



Legislative Bulletin..... June 6, 2012

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Amendments to H.R. 5325 – FY 2013 Energy and Water Development and Related Agencies Appropriations Act

Amendments to H.R. 5325 – FY 2013 Energy and Water Development and Related Agencies Appropriations Act (Frelinghuysen, R-NJ)

Order of Business: H.R. 5325 is expected to be considered, beginning June 1, 2012, under an open rule providing for consideration of germane amendments under the five minute rule.

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Amendments Included in the Unanimous Consent Agreement:

Blackburn (R-TN): The amendment makes a 1% across the board cut to all accounts in the underlying legislation. This amendment will save taxpayers an additional \$321,000,000.

Blackburn (R-TN): This amendment would prohibit the Department of Energy (DOE) from providing new loan guarantees or new loan guarantee commitments under Section 1705 of the Energy Policy Act of 2005. Section 1705 has been the main funding source for renewables such as solar, wind and geothermal projects. Section 1705 is where Solyndra and Beacon Power received their DOE loan guarantees.

Broun (R-GA): The amendment prohibits funding to be used by the Department of Energy Advanced Research Projects Agency--Energy for unallowable costs related to advertising or promoting the sale of certain products or services.

Broun (R-GA): The amendment prohibits funding to be used by the Department of Energy Advanced Research Projects Agency--Energy to provide awards to projects with expected Technology Readiness Levels (TRL) of TRL 7, TRL 8, or TRL 9 at the end of the project, as described by the ARPA E eXCHANGE User Guide.

Burgess (R-TX): This amendment prohibits funding to enforce section 430.32(x) of title 10, Code of Federal Regulation or to implement or enforce the standards contained in section 325(i)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6295(i)(1)(B)) with respect to BPAR

incandescent reflector lamps, BR incandescent reflector lamps, and ER incandescent reflector lamps. A very similar amendment, H.Amdt 678, passed the House on July 15, 2011, by voice vote.

The Energy Independence and Security Act of 2007 contained a provision to phase-out the use of the traditional incandescent light bulbs and mandate that only certain “energy efficient” light bulbs may be sold in the U.S. after January 1, 2012. Since the provision was signed into law, many conservatives have argued that it is essentially a “ban” on being able to purchase a certain type of light bulb, reducing freedom of choice in products for consumers. Many Members of the RSC have championed repeal efforts starting in 2007. It has become so unpopular in many circles across the nation that the repeal effort has its [own website](#).

While this provision was intended to save on electricity costs and limit pollution by mandating the replacement of traditional incandescent light bulbs with energy-efficient alternatives, like many government mandates, it ended up creating a number of unintended consequences including:

- **Job Losses:** As might be imagined when the federal government gets involved with something as commonly used as a light bulb, there are severe economic ramifications. With more and more light bulb manufacturing plants shut down due to the ban, many Americans have found themselves out of work. Additionally, most compact fluorescent light or CFLs are not manufactured in the United States. Last year General Electric closed their last remaining ordinary incandescent light bulb plant in the U.S., located in Winchester, V.A. This plant sustained 200 jobs, and their work is now being shipped overseas to places like China, where production of CFLs is much cheaper.
- **Inefficiency:** CFLs are also not designed to be turned off and on frequently. Their lifespan may be reduced by up to 85 percent if you switch them off and on per normal use. Industry experts claim that new and improved energy efficient bulbs are in development and some are available on the open market. Consumers should be able to buy them if they choose to, but the government shouldn't manipulate the market by outlawing the competition.
- **Health Risks:** In addition to causing job loss, individuals with certain health conditions can be harmed by CFLs, including Lupus patients that suffer from extreme photosensitivity and others who experience disabling eczema-like reactions that can lead to skin cancer. CFLs also contain mercury and have to be disposed of carefully. The amount of mercury in one bulb can be enough to contaminate up to 6,000 gallons of water beyond safe drinking levels. European countries are already well aware of the new low-energy bulb hazards. In fact, a study by Germany's Federal Environment Agency found that when one of them breaks, it emits levels of toxic vapor up to 20 times higher than the safe guideline limit for an indoor area. If a bulb is smashed, the U.K.'s Health Protection Agency advice is for householders to evacuate the room and leave it to ventilate for 15 minutes. From healthcare, to the cost of gasoline, to even the light bulbs you buy, lawmakers and bureaucrats in Washington are making too many decisions that are better left to American families.

Burgess (R-TX) & Markey (D-MA): The amendment reduces funding for Defense Nuclear Nonproliferation within the Department of Energy. This funding is currently set at \$2,283,024,000 and this amendment transfers \$100,000,000 to the Spending Reduction Account.

This amendment is similar to the amendment offered by Reps. Pearce & Markey to the National Defense Authorization Act, which was regarding develop of uranium enrichment technology. This amendment failed to pass the House by a [roll call vote of 121-300](#). The RSC's full summary of the Pearce/Markey amendment can be [found here](#).

Talking points from the office of Rep. Burgess:

- “USEC has so poorly run its facilities since its inception two decades ago that on May 15, 2012, S&P gave USEC a credit rating of CCC+, placing it on CreditWatch with ‘negative implications’.”
- “DOE’s own documents indicate that down-blending Highly Enriched Uranium (HEU) for purposes of obtaining tritium would cost taxpayers about \$388 million. By contrast, having USEC do the work would cost anywhere from \$616 million-\$1.02 billion.”
- “USEC was recently warned that it was in danger of being de-listed by the New York Stock Exchange. Delisting would mean that the company’s stock would essentially be reduced to speculative "penny stock" status, reducing the market for the company’s shares.”
- “Bailing out a company that can’t stand on its own two feet – even after billions of dollars of federal bailouts have already been given to the company – is fiscal insanity.”
- “The \$100 million earmark contained in the Energy and Water Appropriations Act exceeds the \$86 million dollar market capitalization of the ENTIRE company.”

The following information is from the office or Rep. Turner:

According to the National Nuclear Security Administration (NNSA), in the near future, the United States will need a fully domestic source of “unrestricted” enriched uranium, based on domestically-developed technology, to support the nuclear weapons program and Navy nuclear reactors program.

According to Rep. Turner’s office: The amendment supporters tout URENCO USA (formerly LES), a subsidiary of a European company which operates a uranium enrichment plant in southern New Mexico, as a competitor to sell enriched uranium to the federal government. Because URENCO is foreign-owned and uses foreign-owned technology, international agreements prevent the U.S. government from purchasing enriched uranium from it for military or defense purposes. Regardless of those agreements, the U.S. must never rely on foreign companies for such a critical component of our nuclear deterrent.

Also according to Rep. Turner’s office: In fact, last month, NNSA briefed Members on the importance of developing a domestic source of uranium enrichment to our national security. Below are two excerpts from the [Official Use Only document](#):

- “Uranium used to support national security missions such as producing tritium for the nuclear weapon stockpile must be U.S.-origin and unobligated.”
- “An indigenous uranium enrichment capability is required to support national security and meet nuclear non-proliferation objectives.”

Chabot (R-OH): The amendment reduces funding for the Appalachian Regional Commission by \$75,317,000, the Delta Regional Authority by \$11,677,000, the Denali Commission by \$10,679,000, the Northern Border Regional Commission by \$1,425,000, and the Southeast Crescent Regional Commission by \$250,000. The amendment transfers \$99,348,000 to the Spending

Reduction Account. **Heritage Action for America will be key-voting in favor of this amendment.**

Cleaver (D-MO): Rep. Cleaver's office has indicated this amendment will not be offered.

Connolly (D-VA) & Polis (D-CO): This amendment reduces funding for the Fossil energy Research and Development by \$25,000,000. This amount is transferred to the Spending Reduction Account. The sponsor has indicated this amendment eliminates oil shale research and development. **RSC Staff have not seen the text of this amendment. This summary is based off information provided by the sponsor's office.**

Cravaack (R-MN): The amendment prohibits funding to develop or submit a proposal to expand the authorized uses of the Harbor Maintenance Trust Fund. A similar amendment, H.Amdt. 679, was offered to H.R. 2354 and was agreed to by voice vote.

Cravaack (R-MN): The amendment prohibits funding to require grant recipients to replace any lighting that does not meet or exceed the energy efficiency standard set forth in section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295).

The Energy Independence and Security Act of 2007 contained a provision to phase-out the use of the traditional incandescent light bulbs and mandate that only certain "energy efficient" light bulbs may be sold in the U.S. after January 1, 2012. Since the provision was signed into law, many conservatives have argued that it is essentially a "ban" on being able to purchase a certain type of light bulb, reducing freedom of choice in products for consumers. Many Members of the RSC have championed repeal efforts starting in 2007. It has become so unpopular in many circles across the nation that the repeal effort has its [own website](#).

While this provision was intended to save on electricity costs and limit pollution by mandating the replacement of traditional incandescent light bulbs with energy-efficient alternatives, like many government mandates, it ended up creating a number of unintended consequences including:

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Inefficiency: CFLs are also not designed to be turned off and on frequently. Their lifespan may be reduced by up to 85 percent if you switch them off and on per normal use. Industry experts claim that new and improved energy efficient bulbs are in development and some are available on the open market. Consumers should be able to buy them if they choose to, but the government shouldn't manipulate the market by outlawing the competition.

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experience disabling eczema-like reactions that can lead to skin cancer. CFLs also contain mercury and have to be disposed of carefully. The amount of mercury in one bulb can be enough to contaminate up to 6,000 gallons of water beyond safe drinking levels. European countries are already well aware of the new low-energy bulb hazards. In fact, a study by Germany's Federal Environment Agency found that when one of them breaks, it emits levels of toxic vapor up to 20 times higher than the safe guideline limit for an indoor area. If a bulb is smashed, the U.K.'s Health Protection Agency advice is for householders to evacuate the room and leave it to ventilate for 15 minutes. From healthcare, to the cost of gasoline, to even the light bulbs you buy, lawmakers and bureaucrats in Washington are making too many decisions that are better left to American families.

Denham (R-CA): The amendment prohibits funding to enforce section 10011(b) of Public Law 111-11. This section of the Omnibus Public Land Management Act of 2009 requires the Secretary of Commerce to introduce salmon in the San Joaquin River below Friant Dam. A similar amendment was offered to the H.R. 5326 and was adopted by a voice vote.

Engel (D-NY): The amendment prohibits funding to be used to purchase new light duty vehicles, for any executive fleet, or for an agency's fleet inventory, except in accordance with Presidential Memorandum-Federal Fleet Performance (dated May 24, 2011).

Fortenberry (R-NE): The amendment reduces funding for the Defense Nuclear Nonproliferation account by \$17,319,000.

Fortenberry (R-NE): The amendment would prohibit funding to finalize, implement, or enforce the propose rule entitled "Energy Conservation Program: Energy Conservation Standards for Battery Charges and External Power Supplies." According to the sponsor, this amendment would block the Department of Energy from implementing energy conservation standards for golf car battery chargers. The proposed rule would likely lead to the loss of American jobs while achieving minimal energy savings.

Flake (R-AZ): The amendment would reduce funding in the legislation by 0.27260690084897576 percent. This would reduce the overall appropriation in the FY 2013 Energy and Water Development and Related Agencies Appropriations Bill by \$87.5 million, matching the FY 2012 overall appropriation.

Flake (R-AZ): Would prohibit the Department of Energy (DOE) from funding the Wind Powering America Initiative. As described by DOE, Wind Powering America is a nationwide initiative of the U.S. Department of Energy's Wind Program designed to educate, engage, and enable critical stakeholders to make informed decisions about how wind energy contributes to the U.S. electricity supply.

Flake (R-AZ): Would prohibit funding for the Batteries and Electric Drive Technology program within the Department of Energy's Efficiency and Renewable Energy Program. The bill funds \$171 million in funding for this Research and Development program which, among other things, developed the Chevy Volt battery.

Flores (R-TX): This amendment would strike the section 526 language that prohibits the Department of Energy from procuring unconventional fuels (such as oil sands from Canada). This

amendment would make energy cheaper and allow us to buy energy from our friends (like Canada) and not be so reliant on the Middle East.

Frelinghuysen (R-NJ): *This office has not responded to RSC Staff inquires for the text.*

Gardner (R-CO) & Welch (D-VT): This amendment prohibits funding to the Secretary of Energy to comply with the Department's energy management requirements under section 543(f)(7) of the National Energy Conservation Policy Act. A similar amendment was offered to H.R. 5854 (Military Construction Appropriations) and passed by voice vote.

Gohmert (R-TX): The amendment prohibits funding to be used by the Department of Energy for the new construction, purchase, or lease of any facility, land, or space in the District of Columbia. This amendment does not apply to contracts were entered into before the date of enactment. According to the [General Services Administration](#), the federal government currently has 261 leases within the District of Colombia. These leases total 21,284,998 square feet (488.64 acres).

Graves (R-MO): This amendment caps funding for the Missouri River Recovery Program at \$50,000,000.

Harris (R-MD): The amendment prohibits funding any portion of the International program activities at the Office of the Department of Energy with the exception of the activities authorized in section 917 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17337). According to the sponsor, this amendment would prohibit the use of funds for many of the international programs in the Energy Efficiency and Renewable Energy program, including a proposed \$600,000 "Sustainable Cities" project with China and India. A very similar amendment (H.Amdt. 675) passed the House on July 15, 2011 by a [roll call vote of 236-185](#).

Jackson Lee (D-TX): *This office has not responded to RSC Staff inquires for the text.*

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Jordan (R-OH): The amendment prohibits funding for the Title 17 Innovative Technology Loan Guarantee Program to be used by the Department of Energy to issue or administer new loan guarantees for renewable energy systems, electric power transmission systems, or leading edge biofuel projects as defined by section 1705 of the Energy Policy Act of 2005. Section 1705 has been the main funding source for renewables such as solar, wind and geothermal projects. Section 1705 is where Solyndra and Beacon Power received their DOE loan guarantees.

King (R-IA): The amendment prohibits funding to be used to implement, administer, or enforce the prevailing wage requirements in subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act). Many conservatives have long held serious concerns with the Davis-Bacon Act.

During the Great Depression, lawmakers passed the Davis-Bacon Act which required that a “prevailing wage” be paid to workers on federal construction projects. The theory behind the bill was the “high-wage doctrine,” which stated that competition was bad because it brought down wages. Competitive bidding is an essential mechanism for protecting taxpayer dollars. However, Davis-Bacon effectively ensures that the labor portion of government construction projects is not subject to competitive bidding. Rather, the wage rates are set by government officials, which are typically union wage rates. Davis-Bacon is designed to prevent the federal government from saving money on wages in federal contracts. Time after time, studies [show](#) that Davis-Bacon requirements raise construction costs by at least 9%, and as much as 37%. CBO found that Davis-Bacon raises government construction costs by \$1 billion a year. The RSC Sunset Caucus highlighted H.R. 2900 (111th Congress) which would have repealed the Davis-Bacon Act. That alert was distributed on December 16, 2009, and can be [viewed here](#). The RSC Repeal Task Force highlighted H.R. 745, which would repeal the Davis-Bacon Act. That alert was distributed on May 11, 2011, and can be [found here](#).

Kucinich (D-OH): This amendment prohibits funding to provide new loan guarantees under section 1703 of the Energy Policy Act of 2005.

Landry (R-LA): The amendment prohibits funding to carry out section 801 of the Energy Independence and Security Act of 2007 (PL 110-140). The amendment would defund any efforts that the Secretary of Energy, acting through the Assistant Secretary of the Energy Efficiency and Renewable Energy, undertakes to develop and conduct a national media campaign. Section 801 established a National Media Campaign aimed “to decrease oil consumption in the United States during the 10-year period.”

Landry (R-LA): The amendment prohibits funding to be used within the borders of the state of Louisiana by the Mississippi Valley Division or the Southwester Division of the Army Corps of Engineers or any district of the Corps to implement or enforce the mitigation methodology, referred to as the “Modified Charleston Method.”

The following information is from Rep. Landry’s office:

Recently, the New Orleans District of the Corps began requiring every construction project to use a standardized wetland mitigation methodology known as the “Modified Charleston Method” or “MCM.” This approach drastically increases the cost of wetland mitigation, thereby increasing the cost of almost every construction project in South Louisiana and halting economic development, road construction, levee modernization and even our state’s coastal restoration projects.

For these reasons, the State of Louisiana, the Police Jury Association of Louisiana (our association of counties), the Association of Levee Boards of Louisiana and numerous Louisiana communities have expressed severe concerns about the use of the MCM on projects within Louisiana.

Luetkemeyer (R-MO): The amendment would prohibit funding to continue the study conducted by the Army Corps of Engineers pursuant to section 5018(a)(1) of the Water Resources Development Act of 2007. According to the sponsor, this prohibits funding for the Missouri River Ecosystem Restoration Plan (MRERP). MRERP was first created to study potential habitat loss and work through requirements of the Endangered Species Act, has become a tool for the promotion of the return of the river to its most natural state with little regard for navigation, trade, power

generation, or the many people who depend on the Missouri River and adjacent lands for their livelihoods. A similar amendment, H.Amdt. 677, was offered during the FY2012 appropriations process and passed the House by voice vote.

Luetkemeyer (R-MO): This amendment would prohibit funds for the Missouri River Authorized Purposes Study (MRAPS). According to the sponsor, it is essential that the \$25 million first earmarked for MRAPS, which has already cost American taxpayers \$7.6 million, is prohibited through the end of Fiscal Year 2013. MRAPS comes on the heels of a comprehensive, \$35 million, 17-year study, completed in 2004, that confirmed that the current authorized purposes are important and should be maintained. The House has passed a similar amendment to eliminate MRAPS funding in H.R. 1 by a roll call [vote of 245 to 176](#). A similar amendment, H.Amdt. 676, was offered during the FY2012 appropriations process and passed the House by voice vote.

Lujan (D-NM): This amendment reduces funding for the Office of the Administrator in the National Nuclear Security Administration by \$21,899,000 and increases funding for the Defense Environmental Cleanup account by \$21,899,000.

Lummis (R-WY) & Hinojosa (D-TX): The amendment prohibits funding to plan or undertake sale or any other transfers of natural or low enriched uranium from the Department of Energy that combined exceed 1,917 metric tons of uranium as uranium hexafluoride equivalent in fiscal year 2013.

The following information has been provided by the office of Rep. Lummis:

The amendment would limit DOE's transfers of uranium in to the market. Since 2008, DOE and the uranium miners have agreed that DOE can insert into the market up to 10% of the national demand for uranium from DOE's stockpile. Unfortunately, last month DOE departed from this consensus and announced a transfer of staggering proportions into the market – over 9,000 tons of depleted uranium. Ostensibly, the transfer is to keep USEC's operations at Paducah, KY alive for one year, preserving the 1,200 jobs there in the short term. Unfortunately, an intrusion into the market of this magnitude is very likely to cost 1,200 jobs in the uranium mining and conversion industry in the west and mid-west. The amendment is supported by the National Mining Association, the Uranium Producers Association and Taxpayers for Common Sense.

McIntyre (D-NC): The amendment prohibits funding to be used to plan for the termination of periodic nourishment for any water resource development project described in section 156 of the Water Resources Development Act of 1976.

Mulvaney (R-SC): The amendment supports the RSC Budget by making a \$3.1 billion cut to all accounts in the bill except funding for the U.S. Army Corps of Engineers, National Nuclear Security Administration, and nuclear energy related accounts.

Specifically, this amendment only makes a 0.3% reduction to Discretionary Spending under the House Budget by making an across-the-board cut to all Energy and Water accounts except:

Title I

- U.S. Army Corps of Engineers

Title III

- Nuclear Energy
- Non-Defense Environmental Cleanup
- Nuclear Waste Disposal
- National Nuclear Security Administration (NNSA)
 - Weapons Activities
 - Defense Nuclear Nonproliferation
 - Naval Reactors
 - Office of the Administrator
- Defense Environmental Cleanup
- Other Defense Activities

Title IV

- Defense Nuclear Facilities Safety Board
- Nuclear Regulatory Commission
- Nuclear Waste Technical Review Board

Polis (D-CO): This amendment reduces funding for the Atomic Energy Defense Activities National Nuclear Security Administration, Weapons Activities, by \$298,221,000 and adds this amount to the Spending Reduction Account.

Reed (R-NY) & Higgins (D-NY): The amendment increases funding for the Department of Energy's Non-Defense Environmental Cleanup account by \$36,000,000. It reduces funding for the Department of Energy's salaries and expenses by \$18,000,000. It also reduces funding for the Office of the Administrator in the National Nuclear Security Administration by \$18,000,000.

Rohrabacher (R-CA): The amendment prohibits funding to be used for the U.S. China Clean Energy Research Center. According to the sponsor: "CERC was created in 2009 as a joint clean energy initiative between the US and the PRC. Through the CERC, the U.S. Government uses taxpayer money to facilitate collaboration between US and Chinese state universities, national laboratories, and industry."

Sanchez (D-FL): The amendment reduces funding for salaries and expenses of the Department of Energy by \$16,000,000 and adds that amount to the Department of Energy's Defense Nuclear Nonproliferation account.

Schock (R-IL): This office has not responded to RSC Staff inquires for the text.

Schweikert (R-AZ): The amendment prohibits funding to enforce part 429 or 430 of title 10, Code of Federal Regulations. This section of the code deals with federal regulations regarding the maximum flow levels of shower heads. Many conservatives believe that this regulation is an example of how bureaucrats in Washington are making decisions that are better left to American families.

Stearns (R-FL), Scalise (R-LA), Adams (R-FL), Broun (R-GA): The amendment prohibits the Department of Energy from using funding to subordinate taxpayers' interest in any loan guarantee.

Stearns (R-FL): The amendment prohibits the Department of Energy from using funding for the purchase of any light duty vehicles.

Stearns (R-FL): The amendment reduces funding for the Advanced Research Projects Agency, which was established by section 5012 of the America COMPETES Act (PL 110-69). It reduces the funding by \$20,000,000 and transfers that amount to the Spending Reduction Account. The RSC listed several potential conservative concerns with the American Competes Act in our original Legislative Bulletin which can be [viewed here](#).

Tipton (R-CO): The amendment prohibits funding to be used to conduct a survey in which money is included or provided for the benefit of the responder. It does not prohibit federal agencies from gathering public input or sending out surveys, it simply puts an end to the arguably unethical practice of giving away taxpayer dollars to solicit a desired response.