



---

## National Rural Electric Cooperative Association

4301 Wilson Boulevard  
Arlington, VA 22203-1860

February 11, 2008

Notice of Data Availability on the Disposal of Coal Combustion  
Wastes in Landfills and Surface Impoundments  
Environmental Protection Agency  
Mail Code: 5305T  
1200 Pennsylvania Ave., NW.  
Washington, DC 20460

**Docket ID No. EPA-HQ-RCRA-2006-0796**

Dear Sir or Madam,

The National Rural Electric Cooperative Association (NRECA) submits these comments on EPA's Notice of Data Availability on the Disposal of Coal Combustion Wastes in Landfills and Surface Impoundments ("NODA"), **72 Fed. Reg. 49714** (Aug. 29, 2007). In the NODA, EPA asks how the information referenced in the NODA should affect the way EPA follows up on the 2000 Beville Regulatory Determination, (**65 Fed. Reg. 32214** (May 22, 2000)).

NRECA is a member of the Utility Solid Waste Activities Group (USWAG). USWAG will be submitting comments on the NODA, and NRECA agrees with USWAG's general comment that "the significant improvement in industry management and state regulatory oversight of CCW disposal demonstrate that the conditions that once led EPA to determine that federal Subtitle D regulations were warranted no longer exist" and that therefore "further development of Subtitle D regulations is no longer necessary." (Comments of The Utility Solid Waste Activities Group, *et. al.* on Notice of Data Availability on the Disposal of Coal Combustion Wastes in Landfills and Surface Impoundments, *February 18, 2008*). Our reasons for supporting this position are outlined below.

**The findings of the EPA/DOE Report show that without additional federal regulations, state regulatory oversight and ash management practices from 1994 to 2004 have significantly improved.** (*Coal Combustion Waste Management at Landfills and Surface Impoundments, 1994-2004* "DOE/EPA Report") In general, the report concludes that "the amount and quality of environmental controls used at CCW management units appear to have increased. A trend toward management in landfills

(dry ash handling) and away from surface impoundments (wet handling) is also evident.” (EPA/DOE report S-5). Other significant findings include:

- “One hundred percent of ... landfills and surface impoundments were authorized by one or more permits”. (*ibid* S-3)
- “The use of liners has become essentially ubiquitous” (*ibid* S-3) and “The protective qualities of the liner materials have improved over the past decade for both landfills and surface impoundments. (*ibid* S-6).
- “The vast majority (91%) of ... units (landfills and surface impoundments) built or expanded between 1994 and 2004 have groundwater monitoring.” (*ibid* S-6)

These advancements have occurred under state oversight and without additional federal regulation.

**Utilities endorse specific practices** for continuing improvement in CCW management. USWAG represents the vast majority of power generating organizations throughout the U.S. As EPA may know, USWAG’s members, including NRECA, have been searching for a meaningful way to demonstrate a commitment to continued improvement in the environmental protection afforded by CCW landfills and surface impoundments. That effort has resulted in USWAG’s “Action Plan” for management of coal combustion products.

The plan contains detailed guidance for implementing and upgrading management practices. The plan calls for groundwater performance monitoring, and it contains remediation requirements if problems are detected. The plan requires companies to consider dry ash handling before expanding existing facilities or building new ones. A number of NRECA’s members have formally signed on to the plan and others are considering joining. Recently, more and more companies are making a formal commitment to implement the plan.

**EPA’s Risk Assessments are flawed.** Both the human health risk assessment and the ecological risk assessment are incomplete and flawed. In their current form they provide virtually no useful information about risks posed by ash management activities, and attempts should not be made to try to use the studies to inform the regulation development process.

Certain parts of the analyses may be valid, however it is hard to tell because the methods are poorly explained and insufficient supporting data is provided. The analysis starts with invalid predictions of the chemical composition of ash leachate, does not attempt to analyze actual exposure pathways between ash facilities and drinking water wells, it used incorrect toxicological information for key parameters and mis-used the Monte Carlo probabilistic model for the human health risk assessment. It did not use a probabilistic model for the ecological assessment at all. (*Comments on EPA’s Draft Human and Ecological Risk Assessment of Coal Combustion Wastes...*, p.ES-1, ENSR Corporation, November, 2007)

**EPA Should Reject the Regulatory Proposals Submitted by Various Environmental Activist Organizations as Contrary to the Bevill Regulatory Determination and Contrary to Sound Public Policy.**

The NODA refers to a proposed regulatory framework for regulation of CCWs submitted by 27 environmental stakeholder groups led by Earthjustice and the Clean Air Task Force (72 Fed. Reg. at 40819). The proposed regulatory framework would be impractical and would supplant state regulation of CCW's with federal controls, an action that is inconsistent with the 2000 Bevill determination. Their proposal would ban both the construction of new surface impoundments and the expansion of existing impoundments and would also require that all existing surface impoundments to be closed within two years. (See proposed §§ 253.31-.32.) It is difficult to imagine any action more disruptive to energy generation and delivery than the sudden removal of a major percentage of the industry's CCW storage and disposal capacity.

Thank you for this opportunity to comment. If you wish to discuss this further please contact Jim Stine at [james.stine@nreca.coop](mailto:james.stine@nreca.coop), or 703-907-5739.

Sincerely yours,

/s/

James F. Stine