

**AMENDMENT TO THE RULES COMMITTEE PRINT  
FOR H.R. 5303  
OFFERED BY MR. BEN RAY LUJÁN OF NEW  
MEXICO**

At the end of title I, add the following:

1 **SEC. \_\_\_\_ . GOLD KING MINE SPILL RECOVERY.**

2 (a) DEFINITIONS.—In this section:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

6 (2) CLAIMANT.—The term “claimant” means a  
7 State, Indian tribe, or local government that submits  
8 a claim under subsection (c).

9 (3) GOLD KING MINE RELEASE.—The term  
10 “Gold King Mine release” means the discharge on  
11 August 5, 2015, of approximately 3,000,000 gallons  
12 of contaminated water from the Gold King Mine  
13 north of Silverton, Colorado, into Cement Creek that  
14 occurred while contractors of the Environmental  
15 Protection Agency were conducting an investigation  
16 of the Gold King Mine to assess mine conditions.

17 (4) NATIONAL CONTINGENCY PLAN.—The term  
18 “National Contingency Plan” means the National

1 Contingency Plan prepared and published under  
2 part 300 of title 40, Code of Federal Regulations (or  
3 successor regulations).

4 (5) RESPONSE.—The term “response” has the  
5 meaning given the term in section 101 of the Com-  
6 prehensive Environmental Response, Compensation,  
7 and Liability Act of 1980 (42 U.S.C. 9601).

8 (b) SENSE OF CONGRESS.—It is the sense of Con-  
9 gress that the Administrator should receive and process,  
10 as expeditiously as possible, claims under chapter 171 of  
11 title 28, United States Code (commonly known as the  
12 “Federal Tort Claims Act”) for any injury arising out of  
13 the Gold King Mine release.

14 (c) GOLD KING MINE RELEASE CLAIMS PURSUANT  
15 TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,  
16 COMPENSATION, AND LIABILITY ACT.—

17 (1) IN GENERAL.—The Administrator shall,  
18 consistent with the National Contingency Plan, re-  
19 ceive and process under the Comprehensive Environ-  
20 mental Response, Compensation, and Liability Act  
21 of 1980 (42 U.S.C. 9601 et seq.), and pay from ap-  
22 propriations made available to the Administrator to  
23 carry out that Act, any claim made by a State, In-  
24 dian tribe, or local government for eligible response  
25 costs relating to the Gold King Mine release.

1 (2) ELIGIBLE RESPONSE COSTS.—

2 (A) IN GENERAL.—Response costs in-  
3 curred between August 5, 2015, and September  
4 9, 2016, are eligible for payment by the Admin-  
5 istrator under this subsection, without prior ap-  
6 proval by the Administrator, if the response  
7 costs are not inconsistent with the National  
8 Contingency Plan.

9 (B) PRIOR APPROVAL REQUIRED.—Re-  
10 sponse costs incurred after September 9, 2016,  
11 are eligible for payment by the Administrator  
12 under this subsection if—

13 (i) the Administrator approves the re-  
14 sponse costs under section 111(a)(2) of the  
15 Comprehensive Environmental Response,  
16 Compensation, and Liability Act of 1980  
17 (42 U.S.C. 9611(a)(2)); and

18 (ii) the response costs are not incon-  
19 sistent with the National Contingency  
20 Plan.

21 (3) PRESUMPTION.—

22 (A) IN GENERAL.—The Administrator  
23 shall consider response costs claimed under  
24 paragraph (1) to be eligible response costs if a  
25 reasonable basis exists to establish that the re-

1           response costs are not inconsistent with the Na-  
2           tional Contingency Plan.

3           (B) APPLICABLE STANDARD.—In deter-  
4           mining whether a response cost is not incon-  
5           sistent with the National Contingency Plan, the  
6           Administrator shall apply the same standard  
7           that the United States applies in seeking recov-  
8           ery of the response costs of the United States  
9           from responsible parties under section 107 of  
10          the Comprehensive Environmental Response,  
11          Compensation, and Liability Act of 1980 (42  
12          U.S.C. 9607).

13          (4) TIMING.—

14           (A) IN GENERAL.—Not later than 90 days  
15           after the date of enactment of this Act, the Ad-  
16           ministrator shall make a decision on, and pay,  
17           any eligible response costs submitted to the Ad-  
18           ministrator before that date of enactment.

19           (B) SUBSEQUENTLY FILED CLAIMS.—Not  
20           later than 90 days after the date on which a  
21           claim is submitted to the Administrator, the  
22           Administrator shall make a decision on, and  
23           pay, any eligible response costs.

24           (C) DEADLINE.—All claims under this  
25           subsection shall be submitted to the Adminis-

1           trator not later than 180 days after the date of  
2           enactment of this Act.

3           (D) NOTIFICATION.—Not later than 30  
4           days after the date on which the Administrator  
5           makes a decision under subparagraph (A) or  
6           (B), the Administrator shall notify the claimant  
7           of the decision.

8           (d) WATER QUALITY PROGRAM.—

9           (1) IN GENERAL.—In response to the Gold  
10          King Mine release, the Administrator, in conjunction  
11          with affected States, Indian tribes, and local govern-  
12          ments, shall, subject to the availability of appropria-  
13          tions, develop and implement a program for long-  
14          term water quality monitoring of rivers contami-  
15          nated by the Gold King Mine release.

16          (2) REQUIREMENTS.—In carrying out the pro-  
17          gram described in paragraph (1), the Administrator,  
18          in conjunction with affected States, Indian tribes,  
19          and local governments, shall—

20                 (A) collect water quality samples and sedi-  
21                 ment data;

22                 (B) provide the public with a means of  
23                 viewing the water quality sample results and  
24                 sediment data referred to in subparagraph (A)

1 by, at a minimum, posting the information on  
2 the website of the Administrator;

3 (C) take any other reasonable measure  
4 necessary to assist affected States, Indian  
5 tribes, and local governments with long-term  
6 water monitoring; and

7 (D) carry out additional program activities  
8 related to long-term water quality monitoring  
9 that the Administrator determines to be nec-  
10 essary.

11 (3) AUTHORIZATION OF APPROPRIATIONS.—

12 There are authorized to be appropriated to the Ad-  
13 ministrator such sums as may be necessary to carry  
14 out this subsection, including the reimbursement of  
15 affected States, Indian tribes, and local governments  
16 for the costs of long-term water quality monitoring  
17 of any river contaminated by the Administrator.

18 (e) EXISTING STATE AND TRIBAL LAW.—Nothing in  
19 this section affects the jurisdiction or authority of any de-  
20 partment, agency, or officer of any State government or  
21 any Indian tribe.

22 (f) SAVINGS CLAUSE.—Nothing in this section affects  
23 any right of any State, Indian tribe, or other person to  
24 bring a claim against the United States for response costs  
25 or natural resources damages pursuant to section 107 of

1 the Comprehensive Environmental Response, Compensa-  
2 tion, and Liability Act of 1980 (42 U.S.C. 9607).

