

EPA's Coal Ash Regulations: The Problem, Proposals and Process

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August 17, 2010

About Us

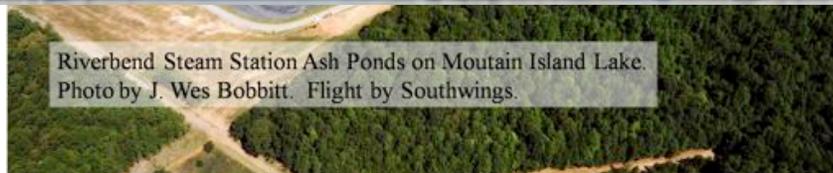
- **Southern Alliance for Clean Energy (SACE) has been a leading advocate for clean, responsible energy choices that better our communities, our region and our world for over 20 years.**
- **Since its formal inception in 1985, SACE has grown from a small group of individuals into a dynamic organization, with five offices across the Southeast and initiatives at federal, state and local levels. SACE continues to expand organizationally, to address the needs of a rapidly changing planet.**
- **As we look towards the future, SACE's commitment to preserve, restore and protect our environment through the use of innovative technology, community outreach, grassroots and grasstops education, and pioneer policy work remains steadfast.**



For more information on Southern Alliance for Clean Energy please visit www.cleanenergy.org

Roadmap

- The Problem:
 - What is Coal Ash?
 - What is the current regulatory landscape?
- The Proposals:
 - What is EPA proposing?
 - What is industry saying?
- The Process:
 - Timeline
 - Opportunity for public input



Riverbend Steam Station Ash Ponds on Mountain Island Lake.
Photo by J. Wes Bobbitt. Flight by Southwings.

What is Coal Ash?

TESTIMONY OF STEPHEN A. SMITH, DVM
 Executive Director
 Southern Alliance for Clean Energy

Submitted to the U.S. Senate Committee on Environment and Public Works
 January 8, 2009

Table 1: Human Health Effects of Coal Combustion Waste Pollutants

Aluminum	Lung disease, developmental problems
Antimony	Eye irritation, heart damage, lung problems
Arsenic	Multiple types of cancer, darkening of skin, hand warts
Barium	Gastrointestinal problems, muscle weakness, heart problems
Beryllium	Lung cancer, pneumonia, respiratory problems
Boron	Reproductive problems, gastrointestinal illness
Cadmium	Lung disease, kidney disease, cancer
Chromium	Cancer, ulcers and other stomach problems
Chlorine	Respiratory distress
Cobalt	Lung/heart/liver/kidney problems, dermatitis
Lead	Decreases in IQ, nervous system, developmental and behavioral problems
Manganese	Nervous system, muscle problems, mental problems
Mercury	Cognitive deficits, developmental delays, behavioral problems
Molybdenum	Mineral imbalance, anemia, developmental problems
Nickel	Cancer, lung problems, allergic reactions
Selenium	Birth defects, impaired bone growth in children
Thallium	Birth defects, nervous system/reproductive problems
Vanadium	Birth defects, lung/throat/eye problems
Zinc	Gastrointestinal effects, reproductive problems

Source: ATSDR ToxFAQs, available at www.atsdr.cdc.gov/toxfaq.html

What is Coal Ash?

cleanenergy.org

Southern Alliance for
Clean Energy



Nationwide Coal Ash

By the Numbers

- Around 194 landfills and 164 wet impoundments
- Second Largest Industrial Waste Stream in US!
- 150 MILLION Tons generated annually
- 200 MILLION Tons annually by 2015
- EPA has ID'd 71 cases of damage to ground and surface water
- EIP and Earthjustice have ID'd an additional 71-81 cases (Out of Control I & II)

Regional Coal Ash

- Tennessee
 - Over 1 billion gallons of ash spills covering over 300 acres at a depth of 6 feet
 - Cleanup costs of nearly \$1 billion
- North Carolina
 - 12 of the nation's 49 “high hazard” ash ponds
 - This means that if a pond ruptures it will “probably cause a loss of human life”
- Georgia
 - Southern Co.'s Plant Scherer has the largest lagoon in the entire county and it is almost completely unregulated

Regulatory Landscape

- No Federal Regulations
- Patchwork of State Regulations
 - Water, Solid Waste, Dam Safety?



States w/o Liner, Leach Coll and/or GW Monitoring Req'ts for Ash Ponds

- - Lack State Req'ts
- - Requirements Present
- - States Not Studied



NOTES:
Source: US EPR, Final Report, ESTIMATION
OF COSTS FOR REGULATING FOSSIL FUEL
COMBUSTION AND NUCLEAR AT LARGE ELECTRIC
UTILITIES UNDER PART 256. Prepared by EPR,
Inc., 2005.

T-25-09

The EPA Proposal

- Regulation under the Resource Conservation and Recovery Act (RCRA)
- Unprecedented dual Proposal
 - Regulation under Subtitle C
 - OR
 - Regulation under Subtitle D
- Rules will only apply to electric utilities and independent power producers
 - That is, industries that sell power

RCRA Subtitle C

Special Hazardous Waste

- Covers not only storage of waste, also:
 - Generation
 - Treatment
 - Transportation
 - Storage &
 - Disposal

- Rule adopted and enforced by EPA and implemented by states
- Ash must have “**cradle to grave**” permitting

HAZARDOUS WASTE

FEDERAL LAW PROHIBITS IMPROPER DISPOSAL.
IF FOUND, CONTACT THE NEAREST POLICE OR PUBLIC SAFETY
AUTHORITY OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY
OR THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCE CONTROL.

GENERATOR INFORMATION:
NAME _____ PHONE _____
ADDRESS _____ STATE _____ ZIP _____
CITY _____

EPA / MANIFEST ID NO. / DOCUMENT NO. _____ CA. ACCUMULATION START DATE _____
EPA WASTE NO. _____ WASTE NO. _____

CONTENTS COMPOSITION
PHYSICAL STATE: SOLID LIQUID
HAZARDOUS PROPERTIES: FLAMMABLE TOXIC
 CORROSIVE REACTIVITY OTHER _____

D.O.T. PROPER SHIPPING NAME AND UN OR NA NO. WITH PREFIX _____

HANDLE WITH CARE!

RCRA Subtitle C

Special Hazardous Waste



- Sub C Regs would require:
 - Groundwater monitoring
 - Corrective action
 - Financial assurances
 - Composite Liners
 - Structural Stability reqs
 - Closure and post-closure care
 - Closure of all surface impoundment
 - No new surface impoundments

RCRA Subtitle D

Household Garbage

- Sub D Regs would require:



-
-
-
-
-
-
-

This is not a mistake.
Subtitle D would require
NOTHING!

RCRA Subtitle D

Household Garbage



- Under this “garbage” option, EPA develops suggested guidelines
- States can choose whether to adopt them
- EPA cannot enforce violations
 - EPA Estimates only 48% compliance
- Citizen lawsuits are the only guaranteed recourse

RCRA Subtitle D

Household Garbage



- Moreover, the garbage option applies only to disposal
- Generation, storage, transportation, treatment are all ignored under Sub. D
- Coal plants can store on property indefinitely

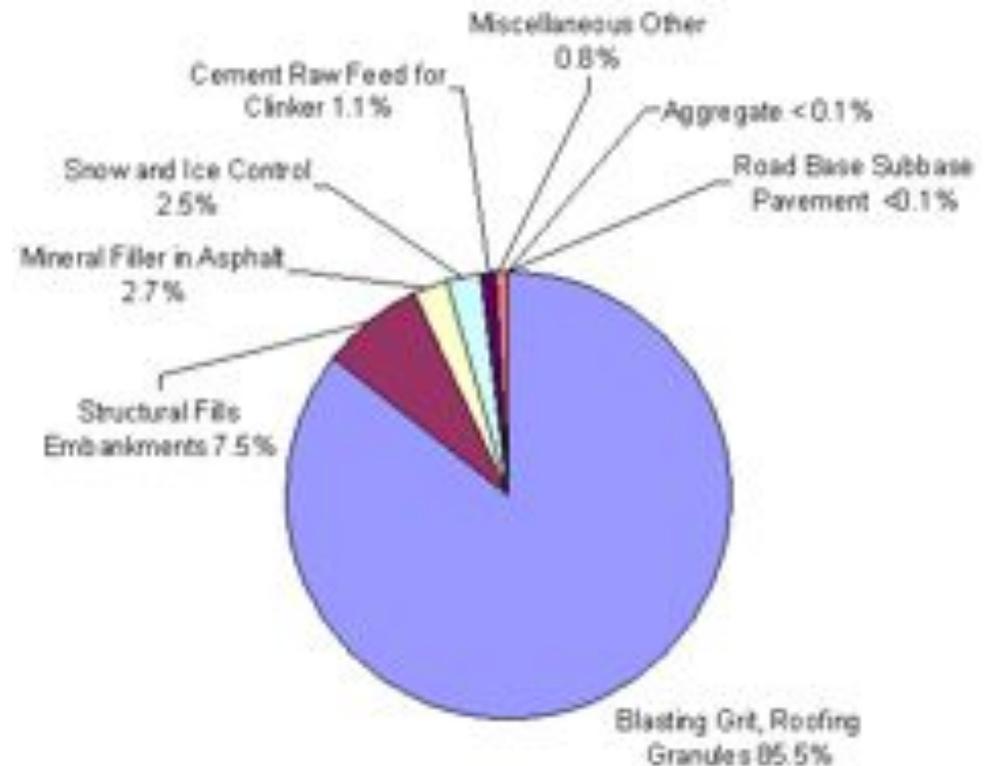


EPA Proposals

Beneficial Use

- Under either option, ash that is destined for “beneficial use” will remain unregulated
- Approx 43% of ash is reused
- Some uses are very good, others are very bad

Reuse of Coal Ash



from: <http://www.rmrc.unh.edu/tools/uguidelines/cbabs1.asp>

"Beneficial Use of Coal Combustion Products (CCPs) means the use of CCPs that provides a functional benefit; replaces the use of an alternative material, conserving natural resources that would otherwise need to be obtained through practices such as extraction; and meets relevant product specifications and regulatory standards (where these are available). CCPs that are used in excess quantities (e.g., the field-applications of FGD gypsum in amounts that exceed scientifically-supported quantities required for enhancing soil properties and/or crop yields), placed as fill in sand and gravel pits, or used in large scale fill projects, such as for restructuring the landscape, are excluded from this definition."

-From § C, page 5, EPA Coal Ash Proposed Rule

Fill and Dumping



Encapsulated Use



What do these guys have to say?



The Process

- Rule was published on June 21, 2010
- Comment Period will run through September 21, 2010
 - And may be extended
- EPA Will hold public hearings...



The Process

Public Hearings

- The public hearing process has not started well
- EPA gave until July 21 to request hearings
- On July 15th they announced 5 hearings
 - Chicago, Dallas, Arlington, Denver, Charlotte, NC
 - Have now announced hearings in Lexington, KY and Pittsburgh, PA
- SACE and many others are still pushing EPA to hold a hearing near Kingston, TN.
- Will hold a Citizens' Hearing in lieu of EPA hearing

July 20, 2010

BY E-MAIL

Dr. Alexander Livnat, PhD
Office of Resource Conservation and Recovery
United States Environmental Protection Agency
5304P
Washington, DC 20460

Re: Request for Regional Public Hearings on the Proposed Coal Combustion Residuals Rule, Docket ID No. EPA-HQ-RCRA-2009-0640

Dear Dr. Livnat:

As we are sure you know, Tennessee has the unfortunate distinction of being home to the largest coal combustion waste spill in history. East Tennessee is therefore a uniquely important region in the regulatory decision-making process. Despite this significance, however, EPA has egregiously ignored all of Appalachia and East Tennessee in scheduling public hearings on its proposed coal ash regulations. We are, of course, very concerned that an East Tennessee location is not included on this list, and we are further concerned that EPA announced its decision on hearing locations prior to the closure of the hearing request period on July 21, thereby ignoring the input of all requests received between the 15th and the 21st of July.

We are writing to specifically request a hearing in Knoxville or Roane County, Tennessee in order that EPA can hear the voices of those most significantly effected by the ongoing mismanagement of coal ash. Failure to do so is an injustice, diminishing the comprehensiveness of the public hearing process and ignoring all those individuals who have the most experience with coal ash's real-world dangers and who, therefore, have the most to say.

We, the undersigned, implore the Agency to remedy this oversight immediately, by adding a hearing site in East Tennessee. There are a number of low cost or even free meeting spaces in Knoxville, including the University of Tennessee, the City/County Building, and numerous hotels either in Knoxville proper or very near the airport. Roane State Community College, in the epicenter of the Kingston spill, would also be an excellent location. Given the importance of this area and the availability of space, there is no excuse for exclusion of the region from the public hearing process.

Thank you for your consideration of this urgent request. As this letter demonstrates, local, regional and national groups and individuals from across the nation recognize the crucial role that East Tennessee plays in this process and we all hope that you will be able to arrange a meeting in this area. If you have any questions or need further advice on convenient meeting locations, please do not hesitate to contact the Southern Alliance for Clean Energy at the numbers above.

1.866.522.3ACE
www.cleanenergy.org
P.O. Box 1842
Knoxville, TN 37901
865.687.6095
34 West Street, Suite 607
Raleigh, NC 27601
808.254.8776
250 Arizona Avenue, NE
Atlanta, GA 30307
404.371.5630
P.O. Box 8392
Savannah, GA 31412
912.201.0366
P.O. Box 1833
Pittsboro, NC 27312
919.360.3492
P.O. Box 90451
Jacksonville, FL 32248
904.710.5630

The Process:

Public Hearings

“We are writing to specifically request a hearing in Knoxville or Roane County, Tennessee in order that EPA can hear the voices of those most significantly effected by the ongoing mismanagement of coal ash.”

“Failure to do so is an injustice, diminishing the comprehensiveness of the public hearing process and ignoring all those individuals who have the most experience...”

“Given the importance of this area and the availability of space, there is no excuse for exclusion of the region from the public hearing process.”

Final Thoughts

- The opportunity for public involvement in this rule will end this fall.
- Beyond that, there is no telling how quickly EPA would act
- It will be a couple years minimum before new regs become effective
- The coal industry is very powerful and does not like change
- Their arguments are weak, but they are loud
 - Passing through of new costs
 - Bad for the environment and health
 - Not necessary

Final Thoughts



- Your involvement is necessary
 - Submit comments
 - Pack your car with friends and attend hearings (\$)
 - Tell your Congressperson and Governor to support Sub C.
 - Support the groups fighting for **comprehensive regulation** of coal ash rather than **household garbage guidelines**

Important Info

Public Comments

- You can submit comments to EPA in person, by email or by mail. Its easy to do.
- Whatever method you use, include the docket #
- **EPA-HQ-RCRA-2009-0640.**
 - **Go to Regulations.gov**
 - **Email rcra-docket@epa.gov**
 - **CleanEnergy.org**
 - **Or ask us for more details**
 - **josh@cleanenergy.org**
 - **ulla@cleanenergy.org**

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