

VOTE NO on HR 2273: Bill Leaves Americans in Harm’s Way and Fails to Promote Recycling Managers Amendment doesn’t cure fatal deficiencies and is less protective than EPA’s subtitle D proposal

HR 2273 endangers the health and safety of thousands of communities, reduces coal ash recycling, and undermines the U.S. Environmental Protection Agency’s public rulemaking process that has been underway for nearly three years and has attracted over 455,000 comments. This is a dangerous bill and Congress must vote NO on HR 2273.

Coal Ash is a Toxic National Problem

Coal ash is the abundant and dangerous waste left over after coal is burned. Our nation’s power plants generate enough coal ash every year to fill train boxcars that would stretch between the North and South Poles (140 million tons). Despite having hazardous characteristics, coal ash has never been subject to federal protections, and state laws governing disposal are usually weak or non-existent. Across the country, billions of tons of coal ash have been dumped in enormous and precarious ponds, pits, landfills, putting human health at risk from large scale disasters and gradual – yet

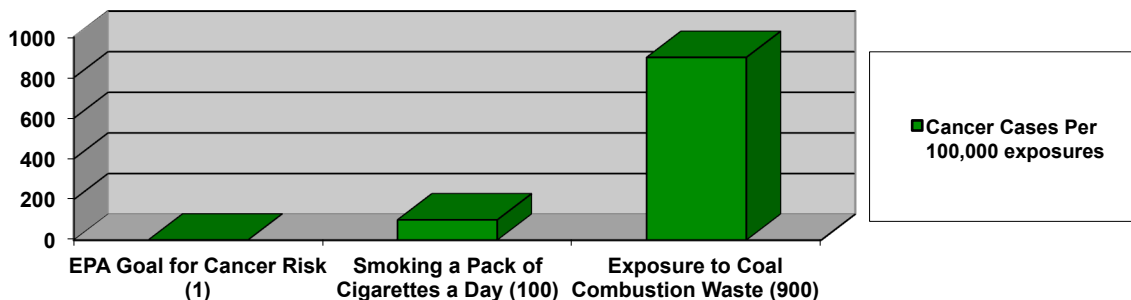


Dirty Hands? Rep. McKinley's constituent on her lawn, covered in coal ash (Photo Credit: EIP, WV, 2010).

equally dangerous – contamination as toxins in coal ash seep into drinking water sources.

Nine Times More Dangerous Than Smoking a Pack of Cigarettes a Day

In 2010, EPA published a risk assessment that found extremely high risks to human health and the environment from the disposal of coal ash in waste ponds and landfills.ⁱ The chart below compares EPA’s findings on the cancer risk from arsenic in coal ash disposed in some unlined waste ponds to several other cancer risks, along with the highest level of cancer risk that EPA finds acceptable under current regulatory goals.ⁱⁱ The risk from coal ash is 2000 times that regulatory goal.



HR 2273 is weaker than regulations that apply to RCRA Subtitle D household garbage landfills.

- Standards are not based on protection of human health and the environment: HR 2273 fails to establish a legal standard of protection that state programs must meet. Consequently, states can refuse to adopt safety standards that they deem are “not needed” without having to meet the statutory standard of protection of health and the environment. Without such a standard, states are free to abandon safeguards, and EPA will be forced to defer.
- Municipal Solid Waste (MSW) rules require the closure of disposal sites in floodplains or unstable areas – HR 2273 does not.

HR 2273 incorporates only some of the “location” restrictions required of household waste landfills. MSW rules require closure of disposal sites that are located in floodplains or unstable areas—particularly dangerous places for large waste ponds. These requirements were left out of HR 2273, and thus will not apply to coal ash sites.

- Household waste rules expressly ban the disposal of liquid in MSW landfills, but HR 2273 does not. HR 2273 allows the continued disposal of tens of millions of tons of liquid sludge in disposal units, which will be regulated like dry landfills! The MSW standards were expressly developed to deal with dry waste and do not address structural stability, emergency action plans, inspection frequency, etc.
- MSW rules require actual permits for new and existing dumps—HR 2273 does not. HR 2273 does not require coal ash sites to obtain permits, even though much smaller garbage dumps are required to do so. States need only point to “any system of prior approval and conditions,” however fragmented and meaningless. An enforceable permit is important to each facility because they translate disposal standards into the specific requirements applicable to each unit, taking into account site-specific factors.
- MSW rules guarantee public participation in permitting and state approval decision, HR 2273 does not. HR 2273 does not guarantee citizens a voice in permitting decisions. HR 2273 denies citizens who live near coal ash dump sites any federal right to notice, comment, and a public hearing when new sites are proposed for construction or old ones are expanded. Standards for public participation are especially important here, because EPA lacks any authority to enforce the bills provisions.

When household waste standards are applied to coal ash ponds, communities are unprotected. Household waste landfill standards were created to deal with household garbage, not the liquid content of huge heavy metal-laden sludge impoundments. Common sense tells you that a 10-story dam holding back billions of gallons of toxic slurry is nothing like your county trash dump. HR 2273 lacks the safety standards that would prevent another cataclysmic disaster, like the dam failure at TVA’s Kingston plant in December 2008 that flooded over 300 acres, swept away houses and cost more than \$1B to clean-up. There are no requirements to safely close these dumps, many of which may now be poisoning water or pose a risk of catastrophic failure.

HR 2273 will hurt recycling and cost American jobs The bill allows the continued operation – indefinitely – of nearly 700 coal ash ponds and permits the construction of unlimited numbers of new ponds. Once coal ash is placed in ponds, it cannot be recycled. Thus tens of million of tons of coal ash annually that could be recycled will be needlessly and dangerously dumped because it’s cheaper for utilities. A recent study by a senior economist from Tufts University concludes that a strong coal ash rule, such as the one proposed by EPA in 2010, would generate 28,000 jobs.

HR 2273 puts the health of Americans at risk, especially those already most vulnerable. About 70% of ash ponds are where household income is lower than the national median, and the population living below the poverty line near coal plants is almost 20% greater than would be expected based on state averages.

HR 2273 silences the voices of nearly half a million Americans. The American public clearly wants protection from this dangerous waste. EPA received more than 450,000 comments during eight public hearings and a comment period on its proposed coal ash standard last year. This monumental level of public participation is clear evidence that this issue is of great importance to Americans nationwide, especially the hundreds of thousands already harmed or threatened by unsafe disposal of the metal-laden, toxic waste.

Vote “NO” on HR 2273. HR 2273 protects utility profits, not public health or taxpayers. The bill is about shielding utilities from their responsibility to operate dumps safely and clean up sites they have contaminated – *not* about increasing coal ash reuse. It applies fewer standards than are applicable to ordinary garbage dumps, and contains few of the requirements set out in EPA’s subtitle C or D proposals, particularly for coal ash ponds. In sum, this bill ignores the best available science, compromises public health, and undermines the public rulemaking process that engaged nearly half a million Americans while actually hurting recycling.

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ⁱ Physicians for Social Responsibility, Coal Ash the Toxic Threat to Our Health and Environment (August 2010), <http://www.psr.org/resources/coal-ash-the-toxic-threat-to-our-health-and-environment.html>.

ⁱⁱ *Supra* at note iii. Date for cigarettes comes from Center for Disease Control, Cigarette Smoking-Attributable Morbidity-U.S. 2000, MMWR Weekly, September 5, 2003 / 52(35); 842-844.