



**EARTHJUSTICE**

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## PERMANENT DAMAGE:

EFFORTS TO GUT INCINERATOR AND BOILER HEALTH PROTECTIONS WILL CAUSE DEATH, LASTING HARM



**O**n June 22, 2011, Rep. Morgan Griffith (R-VA) and 7 other members of the House of Representatives introduced a bill (H.R. 2250) that would exempt incinerators from the Clean Air Act and cause many thousands of avoidable deaths by obstructing health protections against industrial boiler pollution, perhaps permanently. Sadly, some senators hope to help polluters evade the Clean Air Act with similar provisions.

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**BY UNDOING THESE HEALTH PROTECTIONS, H.R. 2250 WILL KILL THOUSANDS OF AMERICANS EVERY YEAR AND PERMANENTLY DAMAGE THE CLEAN AIR ACT, WHICH HAS PROTECTED PUBLIC HEALTH FOR DECADES. H.R. 2250 SHOULD BE OPPOSED FOR THREE MAJOR REASONS:**

- 1) It will increase toxic air pollution by permanently exempting incinerators from Clean Air Act protections, encouraging industrial plants to burn their wastes secretly in off-the-books incineration units that are neither designed nor equipped to burn waste safely.
- 2) It will cause the premature deaths of between 7,500 and 19,500 people, and quite probably, many thousands more.
- 3) It will make permanent the excessive pollution from industrial boilers by forcing the EPA to issue weak standards that allow even the worst polluters to evade control requirements.

### **PERMANENT EXEMPTION FOR INCINERATORS FROM THE CLEAN AIR ACT**

Under the Clean Air Act, any facility that burns waste must be regulated as an incinerator. Congress enacted this requirement to ensure that all waste combustion is subject to strong reporting, monitoring, and pollution control requirements that will protect the American public from the harmful air emissions that waste burning can generate—especially when it is done in facilities that are neither designed nor equipped to control toxic pollution.

Of course, it is far cheaper to burn waste in facilities that do not have to control or monitor their pollution. And polluters

likely don't want requirements forcing them to tell their neighbors about the toxic substances they are generating. That is why lobbyists for polluting industries have long pressured the government for Clean Air Act exemptions that allow industrial facilities to burn their waste in secret and without control requirements.

H.R. 2250 would give the worst polluters exactly what they have been seeking for decades: a free pass to burn industrial wastes without controlling, monitoring, or reporting the pollution that results. This will strongly encourage industry to burn its waste in facilities that simply are not safe, turning sensible and responsible waste disposal requirements on their head.

A federal Court of Appeals already has found that this irresponsible and cynical approach to the regulation of industrial waste is not allowed under the Clean Air Act. H.R. 2250 overturns that decision and allows industrial waste burners to dispose of inconvenient Clean Air Act protections along with their spent solvents, waste chemicals, scrap plastics, and old tires.

### **THOUSANDS OF PREMATURE DEATHS AND WIDESPREAD ADVERSE HEALTH IMPACTS**

Following a court order, the EPA proposed health standards for incinerators and industrial boilers in February 2011, more than 20 years after the original requirement



became law. The standards proposed by the EPA will save between 2,500 and 6,500 lives every year. Unfortunately, those lives will be lost every year that these health protections are withheld from the American public.

H.R. 2250 allows premature death in two ways. It would prevent the EPA from finalizing those standards for 15 months, and add at least two years to the compliance deadline; moving it from three to a minimum of five years. That means that no facility will be required to adopt these standards for at least six years, at the earliest. As a result, the proposed legislation would delay these important health protections for at least 3 years past when they should take effect, leading to the deaths of between 7,500 and 19,500 people.

But even this unacceptable outcome is a best-case scenario. The language of the Griffith bill leaves the EPA open to set the compliance date at any point after 5 years from the date it issues a final health standard. That means it could be 5 years, 10 years, 20 years or more. With each additional year of delayed compliance, thousands of people will die. These deaths can be avoided if the EPA follows the Clean Air Act and the ruling of a federal court. Congress should not legislate these lives away.

## **LOWEST COMMON DENOMINATOR STANDARDS: GIVING THE WORST POLLUTERS A PASS FOR YEARS TO COME**

In addition to carving out loopholes for industry and permitting premature death, H.R. 2250 undercuts Clean Air Act protections from the dirtiest industries. Rather than have the EPA set health standards based on the emissions of the cleanest facilities in the country—as the Clean Air Act specifies and courts have repeatedly upheld—the legislation would direct the agency to set its health standards based on the emissions of the dirtiest sources.

This approach to pollution control reflects politics at its worst. It reverses a common-sense approach that has been a keystone of Clean Air Act protection for decades: clean industrial facilities are the model for dirty ones, not the other way around. If a facility can operate without spreading sickness and death to the local community, that should be encouraged, not undercut.

## **VOTE NO ON H.R. 2250 AND OPPOSE ALL OTHER EFFORTS TO PERMIT PREMATURE DEATH AND INDUSTRIAL WASTE BURNING.**



*Photo: Chris Jordan / Earthjustice*