



OFFICE OF THE LIEUTENANT GOVERNOR

STATE OF MISSOURI
JEFFERSON CITY
65101
www.ltgov.mo.gov

PETER D. KINDER
LIEUTENANT GOVERNOR

STATE CAPITOL
(573) 751-4727

January 6, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Opposition to Hazardous Waste Regulation of Coal Combustion Byproducts

Dear Administrator Jackson:

I understand that EPA is preparing proposed regulations for coal combustion byproducts ("CCBs") under the Resource Conservation & Recovery Act ("RCRA"). I oppose any federal regulation that would regulate CCBs as a RCRA hazardous waste.

Missouri's Department of Natural Resources, along with other state environmental protection agencies, DOTs, unions, PUCs, chambers of commerce, technical/education organizations, and trade associations have already weighed in on this topic and all unanimously *oppose* regulating CCBs as hazardous waste. These myriad of informed interests argue convincingly that such regulation is not only regulatory overkill, but in fact would be environmentally counter-productive because it would effectively end the beneficial reuse of most CCBs across the nation. Safe and effective industrial uses for CCBs in concrete, bricks, gypsum board and clinker used on roads for winter driving, to name a few, would all be eliminated. Regulating CCBs as hazardous waste is also counter to the Coal Combustion Products Partnership to further reuse of CCBs. EPA has already determined on at least two prior occasions that hazardous waste regulation is not warranted for these materials, any attempt now to regulate CCBs as hazardous is not supported by science or good public policy.

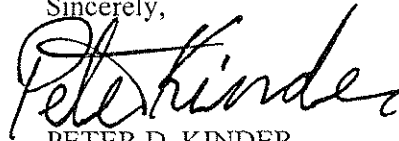
From Missouri's perspective, such a result would impose undue economic burdens on our agencies and citizens at time when we can least afford it. If compelled to regulate CCBs as hazardous, Missouri would have to invest significant resources in administering a CCB hazardous waste program that would dwarf our existing program. This is both unnecessary from an environmental perspective – where we already safely

regulate CCBs as non-hazardous waste – but would divert our resources from more pressing environmental and economic issues. This type of unfunded mandate at a time when many state governments cannot meet existing commitments is unwarranted.

Various state PUCs have already written you warning that the over-regulation of CCBs as hazardous waste will hasten power plant closures and cause sharply higher operating costs. Hazardous waste must be disposed in sanitary landfills at a high cost. Putting CCBs in a landfill will cause our existing landfills to fill faster and force the opening of new landfills - hardly keeping in line with the mantra of reducing, reusing and recycling. Moreover, these increased costs by public and private utilities will be passed on to consumers in higher electricity and landfill rates.

Given these serious economic and public policy concerns, coupled with the fact that EPA and at least 27 state environmental protection agencies agree that CCBs can be safely regulated as non-hazardous wastes, I urge EPA to take a reasoned approach to this issue and develop federal non-hazardous waste rules for CCBs under Subtitle D of RCRA.

Sincerely,



PETER D. KINDER
Lieutenant Governor

cc: Rahm Emanuel, White House Chief of Staff
Carol Browner, Assistant to the President for Energy and Climate Change
Mathy V. Stanislaus, Asst. Admin., Office of Solid Waste and Emergency Response
Matt Hale, Director, EPA Office of Resource Conservation and Recovery
State Congressional Delegation