

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
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Floor Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
H.R. 2218, the Coal Residuals Reuse and Management Act of 2013
July 25, 2013

Today, the House considers legislation to block EPA from acting to ensure that toxic coal ash is safely disposed.

Removing public health protections in order to allow polluting disposal sites to continue with business as usual is tough to justify. And in the lead up to today's debate, we've heard some outlandish justifications.

First, we've been told that states need this legislation in order to impose adequate regulation on dangerous coal ash disposal sites. Well, that's not true. The states can regulate coal ash disposal today. In fact, many do. The problem is that many states are not doing a good job.

For example, in Ohio, four coal ash disposal sites have serious groundwater contamination problems. The coal ash at these sites have contaminated groundwater with arsenic, mercury, and radioactive materials at levels higher than allowed under the Safe Drinking Water Act.

In total, EPA has identified one hundred and thirty-three cases of ground water and surface water contamination at coal ash disposal sites. All of this has occurred under state law while state officials look on.

Second, the proponents of this bill have argued that we must pass this legislation to allow coal ash to be recycled.

They argue that EPA wants to designate coal ash as "hazardous" under the Resources Conservation and Recovery Act. Such a designation, they argue, would create a "stigma" on coal ash and ensure that there will no longer be any market for recycled coal ash.

This argument is just wrong.

Hazardous labeling and restrictions on beneficial reuse are simply not on the table. When EPA issued its proposed coal ash rule, the Agency offered two alternatives – one would regulate

ash as a “special waste” under subtitle C of RCRA and one would regulate it as a solid waste under subtitle D. Neither of these proposals would involve labeling coal ash as hazardous.

Third, we’ve been told that we must pass this legislation because it’s a careful compromise from the version of last Congress.

Well, I’m not sure who it’s a compromise with. This bill is even worse than the bill from last Congress. The Republicans have refused to work with the Democrats on the Committee. There is no bipartisan coal ash bill in the Senate. And the Administration has identified five problems with the bill that cause it to fall short of protecting human health and the environment.

Let’s focus on reality.

This debate is not about a “war on coal” or putting a “stigma” on coal ash. It is not about whether state governments are inherently better than the federal government. It’s not about job-killing regulations. This debate is about whether or not we are going to allow coal ash disposal sites to contaminate our water supplies and threaten human health.

If this bill is enacted, coal ash disposal sites will continue to pollute our ground water. And once contamination is confirmed, this bill allows further groundwater contamination to continue for an extended period of time – perhaps indefinitely.

This bill says that a dump site that is contaminating groundwater today can continue to pollute for ten years. And during that decade, more waste can be dumped in the impoundment and more contamination can seep into the groundwater.

More arsenic ... more mercury ... more lead.

And if the owners of the polluting structure can’t control their contamination within ten years, this bill says states can give them even more time to keep polluting. All they have to do is show that there isn’t another disposal facility on site where the coal ash can be dumped.

New information released yesterday reveals that three-quarters of existing unlined coal ash impoundments do not have the space at their existing location to construct an additional disposal facility.

Those facts practically guarantee that if this legislation were to be enacted, communities across the country – many of them poor and minority – will simply have to endure contaminated water, polluted air, and the risk of catastrophic dam failure.

I urge my colleagues to tune out the special interest misinformation that seeks to weaken our laws and prolong pollution and oppose this legislation, no matter how you voted in the last Congress.