A Decade Later/A Review of Congressional Action, Environmental Protection Agency Rules, and Beneficial Use Opportunities for Coal Ash: U.S. House of Representatives Energy and Commerce Committee Hearing

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The Subcommittee on Environment of the United States House of Representatives Energy and Commerce Committee held a June 26th Hearing titled:

A Decade Later: A Review of Congressional Action, Environmental Protection Agency Rules, and Beneficial Use Opportunities for Coal Ash ("Hearing").

The stated focus of the Hearing was to:

… discuss how coal ash can be used safely and effectively in construction as well for the remining of critical materials.

Coal ash is often also referred to as coal combustion residuals, or CCRs. It is produced primarily from the burning of coal and coal-fired power plants.

Coal ash includes a number of biproducts produced from burning coal, which can include:

- Fly ash.
- Bottom ash.
- Boiler slag.
- Flue gas desulfurization material.

The disposal or reuse of coal ash can depend on:

- Type of bi-product.
- Processes at the plant.
- Applicable regulations.

Coal ash can and is often reused in various ways which can produce:

- Environmental benefits.

- Economic benefits.
- Product benefits.

The state environmental agencies have traditionally been primarily responsible for regulating the beneficial use of coal ash. Under the Resource Conservation and Recovery Act, coal ash is excluded from federal hazardous waste regulations. Nevertheless, the United States Environmental Protection Agency ("EPA") has promulgated rules that regulate the disposal of coal ash. The EPA rules address the handling, storing, and maintenance of coal ash. Further, in 2024, EPA expanded its regulatory requirements to address coal ash storage at inactive power plant sites and other previously closed locations.

In preparation for the June 26th Hearing, the Majority Staff of the Subcommittee developed a Memorandum addressing:

- CCRs.
- Regulation of coal ash.
- Issues for discussion.

The issues for discussion at the Hearing included:

- The status of EPA's implementation of section 2301 of the WIIN Act providing authority under RCRA for EPA and states to regulate coal ash through permit programs.
- The role states can play in effectively regulating coal ash and barriers that may inhibit states from seeking EPA approval of state permit programs.
- The impact of EPA's coal ash regulations on the electric utility sector and the general public.
- Environmental benefits of using coal ash and the potential of coal ash to serve as a reliable domestic source of rare earth elements.

The witnesses at the Hearing included:

- Dave Glatt, Director, North Dakota Department of Environmental Quality;
- Michelle Freeark, Executive Director of Regulatory Affairs and Corporate Services, Arizona G&T Cooperatives (on behalf of the National Rural Electric Cooperative Association);
- Tom Adams, Executive Director, American Coal Ash Association; and
- Lisa Evans, Senior Attorney, Earthjustice (Minority Witness).

A link to the Hearing Memorandum and Witness Testimonies can be found here.