



**North Carolina
Department of Commerce**

Beverly Eaves Perdue, Governor

J. Keith Crisco, Secretary

August 5, 2009

Honorable Lisa Jackson
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave NW
MC 1101A
Washington, DC 20460

Dear Administrator Jackson,

I am writing to express my views on next steps currently under consideration by the U.S. Environmental Protection Agency (EPA) regarding the regulation of coal combustion products (CCPs). I understand that EPA is evaluating whether to regulate CCPs as a hazardous waste under Subtitle C of RCRA (Resource Conservation and Recovery Act), or as a non-hazardous waste under Subtitle D of RCRA. The North Carolina Department of Commerce strongly opposes any designation of CCPs as hazardous waste. Such action would have significant and long lasting adverse effects upon jobs in our state by impairing companies' ability to beneficially use fly ash and other CCPs in concrete block, wallboard production, and highway transportation projects. EPA's plans to develop federal regulations also have the potential to compromise the ability of our utility companies to provide reliable electric services at affordable rates. Our competitive electric rates have been invaluable in attracting new industry to our state.

North Carolina: The State of Minds

301 North Wilmington Street • Mail Service Center 4301 • Raleigh, North Carolina 27699-4301
Tel: (919) 733-3449 • Fax: (919) 733-8356

An Equal Opportunity/Affirmative Action Employer

Based upon testing data, it is my understanding that classifying CCP's as a hazardous waste is not warranted and would place unnecessary barriers on its beneficial reuse in the future. North Carolina has been a leader in requiring our electric utilities to install state of the art emission controls for sulfur dioxide. The calcium sulfate that is generated as the air emissions are "scrubbed" is now being used at a newly operational wallboard facility that represents a substantial investment in jobs and taxes that are crucial as our unemployment figures are among the highest in the country. Consistent with Governor Perdue's broad green jobs agenda, this plant manufactures LEED (Leadership in Energy and Environmental Design) certified wallboard that will be in demand as green buildings are erected across the southeastern United States.

I believe that a hazardous waste designation is not supported by nearly three decades of EPA study and formal determinations marked by strong scientific integrity. The regulation of CCP disposal as non-hazardous waste under RCRA Subtitle D will ensure protection of human health and the environment without unnecessarily stigmatizing resources that have the high potential for safe beneficial use as a preferred alternative to disposal. This approach will ensure that CCPs are safely managed while continuing to promote and expand their beneficial use.

Sincerely,



J. Keith Crisco
Secretary

North Carolina: The State of Minds

301 North Wilmington Street • Mail Service Center 4301 • Raleigh, North Carolina 27699-4301
Tel: (919) 733-3449 • Fax: (919) 733-8356

An Equal Opportunity/Affirmative Action Employer