

112TH CONGRESS
1ST SESSION

H. R. 1391

To prohibit the Environmental Protection Agency from regulating fossil fuel combustion waste under subtitle C of the Solid Waste Disposal Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2011

Mr. MCKINLEY (for himself, Mr. WHITFIELD, Mr. RAHALL, Mr. HOLDEN, Mr. TERRY, Mrs. CAPITO, Mr. OLSON, Mr. BARTON of Texas, Mr. POMPEO, Mr. GIBBS, Mr. GUTHRIE, Mr. KINZINGER of Illinois, Mrs. MCMORRIS RODGERS, Mr. CRITZ, Mr. MURPHY of Pennsylvania, and Mr. GRIFFITH of Virginia) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit the Environmental Protection Agency from regulating fossil fuel combustion waste under subtitle C of the Solid Waste Disposal Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Recycling Coal Com-
5 bustion Residuals Accessibility Act of 2011” or the
6 “RCCRA Act of 2011”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds the following:

1 (1) Pursuant to section 3001(b)(3)(C) of the
2 Solid Waste Disposal Act (42 U.S.C.
3 6921(b)(3)(C)), the Environmental Protection Agen-
4 cy, in two separate final regulatory determinations,
5 “Final Regulatory Determination on Four Large-
6 Volume Wastes From the Combustion of Coal by
7 Electric Utility Power Plants” published at 58 Fed.
8 Reg. 42466 (August 9, 1993) and “Notice of Regu-
9 latory Determination on Wastes from the Combus-
10 tion of Fossil Fuels” published at 65 Fed. Reg.
11 32214 (May 22, 2000) (hereinafter the “2000 regu-
12 latory determination”), concluded that neither large-
13 volume coal combustion wastes, nor any of the re-
14 maining fossil fuel combustion wastes, warrant regu-
15 lation under subtitle C of the Solid Waste Disposal
16 Act.

17 (2) In its 2000 regulatory determination, the
18 Environmental Protection Agency found that regula-
19 tion of fossil fuel combustion wastes under subtitle
20 C of the Solid Waste Disposal Act would be environ-
21 mentally counterproductive because such regulation
22 would unnecessarily stigmatize such wastes and im-
23 pede their beneficial use.

24 (3) The Department of Energy, the Federal
25 Highway Administration, and the Department of

1 Agriculture have studied fossil fuel combustion
2 wastes and determined that such wastes do not re-
3 quire a hazardous waste designation under subtitle
4 C of the Solid Waste Disposal Act.

5 (4) Roughly 42 percent of fossil fuel combus-
6 tion wastes are used beneficially in a variety of ap-
7 plications, including in concrete, wallboard, bricks,
8 agricultural fertilizers, soil amendments, roofing ma-
9 terials, and other consumer products, in producing
10 road base and fill materials, and in snow and ice
11 control products.

12 (5) According to the Environmental Protection
13 Agency, 13,700,000 tons of fossil fuel combustion
14 wastes were recycled and used in place of Portland
15 cement in 2007, saving the United States nearly
16 73,000,000,000,000 BTUs of energy, which is equiv-
17 alent to the annual energy consumption of more
18 than 676,000 households. Greenhouse gas emissions
19 were also reduced by 12,400,000 metric tons of car-
20 bon dioxide equivalent, roughly the annual green-
21 house gas emissions of 2,300,000 vehicles.

22 (6) The regulatory impact analysis for the En-
23 vironmental Protection Agency's proposed rule enti-
24 tled "Hazardous and Solid Waste Management Sys-
25 tem; Identification and Listing of Special Wastes;

1 Disposal of Coal Combustion Residuals From Elec-
2 tric Utilities” published at 75 Fed. Reg. 35128
3 (June 21, 2010) stated that such proposed rule did
4 not include either a qualitative or quantitative esti-
5 mation of the potential effects of the proposed rule
6 on economic productivity, economic growth, employ-
7 ment, job creation, or international economic com-
8 petitiveness.

9 **SEC. 3. NO REGULATION OF FOSSIL FUEL COMBUSTION**
10 **WASTE UNDER SUBTITLE C OF THE SOLID**
11 **WASTE DISPOSAL ACT.**

12 Section 3001(b)(3) of the Solid Waste Disposal Act
13 (42 U.S.C. 6921(b)(3)) is amended by adding at the end
14 thereof the following:

15 “(D) Notwithstanding the provisions of paragraph
16 (1) or any other provision of this paragraph, each waste
17 listed in clause (i) of subparagraph (A) of this paragraph
18 shall not be subject to regulation under this subtitle.”.

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