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House of Representatives
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Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on a discussion draft of H.R. ____,
The Coal Ash Recycling and Oversight Act of 2013
Subcommittee on Environment and the Economy
April 11, 2013

Today, the Subcommittee examines a discussion draft that would govern the disposal of coal ash – the toxic-laden residual waste from burning coal.

This language isn't new. It is almost identical to the bill reported by this Committee in the last Congress without ever being examined in a legislative hearing. It is identical to the language that 90% of Democrats opposed when it was considered on the House floor in September of last year. It's the same language that has been exhaustively analyzed by the Congressional Research Service (CRS) and found severely wanting. And it's the same language that has failed to get sufficient support in the U.S. Senate.

Over the years, Congress and the states have developed a proven model for environmental protection that has successfully reduced pollution and enhanced the protection of the public health. We had a hearing on that model of environmental federalism just two months ago and heard from stakeholders that it continues to work well.

States have received delegation for just over 96% of the environmental programs that can be delegated. This is an impressive track record that has protected the American people from pollution-induced respiratory diseases, from contaminants in their drinking water, and from toxic environmental exposures that can cause cancers and other diseases.

Despite these successes, the discussion draft we consider today would abandon the proven models of environmental protection and adopt an approach that we have every reason to believe would fail if enacted. This proposal will not ensure the safe disposal of coal ash. It will not prevent groundwater contamination from unlined ash ponds or prevent coal ash impoundments from failing catastrophically. It will not allow EPA to complete its rulemaking to identify the disposal criteria necessary to protect human health and the environment.

I continue to oppose such an approach and believe that there is simply not the support for this proposal to become law.

But as I have said for two years now, I am willing to work with the majority on this issue to get a law if the Chairman wants a law.

That would require rethinking this legislation and listening to the expert views available to us. EPA, the Congressional Budget Office, and CRS all have relevant expertise on this legislation. Their views must not be dismissed and in fact relying on their expertise will only help us craft a much better piece of legislation.

I believe this is an issue we should be able to resolve. We can provide certainty and reasonable standards that work for industry. And at the same time, we can ensure that health and the environment are protected.

What we should avoid is remaining gridlocked on a stale proposal. That won't stop dangerous coal ash dumping. It won't prevent toxic contamination from leaking into the ground water and surface water. And it won't promote beneficial reuse of coal ash.

Whether it's by administrative or legislative action, it is time to resolve this issue and ensure the safe disposal of coal ash. Environmental groups and the biggest recycler of coal ash in the country have sued EPA to complete their regulatory process and get a rule finalized.

Mr. Chairman, I hope we can work together on this issue. And if not, I hope EPA will move expeditiously to establish strong standards that ensure the safe disposal of coal ash.