

DEMOCRATS EYE STEPS TO BOOST COAL ASH REUSE TO MINIMIZE DISPOSAL

Democratic lawmakers and others are weighing how federal regulations or guidance could be crafted to incentivize the reuse of coal combustion waste (CCW) in products such as cement, in order to minimize the need to dispose of the waste in landfills.

If EPA were to draft regulations that put more of an emphasis on reusing coal waste rather than disposing of it, that could help the agency in its effort to shift its Resource Conservation & Recovery Act (RCRA) programs from waste management to sustainable materials management — a move that supporters say would allow for broader regulation of materials well beyond the narrow issue of waste disposal.

State regulators from Wisconsin and Maryland are also encouraging a federal baseline CCW rule that prioritizes coal waste reuse — highlighting a split from the Environmental Council of the States' (ECOS) waste panel that recently sent a letter to EPA expressing its opposition to any federal CCW disposal rules.

Environmentalists who have been pushing EPA to regulate CCW as non-hazardous waste under RCRA, due to concerns over potential groundwater contamination, say they would not oppose provisions in such rules to boost the reuse of the waste rather than disposing of it. Industry sources, however, generally caution against mandates for reuse of coal waste, saying it could undermine growing efforts to voluntarily boost its reuse.

At a June 10 hearing before the House Natural Resources Committee energy & mineral resources subcommittee, several witnesses and lawmakers in favor of federal regulation of coal waste disposal eyed steps the government could take to promote reuse of the waste.

Subcommittee Chair Jim Costa (D-CA) said he wants to explore ways to “promote the reuse of coal waste in products like concrete.” Costa told *Inside EPA* after the hearing that “there are a lot of ways you can incentivize productive reuse of the waste stream,” and it is an issue he is keen to explore further.

Also at the hearing, Natural Resources Law Center Director Mark Squillace — a member of a previous National Research Council committee that studied the disposal of CCW in coal mines — advocated federal rules that treat the disposal of coal waste “as the option of last resort” and that promote beneficial reuse.

Squillace said CCW rules should offer incentives for reuse and prevent disposal until the producer of the waste “demonstrates a substantial and good-faith effort to make the [waste] available for secondary use.” He highlighted Wisconsin’s efforts to promote reuse, where 85 percent of CCW was reused in 2004 compared with 35 percent nationally. *Relevant documents are available on InsideEPA.com. See page 2 for details.*

Among the options that Squillace said the government should consider is a “modest” tax on CCW disposal, the proceeds from which could be used to promote beneficial reuse. A 10-cent-per-ton tax on the 53 million tons of coal waste disposed of in 2006 would yield revenues of \$5.3 million, which could be used to help establish markets for CCW or otherwise incentivize producers to reuse the waste, Squillace said.

Several state regulators are also calling on EPA to issue rules that would prioritize beneficial reuse of coal ash, despite ECOS’ June 5 letter to EPA waste chief Susan Bodine raising concerns that the adoption of a federal CCW regulatory program “would create an additional level of oversight that is not warranted; would be duplicative of existing state regulatory programs; and could result in additional financial burdens on the states.”

For example, Wisconsin Department of Natural Resources waste bureau chief Suzanne Bangert sent a June 6 letter to Costa supporting a “basic national framework” for the disposal and use of CCW, though cautioning against a one-size-fits-all regulation.

In addition to calling for flexibility for states in any national approach, Bangert wrote that a national framework should include beneficial use design guidelines, and that EPA could convene such an effort and “facilitate discussions on markets for beneficial reuse of these materials.” Alternatively, the agency could establish federal rules setting out certain minimum requirements for disposal and reuse, Bangert added.

Also, testifying at the June 10 House hearing, Maryland Department of the Environment Secretary Shari Wilson said a “basic premise” of RCRA is to promote reuse, and that any federal approach should maximize alternatives to disposal, for example through investment in federal research to more effectively assess reuse opportunities.

At the same time, EPA’s Office of Solid Waste Director Matthew Hale at an April ECOS meeting circulated a draft roadmap for EPA’s six-year-old effort to shift RCRA from waste management to sustainable materials management that identified CCW as a possible priority area for the program.

However, industry officials are cautioning against issuing any new federal standards, despite touting the benefits of reusing coal waste in products such as concrete or road materials. American Coal Ash Association Executive Director David Goss told the hearing that existing technical and environmental controls are already available to state and federal agencies to ensure that coal ash will continue to be properly used.

One industry source says regulations or prohibitions on coal waste disposal could “be counter-productive” and work against encouraging the materials’ reuse. “I don’t think we’d like to see mandates to reuse the ash” because it