

# Beneficial Reuse of Coal Ash

## EPA RULE WOULD NOT REGULATE REUSE—AND WOULD INCREASE RECYCLING

*EPA regulation of coal ash<sup>1</sup> with federal minimum requirements under RCRA is the best way to protect communities from the release of toxic coal ash pollutants to air and water, yet opponents claim, incorrectly, that reasonable disposal safeguards would hurt the coal ash recycling industry.*

### GOOD FOR BUSINESS

In fact, all of EPA’s regulatory options would leave beneficial reuses completely unregulated. And, the stronger the environmental protections on coal ash, the more coal ash recycling will increase, meaning that, for recyclers, **federal minimum safeguards would be great for business.**

### UNDER PROPOSED EPA RULES:

- “Beneficial uses” would **remain completely unregulated.**<sup>2</sup> Regulation would not apply to coal ash that met the definition of “beneficial reuse,” meaning business would proceed as usual.<sup>3</sup>
- “Beneficial reuse” is very **broadly defined**, meaning that a broad range of recycling operations would have the benefit of this complete exemption from regulation.<sup>4</sup>
- Beneficial use **will increase** in response to an increase in disposal costs. According to EPA, a protective regulation would “create a strong economic incentive for increased beneficial uses of CCRs.” Beneficial uses would increase as the cost of disposal increases, and there are a number of examples of recycled wastes that illustrate this point, such as electric arc furnace dust (listed hazardous waste K061) and electroplating wastewater sludge (listed hazardous waste F0006).<sup>5</sup>
- Disposal of coal ash in wet ponds would be phased out, opening up recycling markets for

tens of millions of tons of ash each year. Once ash is dumped in wet ponds, it is nearly impossible to reuse.

- Federal minimum requirements would eliminate the “race to the bottom” for state coal ash regulations and ensure that Americans in all states are protected from harmful coal ash pollution.

#### COAL ASH REGULATED AS DISPOSAL IN PROPOSED EPA RULE

- Coal ash destined for disposal in landfills or impoundments
- Coal ash used in excess (e.g. field application of FGD gypsum in excess of scientifically supported quantities)
- Coal ash placed as fill in sand and gravel pits
- Coal ash in large volumes in large-scale fill projects

#### BENEFICIAL USE<sup>6</sup> EXEMPT FROM REGULATION IN PROPOSED EPA RULE

- Coal ash in encapsulated uses such as fly ash in concrete, bricks, and roofing materials
- FGD gypsum for wallboard
- Coal ash in soil amendments
- Coal ash as road bed aggregate

## FALSE CLAIMS BY RECYCLING INDUSTRY

- Information circulated by the American Coal Ash Association intentionally underestimates risks to health. Fact sheets provide inaccurate information on arsenic in ash,<sup>7</sup> and reports fail to consider poisoning of drinking water and air.<sup>8</sup> Yet there are numerous cases of toxic contamination caused by coal ash structural fills, including Superfund sites where drinking water has been poisoned.<sup>9</sup> The protection of public health and the environment requires EPA minimum federal standards.
- The fear of “stigma” is groundless—recycling has increased when EPA has deemed waste “hazardous” when disposed—which the EPA rule for coal ash would not. Thus the “stigma” argument has no basis in fact.<sup>10</sup>
- More than 70% of coal ash generated is disposed in landfills, ponds or large structural fills and minefills, which “may pose a threat to human health and the environment.”<sup>11</sup> While we must protect safe beneficial uses, protecting public health from problems at disposal sites—where the great majority of the coal ash generated ends up—should be the priority.

## CONTACT

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## NOTES

<sup>1</sup> “Coal ash” refers to all materials also known as coal combustion waste or coal combustion residuals (CCR).

<sup>2</sup> U.S. EPA, Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals from Electric Utilities; Proposed Rule, 75 Fed. Reg. 35,128, 35,129 (proposed June 21, 2010) (to be codified at 40 C.F.R. Parts 257, 261, 264 et al.).

<sup>3</sup> See, e.g., id. at 35,161.

<sup>4</sup> Id. at 35,129–30 (“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.”).

<sup>5</sup> Id. at 35,185–86.

<sup>6</sup> Id. at 35,129–30, 35,162–63. Even if subtitle C applied to coal ash, EPA has made it clear that it would leave the Bevill exemption in place for beneficial uses of coal ash described above. See, e.g., 75 Fed. Reg. at 35,160.

<sup>7</sup> See ACAA, “Coal Combustion Products: Not a Hazardous Waste,” [http://www.CoalAshFacts.org/CCP%20Fact%20Sheet%20%20-%20Not%20a%20Hazardous%20Waste\\_FINAL.pdf](http://www.CoalAshFacts.org/CCP%20Fact%20Sheet%20%20-%20Not%20a%20Hazardous%20Waste_FINAL.pdf) (falsely claiming that arsenic in ash is nearly 10 times less than documented in government studies).

<sup>8</sup> See, e.g., Earthjustice, et al, ACAA’s Junk Science Report Claims Coal Ash Is Like “Common Dirt”: Report Ignores EPA Risk Screening Levels, Exposure Pathways and Critical Data (June 2012), <http://earthjustice.org/sites/default/files/ACAAREport.pdf>.

<sup>9</sup> See, e.g., EPA, “Pines Groundwater Plume Site,” <http://www.epa.gov/region5/cleanup/pines/> (providing that the entire Town of Pines, Indiana was declared a Superfund site due to coal ash contamination on roads and other areas).

<sup>10</sup> See, e.g., id. at 35,166, 35,156, 35,162.

<sup>11</sup> Linda Luther, Congressional Research Service, “H.R. 2273 and S. 3512: Analysis of Proposals to Create a Coal Combustion Residuals Permit Program Under RCRA” 4, 13 (Dec. 5, 2012), <http://democrats.energycommerce.house.gov/sites/default/files/documents/Report-CRS-Coal-Ash-RCRA-2012-12-5.pdf>.



The Battlefield Golf Club at Centerville, VA under construction in 2007 using recycled coal ash. (Todd Spencer / Virginian Pilot)