

That is why it matters how you have a construction standard for a waste pile. Isn't it smart to have such a standard in place and one that has been developed over hundreds of meetings over 6 years so that mining is much more compatible with clean streams and healthy people?

Another thing this rule does is it enhances restoration by strengthening bonding requirements. It is not unknown, unfortunately, that coal miners would just abandon the mine once their operations were finished, leaving all sorts of undone business that adds to the enormous contamination that even a small amount of mining can do.

In 1977, Congress passed a law saying that miners needed to restore the land after their mining operation was completed and that they needed to provide a bond up front to pay for the cleanup cost just in case the company decided it didn't want to follow through on the cleanup after it completed extracting the coal. Strengthening that and making sure the bonding process actually works right, that the bond is actually there to do the cleanup, makes a lot of sense.

Years ago, I was immersed in first developing housing with Habitat for Humanity and then building affordable multiplexes for a nonprofit, Human Solutions. Companies that were being paid to do their work had a construction bond. The bond made sure that if the company somehow disappeared in the middle of the night, the work was going to get done. That bond was very important to the nonprofit, that what they were investing in—the payments they made were actually going to result in what was contracted to be delivered. That is the same thing here. A company that comes in and says: We got permission to mine—it is saying to the public, with a good bonding system, yes, you can be confident that the cleanup work will be done. That needed to be strengthened because often it is not done. That is another piece of this puzzle.

Then there is another piece that is related to coal slurry and reducing the odds of coal slurry causing a lot of damage. Coal slurry is liquid waste generated when mined coal is washed off. You have a lot of water that is thickened with debris from washing the coal, and it can be held in a basin, but if the walls of that basin fail and that coal slurry gets into the streams, it does massive damage.

That transpired in Martin County, KY, 16 years ago. An estimated 306 million gallons of slurry spilled into two tributaries of the Tug Fork River. How much is 306 million gallons? It is a lot of swimming pools, almost more than you can imagine. Another way to look at it is it is 30 times larger than the *Exxon Valdez* oilspill, one of the worst environmental disasters ever.

There it is. It was a big, massive pond that spilled into the forests and into the rivers in that situation in Martin County. Overnight, one of the

tributaries, the Coldwater Fork, a 10-foot-wide stream, became 100 yards of slurry. In some places, the spill was over 5 feet deep. It spread out and covered people's yards on the banks. Hundreds of miles of the Big Sandy River were polluted as a result as the stuff washed down the stream. The Ohio River was polluted. The water supply for 27,000 people was contaminated.

It is not that it has just happened once; it has happened other times. It happened in Buffalo Creek Hollow, WV, in 1972. In that case, it was 132 million gallons of slurry. That is about a third of the size of the other spills, so I guess you could say that instead of being 30 times *Exxon Valdez*, it was only 10 times *Exxon Valdez*. But it did a lot of damage. It created a wave going downstream that was 30 feet high. Can you imagine how much material is required to create a wave of—a flash flood of coal slurry 30 feet high? This didn't happen away from human civilization; this wave of coal slurry killed 125 people. This wave of toxic coal slurry hit and injured over 1,000 more people—1,121 more people. It left 4,000 people homeless, wiped out their homes and their towns.

That is the type of damage that can occur, so why not have a rule that has looked at how these ponds are created and said, here is a standard so that the pond is not overloaded or overtopped or the wall does not collapse and cause a tidal wave that will kill more than 100 people or injure more than 1,000 or leave 4,000 people homeless. Having a standard is the logical thing to do. It helps the companies because then they know exactly what they need to do to make that pond safe.

Those are some examples of what is in this rule.

I think it is important to understand another factor. This rule requires careful mapping before the mining is done so that the restoration process can be held accountable to restore the contours that existed previously, or as close as you can get. Without an understanding of what the land looked like beforehand, it is hard to say what it should look like when it is restored.

Those are commonsense measures. That is it. Common sense. Common standards for safety, for protection of the streams and the wildlife and the people. Isn't that what we should be all about? Shouldn't we not be undoing that, as we will be in a couple of hours, in a deserted Senate Chamber in the middle of the night? That is wrong.

If you want to change these standards—and I say this to my colleagues, and I know many do care a great deal about the environment—then have the courage to do it in daylight. Have the courage to do it in a committee. Have the courage to invite the public in to testify. But here we are tonight, hiding from the population across America, undoing this important work for the safety of our people. That is wrong.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SCOTT). The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, it is my understanding that the Senator will take us through the closing script, and as a part of that, I will be recognized in the order to make my remarks.

With that understanding, I yield the floor.

What if I suggest that I begin my remarks, that you give me the high sign whenever the closing script is prepared—it is. Never mind.

I yield the floor.

The PRESIDING OFFICER. This is the high sign.

Mr. WHITEHOUSE. The high sign has been received.

The PRESIDING OFFICER. The Senator from Colorado.

#### MORNING BUSINESS

Mr. GARDNER. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### VOTE EXPLANATION

Mr. DURBIN. Mr. President, I was necessarily absent for the votes on the motion to proceed to legislative session and the motion to proceed to a joint resolution disapproving the rule submitted by the Department of the Interior known as the Stream Protection Rule, H.J. Res. 38.

On vote No. 41, had I been present, I would have voted "nay" on the motion to proceed to legislative session.

On vote No. 42, had I been present, I would have voted "nay" on the motion to proceed to H.J. Res. 38.

#### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

##### RULES OF PROCEDURE

Mr. ROBERTS. Mr. President, the Committee on Agriculture, Nutrition, and Forestry has adopted rules governing its procedures for the 115th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator STABENOW, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

##### RULES OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY 115th Congress

###### RULE I—MEETINGS

1.1 Regular Meetings.—Regular meetings shall be held on the first and third Wednesday of each month when Congress is in session.

1.2 Additional Meetings.—The Chairman, in consultation with the ranking minority member, may call such additional meetings as he deems necessary.

1.3 Notification.—In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, DC, and at least 48 hours in the case of any meeting held outside Washington, DC.

1.4 Called Meeting.—If three members of the committee have made a request in writing to the Chairman to call a meeting of the committee, and the Chairman fails to call such a meeting within 7 calendar days thereafter, including the day on which the written notice is submitted, a majority of the members may call a meeting by filing a written notice with the clerk of the committee who shall promptly notify each member of the committee in writing of the date and time of the meeting.

1.5 Adjournment of Meetings.—The Chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

#### RULE 2—MEETINGS AND HEARINGS IN GENERAL

2.1 Open Sessions.—Business meetings and hearings held by the committee or any subcommittee shall be open to the public except as otherwise provided for in Senate Rule XXVI, paragraph 5.

2.2 Transcripts.—A transcript shall be kept of each business meeting and hearing of the committee or any subcommittee unless a majority of the committee or the subcommittee agrees that some other form of permanent record is preferable.

2.3 Reports.—An appropriate opportunity shall be given the Minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

2.4 Attendance.—(a) Meetings. Official attendance of all markups and executive sessions of the committee shall be kept by the committee clerk. Official attendance of all subcommittee markups and executive sessions shall be kept by the subcommittee clerk. (b) Hearings. Official attendance of all hearings shall be kept, provided that, Senators are notified by the committee Chairman and ranking minority member, in the case of committee hearings, and by the subcommittee Chairman and ranking minority member, in the case of subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken. Otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

#### RULE 3—HEARING PROCEDURES

3.1 Notice.—Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee or any subcommittee at least 1 week in advance of such hearing unless the Chairman of the full committee or the subcommittee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the committee or the subcommittee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

3.2 Witness Statements.—Each witness who is to appear before the committee or any subcommittee shall file with the committee or subcommittee, at least 24 hours in ad-

vance of the hearing, a written statement of his or her testimony and as many copies as the Chairman of the committee or subcommittee prescribes.

3.3 Minority Witnesses.—In any hearing conducted by the committee, or any subcommittee thereof, the minority members of the committee or subcommittee shall be entitled, upon request to the Chairman by the ranking minority member of the committee or subcommittee to call witnesses of their selection during at least 1 day of such hearing pertaining to the matter or matters heard by the committee or subcommittee.

3.4 Swearing in of Witnesses.—Witnesses in committee or subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking minority member of the committee or subcommittee deems such to be necessary.

3.5 Limitation.—Each member shall be limited to 5 minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question a witness. Questions from members shall rotate from majority to minority members in order of seniority or in order of arrival at the hearing.

#### RULE 4—NOMINATIONS

4.1 Assignment.—All nominations shall be considered by the full committee.

4.2 Standards.—In considering a nomination, the committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated.

4.3 Information.—Each nominee shall submit in response to questions prepared by the committee the following information: (1) A detailed biographical resume which contains information relating to education, employment, and achievements; (2) Financial information, including a financial statement which lists assets and liabilities of the nominee; and (3) Copies of other relevant documents requested by the committee. Information received pursuant to this subsection shall be available for public inspection except as specifically designated confidential by the committee.

4.4 Hearings.—The committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office. No hearing shall be held until at least 48 hours after the nominee has responded to a prehearing questionnaire submitted by the committee.

4.5 Action on Confirmation.—A business meeting to consider a nomination shall not occur on the same day that the hearing on the nominee is held. The Chairman, with the agreement of the ranking minority member, may waive this requirement.

#### RULE 5—QUORUMS

5.1 Testimony.—For the purpose of receiving evidence, the swearing of witnesses, and the taking of sworn or unsworn testimony at any duly scheduled hearing, a quorum of the committee and the subcommittee thereof shall consist of one member.

5.2 Business.—A quorum for the transaction of committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the committee or subcommittee, including at least one member from each party.

5.3 Reporting.—A majority of the membership of the committee shall constitute a quorum for reporting bills, nominations, matters, or recommendations to the Senate. No measure or recommendation shall be ordered reported from the committee unless a majority of the committee members are physically present. The vote of the com-

mittee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

#### RULE 6—VOTING

6.1 Rollcalls.—A roll call vote of the members shall be taken upon the request of any member.

6.2 Proxies.—Voting by proxy as authorized by the Senate rules for specific bills or subjects shall be allowed whenever a quorum of the committee is actually present.

6.3 Polling.—The committee may poll any matters of committee business, other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public, provided that every member is polled and every poll consists of the following two questions: (1) Do you agree or disagree to poll the proposal; and (2) Do you favor or oppose the proposal. If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the committee shall keep a record of all polls.

#### RULE 7—SUBCOMMITTEES

7.1 Assignments.—To assure the equitable assignment of members to subcommittees, no member of the committee will receive assignment to a second subcommittee until, in order of seniority, all members of the committee have chosen assignments to one subcommittee, and no member shall receive assignment to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

7.2 Attendance.—Any member of the committee may sit with any subcommittee during a hearing or meeting but shall not have the authority to vote on any matter before the subcommittee unless he or she is a member of such subcommittee.

7.3 Ex Officio Members.—The Chairman and ranking minority member shall serve as nonvoting ex officio members of the subcommittees on which they do not serve as voting members. The Chairman and ranking minority member may not be counted toward a quorum.

7.4 Scheduling.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee business meeting may be held at the same time.

7.5 Discharge.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition. The full committee may at any time, by majority vote of those members present, discharge a subcommittee from further consideration of a specific piece of legislation.

7.6 Application of Committee Rules to Subcommittees.—The proceedings of each subcommittee shall be governed by the rules of the full committee, subject to such authorizations or limitations as the committee may from time to time prescribe.

#### RULE 8—INVESTIGATIONS, SUBPOENAS AND DEPOSITIONS

8.1 Investigations.—Any investigation undertaken by the committee or a subcommittee in which depositions are taken or subpoenas issued, must be authorized by a majority of the members of the committee voting for approval to conduct such investigation at a business meeting of the committee convened in accordance with Rule 1.

8.2 Subpoenas.—The Chairman, with the approval of the ranking minority member of the committee, is delegated the authority to subpoena the attendance of witnesses or the

production of memoranda, documents, records, or any other materials at a hearing of the committee or a subcommittee or in connection with the conduct of an investigation authorized in accordance with paragraph 8.1. The Chairman may subpoena attendance or production without the approval of the ranking minority member when the Chairman has not received notification from the ranking minority member of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this paragraph the subpoena may be authorized by vote of the members of the committee. When the committee or Chairman authorizes subpoenas, subpoenas may be issued upon the signature of the Chairman or any other member of the committee designated by the Chairman.

8.3 Notice for Taking Depositions.—Notices for the taking of depositions, in an investigation authorized by the committee, shall be authorized and be issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the Senator, staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a committee subpoena.

8.4 Procedure for Taking Depositions.—Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. The Chairman will rule, by telephone or otherwise, on any objection by a witness. The transcript of a deposition shall be filed with the committee clerk.

#### RULE 9—AMENDING THE RULES

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the committee as long as any witnesses who may be affected by the change in rules are provided with them.

### SPECIAL COMMITTEE ON AGING

#### RULES OF PROCEDURE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Special Committee on Aging, having adopted rules governing its procedures for the 115th Congress, have a copy of their rules printed in the RECORD, pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SPECIAL COMMITTEE ON AGING COMMITTEE RULES 115TH CONGRESS JURISDICTION AND AUTHORITY

A.1. There is established a Special Committee on Aging (hereafter in this section referred to as the "special committee") which

shall consist of nineteen Members. The Members and chairman of the special committee shall be appointed in the same manner and at the same time as the Members and chairman of a standing committee of the Senate. After the date on which the majority and minority Members of the special committee are initially appointed on or affect the effective date of title I of the Committee System Reorganization Amendments of 1977, each time a vacancy occurs in the Membership of the special committee, the number of Members of the special committee shall be reduced by one until the number of Members of the special committee consists of nine Senators.

2. For the purposes of paragraph I of rule XXV; paragraphs 1, 7(a)(1)–(2), 9, and 10(a) of rule XXVI; and paragraphs 1(a)–(d), and 2(a) and (d) of rule XXVII of the Standing Rules of the Senate; and the purposes of section 202(I) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

B.1. It shall be the duty of the special committee to conduct a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

2. The special committee shall, from time to time (but not less than once year), report to the Senate the results of the study conducted pursuant to paragraph (1), together with such recommendation as it considers appropriate.

C.1. For the purposes of this section, the special committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the serve of individual consultants or organizations thereof (as authorized by section 202(I) of the Legislative Reorganization Act of 1946, as amended) and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

2. The chairman of the special committee or any Member thereof may administer oaths to witnesses.

3. Subpoenas authorized by the special committee may be issued over the signature of the chairman, or any Member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the Member signing the subpoena.

D. All records and papers of the temporary Special Committee on Aging established by Senate Resolution 33, Eighty-seventh Congress, are transferred to the special committee.

#### RULES OF PROCEDURE

##### I. Convening of Meetings

1. Meetings. The Committee shall meet to conduct Committee business at the call of the Chairman. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

##### 2. Notice and Agenda:

(a) Written or Electronic Notice. The Chairman shall give the Members written or electronic notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(b) Shortened Notice. A meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the meeting on shortened notice. An agenda will be furnished prior to such a meeting.

3. Presiding Officer. The Chairman shall preside when present. If the Chairman is not present at any meeting, the Ranking Majority Member present shall preside.

##### II. Convening of Hearings

1. Notice. The Committee shall make public announcement of the date, place and subject matter of any hearing at least one week before its commencement. A hearing may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing on shortened notice.

2. Presiding Officer. The Chairman shall preside over the conduct of a hearing when present, or, whether present or not, may delegate authority to preside to any Member of the Committee.

3. Witnesses. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least 48 hours notice, and all witnesses called shall be furnished with a copy of these rules upon request.

4. Oath. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any Member, may request and administer the oath.

5. Testimony. At least 48 hours in advance of a hearing, each witness who is to appear before the Committee shall submit his or her testimony by way of electronic mail, in a format determined by the Committee and sent to an electronic mail address specified by the Committee, unless the Chairman and Ranking Minority Member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than five minutes to orally summarize his or her prepared statement. Officials of the federal government shall file 40 copies of such statement with the clerk of the Committee 48 hours in advance of their appearance, unless the Chairman and the Ranking Minority Member determine there is good cause for noncompliance.

6. Counsel. A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or depositions or staff interview to advise such witness of his or her rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

7. Transcript. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in closed sessions and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his or her transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious