
From: Dixon, Stephen [SDixon@rrienergy.com]
Sent: Tuesday, December 22, 2009 2:47 PM
To: EP, RegComments
Subject: RRI Energy comments on the proposed rulemaking for the beneficial use of coal ash (25 PA Code CHS 287 and 290)
Attachments: One Page Summary of RRI Energy Comments - Proposed Rulemaking on the Beneficial Use of Coal Ash.doc; RRI Comments Proposed Rulemaking 25 PA Code CHS 287 and 290.doc

To whom it may concern,

Attached are a one page summary and comments prepared by RRI Energy on the proposed rulemaking for the beneficial use of coal ash (25 PA Code CHS 287 and 290).

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REVIEW COMMISSION

Note new email address: sdixon@rrienergy.com

**One Page Summary of RRI Energy's Comments on the
Proposed Rulemaking - Beneficial Use of Coal Ash**

- The proposed regulations, particularly those relating to coal ash qualification/certification, must reflect the diversity of the actual beneficial use. Ash to be incorporated into a product, such as concrete, should not be assessed in the same manner as ash being placed directly on the ground - as in large structural fills and mine reclamation projects.
- The definition of coal ash must reflect this range of management options (disposal AND beneficial use) and the current definition of coal should remain unchanged.
- RRI Energy supports those proposed regulations in Chapter 290 that are designed to address the NAS recommendations. However, this must be done in a manner that recognizes the specific characteristics of the ash to be beneficially used; how the ash is intended to be used; the specific characteristics of the site where the material is to be placed and the overall environmental and public safety improvements that will result from the beneficial use of coal ash.
- We also support regulations that reflect the relative risk of a constituent or a particular beneficial use application. For example, a constituent for which neither a Statewide Health Standard nor Maximum Contaminant Level has been established should not be regulated in the same manner as one for which such limits exist - whether associated with ash characteristics or water quality.
- Discrete or isolated changes in the chemical characteristics of coal ash or water quality cannot serve as the basis for making operational or regulatory decisions - such as triggering the need to complete an assessment or corrective action; or the revocation of ash qualification. Such decisions must be based on statistically significant changes that are supported by clear trends.
- The proposed regulations do not consider the need to address or transition the many sites throughout the Commonwealth where coal ash has already placed or that are actively in the process of doing so - prior to the adoption of these regulations. There is also no indication as to the date on which all of the new requirements of the proposed regulations will become effective.



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December 22, 2009

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Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

INDEPENDENT REGULATORY
REVIEW COMMISSION

**Subject: Proposed Rulemaking, Environmental Quality Board [25 PA. CODE CHS.
287 AND 290], Beneficial Use of Coal Ash**

**RRI Energy Inc.'s Comments on the Proposed Rulemaking on the
Beneficial Use of Coal Ash - 25 PA Code CHS.287 and 290**

RRI Energy, Inc. (RRI) operates nine coal-fired stations throughout the Commonwealth, generating more than 4,000,000 tons of coal ash annually. Historically, the Company beneficially uses approximately 60% of that generated - most of it in mine reclamation projects throughout the Commonwealth. Clearly, beneficial use plays a critical role in the management of coal ash at RRI.

The following comments highlight key elements of the proposed regulations. RRI supports the detailed comments on the proposed regulations submitted by the Electric Power Generation Association.

Although mine reclamation is the dominant beneficial use of coal ash in the Commonwealth, RRI has also beneficially used coal ash in other applications, such as:

- In the manufacture of cement and concrete.
- In the development of grouts used for mine subsidence control. Two recent mine subsidence control projects in Westmoreland County include using a grout mix that incorporated coal ash to fill an old deep mine under a section of the Pennsylvania turnpike while the other project will stabilize an underground

mine so that a community can construct a new sewage treatment plant. In Washington County, coal ash was used to stabilize an old mine under the site where a middle school was constructed.

- In another beneficial use project, coal ash was used to control the Percy underground mine fire in Fayette County.
- Lastly, coal ash was beneficially used in Westmoreland County to construct a safety area at the end of the Rostraver airport runway.

The reason for highlighting the above projects is to emphasize that there is a wide range of applications in which coal ash can be beneficially used to address environmental and safety concerns throughout the Commonwealth. So, the proposed regulations, particularly those relating to coal ash qualification/certification, must reflect the diversity of the actual beneficial use. Certainly, ash to be incorporated into a product, such as concrete, should not be assessed in the same manner as ash being placed directly on the ground – as in large structural fills and mine reclamation projects.

Although the Company attempts to maximize the quantity of ash beneficially used, a substantial amount of ash is disposed in captive, residual waste landfills. Therefore, the definition of coal ash must reflect this range of management options.

Clearly, the proposed regulations are reflective of the findings and recommendations contained in the March 1, 2006, National Academy of Sciences (“NAS”) report on *Managing Coal Combustion Residues in Mines*. RRI supports many of those recommendations and findings. It seems particularly noteworthy that due to the robust nature of the current beneficial use program in the Commonwealth, many of the safeguards identified in the NAS report already exist in the current regulations. Rather than a dramatic overhaul, the proposed changes to Pennsylvania’s beneficial use program require only targeted “upgrades”.

RRI Energy supports those proposed regulations in Chapter 290 that are designed to address the NAS recommendations. But, once again, this must be done in a manner that recognizes the specific characteristics of the ash to be beneficially used; how the ash is intended to be used; the specific characteristics of the site where the material is to be placed and the overall environmental and public safety improvements that will result from the beneficial use of coal ash.

We also support regulations that reflect the relative risk of a constituent or a particular beneficial use application. For example, a constituent for which neither a Statewide

Health Standard nor Maximum Contaminant Level has been established should not be regulated in the same manner as one for which such limits exist - whether associated with ash characteristics or water quality.

Discrete or isolated changes in the chemical characteristics of coal ash or water quality cannot serve as the basis for making operational or regulatory decisions - such as triggering the need to complete an assessment or corrective action; or the revocation of ash qualification. Such decisions must be based on statistically significant changes that are supported by clear trends.

Quite often, the proposed regulations do not consider the need to address or transition the many sites throughout the Commonwealth where coal ash has already placed or that are actively in the process of doing so - prior to the adoption of these regulations. Regulatory requirements such as collecting 12-months of water quality monitoring prior to the placement of coal ash cannot be achieved. There is also no indication as to the date on which all of the new requirements of the proposed regulations will become effective.

Lastly, since this chapter of the residual waste regulations is being modified on a separate track from the other solid waste regulations we are concerned that there could be references in the proposed regulations to other chapters or requirements of the solid waste regulations that could be modified or developed at a future date (such as the anticipated merging of the residual and municipal waste regulations). This same concern holds for missed cross references to either newly defined terms or the new Chapter 290. For example, 287.101(b)(3) [General Requirements for Permit] acknowledges that no permit is required for the beneficial use of coal ash under Subchapter H (relating to beneficial reuse.) At a minimum, this regulation should be modified to acknowledge the new Chapter 290. To the extent that the term coal ash is further modified, additional changes might be appropriate.

In conclusion, it is important to note that in the case of our state, coal ash is derived from a fuel that is home-grown, provides reliable and low-cost energy and thousands of jobs, and the by-product (coal ash) can be safely used to address the most widespread water pollution problem in the state (acid mine drainage). There are also safety benefits derived from using coal ash to address the dangerous conditions that can exist at abandoned mine sites - both surface and underground. Lastly, it has been estimated that over a ton of CO₂ emissions are avoided for each ton of coal ash used as a substitute for Portland cement. So, while some question the phrase "beneficial use" there are, in fact, many benefits to using ash in Pennsylvania. It is clearly sound public policy to encourage the beneficial use of these materials wherever and whenever possible.

We appreciate the efforts of the Department in developing beneficial use regulations – this is a management option that makes sense and can be done in a manner that is protective of human health and the environment.

Sincerely,

Stephen B. Dixon
Principal, Waste Management
RRI Energy, Inc.