**HOW MCKINLEY’S HR 1734 FALLS FAR SHORT OF THE EPA’S CCR RULE**

***Comparison of the Key Health and Environmental Protections in EPA’s Rule vs HR 1734***

The EPA Rule’s requirements for public disclosure, monitoring, structural stability, cleanup, spill response, and closure of dangerous ponds and landfills differ substantially from those in McKinley’s coal ash bill (HR 1734). HR 1734 fails to incorporate all the requirements of the EPA rule, and it gives great latitude to states to alter the EPA rule’s requirements. Consequently HR 1734 cannot guarantee public safety nor can it guarantee that citizens near coal ash dumps are informed of drinking water contamination or dam safety problems.

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| **KEY REQUIREMENT** | **EPA CCR RULE** | **MCKINLEY’S HR 1734** |
| **Federal standard to protect human health and environment** | YES. The rule ensures “no reasonable probability of adverse effects on health or the environment.”  RCRA §4004(a) | NO. There is no standard of protection to which state permits, rules, or actions of the must conform. |
| **Robust public disclosure of Information** | YES. Rule requires posting (starting Oct 2015) on a publicly accessible website of ground-water monitoring data, cleanup plans, inspections, structural stability assessments, etc.  § 257.107 | LIMITED. The bill does NOT guarantee that all data will be posted on an internet site. Discretion is left to the State as to what is required, which may not include actual monitoring data or inspections. Further, all information is subject to nondisclosure if a company submits a Confidential Business Information (CBI) claim.§ 4011(c)(1)(B)  § 4011(b)(2)(C)(iii)(I)(dd) |
| **Immediate response to spills and releases from coal ash ponds and landfills** | YES. All releases are subject to immediate cleanup, public notice, and corrective action.  § 257.90(d) | NO response required. Implementing agency may determine that corrective action is not necessary or required for spills. No public notice of spills is required. § 4011(c)(B)(ii)(IV) |
| **Closure requirement for unlined ponds that violate health-based groundwater standards** | YES. Leaking unlined ponds that violate health-based groundwater protection standards must cease receiving waste within 6 months and close. § 257.101(a)(1) | NO. Leaking unlined ponds may continue to accept coal ash for 102 months after exceeding health-based groundwater standards, and exceedances of health standards can continue for up to 8.5 years.  § 4011(c)(B)(ii)(VI) |
| **Requirement that ponds failing to demonstrate structural stability must stop accepting waste within 6 months and close** | YES. Impoundments that fail to demonstrate the minimum fed. safety standards for structural stability must cease accepting waste within 6 months and close. § 257.101 | NO. The owner/operator has up to 12 additional months to meet safety factors even if federal structural stability standards are not met.  § 4011(c)(L)(ii) |
| **KEY REQUIREMENT** | **EPA CCR RULE** | **MCKINLEY’S HR 1734** |
| **Prohibits coal ash dumps in five sensitive or dangerous locations, including prohibiting placing coal ash in drinking water aquifers** | YES. Five restrictions apply to existing ponds and expansions. Placement is prohibited: w/in 5 feet of groundwater aquifers; in wetlands; in fault areas; in seismic impact zones, in floodplains and in unstable areas. Existing landfills are prohibited from unstable areas. Existing ponds that violate location restrictions must cease dumping within 6 months of the effective date of the requirement and close. §§ 257.60 – 257.64 | NO. Siting prohibitions only apply to unstable areas and floodplains. There is NO prohibition against placing coal ash directly into a drinking water source. Coal ash ponds currently constructed in a drinking water aquifer can continue to accept waste indefinitely.  § 4011(c)(E) |
| **Requirement to close inactive (legacy) ponds at power-producing sites within 3 years or the ponds are subject to all safety requirements** | YES. Inactive ponds must close within 3 years. If a pond is not closed w/in 3 years, the pond is subject to the full set of requirements, including groundwater monitoring and cleanup.  §§ 257.101(b)(2), 257.73 (f)(4) | NO. Inactive ponds have 3-5 years to close. If the owner/operator does not meet the 5-year closure deadline, there are NO req’ts that apply to the pond (no structural stability standards, inspections, etc.) for an indefinite period of time.  §§ 4011(c)(4), 4011(C)(4)(D) |
| **Groundwater monitoring systems must ensure groundwater is not contaminated by coal ash** | YES. Owners and operators of landfills and ponds must monitor groundwater at the boundary of the waste unit to ensure that leaks are immediately detected and that contamination is addressed at once. | NO. States can allow owners and operators to establish an “alternate compliance boundary” where wells are placed distant from the waste unit, thus allowing groundwater contamination to occur, without the need for immediate cleanup.  § 4011(c)(2)(B)(ii)(I) |
| **Groundwater monitoring and cleanup**  **requirements are consistent nationwide** | YES. Every state has the same level of protection for drinking water, including stringent groundwater monitoring and cleanup requirements when contamination by coal ash occurs. § 257.95(h) | NO. States can waive some groundwater monitoring req’ts and completely waive all cleanup requirements: (1) for some common coal ash pollutants (e.g, boron, molybdenum, manganese, radium 226, radium 228); and (2) when a State does not believe cleanup is necessary.  § 4011(c)(2)(B)(ii)(II)  § 4011(c)(2)(B)(ii)(V) |