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### **Study Finds State Protections for Coal Ash Inadequate**

*States lack important safeguards for public health, operating old, dangerous coal ash dumps*

Washington, D.C. – A [new study](#) finds that state regulations regarding coal ash disposal are inadequate to protect public health and drinking water supplies for nearby communities. The information comes as federal regulations—the first of their kind—are under attack by a hostile Congress bent on derailing any effort to ensure strong, federally enforceable safeguards for coal ash, America’s second largest industrial waste stream.

Earthjustice and the Appalachian Center for the Economy and the Environment today released [“State of Failure: How states fail to protect our health and drinking water from toxic coal ash.”](#) an exhaustive review of state regulations in 37 states, which together comprise over 98 percent of all coal ash generated nationally. The study highlights the lack of state-based regulations for coal ash disposal and points to the 12 worst states when it comes to coal ash management and disposal: Alabama, Georgia, Illinois, Indiana, Kentucky, Missouri, North Carolina, Ohio, Tennessee, Texas, South Carolina and Virginia.

Alabama is the only state where dams are **completely unregulated** at the federal level. Because the state completely exempted coal ash disposal in landfills, more than 5 million tons of ash from Kingston TVA was shipped in for disposal. Although the average coal ash pond has reached EPA’s estimated life span of 40 years, there are no announced retirement plans. These ponds disproportionately affect the communities of color and low-income communities that make up over 40 percent and 25 percent of the surrounding area.

“Alabama Power Companydisposes coal ash slurry at three large coal-fired power plants along the Black Warrior River and its tributaries in Alabama,” said Nelson Brooke, Black Warrior Riverkeeper. “Large volumes of contaminated water are discharged out of these three ponds into the river every day, with scant regulation and oversight. We need stronger coal ash regulations in place now as air pollution scrubbers are being installed at power plants, a process that is transferring harmful pollutants such as heavy metals from the air into our water.”

“It’s a travesty that our communities of color and low-income communities continue to bear the brunt of living near these toxic sites,” said Barbara Evans of Wild Law. “Seeing as how our state isn’t protecting its communities we really do require federal regulations to keep us safe from this dangerous waste.”

There are currently over 700 coal ash dams, many of which operate without adequate lining and no water quality monitoring, and have been operating in some instances for decades. Most states do not require coal ash ponds and dumps to employ the most basic safeguards required at landfills for household garbage. Of the 37 states examined:

- only 3 states require composite liners for all new coal ash ponds;
- only 4 states require composite liners for all new coal ash landfills;
- only 2 states require groundwater monitoring of all coal ash ponds;
- only 4 states require groundwater monitoring of all coal ash landfills;
- only 6 states prohibit siting of coal ash ponds into the water table;
- only 17 states require regulatory inspections of the structural integrity of coal ash ponds.

Although a 2008 spill of more than 1 billion gallons of coal ash in Kingston, Tennessee, remains the biggest environmental disaster, many other smaller yet equally dangerous spills have occurred. [“State of Failure”](#) details nearly a half dozen other coal ash spills that happened across the country. The study also includes detailed information on groundwater monitoring requirements, composite liners, construction of coal ash ponds in the water tables and financial assurance requirements for existing and new coal ash sites in all 37 states where coal ash is currently generated and stored.

Coal ash is the toxic remains of coal-fired power plants; enough is generated each year to fill train cars stretching from the North Pole to the South Pole. This ash is filled with dangerous levels of mercury, arsenic, chromium, lead, selenium and other toxic metals. Coal ash is commonly dumped into unlined and unmonitored ponds and dumps. Well over a hundred reports of water contamination have surfaced at drinking water supplies and surface waters located near coal ash dump sites.

Earthjustice and the Appalachian Center for the Economy and the Environment reviewed state laws and regulations as well as existing data from the U.S. Environmental Protection Agency. The EPA is currently considering a federal proposal to regulate coal ash that includes two options: the first option would classify coal ash as hazardous waste, requiring water quality monitoring, liners and the phase out of dangerous “wet” storage of coal ash, such as the site that collapsed in Kingston. The second option would continue to allow states to inadequately regulate coal ash by establishing only guidelines that states are free to ignore. Unsurprisingly, coal ash generators support the weaker option. The EPA, under pressure from industry, has postponed finalizing the coal ash standard until 2012.

But coal ash allies in the U.S. Senate and the House of Representatives are not content with delay. Two bills currently moving through the House seek to undermine any efforts by the EPA

to set federal enforceable safeguards for coal ash disposal. Both bills require EPA to let the states – and the states alone – decide how to regulate ash, with little federal oversight.

“This report proves unequivocally that state programs, without federal mandates or oversight, are a recipe for disaster when it comes to protecting our health and our environment,” said Lisa Evans, senior legislative counsel at Earthjustice and a co-author of the study. “Strong, federally enforceable safeguards are needed to guarantee that our drinking water remains free of arsenic, lead, mercury and other toxic metals found in coal ash. The myth that states are doing a good job protecting Americans from coal ash is absolutely busted.”

“The problem with relying on state regulations is that they are not designed for the unique problems of coal ash generally and coal ash impoundments particularly,” said Mike Becher, the Equal Justice Works Fellow at the Appalachian Center for the Economy and the Environment. “While many coal ash impoundments are regulated by state dam safety programs, these programs were developed to deal with dams holding back water, not toxic substances. State solid waste programs, on the other hand, are not used to dealing with large impoundments and the threat of a catastrophic dam failure like the one seen in Kingston, Tennessee in 2008.”

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