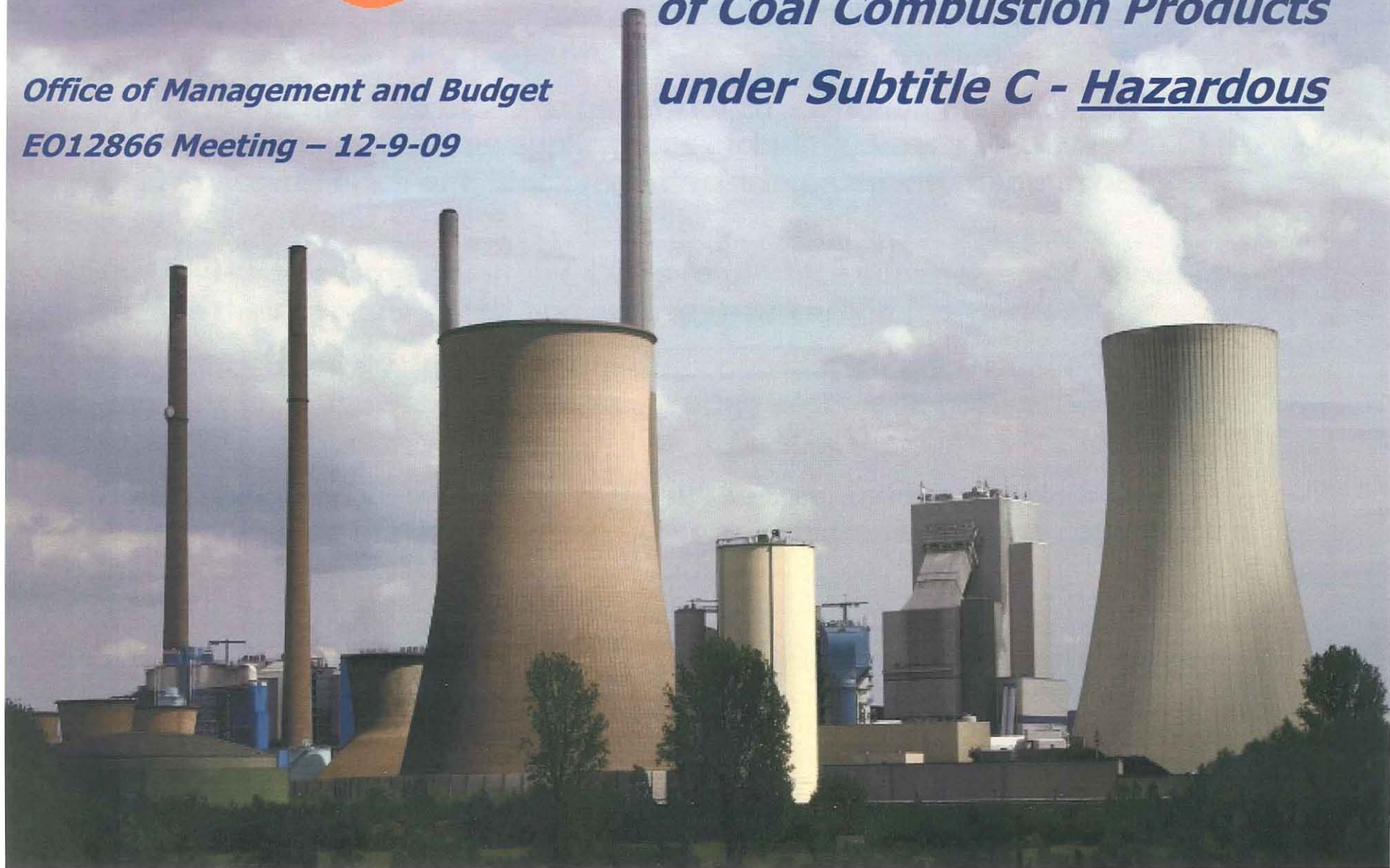


FlyAshDirect
TAKE CONTROL OF YOUR RESOURCES



*USEPA's Proposed Regulation
of Coal Combustion Products
under Subtitle C - Hazardous*

*Office of Management and Budget
EO12866 Meeting – 12-9-09*



FlyAshDirect is a rapidly expanding small business. We market Coal Combustion Products (CCP's) throughout OH, KY, PA, MI, IL, NY, WV. We have 25 full time employees and over 50 contract individuals providing exclusive services for our operations.

FlyAshDirect markets CCP's as beneficial construction materials into a multitude of cementitious applications including, Ready Mix Concrete, Pre-Cast Concrete, Brick and Block manufacturing, Cement manufacturing, Mining Grout, and Wallboard.

Our end-user customers utilize CCP's to produce superior quality products, reduce their product costs, and reduce their carbon footprint.

Our utility clients value our marketing contribution because we extend precious land fill reserves, lower operating costs, and reduce their carbon footprint.

Both Supply and Demand clients value the tremendous environmental contribution we make promoting CCP's as valuable beneficial construction materials.



CCP Production and Utilization....

CCP's are the fifth largest natural resource in the United States

Approximately 140 million tons of CCP's were produced in 2008

CCP's are widely used in the United States and around the world

Over 60 Million tons of CCP's were beneficially utilized in 2008

A few common Products and Applications include:

Commercial: Highways, Roads, Bridges, Dams, Airports

Industrial: Water Treatment Plants, Drain/Sewer systems, Culverts

Residential: Bricks, Block, Roofing shingles, wallboard, siding

CCP's have been successfully utilized for decades and the engineering benefits are well documented across a broad range of products and applications.

Why are CCP's Utilized?

CCP's are available in **ABUNDANCE** locally (all 50 states)

CCP's reduce the **COST** to produce many products

CCP's improve the **PERFORMANCE** and **DURABILITY** of many products

CCP's contribute to the **ENVIRONMENT**

CCP's safely exist all around us and provide significant environmental, social, and economic benefits.....



Concerns with Subtitle C Designation....

Managing CCP's under Subtitle C directly associate these materials as "Hazardous"

A Hazardous designation creates a stigma that CCP's simply do not deserve

A Hazardous designation will eliminate beneficial re-use even if the USEPA exempts certain cementitious applications

FlyAshDirect's utility clients have indicated to us that a hazardous designation will most likely force them to abandon beneficial marketing programs.

FlyAshDirect's customers and end-users have indicated that they are unwilling to accommodate the legal exposure of handling a material designated by the USEPA as hazardous.

Specifiers have indicated they would not allow a hazardous material in their projects due to tort exposure

DOT's would eliminate the use of fly ash and procure more costly materials

Unintended Consequences:

Significantly increased amounts of CO2 generation will occur as cement production will no longer be off-set by fly ash utilization.

Utilities will expand landfill utilization for the solid waste which is now beneficially utilized. This creates additional negative exposure to existing solid waste impoundments

US consumers will be burdened by significantly increased utility bills

Real estate values will plummet in areas proximate to CCP landfills

Widespread public health and safety concerns abound

Unnecessary legal exposure and potential Tort claims for products containing CCP's

Significantly increased costs to US manufacturers of a wide range of products

Many small businesses like FlyAshDirect who are engaged in the CCP marketing industry will cease to operate creating significant job loss and unemployment.

Widespread Opposition to EPA's position.....

State Regulatory Agencies

State Environmental Agencies

State Public Utility Commissions

Individual State Highway Administrations

Bi-partisan Senate letters

Congressional Letters

National Governors Association

Chambers of Commerce

Labor Unions

Technical and Educational Institutions

Industry Associations

See: <http://www.uswag.org/ccbletters.htm>



FlyAshDirect
TAKE CONTROL OF YOUR RESOURCES

Please Consider.....

CCP's have been successfully managed as non-hazardous materials for decades.....

No scientific evidence supports classification as hazardous waste...

The current non-hazardous classification has been evaluated multiple times over the past 20 years and each time it has been determined to continue as non-hazardous....

No other nation in the world manages CCP's as hazardous.....

There is widespread industry opposition to USEPA's position

Most Importantly.....

Federal regulatory concerns over disposal practices can easily be addressed without designating CCP's as "hazardous waste"

Appendix

- A. 2008 Coal Combustion Production and Use Report
- B. Coal Burning Power Plants in Ohio
- C. Major Metropolitan Cities example
- D. Letters from Ohio EPA
- E. Private Company
- F. FlyAshDirect Home Page and Contact





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2008 Coal Combustion Product (CCP) Production & Use Survey Report

Beneficial Utilization versus Production Totals (Short Tons)									
CCP Categories	Fly Ash	Bottom Ash	Boiler Slag	FGD Gypsum	FGD Material Wet Scrubbers	FGD Material Dry Scrubbers	FGD Other	FBC Ash	CCP Production / Utilization Totals*
2008 Total CCPs Produced by Category**	72,454,230	18,431,297	2,028,455	17,754,939	12,980,589	1,399,258	1,537,283	9,487,057	136,073,107
2008 Total CCPs Used by Category	30,142,274	8,076,255	1,689,892	10,653,344	695,104	345,335	136,766	8,864,690	60,593,660
Application Utilization Breakout									
1. Concrete/Concrete Products /Grout	12,592,249	720,948	0	675,505	0	22,577	0	4,341	14,015,616
2. Blended Cement/ Raw Feed for Clinker	3,174,264	610,194	0	413,740	0	0	0	0	4,198,198
3. Flowable Fill	74,794	0	0	0	0	18,338	0	0	93,132
4. Structural Fills/Embankments	8,012,825	2,995,388	178,353	0	0	130,566	105,525	75,579	11,501,247
5. Road Base/Sub-base	1,027,568	767,013	0	0	0	0	0	7,444	1,802,025
6. Soil Modification/Stabilization	627,910	431,664	0	0	0	60,115	0	132,379	1,251,968
7. Mineral Filler in Asphalt	7,781	257,806	0	0	0	0	0	0	265,587
8. Snow and Ice Control	0	699,561	1,352	0	0	0	0	0	700,913
9. Blasting Grit/Roofing Granules	84,881	66,670	1,486,316	0	0	0	0	0	1,637,867
10. Mining Applications	960,911	63,648	3,021	0	695,104	109,641	0	8,643,947	10,466,272
11. Gypsum Panel Products	0	0	0	8,533,732	0	0	0	0	8,533,732
12. Waste Stabilization/Solidification	2,923,552	84,901	0	744,592	0	1,221	30,240	0	3,784,546
13. Agriculture	35,340	3,771	0	279,875	0	2,877	0	0	320,863
14. Aggregate	154,952	727,048	15,422	0	0	0	0	0	901,462
15. Miscellaneous/Other	465,271	646,643	1,418	6,900	0	0	0	0	1,120,232
Summary Utilization to Production Rate									
CCP Categories	Fly Ash	Bottom Ash	Boiler Slag	FGD Gypsum	FGD Material Wet Scrubbers	FGD Material Dry Scrubbers	FGD Other	FBC Ash	CCP Utilization Total**
2008 Totals by CCP Type/Application	30,142,274	8,076,255	1,689,892	10,653,344	695,104	345,335	136,766	8,864,690	60,593,660
Category Use to Production Rate (%)***	41.60%	43.82%	83.31%	60.00%	5.28%	24.68%	8.90%	93.44%	44.53%
Supplemental:									
2008 Cenospheres Sold (Pounds)	10,975,008								

*Please note a format change to the 2008 survey form. AIRPPA numbers have been folded into the overall FBC Ash totals.

Note: ACAA received 2008 survey data representing:

- 107 of a total industry-wide 258 coal-fired electric utilities (i.e., 40%)
- 274 of a total industry-wide 500 coal-fired electric utility generating stations (i.e., 54%)
- 223,022 Mega/Watts Name Plate capacity of the total industry-wide 328,493 Mega/Watts Name Plate capacity (i.e., 68%)

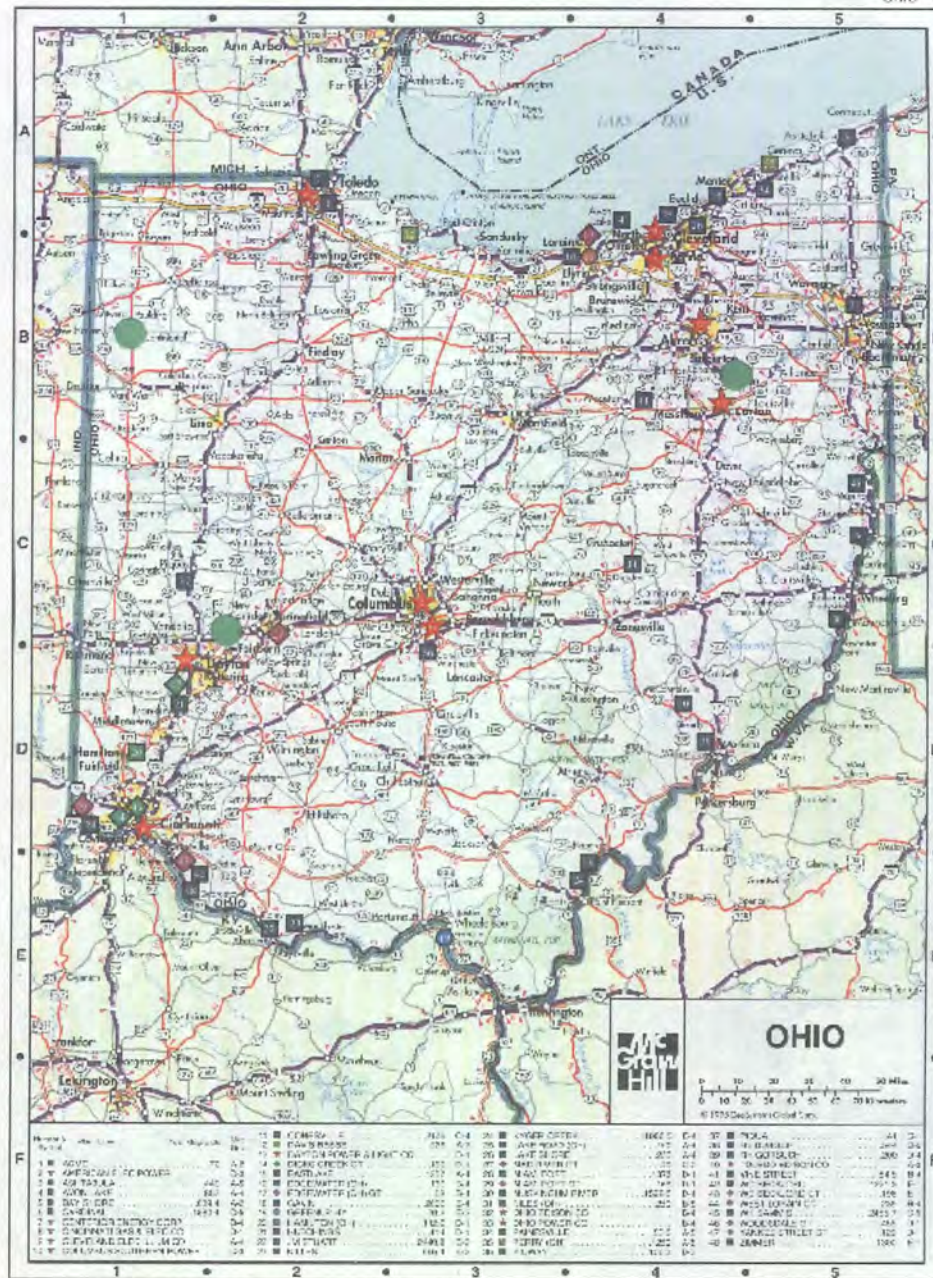
**All numbers represented in this survey report are derived from previous, current and applicable industry-wide available data, to include Energy Information Administration Reports 923 and 980.

***IMPORTANT: The total utilization to production percentage shown for 2008 has been modified as of a result of detected under reporting in 2007. 2007 should have been indicated as 44.81% as opposed to 42.74%.

10/5/09

A

In Ohio – there are 27 coal fired power plants dispersed throughout the state



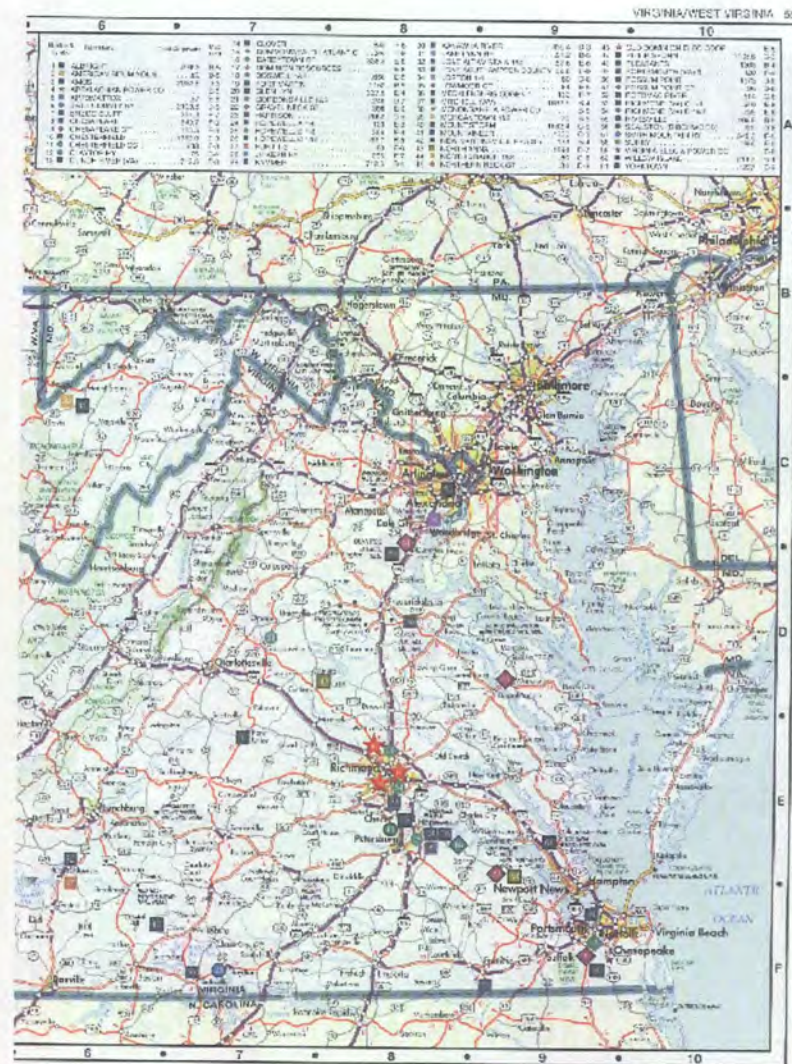
B

All major have coal fed power plants serving the metropolitan areas.....including CCP disposal facilities....

CHICAGO 71



VIRGINIA/WEST VIRGINIA 55



C

Ohio EPA is one of many State Environmental Regulatory agencies opposed to management under Subtitle C....



Ohio's State Environmental Protection Agency

DIRECT ADDRESS:

State of Ohio, Attention: Director
1575 Tower Dr., Suite 200
Columbus, Ohio 43261

MAILING ADDRESS:

P.O. Box 1219
Columbus, OH 43261-0121

March 16, 2009

Mr. Matt Hale
Director, Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Mr. Hale:

I understand that the U.S. Environmental Protection Agency is moving forward on developing regulations addressing coal combustion waste (CCW) and intends to propose rules by the end of this year. I wish to offer my thoughts regarding Ohio's preferred federal approach to CCW regulations.

I understand that various options are under consideration. My preferred option is to follow the previous 2000 USEPA decision to regulate CCW under RCRA Subtitle D.

Other options based upon regulation under RCRA Subtitle C provide no clear advantages to Ohio's solid waste or hazardous waste programs that cannot be accomplished under a RCRA Subtitle D regulatory approach. In fact, regulation of CCW under RCRA Subtitle C would needlessly complicate Ohio's existing programs and specifically the inclusion of CCW in Ohio's future beneficial use program. Under Ohio statute, hazardous waste and solid waste are distinct and mutually exclusive types of wastes. A federal hybrid approach towards regulation of CCW as a hazardous waste intended to be managed at a solid waste disposal facility is in conflict with Ohio law. From Ohio's perspective, federal regulation under RCRA Subtitle D is the appropriate approach.

Ohio's experience is that CCW is a high volume, low toxicity waste that has not exceeded RCRA Subtitle C-based hazardous waste characteristics. CCW disposal should be regulated and both CCW landfills and surface impoundments must obtain Ohio permits. Environmental regulation of CCW disposal is most reasonably accomplished under RCRA Subtitle D.

Ohio's experience as a federally approved Subtitle D municipal solid waste landfill permit program has been successful. The regulatory scheme USEPA has taken in 40 CFR part 258 (municipal solid waste landfills) establishing minimum national standards for the location, design, operation, closure, post-closure, corrective action, and

Mr. Matt Hale
Page 2

monitoring as well as the method of approving state permitting programs has worked well for over a decade. This is the model that USEPA should build upon and tailor to the concerns arising from CCW disposal and management.

Ohio EPA has valuable regulatory experience permitting and inspecting CCW disposal facilities. We look forward to assisting USEPA in the development of a national CCW regulatory program.

Sincerely,

Chris Korleski
Director

CK/DH/sw

Executive Director
Lee Pines, Executive Director
Chris Korleski, Director

1575 Tower Dr., Suite 200
Columbus, Ohio 43261

D

Compelling message from university professor and inventor.....



Freight Pipeline Company

Henry Liu
President & CEO

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Website for Brick: www.greenestbrick.com

To: Matt Hale, Director
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW, MC 5301P
Washington, DC 20460

Subject: Comment and Suggestion on Proposed Change of Classification for Fly Ash

Dear Mr. Hale:

I am the inventor of the Greenest Brick technology which won the 2008 C2P2 Award in Innovation, an award co-sponsored by EPA. My invention was also selected by both TIME and POPULAR SCIENCE magazines as one of top ten best inventions of 2007. I am also an emeritus professor of civil and environmental engineering (University of Missouri - Columbia). I would like to respond to the proposed EPA new regulation to classify coal-generated fly ash as a "hazardous waste." The opinion expressed here is strictly my own and is not reflecting that of any institution that I am affiliated with.

Frankly, I am against the proposed new regulation for the following reasons:

1. Studies by U.S. Geological Survey (USGS) have shown that the amounts of hazardous chemicals (heavy metals) that exist in coal-fired fly ash are minute - less than that exist in many natural rocks and soil.
2. Unlike coal dust which causes the black-lung disease to coal miners, no occupational hazard or disease has ever been identified with fly ash, in spite of the fact that fly ash handlers have been dealing with fly ash daily for decades now.
3. Experience tells us that fly ash is less hazardous than coal dust. Yet coal is not classified as hazardous, and is transported by trucks and trains routinely, causing some coal dust to be emitted into air.
4. There is a good scientific reason for fly ash to be less hazardous than coal dust, street dust and cement, none of which has been classified by EPA as "hazardous". Fly ash is less hazardous than these "non-hazardous" materials because most of the particles in fly ash are glassy spheres. They can be expelled from lungs relatively easily once they are inhaled, and can be removed from eyes easily by flushing the eyes with water. In contrast, most particles of coal dust, street dust and cement are particles of irregular shapes having sharp edges. They are far more difficult to expel from lungs or wash out of eyes.
5. Classifying fly ash as "hazardous waste" will generate the wrong impression—that fly ash is as dangerous as some of the truly hazardous materials such as the spent fuel of nuclear power plants, or hazardous waste from a chemical plant that manufactures sulfuric acid or cyanide. Classifying a non-hazardous material as "hazardous" does not serve public interest because it misleads the public, and diverts public attention from truly hazardous materials.
6. My experience has been that the public is very sensitive to the term "hazardous waste". Once fly ash is classified as "hazardous waste", the public will be reluctant to use any product made from fly ash despite assurances from the manufacturer that the product is safe. Therefore, classifying fly ash as "hazardous waste" is expected to harm all types of beneficial use of fly ash. It will severely hinder progress made in recent years in increasing beneficial use of fly ash in the United States.

7. Once classified as a "hazardous waste", the thousands of existing coal ash landfill sites scattered around the nation, including impoundments near power plants, will automatically become "hazardous waste sites," requiring Superfund cleanup. To clean up so many hazardous waste sites would certainly bankrupt the nation. On the other hand, not to clean up such sites will cause residents around the sites to rise up against EPA and electric utilities owning such sites. Thousands of law suits will be filed against EPA and electric utilities, benefiting no one but trial lawyers.

8. The proposed new EPA regulation is known to have been prompted by the fly ash spill at TVA's Kingston Power Plant last December, which received widespread public concern and media coverage. However, classifying fly ash as "hazardous waste" will do little to help prevent another Kingston, or to enhance any public safety. An effective way to prevent similar future spills of fly ash from impoundments is for the government to beef up rules on dam safety. This can be done either by simply extending the nation's existing Dam Safety Regulations to cover fly ash impoundments (which is not done currently), or creating a set of new rules on dam safety specific for fly ash impoundment.

9. Let us not forget a lesson learned from recent history. About 15 years ago, EPA was sued by an environmental activist group, which forced EPA to withdraw the "non-hazardous" classification for fly ashes generated by power plants that burned municipal solid waste (trash). The action brought great chills to the once booming waste-to-energy industry in the nation. Suddenly, all the waste-to-energy facilities in the nation became severely affected. No more new waste-to-energy facilities have been built in the U.S. since, and the fly ash generated from existing facilities was no longer used, and had to be dumped in special landfills for hazardous wastes, which cost much more to build and operate than ordinary landfills. Did the nation's environment benefit any? No, because the special landfills do not render hazardous materials non-hazardous; they merely store hazardous materials, postponing the problem for our children and grandchildren to deal with. How much better it would have been to the economy, the environment and to our children and grandchildren if the fly ash from waste-to-energy facilities were not considered hazardous and used beneficially! That sad mistake made 15 years ago must not be repeated today with coal-fired ashes.

Based on the foregoing facts and evidence, it is clear that classifying fly ash as "hazardous waste" does little to help prevent future spills of fly ash, yet will greatly damage national interests including but not limited to hindering beneficial use of coal ash, damaging the environment (by increasing landfills), and diverting public attention from truly hazardous materials that require such attention and the "hazardous" designation.

Due to the above, I feel that it is my patriotic duty to explain the above problems to you, and to urge you to advise your superiors in EPA not to change the current classification of fly ash. The proposed change is a bad idea that does not make sense, does not benefit the environment, and will cause severe damage to national interest.

I am taking the liberty of copying this letter to all Congress persons from Missouri, and certain other key individuals, urging them to oppose this proposed new rule change. It would be better yet if EPA would quit pursuing this misguided idea of reclassifying fly ash, and do something positive instead, such as providing tax incentives and more research funding for beneficial use of coal ashes!

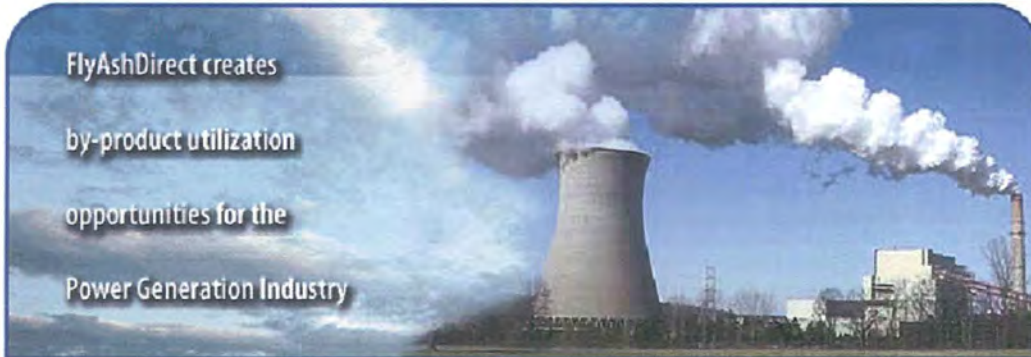
Sincerely,

Henry Liu

Henry Liu, PhD, P.E.

Cc: Missouri Congressional Delegation (Senators: Christopher S. Bond and Claire McCaskill; House of Representative Members: Todd Akin, Roy Blunt, Russ Carnahan, William "Lacy" Clay, Jr., Emanuel Cleaver, Jo Ann Emerson, Sam Graves, Blaine Luetkemeyer, and Ike Skelton.
American Coal Ash Association: Tom Adams, Mike MacDonald, David Goss, Amely Noble.
Environmental Protection Agency (EPA): Susan Bodine.

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