Beneficial Use Holds Steady… FOR NOW

A look at the effects the proposed federal regulations of coal combustion residuals have had on the existing beneficial use market.

The term “beneficial use” is used to describe an activity that takes waste material and applies that material in a manner that provides a significant value to society. Many people use the term “recycling” instead of “beneficial use” and a broad spectrum of Americans subscribe to the mantra “reduce, reuse, recycle” when considering how best to deal with waste materials. The American Coal Ash Association (ACAA) is in the beneficial use business. Our mission is to encourage the beneficial use of coal combustion products (also known as coal combustion residuals or CCRs) in ways that are protective of the environment, technically appropriate, commercially competitive, and supportive of a more sustainable society. According to the U.S. Environmental Protection Agency (EPA), the beneficial use of coal combustion products (CCP) contributes as much as $23 billion dollars to the U.S. economy annually.

EPA has been working to create regulations covering the disposal of CCP since 2009. The agency imposed this task on itself following a large ash spill at a Tennessee Valley Authority coal-fired power plant in Kingston, TN, in December 2008. Currently, there is no federal regulation of CCP disposal. Many states have regulations of their own. We are not experts in disposal issues. In fact, we believe the solution to disposal problems is not to dispose of a valuable resource.

Proposed Rules Would Have Chilling Effect on CCP Market

ACAA makes a conscious effort to avoid engaging in disposal discussions. The only time we engage in disposal discussions is when beneficial use is affected. Such is the case with the current EPA proposals. EPA has raised the idea of regulating the disposal of CCP under hazardous waste rules. For a myriad of reasons, applying any kind of hazardous waste label on coal ash would have a chilling and potentially devastating effect on beneficial use markets. While EPA has not directly proposed regulation of the beneficial use of CCP, it has suggested that it will examine specific beneficial uses to see if those uses constitute disposal activities not recycling activities.

By any measure, before 2009, the C2P2 program was having remarkable success.
ACAA has conducted an annual survey of the production and use of CCP since 1968. The survey is intended to demonstrate beneficial use over time to describe trends. Making comparisons from year to year is not possible with this survey, as many factors affect the production of CCP, as well as the markets which use these materials. For example, we are expecting the production of CCP in 2012 to be lower due to the impact of cheap natural gas, coupled with a relatively mild winter.

**CCP Recycling Rate Stalled**

Following the Kingston spill and the subsequent announcement of EPA rulemaking, the CCP recycling rate has essentially stalled, pending final EPA action. In some cases, owners such as the Los Angeles Unified School District and Anne Arundel County (MD) suspended the use of CCP until final EPA action; others have taken a wait-and-see position, allowing current uses from current sources to continue pending an EPA decision. For the most part, no new sources or applications have been allowed. There can be no doubt that the stigma of a “hazardous waste” label is inhibiting beneficial use, costing jobs, and threatening many companies in the beneficial use business with extinction.

Under President Bill Clinton and EPA Administrator Carol Browner, EPA determined that coal ash did not warrant management as a hazardous waste—not once, but twice. The first determination was in 19931 with a final determination in 2000.2 In 2000, the CCP recycling rate was approximately 30%. With the final determination providing regulatory certainty to investors and users, beneficial use markets began to grow.

In addition, EPA joined the effort to expand CCP recycling. In 2002, along with EPA, the Federal Highway Administration, the U.S. Department of Agriculture, the Utility Solid Waste Activities Group, and ACAA formed the Coal Combustion Products Partnership (C2P2) to encourage recycling. The recycling rate in 2002 was 35%. Over the next several years, the recycling rate increased to 44%, an increase of almost 50% since the final determination of 2000. EPA itself set a goal of increasing the recycling rate to 50% by the year 2012. By any measure, the C2P2 program was having remarkable success.

Following the Kingston spill and the subsequent EPA action, the recycling rates have been virtually level, as shown above.

There is significant potential for increasing the CCP recycling rate. Regulatory uncertainty has clearly had a chilling effect on markets that can use more CCP. Until that uncertainty is resolved, we will see millions of CCP sent to landfills rather than helping to build upon one of the great environmental success stories of our time.

### Recycling Rates

<table>
<thead>
<tr>
<th>Year</th>
<th>Produced (Tons)</th>
<th>Recycled (Tons)</th>
<th>Recycling Rate (%)</th>
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</thead>
<tbody>
<tr>
<td>2009</td>
<td>125.5 million</td>
<td>55.6 million</td>
<td>44.3%</td>
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<tr>
<td>2010</td>
<td>130.2 million</td>
<td>55.3 million</td>
<td>42.5%</td>
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<tr>
<td>2011</td>
<td>130.1 million</td>
<td>56.5 million</td>
<td>43.5%</td>
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References