

It would require that simple but important benchmarks be met before the President's new rules could take effect. No. 1, the Secretary of Labor would have to certify that the regulations would not generate a loss of employment.

No. 2, the Director of the Congressional Budget Office would have to certify that the regulations would not result in any loss in American gross domestic product.

No. 3, the Administrator of the Energy Information Administration would have to certify that the regulations would not increase electricity rates.

No. 4, the Chair of the Federal Energy Regulatory Commission and the president of the North American Electric Reliability Corporation would have to certify that electricity delivery would remain reliable. So the Coal Country Protection Act is just common sense.

Moments ago the majority leader blocked consideration of this measure. Unless we take this up, debate it, and pass it, the President's rules will cause job loss, utility rate hikes, and potentially brownouts. The President's regulations will actually increase energy prices and create job loss.

Opponents of this bill will be supporting job loss in Kentucky, our economy being hurt, and seniors' energy bills spiking for almost zero meaningful global carbon reduction.

So the majority leader and the Democrats in this body need to listen. And even if they won't, Kentuckians should know I will keep fighting for them.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

THE ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

The Senator from Nebraska.

WATERS OF THE UNITED STATES

Mr. JOHANNIS. Mr. President, I rise today to discuss EPA's joint proposed rule redefining waters of the United States.

Claims to the contrary notwithstanding, EPA has once again thrown down the gauntlet with this massive expansion of Federal jurisdiction. This new rule in its essence declares almost every body of water to be within Federal regulatory jurisdiction. By con-

jecting up even the most remote connection to a navigable body of water, EPA is now claiming they can regulate ponds, ditches, and even low-lying areas that are actually dry during most of the year. EPA seems to think it has jurisdiction if there is just a chance that a speck of dirt can travel through a stream, a pond, or even a field to traditional navigable water, and that is clearly not what Congress intended. But the EPA, the Army Corps of Engineers, and even the USDA are touting that they listened to agriculture and that farmers' and ranchers' concerns were, in fact, reflected in this proposal. But if this 370-page rule actually provides certainty and maintains exemptions for farmers, as EPA claims, then why are most farm groups so opposed to it?

We have seen EPA become better and better at messaging to farmers, but unfortunately the actual language of the regulations—their very aggressive approach—really hasn't changed one bit. While EPA has shown a willingness to meet and to listen, the reality is that the words on paper really are what matter.

When Administrator McCarthy came before an appropriations subcommittee a few weeks ago, I pushed her on this issue. Not surprisingly, she told me they are really trying to get this right and listen to agriculture's concerns across the country. But as it stands right now, folks in farm country are justifiably alarmed.

EPA will point to a few exclusions in the rule, but if you look closely, these exemptions are so very narrowly crafted that very few waters actually would escape EPA's regulatory grasp and overreach. For example, under the proposed rule, waters that are perennial, intermittent, or ephemeral can be subject to EPA regulation. That is right—EPA is trying to regulate bodies of water that only have water in them when it is raining. That is just one of the many examples in this rule where it is clear that EPA is trying to push the envelope—and push it as far as they can.

In its so-called fact sheet on the benefits of the rule for agriculture, EPA touts that exemptions are, in fact, preserved for agriculture. Not only that, but according to the fact sheet, EPA will now exempt 56 conservation practices from permitting requirements. It says this will provide certainty and predictability. That all sounds good as messaging until you actually examine the claims. These exemptions only apply to dredge and fill permitting. All other Clean Water Act permitting requirements do not have exemptions for agriculture. So whether a permit is required for other provisions of the act is simply a function of whether the related waters are Federal waters. Thus, because EPA vastly expanded the definition of Federal waters, farmers are going to get a rude awakening when they are told they need a 402 permit before applying pesticides or when they

realize this rule may require them to have a spill prevention, control, and countermeasure plan in place or when they realize their farm pond is not exempt simply because they allow livestock to drink from it. Imagine the dismay of farmers when they realize that the much-touted exemptions are essentially meaningless and that they are subject to fines of tens of thousands of dollars per day.

Nonetheless, the Obama administration continues to tout this list of 56 conservation practices that they are proposing to exempt as if farmers should fall silent in gratitude. It is the classic smoke and mirror approach that has led to the tremendous mistrust of this administration. They say one thing while putting policies in place that dictate something entirely different.

Consider this: Even these narrow conservation exemptions are wrapped in fine print and redtape. EPA also says that in order to be exempt, a conservation practice must specifically comply with USDA standards. Again, it sounds reasonable, except that these standards, which were developed for voluntary conservation programs, were never intended to be the only means of avoiding a regulatory hammer. These are gold-plated standards. They are also very prescriptive. That may be fine for voluntary programs that come with compensation for compliance. It is not fine if farmers must follow them or face huge fines. There is nothing voluntary about that.

Can these farmers be sued because they didn't follow supposedly voluntary USDA standards? Can EPA take action against these farm families? Who will enforce compliance with those conservation practices? Will it be the USDA or will it be the EPA? Farmers generally trust USDA's voluntary approach to conservation efforts, but what happens to that trust if USDA is suddenly thrust into the business of enforcing EPA regulations on the farm? Conversely, is EPA going to hold any sway over USDA's voluntary conservation standards? Since they are planning to use those standards to regulate farms, this is a great concern.

Let me mention one additional cause for concern. These supposedly exempt practices are not even in the proposed rule; they are in a separate document from the rule, and that document can change on the whim of the EPA without warning and with no opportunity whatsoever for public comment. So ranchers doing a practice consistent with the list may get the rug pulled out from under them.

EPA claims this rule will provide certainty and predictability, and in one respect they are right. As a constituent of mine from Ogallala rightly put it, "The only clarity the proposed rule provides is to put me on notice that everything is a water of the U.S. and that I need a permit to do anything."

So it appears that in an effort to provide clarity, EPA has very much done