



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
RICHARD A. LEOPOLD, DIRECTOR

March 19, 2009

MR MATT HALE, DIRECTOR
OFFICE OF RESOURCE CONSERVATION AND RECOVERY
US ENVIRONMENTAL PROTECTION AGENCY
1200 PENNSYLVANNIA AVE NW
WASHINGTON DC 20460

RE: EPA Regulation of Coal Combustion Waste

Dear Mr. Hale:

On behalf of the Iowa Department of Natural Resources (IDNR) and our director we want to express our thanks for the opportunity to provide comments to EPA while you are still vetting options. Since 90% of the electricity in Iowa is generated by coal-burning facilities, the issue of regulating the beneficial use and disposal of coal combustion waste (CCW) has serious implications to our state. We have looked at EPA's proposed regulatory scenarios and it is IDNR's position that the EPA should approach CCW regulations similar to the approach that is taken with municipal solid waste under 40 CFR Part 258, commonly referred to as RCRA Subtitle D. Using the lessons learned by states since the adoption of 40 CFR Part 258 and historical CCW data collected by states, RCRA Subtitle D could be modified to specifically address CCW waste disposal facility requirements and is the framework that the EPA should build upon.

The Department understands that the EPA is considering options to regulate CCW as a hazardous waste under RCRA Subtitle C. This option is not supported by the historic data that has been collected from generators of CCW in Iowa which shows that CCW does not exceed RCRA Subtitle C hazardous waste characteristics. Regulation under RCRA Subtitle C also has the potential to put an end to many beneficial uses for CCW. In most states, a primary requirement for a beneficial use determination is that the waste not be hazardous. Most importantly, declaring CCW a hazardous waste creates an even greater hardship in Iowa because of the amount that is generated and the fact that there is no RCRA C permitted disposal facilities in the state. The likelihood of siting such a facility borders on the impossible. The implications of this action are that CCW generators would be forced to ship materials to surrounding states for disposal. That could become very costly for Iowans and extremely difficult to justify when there is little scientific data supporting such drastic measures.

IDNR looks forward to continued conversations and involvement with EPA on CCW regulation through ASTSWMO. Again, we want to express our appreciation for the opportunity to provide input. Should you have any questions specific to our comments or need relevant data pertaining to CCW generated in Iowa, please do not hesitate to contact me at (515) 281-8927 or Alex Moon at (515) 281-6807 or alex.moon@dnr.iowa.gov.

Sincerely,

A handwritten signature in dark ink that reads "Brian Tormey". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Brian Tormey, Chief
Land Quality Bureau
Environmental Services Division

Cc: Richard Leopold, Director, IDNR
Wayne Gieselman, Administrator, Environmental Services Div., IDNR
Alex Moon, Land Quality Bureau, IDNR
Mary Zdanowicz, Executive Director, ASTSWMO
Don Toensing, US EPA, Region VII