



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 22 2011

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

**MEMORANDUM**

**SUBJECT:** Response to OIG Evaluation Report, *EPA Promoted the Use of Coal Ash Products with Incomplete Risk Information*

**FROM:** Mathy Stanislaus  
Assistant Administrator

A handwritten signature in black ink that reads "Mathy Stanislaus".

**TO:** Arthur A. Elkins, Jr.  
Inspector General

Thank you for the opportunity to review and respond to the Office of Inspector General (OIG) evaluation report, *EPA Promoted the Use of Coal Ash Products with Incomplete Risk Information*, dated March 23, 2011. OSWER concurs with both recommendations, and agrees that protection of human health and the environment is a critical prerequisite to promoting the beneficial use of coal combustion residuals (CCR). As recognized in the OIG's report, EPA suspended active participation in the Coal Combustion Products Partnership (C2P2) program, while we are assessing comments on the beneficial use of CCRs through the CCR proposed rulemaking. The comments below present the response of the Office of Solid Waste and Emergency Response (OSWER) for the two recommendations included in the report:

**Recommendation 1:** Define and implement risk evaluation practices to determine the safety of the CCR beneficial uses EPA promotes.

Reuse of industrial materials, when performed properly, and in an environmentally sound manner, is environmentally preferable to the disposal of these materials, as it can provide significant environmental, economic, and/or product performance advantages. Consequently, it is important that we continue to encourage the reuse of industrial materials, including CCR, but that reuse must be in a safe and protective manner. In this regard, OSWER is developing a process or evaluation hierarchy to evaluate the potential risk of beneficial uses of CCR. We expect to use common evaluation techniques in a hierarchy to accommodate different levels of evaluation needed considering materials, nature, use and the necessity for site specific evaluation, for example. OSWER also expects to look at tools to be identified in *Evaluating Risk of Industrial Materials Recycling: A Compendium of Information and Tools*, and refinements to

the Industrial Waste Management Evaluation Model that are under development that may aid us in evaluating various beneficial uses. We plan to develop the process or evaluation hierarchy in two parts due to the complexity of evaluating unencapsulated uses. Although development of the evaluation process/hierarchy may be informed by the comments on the proposed rule, its issuance is not linked to issuance of the final disposal rule. OSWER expects to complete internal development of the process or evaluation hierarchy for encapsulated beneficial uses by April 2012. OSWER expects to complete development of the conceptual model for evaluating risks from unencapsulated uses by 2<sup>nd</sup> quarter FY2014.

**Recommendation 2:** Determine if further EPA action is warranted to address historical CCR structural fill applications, based on comments on the proposed rule and other information available to EPA.

In the proposed CCR disposal rule, the Agency proposed that large scale fill be considered disposal rather than beneficial use. OSWER is in the process of evaluating over 450,000 comments on the proposed rule, which includes comments on the issue of large scale fill as disposal. The Agency's evaluation of all of those comments and its final rulemaking decisions are critical predicates to determining whether any further EPA action is warranted to address historical CCR structural fill applications. The schedule for promulgating the rule is still in preparation due to the large workload imposed by the overwhelming number of comments received, the complexity of the issues raised, and the resources available. By the end of FY2012, OSWER will provide milestones for determining whether further action is warranted to address historical CCR structural fill applications.

If you have additional questions, please contact Suzanne Rudzinski, Director, Office of Resource Conservation and Recovery, at 703-308-8895, or Johnsie Webster, OSWER Audit Liaison, at 202-566-1912.

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