

United States Senate

WASHINGTON, DC 20510

July 29, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building,
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson,

In regards to the Environmental Protection Agency's (EPA) recent proposal for regulating coal combustion residues (CCRs), we are writing to advocate that the EPA establish national criteria for the disposal of CCRs under Subtitle D of the Resource Conservation and Recovery Act (RCRA) as outlined in your June 21, 2010 proposed rule.

The coal ash impoundment failure at the Tennessee Valley Authority's Kingston facility in 2009 was a grave environmental disaster and reinforced the need for operators of CCR impoundments to take action to ensure structural and environmental soundness and avoid future accidents. Today it is important that the EPA is finally seeking to move forward with establishing national criteria to improve protection of public health and the environment under RCRA, and we believe the best approach for doing so is under Subtitle D.

The EPA first made the determination that establishing national criteria under Subtitle D of RCRA for CCRs was appropriate in 2000, following a finding in 1993 that CCR designation under Subtitle C was not needed. The Subtitle D option in the new proposed rule establishes important criteria for CCR landfills and surface impoundments related to liners, groundwater monitoring, corrective action, closure of units, and post-closure care, and the stability of surface impoundments. We would encourage the EPA to work closely with state regulators in addressing the enforcement of such criteria.

Moreover, any federal regulations in this area should continue to encourage recycling and the beneficial reuse of CCRs. CCRs are currently recycled for use in a variety of products including wallboard, cement, road materials and roofing shingles. Approximately 40 percent of the 136 million tons of CCRs are recycled for such purposes, and we are concerned that the proposed option to make CCRs a special listed waste under Subtitle C of RCRA would seriously hinder this important recycling activity and direct more CCRs towards landfills.

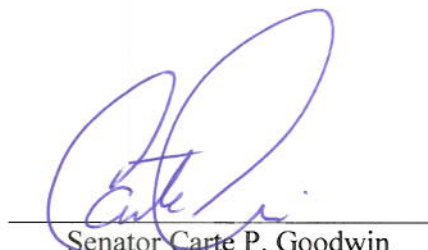
The time has come for the EPA to develop a federal program, working with the states, for CCR disposal practices under RCRA's Subtitle D that addresses structural stability of impoundments, protects public health, and promotes the recycling and beneficial reuse of CCRs.

Thank you for your consideration of this important matter.

Sincerely,



Senator John D. Rockefeller IV



Senator Carter P. Goodwin