



COMMITTEE ON *DEMOCRATS*  
**ENERGY & COMMERCE**  
RANKING MEMBER FRANK PALLONE, JR.

**FOR IMMEDIATE RELEASE**  
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**Statement of Frank Pallone, Jr.**  
**Ranking Member**  
**Committee on Energy and Commerce**  
**Subcommittee on Environment and the Economy**  
**Hearing on**  
**Improving Coal Combustion Residuals Regulation Act of 2015**  
**March 18, 2015**

Thank you, Chairman Shimkus.

This is the second hearing this Congress on the important topic of coal ash. In January, this Subcommittee heard from EPA and stakeholders about the Agency's new final rule. After years of debate, at the Agency and in Congress, over the proper regulation of coal ash, the Agency had reached a verdict.

EPA's final rule reflects a tremendous effort, and it will, for the first time, provide the framework for addressing this serious environmental problem. This rule is the product of a robust public process, including field hearings and several rounds of public comment. It reflects the input of over 450,000 commenters, including states, industry groups, environmental groups, and individual concerned citizens.

In the end, EPA finalized a rule that addressed almost all of the concerns this Subcommittee has heard about for years.

Those in the coal ash recycling industry, who make things like concrete and wall board substituting coal ash for virgin material, had sought a non-hazardous rule under subtitle D of RCRA. That is what they got.

Those in the electric utility industry wanted a subtitle D rule that would not require them to retrofit their existing impoundments with liners. That is what they got.

States wanted a mechanism to set up their own programs to implement federal standards and to have EPA approve them. That is what they got.

The only stakeholders who really did not get what they sought in this rule were the environmental and public health advocates, who wanted a stronger, subtitle C rule with a requirement that the giant, unlined pits currently receiving this dangerous waste be retrofitted to protect groundwater.

Other than those calls to strengthen the rule, the reaction to EPA's rule has been positive. The Agency testified that they have every confidence in the rule and do not see a need for legislation. Members on both sides of the aisle expressed their support.

So I am surprised that we find ourselves here today, considering legislation that would replace that rule before it has taken effect and undermine the robust public process that went into it. I am even more surprised that the stakeholders who are here today expressing support for legislation are the same ones whose concerns have been addressed in the rule.

I do not see a need for legislation at this time. Instead, I think EPA and the states should be allowed to move forward and implement the final rule, subject to this Committee's oversight.

I do want to say a few words about the specific legislation that is the subject of today's hearing. This new proposal retains the problems of past proposals, which have been discussed extensively in this Subcommittee. It would create a new model of delegation to states with a

sharply curtailed role for EPA. It does not include a legal standard of protection, a substantive EPA role in reviewing state programs, or EPA backstop enforcement authority.

The new proposal presents additional concerns as well, because necessary health protections included in EPA's final rule are left to state discretion or left out entirely. Groundwater monitoring and protection, closure requirements, cleanup requirements – all could be weaker under this bill than under the final rule. If anything, we should be strengthening the protections in the final rule, not weakening them.

So I think that this legislation is unnecessary, and dangerous for public health and the environment. I applaud EPA for their hard work on the coal ash final rule, and I hope this Subcommittee can move forward in an oversight role as implementation begins.