

United States Senate

WASHINGTON, DC 20510

December 23, 2009

President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

The U.S. Environmental Protection Agency (EPA) has indicated its intent to issue new rules in the near future that could have far-reaching impacts on U.S. jobs and the rates consumers pay for electricity. Sometime in the next few months, EPA is expected to recommend whether coal ash—a byproduct of using coal to generate electricity—should be regulated as “hazardous” or “non-hazardous” waste.

The agency appears to be leaning in the wrong direction—toward a recommendation that coal ash be handled as a hazardous material. This would pull the rug out from under the many U.S. businesses that rely on coal combustion material—about 45 percent of which is reused or recycled in a variety of everyday applications—and force unnecessarily high costs on utilities and their customers. This is the wrong way to go, particularly as the nation is just now beginning to pull itself out of an economic nose dive.

In 2000, after a thorough examination of the characteristics of coal combustion materials, the Clinton administration determined that coal ash should not be managed as a hazardous substance. Nearly a decade later, there is tremendous support for adhering to that determination. Dozens of state policymakers, including groups like the National Governors Association and the Environmental Council of the States, along with numerous state environmental protection agencies, also oppose hazardous waste regulation. More than three dozen industry groups and individual companies—those whose businesses rely on coal combustion products—have made it clear that hazardous waste regulation is unnecessary and would have a devastating impact on the many beneficial uses of coal ash.

But many of these organizations, along with the nation’s utilities, support federal regulation of coal ash as a non-hazardous waste. This approach would establish uniform management practices and protect public health and the environment, while maintaining the many beneficial uses of coal combustion products.

Last year, approximately 45 percent of the coal combustion products produced by utilities were recycled through a wide range of industrial, manufacturing and agricultural applications: to make concrete, to strengthen road beds, to use as roofing material, to stabilize waste, to manufacture wall board, and to add as a soil additive for agricultural purposes.

The annual value to the U.S. economy of coal ash recycling is estimated to be as high as \$8 billion. If coal ash is designated hazardous in any manner, businesses may be forced to end recycling options and may shut down operations.

With a de facto moratorium on recycling, utilities would be required to alter and build additional facilities to manage the increased volume of ash. This would dramatically increase power plants' operating costs, which would be passed on to customers. Price increases likely would be most acute in the industrial heartland and other parts of the country where coal is the predominant source of electric generation. Many of these areas already are stressed from the recession and job losses.

In light of the ash spill disaster at the Tennessee Valley Authority's Kingston facility, we certainly understand the EPA raising concerns about the handling and storage of coal combustion by-products. We believe that appropriate precautions should be taken by all responsible operators, that parties who have violated regulations should be held accountable, and that the public health and welfare should be protected.

However, the electric power sector is one of the most heavily regulated industries in the United States. Each regulation comes with a cost, and in most cases those costs are simply a necessary part of doing business. In this instance, however, the EPA needs to heed the recommendations of state policymakers and environmental officials, and the businesses that rely on coal ash and regulate coal ash as a non-hazardous material. Any change to this designation could prove hazardous to U.S. businesses and jobs, could result in sharply higher electricity prices for many consumers in these difficult economic times, and could result in fewer reductions of greenhouse gases through recycling outlets.

Sincerely,

Eric Bush

David Blum

Raymond L. Duggan

George V. Venocovich

Mary Gaudin

Robert Winter

John Corry

Kent Lamm

AM Bush

Lamar Alexander

Clare McCasill

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