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**Sent:** Monday, December 21, 2009 3:33 PM  
**To:** EP, RegComments  
**Cc:** Hanger, John  
**Subject:** 25 PA. CODE CHS. 287 AND 290]

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Please consider carefully for our children's future!

RE: Beneficial Use of Coal Ash Proposed Rulemaking [25 PA. CODE CHS. 287 AND 290]

*The Pennsylvania Department of Environmental Protection has a mission statement to protect Pennsylvania's air, land and water from pollution. It also is to provide for the health and safety of its citizens through a cleaner environment. Yet right now the state's agency is considering regulations for the handling of coal ash, a known toxic substance.*

*These new rules proposed by Pa DEP are not adequate to protect drinking water from Coal Ash's toxic chemicals and heavy metals. They are also riddled with loopholes allowing Pa DEP to waive necessary controls. The Pa DEP proposed regulations lack basic safeguards such as liners, corrective action standards and requirements for mine operators to post bonds or other funds to clean up the pollution their ash causes.*

Over the past year I have been included in meetings at the Pennsylvania Department of Environmental Protection along with environmental attorneys, scientists, and even a former Pa DEP agent turned activists. We met to discuss the issue of managing coal ash and establishing protective regulations. Each time I was very hopeful that the Pa DEP would step up, do what the scientists and Pa residents suggested and establish the safest, most protective regulations for managing Coal Ash.

I have taken a personal interest in this matter because I live near the Champion Processing Incorporated site, a former Consolidated Coal Company's waste coal refuse pile. It is the largest pile east of the Mississippi River.

The state wishes to turn the GOB into Coal Ash, dump it back in our Township and call it 'Beneficial Use.' This could be the largest Coal Ash dump site in the Nation. If the Pa DEP elects to regulate coal ash poorly as the proposed Chapter 290 Regulations appear, my community will be forever damaged. The proposed Chapter 290 Regulations for Beneficial Use of Coal Ash do not call for the following things necessary to protect our water supplies;

- a. Up gradient and down gradient monitoring wells should be required at all coal ash placement sites – absolutely no exceptions.
  - b. Monitoring should be required of all mine placements, structural fills or soil amendments involving more than 10,000 tons of ash.
  - c. Monitoring of surface water drainages and plant uptake of metals should also be required for projects using coal ash as soil amendments or soil additives.
  - d. Baseline monitoring of ash sites and monitoring plans should be completed and subjected to Department scrutiny and public input prior to project approvals or the issuance of mining permits involving ash placement.
  - e. At least a year of monthly sampling should be required to collect enough baseline data to characterize water quality at ash sites before permits are issued. Discretion to allow less than a year of monthly sampling prior to permit approval should be eliminated.
- a. A frequency of no less than quarterly monitoring should be required during ash placement. Discretion to allow less than quarterly monitoring should be eliminated.
- a. At least thirty years of quarterly monitoring after ash placement is finished should be required without exception.

***Please don't do this to us! Please include items "a" thru "g" into the Proposed Chapter 290 Regulations, Beneficial Use of Coal Ash.***

For decades Pennsylvanians have lived with the effects of coal mining in the state. Although it had its positive moments such as job creation and of course electricity production, coal has left a permanent bad mark on the state of Pa. One mark coal leaves when burned is its waste stream, coal ash. This ash should never be considered benign nor beneficial. It is the Pa DEP's duty to protect its citizens from being in harms way of the toxins which make up coal ash. Yet the proposed Chapter 290 Regulations fall short of offering necessary protection. The Department should: **Remove all waivers, loopholes and Department discretion – all regulations should be strictly enforced, without exceptions.**

Pa DEP has encouraged construction of a plant site located in a 100 year flood plain. Coal ash could then encounter a small stream running through the flood plain. This should be addressed in the Proposed Chapter 290 Regulations calling for an Isolation Requirement: **At no time, should coal ash be placed within the water table in an active or abandoned coal mine – absolutely no exceptions.**

It is also the Department's duty to take enforcement actions when ash placement creates contamination to the environment. Therefore, there should be Corrective Action Requirements included in the **Proposed Chapter 290 Regulations, Beneficial Use of Coal Ash** calling for the following:

**A groundwater assessment plan should be submitted within 60 days after a concentration of a toxic metal or other ash constituent exceeds the highest baseline concentration (pre-permit concentration) at a down-gradient monitoring point.**

**The objective should be to investigate and address increases in contaminants onsite before offsite public or private water supplies are contaminated.**

It has been our experience that the Pa DEP fails to enforce its current regulations and encourages the use of tax payers money to clean up environmental contaminations within the Commonwealth instead of requiring the responsible parties to finance clean up actions. Case and point the American Zinc and Chemical Corporation located in Slovan Pa is to receive Hazardous Site Clean up Act money as well as Brownfield funding ie taxpayer money to remediate a contaminated site even after identifying the responsible parties. There is Coal Ash present at this AZC site that tax payers are being made to remediate. The Proposed Chapter 290 Regulations, Beneficial Use of Coal Ash do not include requirements such as financial assurances.

We wish to end this practice and insist on Financial Assurances for the **Proposed Chapter 290 Regulations, Beneficial Use of Coal Ash**. **A new section requiring financial assurance in the form of bonds or similar instruments should be included in these regulations. This section should require such financial assurance to be posted by operators before permit issuance and maintained throughout required monitoring at a site in amounts sufficient to monitor and abate pollution from the ash. Such assurance should not be released until monitoring has verified that ground waters and surface waters have not been contaminated by ash placement and are not likely to be contaminated by that placement.**

I urge the Pa DEP to do the right thing by making these necessary changes to the Proposed Chapter 290 Regulations, Beneficial Use of Coal Ash. On a personal note, Pa DEP decision would not only pave the way for the nation but it will have a very permanent mark on communities such as mine. Please make the mark one that Pennsylvanians will be proud of not one that leaves a legacy of another environmental disaster created by COAL!

Sincerely,  
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