



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

*Mitchell E. Daniels Jr.*  
Governor

*Thomas W. Easterly*  
Commissioner

100 North Senate Avenue  
Indianapolis, Indiana 46204  
(317) 232-8603  
Toll Free (800) 451-6027  
[www.idem.IN.gov](http://www.idem.IN.gov)

April 9, 2009

Mr. Matt Hale, Director  
Office of Resource Conservation and Recovery  
U.S. EPA  
1200 Pennsylvania Ave. NW  
Washington, D.C. 20460

Re: EPA Regulation of Coal Combustion Byproducts

Dear Mr. Hale:

I am writing on behalf of the state of Indiana to add comment to the U.S. EPA process of vetting regulation of coal combustion byproducts. We encourage EPA to continue to regulate coal combustion byproducts under subtitle D solid waste regulations. Indiana statute allows uses of this material in beneficial applications that reduces or replaces the need for raw materials. A prerequisite of being considered for beneficial use is that the material must not be a hazardous waste. A change in the regulatory status would negatively impact our abilities to consider legitimate beneficial uses. Under no circumstance do we want to impose a new, unneeded, regulatory and related financial burden on our utilities or our manufacturers.

Indiana has for many years overseen the disposal of coal combustion byproducts and over that time has amassed a lot of analytical data relative to the characteristics of coal combustion byproducts. None of that data has indicated that the characteristics of the coal combustion byproducts approaches the limits for toxicity utilized in the federal regulations to identify a hazardous waste.

In addition, Indiana agrees that states have and should maintain the ability to take the regulatory lead in all matters related to coal combustion byproducts. I write to express Indiana's preference for state-lead efforts. Indiana is heavily invested in manufacturing and coal. We have actively sought innovative and clean coal technologies to meet our energy consumption needs. In this era of evolving technologies, we believe that states should retain the authority to develop programs of protection or reuse that reflect our geographies and demographics.

Indiana looks forward to continuing conversations with EPA relative to the regulation of coal combustion byproducts, and appreciates the opportunity to provide input. If you have any questions concerning our comments or need data please contact Mr. Bruce Palin, Assistant Commissioner of the Office of Land Quality at 317/233-6591 or [bpalin@idem.IN.gov](mailto:bpalin@idem.IN.gov).

Sincerely,

Thomas W. Easterly  
Commissioner