

H.R. 2218, THE COAL RESIDUALS REUSE AND MANAGEMENT ACT OF 2013

June 3, 2013

H.R. 2218 RETAINS THE GUIDING PRINCIPLES THAT WERE FOLLOWED IN THE LAST CONGRESS IN CRAFTING THE ORIGINAL MCKINLEY BILL, H.R. 2273:

- Provides minimum federal standards but allows states to craft a permit program that works for the state
- Does not provide new rulemaking authority for EPA for coal ash
- Requires EPA to defer to the States with respect to regulation of coal ash – including an express prohibition on EPA over-filing and the current EPA rulemaking is explicitly cut off
- Allows states to protect human health and the environment by adapting an existing solid waste regulatory program to coal ash

H.R. 2218 ALSO CONTAINS IMPROVEMENTS MADE BY THE SENATE IN THE LAST CONGRESS IN S. 3512:

- Requires installation of groundwater monitoring at all structures that receive coal ash on or after the date of enactment within 1 year after a state certifies a permit program
- Requires deadlines for certain surface impoundments to meet a groundwater protection standard or close:
 - Impoundments discovered to be leaking after the date of enactment – deadline is 10 years
 - Impoundments in corrective action as of the date of enactment – deadline is 8 years
 - Impoundments that are discovered to be leaking more than 10 years after the date of enactment – must develop alternative management capacity for the ash and close
- Improves the structural stability and dam safety requirements
 - Requires certification by an independent registered professional engineer that the design is in accordance with generally accepted good engineering practices for containment of the maximum volume of coal ash and liquids
 - Requires an annual inspection by an independent registered professional engineer to assure that the construction, operation, and maintenance of a surface impoundment is in accordance with generally accepted good engineering practices for containment of the maximum volume of coal ash and liquids
- Deletes a provision allowing states to waive requirements of the federal standards
- Requires that all coal ash management and disposal facilities be subject to permits
- Contains additional location restrictions and additional fugitive dust requirements
- Increases public data availability for groundwater monitoring data and permit documents
- Contains additional public notice and comment provisions
- Provides for EPA management of coal ash on tribal lands
- Provides that structures receiving only small amounts of coal ash incidental to the material otherwise managed in the unit are not regulated as “structures”
- Addresses potential grid reliability issues by clarifying that the obligations of an owner or operator of a structure to comply with the Federal Power Act are not changed

H.R. 2218 CLARIFIES AND REORGANIZES THE TEXT AND MAKES SEVERAL ADDITIONAL KEY IMPROVEMENTS:

- Adds a deadline for states to issue permits and requires that owners/operators comply with certain requirements in the interim period until permits are issued
- Makes explicit the criteria by which EPA can assess whether a state permit program is deficient
- Requires a periodic evaluation for appearances of structural weakness and requires consultation between the implementing agency and the state dam safety officials
- Addresses issues at closed facilities by clarifying that nothing in the bill impacts authority to investigate and remediate the sites under CERCLA
- Clarifies that a closure plan must provide for closure as soon as practicable
- Requires an emergency action plan be prepared for high hazard structures and requires that if a potentially hazardous condition is identified, that immediate action be taken to mitigate the condition

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