

**Opening Statement of the Honorable Fred Upton
Subcommittee on Environment and the Economy
Hearing on “Discussion Draft of The Coal Ash Recycling and Oversight Act of 2013”
April 11, 2013**

(As Prepared for Delivery)

Our efforts to solve the coal ash issue continue. We began the last Congress by asking: Should we allow EPA to write rules that would bind every state regardless of geography, hydrology, history, and economics, or should we allow the states to build and operate their own permitting systems?

The answer that this committee reported, and which the House passed, both with bipartisan support, was a compromise. It gave the choice to the states to apply minimum federal standards specified in the legislation itself, or a state could vacate the field and let EPA step in and run that state’s program directly. Mr. McKinley’s bill, H.R. 2273 passed the House with bipartisan support in October 2011.

Building on the House-passed bill, Senators Hoeven and Baucus and a bi-partisan Senate group wrote S. 3512. It preserved the approach of our House bill, but added more detail to the minimum federal standards. For example, S. 3512 added a requirement that leaking surface impoundments meet a groundwater protection standard within a certain time period or they are required to close.

S. 3512 also included a requirement that all structures that receive coal ash after enactment install groundwater monitoring within one year after a state certifies its program. S. 3512 was introduced on August 2, 2012, with by Senators Hoeven and Baucus and 12 Republicans and 12 Democrats as original co-sponsors. The text of today’s discussion draft is actually the text of S. 3512.

We are eager to hear from our witnesses today as they focus on the details of the legislation before us. We welcome witnesses’ suggestions to improve the text. However, we do prefer to preserve the signature approach of the bill: minimum statutory standards implemented by the states.

We welcome Mr. Stanislaus and thank him for testimony that is quite useful as it directly addresses the legislation. That’s what a legislative hearing is for. We know that he would like to resolve the coal ash issue. The dispute about how to regulate coal ash ties up EPA in court and prevents all parties from moving forward. This legislation aims to help settle that litigation.

We also welcome our state environmental officials. We look forward to learning from them:

- how they will develop certified programs that EPA can approve: and
- whether the nuts and bolts of the bill are tight enough to make the vehicle work in the real world.

I also expect the witnesses to answer questions about details of the legislation - Are the minimum federal standards the right ones? How do they compare with what EPA proposed? Should we consider some type of timeline for state implementation? Do the states welcome the approach set out in the Discussion Draft?

Thank you to all our experts for joining us today as we work to resolve this important issue.

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