

[DISCUSSION DRAFT]

115TH CONGRESS
2D SESSION

H. R. _____

To provide for the temporary extension of the applicability of the NEPA analysis with respect to lease of Navajo Generating Station and Kayenta Mine Complex near Page, Arizona, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOSAR introduced the following bill; which was referred to the Committee on _____

A BILL

To provide for the temporary extension of the applicability of the NEPA analysis with respect to lease of Navajo Generating Station and Kayenta Mine Complex near Page, Arizona, 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.**

4 This Act may be cited as the “Tribal Jobs Protection
5 and Energy Security Act of 2018”.

1 **SEC. 2. TEMPORARY EXTENSION OF APPLICABILITY OF**
2 **NEPA ANALYSIS WITH RESPECT TO LEASE OF**
3 **NAVAJO GENERATING STATION AND**
4 **KAYENTA MINE COMPLEX.**

5 (a) IN GENERAL.—Subject to the requirements in
6 subsection (b), section 102(2)(C) of the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall
8 not apply with respect to a lease issued by issued by—

9 (1) the Navajo Nation and approved by the Bu-
10 reau of Indian Affairs, in consultation with the Bu-
11 reau of Reclamation, to a lessee for the operation of
12 the Navajo Generating Station located near Page,
13 Arizona; or

14 (2) the Navajo Nation and Hopi Tribe and ap-
15 proved by the Office of Surface Mining, in consulta-
16 tion with the Bureau of Reclamation, to a lessee for
17 the operation of the Kayenta Mine Complex located
18 near Page, Arizona.

19 (b) REQUIREMENTS.—

20 (1) OPERATION.—The subsequent lessee shall
21 operate the Navajo Generating Station or Kayenta
22 Mine Complex in substantially the same manner as
23 such station was operated under the lease extension
24 for which the environmental assessment entitled
25 “Environmental Assessment Navajo Generating Sta-
26 tion Extension Lease” and dated November, 2017,

1 was prepared until such time that an environmental
2 review under the National Environmental Policy Act
3 of 1969 (42 U.S.C. 4332(2)(C)) with respect to the
4 lease described in subsection (a) is finalized. Such
5 cessation of mining and operations on December 22,
6 2019, at the Navajo Generating Station and
7 Kayenta Mine, as mandated in the environmental
8 assessment referenced in paragraph (1), shall not
9 apply.

10 (2) PROGRESS TOWARD COMPLIANCE WITH
11 NEPA.—Subsection (a) shall not apply during any
12 time period for which the Secretary of the Interior
13 determines that progress is not being made by the
14 Bureau of Reclamation and the Bureau of Indian
15 Affairs and other relevant agencies and federally rec-
16 ognized Indian Tribes, toward completing any docu-
17 ment that would be required under section
18 102(2)(C) of the National Environmental Policy Act
19 of 1969 (42 U.S.C. 4332(2)(C)) with respect to the
20 lease referred to in subsection (a) if subsection (a)
21 did not apply to such lease.

22 (c) HIGH PRIORITY INFRASTRUCTURE PROJECT.—
23 The Chairman of the Council on Environmental Quality
24 shall treat the issuance of the leases referred to in sub-
25 section (a) as a high priority infrastructure project under

1 Executive Order 13766 (82 Fed. Reg. 8658; entitled “Ex-
2 pediting Environmental Reviews and Approvals for High
3 Priority Infrastructure Projects”).

4 **SEC. 3. REQUIREMENT ON CENTRAL ARIZONA WATER CON-**
5 **SERVATION DISTRICT.**

6 The Central Arizona Water Conservation District
7 shall purchase as much of its total power requirements
8 as possible from the Navajo Generating Station until its
9 \$1,100,000,000 debt obligation and accrued interest for
10 the Central Arizona Project and the Navajo Generating
11 Station to the Federal Government is repaid.

12 **SEC. 4. PRESERVATION OF THE PLANT.**

13 In no event may the facilities, plant, and appur-
14 tenances be disabled, destroyed or significantly diminished
15 until and unless the Central Arizona Water Conservation’s
16 debt obligation and accrued interest for the Central Ari-
17 zona Project and the Navajo Generating Station to the
18 Federal Government is repaid.

19 **SEC. 5. STUDY ON EFFECTS OF REGIONAL HAZE RULE.**

20 (a) **STUDY REQUIRED.**—The Administrator of the
21 Environmental Protection Agency shall conduct a study
22 on—

23 (1) the effects of the final rule, including eco-
24 nomic impacts, issued by the Administrator of the
25 Environmental Protection Agency entitled “Regional

1 Haze Regulations” (64 Fed. Reg. 35714 (July 1,
2 1999)); and

3 (2) the extent to which regional haze is impact-
4 ing visibility in units of the National Park system.

5 (b) REPORT REQUIRED.—Not later than December
6 20, 2020, the Administrator of the Environmental Protec-
7 tion Agency shall submit to Congress a report on the re-
8 sults of the study conducted under subsection (a).

9 **SEC. 6. APPLICABILITY OF REGIONAL HAZE REGULATIONS**
10 **TO THE NAVAJO GENERATING STATION.**

11 (a) IN GENERAL.—Any requirements pursuant to
12 section 169A or 169B of the Clean Air Act (42 U.S.C.
13 7491, 7492; relating to visibility protection) shall cease
14 to apply to the Navajo Generating Station if the Adminis-
15 trator of the Environmental Protection Agency, the Sec-
16 retary of the Department of the Interior or the Secretary
17 of the Department of Energy determine any Federal im-
18 plementation plan promulgated by the Administrator of
19 the Environmental Protection Agency would—

20 (1) adversely impact employment at the Navajo
21 Generating Station or other coal-fired power plants
22 and coal mines on tribal lands in northern Arizona;

23 (2) directly or indirectly diminish the revenue
24 received by the Federal Government or any State,
25 tribal, or local government by reducing the amount

1 of coal that is available for mining on Navajo and
2 Hopi Reservation lands;

3 (3) cause a reduction in revenue to meet finan-
4 cial obligations required by federally authorized In-
5 dian water rights settlements, pursuant to section
6 403(f) of the Colorado River Basin Project Act (43
7 U.S.C. 1543(f));

8 (4) reduce the amount of coal, or increase the
9 cost of coal, that is available for the Navajo Gener-
10 ating Station's Federal responsibility to deliver
11 water and power, as authorized by the Colorado
12 River Basin Project Act (43 U.S.C. 1501 et seq.);

13 (5) expose the United States to liability for tak-
14 ing the value of tribally-owned coal in northern Ari-
15 zona; or

16 (6) increase the risk of rolling blackouts or
17 brownouts and jeopardize the grid reliability of the
18 United States.

19 (b) JUDICIAL REVIEW.—Such determination (includ-
20 ing this section) shall not be subject to judicial review.