

111TH CONGRESS  
1ST SESSION

# H. R. 493

To direct the Secretary of the Interior to promulgate regulations concerning the storage and disposal of matter referred to as “other wastes” in the Surface Mining Control and Reclamation Act of 1977, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2009

Mr. RAHALL introduced the following bill; which was referred to the  
Committee on Natural Resources

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## A BILL

To direct the Secretary of the Interior to promulgate regulations concerning the storage and disposal of matter referred to as “other wastes” in the Surface Mining Control and Reclamation Act of 1977, and for other purposes.

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 “Coal Ash Reclamation,  
5       Environment, and Safety Act of 2009”.

1 **SEC. 2. REQUIREMENTS FOR SURFACE STORAGE AND DIS-**  
2 **POSAL OF COVERED WASTES IN IMPOUND-**  
3 **MENTS.**

4 (a) REGULATIONS.—The Secretary of the Interior  
5 shall, within 180 days after the date of enactment of this  
6 Act, promulgate regulations that establish design, engi-  
7 neering, and performance standards that provide for safe  
8 storage and disposal of covered wastes in impoundments.

9 (b) IMPOUNDMENT REQUIREMENTS.—The regula-  
10 tions under subsection (a) shall require that an impound-  
11 ment for the storage or disposal of covered wastes shall  
12 be designed, constructed, and maintained in accordance  
13 with requirements that are substantially similar to the re-  
14 quirements that apply to impoundments under paragraphs  
15 (8), (11), and (13) of section 515(b) and section 515(f)  
16 of the Surface Mining Control and Reclamation Act of  
17 1977 (30 U.S.C. 1265(b), 1265(f)).

18 (c) PROHIBITION.—No person shall construct or op-  
19 erate any impoundment for the storage or disposal of cov-  
20 ered wastes on any land in any State except in accordance  
21 with regulations promulgated under subsection (a).

22 (d) INSPECTIONS, PENALTIES, AND ENFORCE-  
23 MENT.—For purposes of sections 517, 518, and 521 of  
24 the Surface Mining Control and Reclamation Act of 1977  
25 (30 U.S.C. 1267, 1268, 1271)—

1           (1) this section and permitting, design, per-  
2           formance, and other requirements and prohibitions  
3           established by the regulations and orders under this  
4           section shall be treated as requirements and prohibi-  
5           tions under that Act; and

6           (2) an impoundment for the deposit and main-  
7           tenance of covered wastes in violation of this section,  
8           the regulations this section, or any order under sub-  
9           section (e) shall be treated as a surface coal mining  
10          operation.

11         (e) PRE-EXISTING IMPOUNDMENTS.—

12           (1) LIMITATION ON APPLICATION.—Except as  
13           provided in an order under this subsection, the regu-  
14           lations under subsection (a) and subsections (c) and  
15           (d) shall not apply to an impoundment for the de-  
16           posit and maintenance of covered wastes that is in  
17           existence on such date of enactment.

18           (2) INVENTORY.—The Secretary shall, within  
19           12 months after the date of enactment of this Act,  
20           complete an inventory of all impoundments for the  
21           deposit and maintenance of covered wastes in exist-  
22           ence on such date of enactment. The inventory shall  
23           include—

24                   (A) an assessment of the design, stability,  
25                   and engineering of embankments and basin

1           characterization and design of each such im-  
2           poundment;

3                   (B) an assessment of risks to surface and  
4           groundwater posed by each such impoundment;  
5           and

6                   (C) a determination on the degree of risk  
7           each such impoundment poses to human and  
8           environmental health.

9           (3) ORDERS.—Based on the assessments and  
10          determination of degree of risk under paragraph (2),  
11          the Secretary may issue any order necessary to en-  
12          sure that any such impoundment complies with re-  
13          quirements established by the regulations under this  
14          section.

15          (4) REPORT TO CONGRESS.—Not later than one  
16          year after the date of completion of the inventory  
17          under paragraph (2), the Secretary shall report to  
18          Congress on the findings and determinations of the  
19          inventory.

20          (f) STATE PROGRAMS.—The Secretary shall imple-  
21          ment the requirements of this Act pursuant to the regula-  
22          tions promulgated pursuant to subsection (a), except that  
23          any State with an approved State program under section  
24          503 of the Surface Mining Control and Reclamation Act  
25          of 1977 (30 U.S.C. 1253) may submit to the Secretary

1 a revision to such State program to incorporate the regula-  
2 tions under subsection (a) subject to the terms and condi-  
3 tions of section 503 of the Surface Mining Control and  
4 Reclamation Act of 1977 (30 U.S.C. 1253).

5 (g) RELATIONSHIP TO OTHER LAW.—

6 (1) FEDERAL LAW.—Nothing in this section  
7 shall affect any authority under any other Act of  
8 Congress to prohibit the construction or operation of  
9 any impoundment for the storage or disposal of cov-  
10 ered wastes.

11 (2) STATE LAW.—Any reclamation, land use,  
12 environmental, or public health protection standard  
13 or requirement in State statute or regulation with  
14 respect to the regulation of impoundments or of the  
15 storage or disposal of covered wastes that meets or  
16 exceeds the requirements and prohibitions of this  
17 section and the regulations issued under this section  
18 shall not be construed to be inconsistent with this  
19 section or any regulation under this section.

20 (h) IN GENERAL.—In this section:

21 (1) COVERED WASTES.—The term “covered  
22 wastes”—

23 (A) means material referred to as “other  
24 wastes” in section 515(b)(11) of the Surface

1 Mining Control and Reclamation Act of 1977  
2 (30 U.S.C. 1265(b)(11)); and

3 (B) includes coal ash, slag, and flue gas  
4 desulfurization materials stored or disposed of  
5 in liquid, semi-liquid, or solid form.

6 (2) IMPOUNDMENT.—The term “impoundment”  
7 means any dam or embankment used to retain cov-  
8 ered wastes.

9 (3) SECRETARY.—The term “Secretary” means  
10 the Secretary of the Interior.

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