

**Congress of the United States**  
**Washington, DC 20515**

September 3, 2020

The Honorable Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Dear Administrator Wheeler:

We write to express our profound concerns about the Environmental Protection Agency's (EPA) proposed revisions to the Disposal of Coal Combustion Residuals (CCR); A Holistic Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments; Implementation of Closure ("Part B Proposal").<sup>1</sup> With our nation facing a staggering public health crisis caused by the coronavirus pandemic, it is unconscionable that the Environmental Protection Agency would try to gut environmental standards that protect our constituents against the toxic effects of coal ash pollution. We urge you to immediately withdraw this proposal and instead work to strengthen the agency's 2015 coal ash rule.

Coal ash contains dangerous contaminants like mercury, cadmium and arsenic, which are detrimental to human health.<sup>2</sup> Without proper management, these toxins pollute our air and water, and have been linked to severe health complications including liver and kidney damage, cardiac arrhythmia, and a variety of cancers.<sup>3</sup> An analysis of national water monitoring reports found that groundwater contamination from coal ash was present at 91% of U.S. coal plants surveyed.<sup>4</sup> The EPA's 2015 coal ash rule recognized the public health threat posed by this contamination and required that safeguards be implemented to protect against groundwater pollution.

Despite the known danger coal ash contamination poses to our health, the EPA is inexplicably moving to gut the minimal protections established in 2015. The Part B Proposal is the agency's *sixth* attempt to roll back the 2015 rule.<sup>5</sup> If finalized, the rule would allow coal users to resume dumping millions of tons of toxic ash into unprotected, leaking and structurally flawed ponds - a gift to polluters that would irreparably damage the environment and jeopardize the health of our people.

The Part B Proposal contains two very dangerous provisions: First, the proposal permits certain toxic ash ponds to operate indefinitely as long as operators perform highly technical and

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<sup>1</sup> <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2019-0173-0001>

<sup>2</sup> <https://www.nytimes.com/2018/09/21/us/coal-ash-spill-dam-breach.html>

<sup>3</sup> <https://www.nrdc.org/onearth/coal-ash-hazardous-coal-ash-waste-according-epa-coal-ash-not-hazardous-waste#:~:text=Coal%20ash%20is%20incredibly%20dangerous.and%20a%20variety%20of%20cancers.>

<sup>4</sup> <https://environmentalintegrity.org/wp-content/uploads/2019/03/National-Coal-Ash-Report-Revised-7.11.19.pdf>

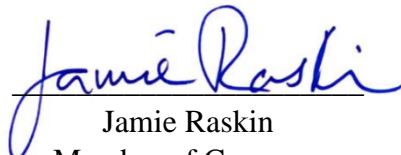
<sup>5</sup> See, CERCLA § 108(b) proposed determination for coal plants, the "Phase 1" rule, and proposed Phase 2, Part A, and permitting rules.

deeply flawed “demonstrations” of their own safety. Few regulators will have the necessary expertise to adequately evaluate these highly technical demonstrations. Moreover, the proposal excludes the public from meaningfully participating in the review process. Second, the proposal would allow coal users to continue dumping toxic ash into hundreds of high-risk ponds that were scheduled to close in compliance with the 2015 rule. Many of these high-risk ponds are already leaking dangerous chemicals, structurally impaired, and located in hazardous geological areas. Adding millions of tons of toxic ash to these unstable sites would endanger thousands of American lives and disproportionately harm low income areas and communities of color.

The EPA’s mission is to protect human and environmental health. It is your responsibility to ensure that Americans have clean air, safe water, and a healthy environment, all free from toxic poisoning. The 2015 coal ash rule is making strides to do just that and represents the most comprehensive federal plan to regulate the disposal of coal ash. We urge you to rescind your reckless proposal and instead work to strengthen the 2015 rule.

Thank you for your prompt and serious attention to this matter.

Very truly yours,



Jamie Raskin  
Member of Congress

Rashida Tlaib  
Member of Congress

Jim Cooper  
Member of Congress

Jerrold Nadler  
Member of Congress

Nydia M. Velázquez  
Member of Congress

Eleanor Holmes Norton  
Member of Congress

Alan Lowenthal  
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Stephen F. Lynch  
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Andy Levin  
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Nanette Diaz Barragán  
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Grace F. Napolitano  
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Steve Cohen  
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Barbara Lee  
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Mark Takano  
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Lucille Roybal-Allard  
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Debbie Dingell  
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Jared Huffman  
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James P. McGovern  
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Jesús G. “Chuy” García  
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Mike Quigley  
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