

# **EPA Proposal to Regulate Coal Combustion Residuals (CCRs) (Coal Ash)**

## **Background**

On December 22, 2008, a dam at a coal ash pond located at the Tennessee Valley Authority's (TVAs) Kingston Fossil Plant in Tennessee ruptured sending approximately a billion gallons of coal slurry fly ash into the surrounding country side and nearby Clinch and Emery Rivers. It was the largest coal-related slurry spill in United States history.

As part of their response, the Environmental Protection Agency (EPA) is considering two proposals to regulate Coal Combustion Residuals (CCR), more commonly called coal or fly ash. At this time, regulation of coal ash is governed by the states, not EPA. Under the first proposal EPA would regulate CCRs under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Subtitle C is for hazardous wastes. Although EPA would call CCRs "special waste," the result of listing them with hazardous materials would destroy the recycle market for coal ash, greatly increasing our employers' costs and putting at risk many coal-fired powerhouses. Currently, approximately 45 percent of CCRs are recycled into products such as concrete and wallboard.

EPA's second proposal, supported by the IBEW, would regulate CCRs under Subtitle D of RCRA. Subtitle D is the section for non-hazardous waste. Under Subtitle D, CCRs would be treated much the same as municipal waste. Recycling of coal ash would continue without the stigmatization associated with classifying CCRs under the same section of law as hazardous waste.

Even if EPA classifies CCRs as non-hazardous, they would still establish dam safety requirements to address structural integrity in order to prevent another catastrophe like the one at Kingston. EPA would also require multi-layer liners for storage ponds and groundwater monitoring to detect contamination. The IBEW fully supports this responsible regulation.

## **Talking Points**

- The nature of coal ash does not warrant its regulation as a hazardous waste. Such regulation would destroy the very successful recycle programs that greatly reduce the need for and cost of disposal.
- CCR's have been used for decades to enhance concrete and for wallboard construction. CCR's contributed to the construction of the Hoover Dam and San Francisco – Oakland Bay Bridge. More recently they were used in the construction of the new I-35 bridge in Minneapolis, Minnesota. Concrete made with fly ash extends the life of construction projects by decades, minimizing the environmental impacts of rebuilding.

- The approximately 45% of CCRs that are currently recycled avoid about 117 tons of greenhouse gas emissions annually.
- Every ton of fly ash used in place of Portland cement prevents about a ton of CO<sub>2</sub> from entering the atmosphere. Additionally, the equivalent of 55 gallons of oil is saved because that is what it takes to produce a ton of cement. Furthermore, fly ash requires less water than Portland cement.
- Regulation of CCRs under Subtitle C (hazardous waste) will stigmatize the use of fly ash in construction products, even if the material used is termed “special waste.” There would be significant reluctance to allow CCRs in construction materials if it is regulated as a hazardous waste.
- Any lawsuit against recycling would be substantially assisted by regulating CCRs under Subtitle C. With the users of CCRs increasingly conscious of product liability, placing coal ash under Subtitle C will greatly setback if not destroy recycling efforts.
- Even if it classifies fly ash as nonhazardous, EPA would still establish national criteria to ensure the safe disposal of CCRs. Facilities handling coal ash would be subject to location standards and composite liner requirements. Existing ash ponds without liners would have to retrofit within five years or close and groundwater would be monitored for contaminants. Post-closure care requirements would be issued to address the long-term stability of ash ponds.