

ANALYSIS: HOUSE BILL UP FOR VOTE FRIDAY SETS “DESIGN” STANDARDS FOR ARSENIC CONCENTRATIONS AT NEW COAL ASH SITES 5 TIMES HIGHER THAN CURRENT SAFE DRINKING WATER ACT LIMITS

Disposal Standards Further Undercut by “Escape Hatch” Allowing States to Waive All Standards for Groundwater Monitoring or Cleanup

WASHINGTON, D.C. -- October 13, 2011 – HR 2273, scheduled for a vote in the U.S. House on Friday, would authorize construction of new coal ash sites designed to leak up to five times more arsenic into groundwater than current law allows, according to a new analysis by The Environmental Integrity Project (EIP).

The EIP analysis, “A Little More Arsenic With That Drinking Water?,” with citations to key provisions in the bill, is available online at http://www.environmentalintegrity.org/10_13_2011.php.

The current Safe Drinking Water Act standard for arsenic, a potent carcinogen, is 10 micrograms per liter; the design standard in HR 2273 is based on the much weaker 50 microgram/liter standard no longer in effect. The bill’s design standards also adopt outdated, less stringent drinking water limits for four other toxic pollutants: lead, cadmium, antimony, and thallium.

H.R. 2273 appears to eventually require cleanup if ash dumps cause arsenic and other pollutants to exceed the Safe Drinking Water Act standards in effect today, though without any real deadlines to give that requirement teeth. But the bill effectively wipes out these protections by allowing states to waive any standards – including the obligation to clean up badly polluted drinking water – by simply deciding they are “not needed” for coal ash management. The bill also requires EPA to defer to those judgments, which means that bad state decisions cannot be reversed, even if they jeopardize public health.

“The Safe Drinking Water Act belongs to all Americans,” said EIP Director Eric Schaeffer. **“Communities that live near leaking ash dumps deserve the law’s protections. Why would Congress want to authorize a construction of coal ash sites designed to fail those health-based standards? And since when are standards that are supposed to keep our drinking water safe “not needed” for coal ash management?”**

Schaeffer added: **“This shameful legislation is filled with loopholes, trap doors, and exit ramps for polluters. It was written to keep the coal industry from having to clean up contaminated sites, and from being taken to court for the failure to do so. It was pretty obviously not written to protect anyone whose drinking water is at risk from coal ash pollution.”**

H.R. 2272 sets up a “design” standard that any proposed new coal ash sites (including expansions of existing ones) would have to meet. One option would permit any landfill designed to keep pollutants in the groundwater from reaching certain concentrations. The problem is that those concentration levels are based on lax drinking water standards in effect 20 years ago, but which have since been made more stringent. And even these weak standards could be ignored under the “opt-out” provisions of the bill.

Schaeffer noted: **“It is true that the bill requires monitoring and potential corrective action at these sites if they eventually exceed the drinking water standards in effect today. But that’s closing the barn door after the horse is out, and invites industry to design to a less stringent standard in the first place, gambling that contaminants don’t materialize or aren’t picked up by monitoring. The legacy of mismanaged coal ash sites shows that some companies already think that way, and HR 2272 would encourage the industry to cut costs and put our groundwater at risk.”**

ABOUT EIP

The Environmental Integrity Project (<http://www.environmentalintegrity.org>) is a nonpartisan, nonprofit organization established in March of 2002 by former EPA enforcement attorneys to advocate for effective enforcement of environmental laws. EIP has three goals: 1) to provide objective analyses of how the

failure to enforce or implement environmental laws increases pollution and affects public health; 2) to hold federal and state agencies, as well as industries , accountable for failing to enforce or comply with environmental laws; and 3) to help local communities obtain the protection of environmental laws.

MEDIA CONTACT: Patrick Mitchell, (703) 276-3266 or pmitchell@hastingsgroup.com.