



ACAA

AMERICAN COAL ASH
ASSOCIATION
DAVID C. GOSS, Consultant

15200 E. Girard Avenue

Suite 3050

Aurora, CO

www.acaa-usa.org

Federal Regulatory Status Updates

- Impoundment inspection program continuing
 - “High Hazard” impoundments now being physically inspected
 - “Abundance of caution” news release in West Virginia
- Steam Electric Power Generating Effluent Guidelines development now moving forward
 - EPA Final Detailed Study Report issued in October
 - Information Collection Request expected Spring 2010
- Efforts to revise cancer risk assessments for arsenic and other materials remains stalled pending assistant administrator confirmation
- Government Accountability Office investigation report issued
- EPA Office of Inspector General investigation report issued
 - Found no wrong-doing as alleged in *60 Minutes* report
 - Continuing scrutiny of C2P2 program possible

Regulatory Status – Solid Waste

- Solid Waste Disposal Regulations development more or less on schedule
 - Draft proposal submitted for Office of Management and Budget and inter-agency reviews
 - “Standards for the Management of Coal Combustion Residues Generated by Commercial Electric Power Producers”
 - EPA pushing hard for expedited review to facilitate public release prior to year-end

What EPA's Draft *Likely* Contains

- “Lead Proposal”
 - Subtitle C (hazardous) “when destined for disposal”
 - All types CCPs covered
 - Some large volume uses targeted as disposal
 - Minefilling regulations deferred to separate rulemaking in cooperation with Office of Surface Mining
- Three “Alternative” Proposals:
 - States given opportunity to adopt regulations first
 - Wet disposal is C; dry disposal is D
 - Subtitle D approach (with EPA concerns over federal enforceability)
- EPA appears to be claiming:
 - Minimal cost impact difference between C and D approaches
 - No small business impacts
 - No negative effect on beneficial use from hybrid C approach

Response to OMB “Unprecedented”

Face to face briefings opposed to EPA’s approach by:

- American Coal Ash Association
- Utility Solid Waste Activities Group
- Electric Power Research Institute
- National Mining Association
- Anthracite Region Independent Power Producers Association ; Interstate Mining Compact Commission; Pennsylvania DEP
- Portland Cement Association; American Concrete Paving Association
- Gypsum Association
- National Governors Association; Association of State and Territorial Solid Waste Management Officials
- Harsco
- Lafarge
- Beneficial Reuse
- *Meeting Requests Pending:*
 - Council of Industrial Boiler Owners
 - American Concrete Institute
 - Numerous ash marketers

Opposition Letters also Mounting

- Environmental Regulatory Agencies
 - ASTSWMO Letter to EPA
 - ASTSWMO Phase II Survey Report, November 5, 2009
 - ECOS October 15, 2009 Letter to EPA
 - ECOS Resolution 08-16
 - ECOS 2008 Letter to EPA
 - Arizona Department of Environmental Quality
 - Arkansas Department of Environmental Quality
 - Colorado Department of Public Health and Environment
 - Florida Department of Environmental Protection
 - Hawaii Department of Land and Natural Resources
 - Illinois EPA
 - Indiana Department of Environmental Management
 - Indiana Department of Natural Resources
 - Iowa Department of Natural Resources
 - Kansas Department of Health and Environment (03/31/09)
 - Kansas Department of Health and Environment (09/21/09)
 - Louisiana Department of Environmental Quality
 - Maryland Department of the Environment
 - Michigan Department of Environmental Quality
 - Minnesota Pollution Control Agency
 - Missouri Department of Natural Resources
 - Mississippi Department of Environmental Quality
 - New Jersey Department of Environmental Protection
 - North Dakota Department of Health
 - Ohio EPA

Some More Opposition Letters

- More Environmental Regulatory Agencies
 - Oklahoma Department of Environmental Quality
 - Pennsylvania Department of Environmental Protection
 - South Carolina Department of Health and Environmental Control
 - South Dakota Department of Environment and Natural Resources
 - Tennessee Department of Environment and Conservation
 - Texas Commission on Environmental Quality
 - Virginia Department of Environmental Quality (3/31/09)
 - Virginia Department of Environmental Quality (9/30/09)
 - West Virginia Department of Environmental Protection
 - West Virginia Department of Environmental Protection (10/14/09)
 - Wisconsin Department of Natural Resources
 - Interstate Mining Compact Commission (IMCC) Letter to OMB
 - IMCC Letter to EPA
- Governors
 - National Governors Association
 - North Dakota Governor Hoeven
- Chambers of Commerce
 - Michigan Chamber of Commerce - Michigan Manufacturing Association Joint Letter
 - North Carolina Department of Commerce
 - South Carolina Department of Commerce
 - US Chamber of Commerce

Even **More** Opposition Letters

- State Public Utility Commissions
 - Indiana Office of Utility Consumer Counselor
 - Indiana Utility Regulatory Commission
 - Louisiana Public Service Commission
 - New Mexico Public Regulation Commission
 - North Dakota Public Service Commission
 - North Carolina Public Utility Commission
 - North Carolina Utilities Commission, Public Staff, Consumer Advocate
 - Ohio Public Utilities Commission
 - Pennsylvania Public Utility Commission
 - South Carolina State Office of Regulatory Staff
- Miscellaneous
 - Kentucky Attorney General
 - National Conference of State Legislators
- Labor
 - Unions for Jobs And the Environment
- State DOT/Highway Administration
 - Arizona Department of Transportation
 - American Association of State Highway and Transportation Officials
 - Colorado Department of Transportation
 - Florida Department of Transportation
 - Indiana Department of Transportation
 - New Hampshire Department of Transportation
 - North Carolina Department of Transportation
 - Texas Department of Transportation
 - Utah Department of Transportation
- Tribal Government
 - Salt River Pima-Maricopa Indian Community

Yet Still **More** Opposition Letters

- Municipal Governments
 - US Conference of Mayors
 - Colorado Springs, Colorado
 - Grand Island, Nebraska
 - Hastings, Nebraska
 - Rock Falls, Illinois
 - Springfield, Illinois
 - Texas Municipal Power Agency
 - Wyandotte, Michigan
- Industry Letters
 - American Coal Ash Association
 - American Concrete Institute
 - American Concrete Pavement Association
 - American Society of Concrete Contractors
 - Arizona Rock Products Association
 - Boral Materials Technologies
 - Burlington Northern & Santa Fe Railroad
 - Byram Concrete & Supply
 - Colorado Ready Mixed Concrete Association
 - Concrete Paving Association of Minnesota
 - Florida Coordinating Group
 - Freight Pipeline Company
 - Gypsum Association
 - Headwaters Resources
 - Intermountain Power
 - Iowa Concrete Paving Association
 - Iowa Ready Mixed Concrete Association
 - Lafarge
 - Lattimore Materials Company
 - Michigan Manufacturing Association and the Michigan Chamber of Commerce Joint Letter

Would You Believe **More** Letters?

- Midwest Coal Ash Association
- Mississippi Concrete Industries Association
- National Association of Manufacturers
- National Ready-Mix Concrete Association
- Oregon Concrete & Aggregate Producers Association
- Pink Hill Acres Landfill
- Portland Cement Association & American Concrete Pavement Association to DOT
- Schmitz Ready Mix
- Southern Company (David Ratcliffe, CEO)
- Texas Coal Ash Utilization Group
- USC Technologies
- USWAG Letter to EPA | EPA Response to USWAG
- Washington Aggregate and Concrete Association
- West Virginia Builders Supply Association
- Wille Brothers

- www.uswag.org/ccbletters.htm
- Updated frequently
- ***More letters are needed!***

What Happens Next

- EPA Administrator Jackson promised Congress she would propose rules before end of 2009
- Key December dates
 - December 9 potential Jackson appearance at House Transportation and Infrastructure Committee
 - December 22 anniversary of Kingston impoundment failure
- Actions that could slow the process:
 - OMB/Inter-agency review issues
 - Requests for Small Business Advisory Review panel by American Coal Ash Association and National Rural Electric Cooperatives Association
- EPA announcement will trigger public comment period that could stretch through much of 2010

Congress May Become Engaged

- Congressional letters to EPA have already objected to a “hazardous waste” approach
 - 77 House of Representatives members
 - 26 Senate members
- Legislation may be advanced to compel a RCRA Subtitle D non-hazardous approach



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