
From: Sam Fenner [samf.environmentalintegrity@gmail.com]
Sent: Tuesday, December 22, 2009 2:26 PM
To: EP, RegComments
Subject: Public Comment: Beneficial Use of Coal Ash 25 Pa. Code Chapters 287 and 290

December 22, 2009

Pennsylvania Environmental Quality Board Members

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Environmental Quality Board Members,

Thank you for scheduling the additional hearing for the rulemaking for the disposal of CCW.

Many states will be looking at Pennsylvania's rules on dumping coal combustion waste (CCW) in coal mines. I am writing to request that you follow the recommendations of the National Academy of Sciences to protect citizens and the environment from the adverse effects of minefilling in Pennsylvania.

As you know there is concern nationwide that the expanding practice of minefilling will be a pet project of OSMRE Director Joseph Pizarchik. The opposition to his nomination was unprecedented and caused the delay in his appointment.

One of the reasons for this delay was because of the concern over his minefilling policies. Ten of the 15 sites tested by the Clean Air Task Force have degraded water quality. Expansion of the practice could serve to decimate water supplies at a growing number of locations throughout the nation.

Measurements of water quality registered arsenic as high as 389 times safe drinking water standards; cadmium as much as 46 times higher; lead as much as 39 times higher; and selenium up to 76 times higher, to name a few. This clearly indicates a threat to human health and the environment from the proposed CCW disposal

practices (The Impacts on Water Quality From Placement of Coal Combustion Waste In Pennsylvania Coal Mines, CATF, 2006). All sites had evidence of CCW contamination.

The National Academy of Sciences (NAS) opposes minefilling of CCW as well. In their 2006 report, *Managing Coal Ash Residue in Mines*, the NAS concluded that “certain safeguards...are essential to protect health and the environment, including adequate characterization of both the CCW and the mine site, adequate monitoring of the ash after placement, isolation from water, cleanup standards, and meaningful public participation in the permitting process.”

The language in the proposal allows too many loopholes. The rule needs to eliminate all wording that severely limits the enforceable requirements we need to ensure safety for all. We seek fully enforceable regulations not just "guidelines" that leave enforcement up to the discretion of the PA DEP. All language that includes phrases such as: "at the discretion" or "with the Department's approval" or "if the Department chooses" needs to be eliminated from the rule.

I encourage the Board to adopt standards that follow the recommendations of the NAS:

- Require accurate and thorough waste and site characterization prior to permitting the use of coal ash in mines.
- Integrate waste and site characterizations and update them as new information becomes known to ensure effective monitoring.
- Require comprehensive, long-term water quality monitoring at all coal ash mine placement sites.
- Include enforceable corrective action standards for coal ash parameters in all coal ash mine placement permits and address degradation that occurs.
- Issue NPDES permits that monitor and control ash contaminants in surface discharges from sites.
- Require financial assurance that addresses potential long-term water quality problems at coal ash mine placement sites.
- Require isolation of coal ash from groundwater at all coal ash placement sites.
- Update its permit system with a better organized, more publicly accessible modern database.
- Require that all coal ash placement permits in mines actually achieve a measurable beneficial result.
- Require ecological monitoring at all coal ash mine placement sites as a condition of the permit.
- Establish enforceable requirements for coal ash placement permits in state regulations to replace the current system of unenforceable guidance documents.

- Conduct a statewide programmatic review of its coal ash beneficial use program to determine whether any coal ash minefills permitted by the state pose a threat to health or the environment and reevaluate the purpose and justification for this program.
- Establish a program to promote the safe reuse of coal ash, prior to issuing or renewing permits for coal ash minefills, and only if such safe and beneficial recycling is unavailable, permit placement of CCW in mines.

In my home state of Indiana, the standards for disposal of CCW are very poor. They include minefilling and are seriously deficient in protecting families and the environment. We have a Superfund site (Pines, IN) and several sites of concern which lack adequate monitoring and reporting requirements. We do not need another precedent that threatens human health and promotes degradation of surface and groundwater.

Please submit these concerns and recommendations as public comment for Pennsylvania's rulemaking process.

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