public health and ensure that air and groundwater pollution is addressed quickly and effectively. (10 minutes)
4. Connolly (VA): Requires all inactive surface impoundments follow post-closure groundwater monitoring standards pursuant to section 257.104 subsections (b) and (c) of title 40, Code of Federal Regulations. (10 minutes)
5. Adams (NC): Requires the owner or operator of a coal combustion residuals surface impoundment to survey all drinking water supply wells that are within a half mile and down-gradient of the established waste boundary. Also requires the owner or operator of a coal combustion residuals surface impoundment to supply an alternative source of safe drinking water within 24 hours if well water sampling exceeds groundwater standards. (10 minutes)
6. Butterfield (NC), Rush (IL), Clarke (NY), Price, David (NC), Adams (NC): Allows the Administrator of the Environmental Protection Agency to prevent the legislation from going into effect if it is determined to have a negative impact on vulnerable populations. Vulnerable populations include infants, children, adolescents, pregnant women, the elderly, individuals with preexisting medical conditions, individuals who work at coal combustion residuals treatment or disposal facilities, members of any other appropriate population identified by the Administrator based on consideration of socioeconomic status, racial or ethnic background, or other similar factors identified by the Administrator. (10 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 1599 CONSIDERED AS  
ADOPTED

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**AMENDMENT TO RULES COMMITTEE PRINT 114-**

**24**

**OFFERED BY Mr. Pompeo (KS)**

**[Showing the text of H.R. 1599 as ordered reported by the  
Committee on Agriculture]**

Page 4, line 16, strike “introduce or deliver for introduction into” and insert “sell or offer for sale in”.

Page 5, line 7, strike “as safe” and insert “safe”.

Page 5, beginning on line 8, strike “as one or more comparable foods” and insert “and lawful under the Federal Food, Drug, and Cosmetic Act”.

Page 6, lines 8 and 9, strike “the introduction or delivery for introduction into” and insert “the sale or offering for sale in”.

Page 6, line 17, strike “research involving”.

Page 7, lines 5 and 6, strike “the introduction or delivery for introduction into” and insert “the sale or offering for sale in”.

Page 7, lines 19 and 20, strike “introduced or delivered for introduction” and insert “sold or offered for sale”.

Page 8, line 20, strike “introduced” and insert “sold”.

Page 10, lines 9 and 10, strike “genetically engineered plants for use or application in food” and insert “the sale or offering for sale in interstate commerce of a genetically engineered plant for use or application in food”.

Page 14, line 9, strike “plant that is a”.

Page 15, line 5, insert “to ensure that producers or handlers seeking to make claims under section 291B or 291C are certified to make such claims” after “program”.

Page 15, line 14, insert “for covered products certified under this title” after “appropriate”.

Page 17, line 8, strike “produced with” and insert “manufactured or processed using”.

Page 18, after line 11, insert the following new subsection:

1       “(d) TREATMENT OF LIVESTOCK.—In the case of a  
2 covered product derived from livestock that is marketed  
3 in the United States for human consumption, the covered  
4 product shall not be considered to be genetically engi-  
5 neered solely because the livestock consumed feed pro-

1 duced from containing, or consisting of a genetically engi-  
2 neered plant.”.

Page 22, line 11, insert “with or” before “without”.

Page 22, beginning on line 12, strike “or with the  
use of” and all that follows through “plant” on line 13.

Page 24, line 9, strike “UNLAWFUL ACT” and insert  
“FAILURE TO PROVIDE INFORMATION”.

Page 24, line 15, strike “subject to” and insert “as-  
sessed”.

Page 24, beginning on line 18, strike “who know-  
ingly sells or labels” and insert “who, after notice and an  
opportunity to be heard, is found by the Secretary to  
have knowingly sold or labeled”.

Page 24, line 20, insert “with or” before “without”.

Page 24, beginning on line 21, strike “or with the  
use of” and all that follows through “plant” on line 23.

Page 24, line 24, strike “subject to” and insert “as-  
sessed”.

Page 25, line 21, insert “with or” before “without”.

Page 25, beginning on line 22, strike “or with the  
use of” and all that follows through “plant” on line 24.

Page 26, line 21, strike “requiring” and insert “require”.

Page 27, line 1, insert “with or” before “without”.

Page 27, beginning on line 2, strike “or as having been produced” and all that follows through “plant” on line 4.

Page 29, line 1, insert “certification” after “food”.

Page 29, beginning on line 13, strike “without further appropriation” and insert “subject to appropriation”.

Page 30, line 25, strike “No State” and insert the following:

1           (1) IN GENERAL.—Subject to paragraph (2), no  
2       State

Page 31, beginning on line 10, strike “plant unless the State” and all that follows through “such claims:” and insert “plant.”.

Page 31, after line 12, insert the following:

3           (2) EXCEPTION.—Notwithstanding paragraph  
4       (1), a State (or a political subdivision thereof) may  
5       establish either of the following voluntary programs

1 for the regulation of claims described in such para-  
2 graph:

Page 31, line 13, strike “(1)” and insert “(A)” and  
adjust the margins accordingly.

Page 31, line 16, strike “(2)” and insert “(B)” and  
adjust the margins accordingly.

Page 31, line 17, strike “(A)” and insert “(i)” and  
adjust the margins accordingly.

Page 31, line 18, strike “(B)” and insert “(ii)” and  
adjust the margins accordingly.

Page 31, line 22, strike “(C)” and insert “(iii)” and  
adjust the margins accordingly.

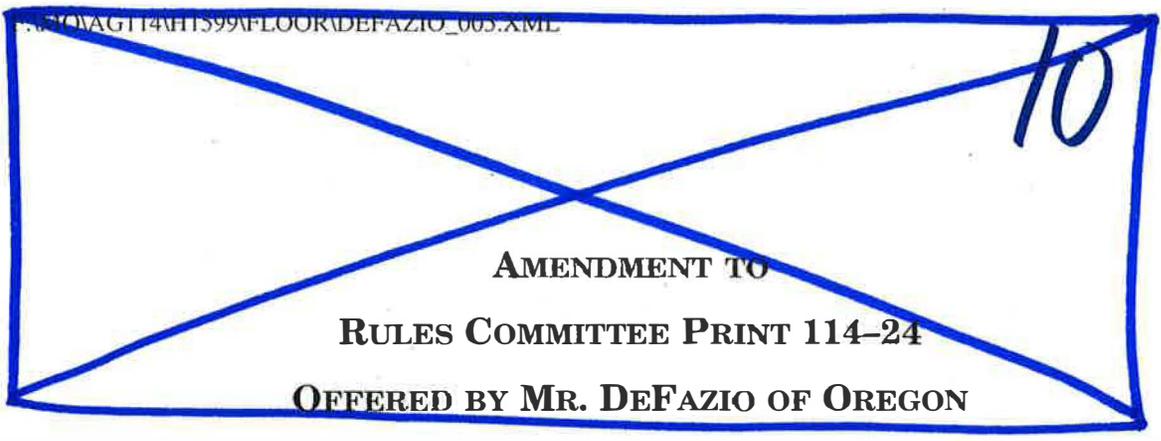
Page 32, after line 2, add the following new sub-  
section:

3 (c) RULE OF CONSTRUCTION.—For the sole purpose  
4 of subsection (b)(1), a covered product derived from live-  
5 stock that consumed genetically engineered plants shall be  
6 deemed as having been produced from, containing, or con-  
7 sisting of a genetically engineered plant.



**PART B—TEXT OF AMENDMENTS TO H.R. 1599 MADE IN ORDER**

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



Page 4, after line 5, insert the following:

1           “(3) LABELING OF PRODUCTS THAT ARE RE-  
2           QUIRED TO BE LABELED ABROAD.—

3           “(A) REQUIREMENT.—The Secretary shall  
4           require that food produced from, containing, or  
5           consisting of a genetically engineered plant and  
6           intended for sale in interstate commerce be la-  
7           beled as such if—

8                   “(i) the person producing or manufac-  
9                   turing the food, or any affiliate thereof,  
10                  produces or manufactures an equivalent  
11                  food intended for consumption in a foreign  
12                  country; and

13                  “(ii) the person or affiliate is required  
14                  by such foreign country to indicate in the  
15                  labeling of such food that it is produced  
16                  from, contains, or consists of a genetically  
17                  engineered plant.

18                  “(B) DEFINITION.—In this paragraph, the  
19                  term ‘affiliate’ means any entity that controls,

1 is controlled by, or is under common control  
2 with another entity.”.



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

114

**AMENDMENT TO  
RULES COMMITTEE PRINT 114-24  
OFFERED BY MR. HUFFMAN OF CALIFORNIA**

Page 10, line 12, at the end of section 113 of the bill insert the following: "Nothing in this title or the amendments made thereby shall be construed to limit the authority of a State or tribe (or a political subdivision thereof) to prohibit or restrict the cultivation of genetically engineered plants on or near tribal lands."



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DELAURO OF CONNECTICUT OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

2

**AMENDMENT TO  
RULES COMMITTEE PRINT 114-24  
OFFERED BY MS. DELAURO OF CONNECTICUT**

Page 33, lines 13 through 17, amend paragraph (2)  
to read as follows:

1           “(2) A claim described in subparagraph (1)  
2           may be made only if—

3                   “(A) the claim uses terms that have been  
4                   defined by, and the food meets the require-  
5                   ments that have been established in, regulations  
6                   promulgated to carry out this paragraph; and

7                   “(B) the food is not produced using, does  
8                   not contain, and does not consist of a geneti-  
9                   cally engineered plant.”.



4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PINGREE OF MAINE OR HER DESIGNEE, DEBATABLE FOR 20 MINUTES

**AMENDMENT TO RULES COMMITTEE PRINT 114-**

**24**

**OFFERED BY MS. PINGREE OF MAINE**

**[Showing the text of the bill as ordered reported by the  
Committee on Agriculture.]**

Page 1, strike line 1 and all that follows through the end of the bill, and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Non-GMO Disclosure  
3 Act of 2015”.

4 **SEC. 2. NON-GMO FOOD CERTIFICATION PROGRAM.**

5 The Agricultural Marketing Act of 1946 (7 U.S.C.  
6 1621 et seq.) is amended by adding at the end the fol-  
7 lowing new subtitle:

8 **“Subtitle E—Non-GMO Food**  
9 **Certification Program**

10 **“SEC. 291. CERTIFICATION OF NON-GMO FOODS.**

11 “(a) IN GENERAL.—The Secretary shall establish a  
12 voluntary certification program for food produced without  
13 the use of genetic engineering to be known as the Non-  
14 GMO Food Certification Program.

1       “(b) CONSULTATION.—The Secretary shall consult  
2 with other relevant parties to develop the Non-GMO Food  
3 Certification Program.

4       “(c) CERTIFICATION.—The Secretary shall imple-  
5 ment the Non-GMO Food Certification Program through  
6 certifying agents. Certifying agents may certify that prod-  
7 ucts were not produced with the use of genetic engineering  
8 or a genetically engineered plant, in accordance with this  
9 subtitle.

10       “(d) SEAL.—The Secretary shall establish a seal to  
11 identify products that were not produced with the use of  
12 genetic engineering or a genetically engineered plant in  
13 interstate commerce using terminology the Secretary con-  
14 siders appropriate, including terminology commonly used  
15 in interstate commerce or established by the Secretary in  
16 regulations.

17 **“SEC. 292. DEFINITIONS.**

18       “‘In this subtitle:

19               “(1) GENETICALLY ENGINEERED.—The term  
20 ‘genetically engineered’, used with respect to a food,  
21 means a material intended for human consumption  
22 that is—

23                       “(A) an organism that is produced through  
24                       the intentional use of genetic engineering; or

1           “(B) the progeny of intended sexual or  
2           asexual reproduction (or both) of 1 or more or-  
3           ganisms that is the product of genetic engineer-  
4           ing.

5           “(2) GENETIC ENGINEERING.—The term ‘ge-  
6           netic engineering’ means a process—

7           “(A) involving the application of in vitro  
8           nucleic acid techniques, including recombinant  
9           deoxyribonucleic acid (DNA) and direct injec-  
10          tion of nucleic acid into cells or organelles;

11          “(B) involving the application of fusion of  
12          cells beyond the taxonomic family; or

13          “(C) that overcomes natural physiological,  
14          reproductive, or recombinant barriers and that  
15          is not a process used in traditional breeding  
16          and selection.”.

17 **SEC. 3. REGULATIONS.**

18          Not later than 1 year after the date of the enactment  
19          of this Act, the Secretary shall promulgate regulations to  
20          implement the Non-GMO Food Certification Program in  
21          accordance with section 291 of the Agricultural Marketing  
22          Act of 1946 (7 U.S.C. 1621 et seq.), as added by section  
23          2.

1 **SEC. 4. SAVINGS CLAUSE.**

2       Nothing in this Act (or the amendments made by this  
3 Act) is intended to alter or affect the authorities or regu-  
4 latory programs, policies, and procedures otherwise avail-  
5 able to, or the definitions used by, the Food and Drug  
6 Administration under the Federal Food, Drug, and Cos-  
7 metic Act (21 U.S.C. 301 et seq.) or the Animal and Plant  
8 Health Inspection Service under the Plant Protection Act  
9 (7 U.S.C. 7701 et seq.).



PART C—TEXT OF AMENDMENTS TO H.R. 1734 MADE IN ORDER

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

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**AMENDMENT TO H.R. 1734, AS REPORTED  
OFFERED BY MR. SHIMKUS OF ILLINOIS**

Page 7, line 13, strike “subsection (l)(5)” and insert “subsection (l)(4)”.

Page 45, beginning on line 5, strike “signed by the Administrator on December 19, 2014” and insert “and published in the Federal Register on April 17, 2015 (80 Fed. Reg. 21302)”.

Page 45, strike lines 15 through 20.

Page 45, line 21, through page 47, line 5, redesignate paragraphs (3) through (6) as paragraphs (2) through (5), respectively.



2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
PALLONE JR. OF NEW JERSEY OR HIS DESIGNEE, DEBATABLE  
FOR 10 MINUTES

**AMENDMENT TO H.R. 1734, AS REPORTED  
OFFERED BY MR. PALLONE OF NEW JERSEY**

Strike page 9, line 1, through page 10, line 4, and  
insert the following:

1                   “(B) PUBLIC AVAILABILITY OF INFORMA-  
2                   TION.—The implementing agency shall ensure  
3                   compliance with sections 257.106 and 257.107  
4                   of title 40, Code of Federal Regulations.

Page 47, strike lines 1 through 5.



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
CASTOR OF FLORIDA OR HER DESIGNEE, DEBATABLE FOR 10  
MINUTES

67

**AMENDMENT TO H.R. 1734, AS REPORTED  
OFFERED BY MS. CASTOR OF FLORIDA**

Page 14, strike lines 3 through 21.

Page 14, line 22, through page 16, line 10, redesignate subclauses (V) and (VI) as subclauses (IV) and (V), respectively.



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

**AMENDMENT TO H.R. 1734, AS REPORTED  
OFFERED BY MR. CONNOLLY OF VIRGINIA**

Page 27, line 19, strike “FINANCIAL ASSURANCE”  
and insert “POST-CLOSURE CARE AND FINANCIAL ASSUR-  
ANCE”.

Page 27, line 24, strike “section 257.104(b)(1)” and  
insert “subsections (b) and (c) of section 257.104”.



5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ADAMS OF NORTH CAROLINA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

4

**AMENDMENT TO H.R. 1734, AS REPORTED  
OFFERED BY MS. ADAMS OF NORTH CAROLINA**

Page 29, after line 16, insert the following:

1           “(5) DRINKING WATER SUPPLY WELL SURVEY  
2           AND PROVISION OF ALTERNATE WATER SUPPLY.—

3           “(A) SURVEY.—Not later than 7 months  
4           after the date of enactment of this section, each  
5           owner or operator of a surface impoundment  
6           shall conduct a survey that identifies all drink-  
7           ing water supply wells within one-half mile  
8           down-gradient from the established waste  
9           boundary of the surface impoundment and shall  
10          submit the survey to—

11                   “(i) the Administrator; and

12                   “(ii) the implementing State, if appli-  
13                  cable.

14           “(B) INCLUSIONS.—Each survey con-  
15           ducted pursuant to subparagraph (A) shall in-  
16           clude well locations, the nature of water uses,  
17           available well construction details, and informa-  
18           tion regarding ownership of the wells.

19           “(C) DETERMINATION OF SAMPLING.—

1           “(i) IN GENERAL.—Not later than 4  
2           months after an owner or operator submits  
3           a survey under subparagraph (A), the Ad-  
4           ministrators or the implementing State, as  
5           applicable, shall determine which wells  
6           identified in the survey the owner or oper-  
7           ator will be required to conduct sampling  
8           and water quality analysis for, and how  
9           frequently and for what period sampling is  
10          required.

11          “(ii) REQUIRED SAMPLING.—The Ad-  
12          ministrators or the implementing State, as  
13          applicable, shall require sampling and  
14          water quality analysis described in clause  
15          (i) where data regarding groundwater qual-  
16          ity and flow and depth in the area of the  
17          surveyed well provide a reasonable basis to  
18          predict that the quality of water from the  
19          surveyed well may be adversely impacted  
20          by coal combustion residuals.

21          “(D) SAMPLING.—

22          “(i) INITIATION.—Not later than 5  
23          months after an owner or operator submits  
24          a survey under subparagraph (A), the  
25          owner or operator shall initiate any sam-

1 pling and water quality analysis required  
2 pursuant to subparagraph (C) for constitu-  
3 ents associated with coal combustion re-  
4 siduals, including, at a minimum, arsenic,  
5 lead, hexavalent chromium, vanadium,  
6 boron, thallium, molybdenum, and sele-  
7 nium.

8 “(ii) INDEPENDENT SAMPLING.—A  
9 property owner whose well has been se-  
10 lected for sampling and analysis may elect  
11 to have an independent third party selected  
12 from a laboratory certified by the Adminis-  
13 trator or the implementing State, as appli-  
14 cable, conduct the sampling and analysis  
15 required under this paragraph in lieu of  
16 such sampling and analysis being con-  
17 ducted by the owner or operator of the sur-  
18 face impoundment.

19 “(iii) COSTS.—The owner or operator  
20 of the surface impoundment shall pay for  
21 the reasonable costs of any sampling and  
22 analysis conducted pursuant to this para-  
23 graph.

24 “(iv) RIGHT TO REFUSE SAMPLING.—  
25 Nothing in this paragraph shall be con-

1           strued to preclude or impair the right of  
2           any property owner whose well has been  
3           selected for sampling and analysis to  
4           refuse such sampling and analysis.

5           “(E) ALTERNATE SUPPLIES OF DRINKING  
6           WATER.—If sampling and water quality anal-  
7           ysis conducted pursuant to this paragraph indi-  
8           cates that water from a drinking water supply  
9           well exceeds groundwater quality standards for  
10          constituents associated with the presence of coal  
11          combustion residuals, the owner or operator of  
12          the surface impoundment, in addition to any  
13          other applicable requirement, shall replace such  
14          water—

15                 “(i) with an alternate supply of pota-  
16                 ble drinking water, as appropriate, not  
17                 later than 24 hours after the Adminis-  
18                 trator or the implementing State, as appli-  
19                 cable, determines that there is such an ex-  
20                 ceedance; and

21                 “(ii) with an alternate supply of water  
22                 that is safe for other household uses, as  
23                 appropriate, not later than 30 days after  
24                 the Administrator or the implementing

1 State, as applicable, determines that there  
2 is such an exceedance.

3 “(F) ANNUAL GROUNDWATER PROTECTION  
4 AND RESTORATION REPORT.—

5 “(i) IN GENERAL.—Not later than one  
6 year after the date of enactment of this  
7 section, and each year thereafter, each  
8 owner or operator of a surface impound-  
9 ment required to conduct sampling and  
10 water quality analysis pursuant to this  
11 paragraph shall submit a report to the Ad-  
12 ministrator or the implementing State, as  
13 applicable, that includes a summary of all  
14 groundwater monitoring, protection, and  
15 restoration activities related to the surface  
16 impoundment for the preceding year, in-  
17 cluding any replacement of contaminated  
18 drinking water pursuant to this paragraph.

19 “(ii) PUBLICLY ACCESSIBLE INTER-  
20 NET WEBSITE REQUIREMENT.—Not later  
21 than 30 days after submitting a report  
22 under clause (i), an owner or operator  
23 shall post the report on a publicly acces-  
24 sible Internet website established by the  
25 owner or operator in accordance with sec-

1                   tion 257.107 of title 40, Code of Federal  
2                   Regulations.

3                   “(G) RELATIONSHIP TO OTHER GROUND-  
4                   WATER MONITORING REQUIREMENTS.—To the  
5                   extent that any requirement of this paragraph  
6                   conflicts with a provision of paragraph (2)(B),  
7                   the requirement of this paragraph shall control.

Page 49, after line 7, insert the following:

8                   “(6) IMPLEMENTING STATE.—The term ‘imple-  
9                   menting State’ means—  
10                    “(A) a State that has notified the Adminis-  
11                   trator under subsection (b)(1) that it will adopt  
12                   and implement a coal combustion residuals per-  
13                   mit program; or  
14                    “(B) if a lead State implementing agency  
15                   has been identified under subsection  
16                   (b)(2)(C)(i) for such a State, such imple-  
17                   menting agency.

Page 49, line 8, through page 50, line 17, redesignate paragraphs (6) through (8) as paragraphs (7) through (9), respectively.



6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUTTERFIELD OF NORTH CAROLINA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

5

**AMENDMENT TO H.R. 1734, AS REPORTED  
OFFERED BY MR. BUTTERFIELD OF NORTH  
CAROLINA**

Page 47, after line 5, insert the following:

1       “(m) EFFECT ON VULNERABLE POPULATIONS.—If  
2 the Administrator determines that implementation of this  
3 section would diminish protections for vulnerable popu-  
4 lations, the requirements of this section shall have no force  
5 or effect.

Page 47, line 6, redesignate subsection (m) as sub-  
section (n).

Page 50, line 17, strike the closed quotation mark  
and the final period.

Page 50, after line 17, insert the following:

6       “(9) VULNERABLE POPULATION.—The term  
7 ‘vulnerable population’ means a population that is  
8 subject to a disproportionate exposure to, or poten-  
9 tial for a disproportionate adverse effect from expo-  
10 sure to, coal combustion residuals, including—

11               “(A) infants, children, and adolescents;

1           “(B) pregnant women (including effects on  
2 fetal development);

3           “(C) the elderly;

4           “(D) individuals with preexisting medical  
5 conditions;

6           “(E) individuals who work at coal combus-  
7 tion residuals treatment or disposal facilities;  
8 and

9           “(F) members of any other appropriate  
10 population identified by the Administrator  
11 based on consideration of—

12                   “(i) socioeconomic status;

13                   “(ii) racial or ethnic background; or

14                   “(iii) other similar factors identified  
15 by the Administrator.”.

