

**Coal Combustion Byproduct (CCB) Regulations**  
**Regulatory Advisory Panel meeting #2**  
**April 28, 2009**

Meeting attendees

David Bernard- Sierra Club  
Bob Waldrop- Full Circle Solutions  
Dave Goss- ACAA  
Joe Ryder- American Electric Power  
Scott Reed- Dominion  
Joey O'Quinn- Va. DMME  
Danny McCormick- Town of South Boston  
Rick Parrish- Southern Environmental Law Center  
John Heard- Va. Coal Association  
Lisa Cooper- PMI Ash Technologies

DEQ staff present-

Jason Williams  
Debra Miller  
Melissa Porterfield  
Aziz Faramand  
Don Brunson  
Becky Dietrich  
James Golden  
Leslie Beckwith

Other public observers-

Terry Phillips- Golder Associates  
Thornton Newlon- Va. Coal Association  
Davis Phaup- Old Dominion Electric Cooperative

Introduction

A meeting of the Regulatory Advisory Panel (RAP) for the Coal Combustion Byproduct (CCB) Regulations took place on April 28<sup>th</sup> at 10 a.m. DEQ's Central Office. This meeting was open to the public and members of the public were in attendance.

Introductions were conducted and the group was reminded that the goal was to work together at these meetings on issues to reach consensus. The definition of consensus was reviewed with the group. Consensus is defined as a willingness of each member of the RAP to be able to say that he or she can live with the decisions reached and recommendations made and will not actively work against them outside of the process. When consensus is not reached by members of the group, the different viewpoints will be explained to Agency management by agency staff. Meeting minutes will be circulated informally to group members for review prior to posting on the Virginia Regulatory Town Hall website.

### Topics discussed

At this meeting the agency provided items to the RAP that the RAP had previously requested. At the previous meeting, discussions took place concerning the siting criteria as it relates to floodplains. Since the last meeting the agency investigated the 100 year and 500 year floodplains. The agency indicated that the 100 year floodplain will be used as the criteria used to prevent siting of CCB sites in floodplains which is consistent with the current siting requirements for sanitary landfills. Consensus was not reached among all members of the group with some members stating that the 500 year floodplain should be used or considered.

The agency also provided the RAP with information on the areas within Virginia that had been mapped as having the potential for karst conditions to be present. A map produced by Radford University's Geology Department was used to illustrate the areas where known caverns and caves has been identified as well as the rock formations that indicate the areas where karst features may be present. The current setback from a sink hole is 100 feet.

Discussion took place concerning the setback requirements from streams, wells, springs and ground water sources of drinking water. There was concern by some that the language did not include intermittent streams and springs. Some members suggested including intermittent streams to the setback requirements, and also suggested all springs be protected with a setback distance, not just those used as drinking water sources. There was no consensus on these changes. The current language concerning these setbacks is consistent with the setback requirements specified for landfills in the Virginia Solid Waste Management Regulations (VSWMR). There was consensus that CCB should not be placed into streams. There was a concern that the setback requirements for wells would include monitoring wells, however the regulatory language specifies that the well setback is for drinking water sources. The agency is suggesting a change to the setback requirement from a well, spring, or ground water drinking source to make it consistent with the setback requirements in the VSWMR for landfills.

The group discussed the setback requirement from sinkholes, and the definition of Karst terrane contained in the VSWMR was shared with the group. This definition is incorporated into the CCB regulations since all definitions in the VSWMR are incorporated into the CCB regulations. There was discussion concerning the list of karst features contained in the definition of karst terrane and if those should be listed in the setback requirements. There was a reference to Va. Code section 10.1-1408.4 B. 5 which contains the siting setback criteria for municipal solid waste landfills which states "over a sinkhole or less than 100 feet above a solution cavern associated with karst topography." There was concern by some that CCB sites should not be sited above any karst feature.

The agency also discussed with the group the addition of a setback requirement from residences, buildings/structures, schools and licensed daycare centers. The group discussed the concept of including this additional setback requirement for new sites. There was concern that if a CCB site was developed for recreational use, that this

requirement would prohibit development of additional CCB sites in the area. There was no consensus on adding this new setback requirement.

As a result of discussions at the previous meeting, the agency provided information to the RAP concerning the review CCB sites and Permit by rule (PBR) applications. A request was received for these presentations to be e-mailed to the committee. Questions were asked concerning the financial assurance requirement for PBR facilities and staff explained the types of financial mechanisms and how the financial assurance program works. Questions were asked by the committee concerning the 30 day time frame allowed for the agency to review projects. Throughout this discussion, there were references to the fact that the review process may need to be different for different types of projects.

A tiered approach to regulating these sites was discussed and the following ideas were suggested as possible things to consider if the review process was to be revised:

- ◆ Size of the site, either by volume of material or land surface area (acreage)
- ◆ Geographic area based requirements- (3)- eastern, piedmont, and mountains
- ◆ Citizen concern and need for an informational meeting or public meeting or hearing
- ◆ Tailor locational siting requirements (such as setback distances) into the tiered approach
- ◆ Different standards for sites with a liner
- ◆ % ash -used vs. total size of the site (% ash soil mix)

Pennsylvania is proposing a tiered approach with their CCB regulations and the RAP requested information on their proposal.

Adding public notification and/or participation requirements to the regulations was discussed with the group. The agency is considering including public participation in the regulations for future projects. Two sets of regulatory language concerning public participation were provided to the RAP for review prior to the meeting. There was no consensus on the addition of a public participation component to the regulations. The following issues concerning public participation were discussed:

- ◆ Public notice of projects that have previously had public notice for another purpose (for example zoning or planning commission mtg.) not being required to have additional public notice
- ◆ Having the public request a meeting if they are interested in the project, no automatic public meeting
- ◆ Who should conduct the meeting- the applicant or the agency, or third party
- ◆ Concern over how long the public notice component would delay the project

Changes to operational requirements at CCB sites were discussed. This included adding a regulatory requirement for surface wetting or surfactant agents to be applied to control dust. There was general agreement that wetting the material would help control dust, however there were concerns expressed when excessive amounts of water comes into contact with the ash such as during heavy rains.

The addition of a requirement for the fossil fuel combustion products to be compacted within a specified time frame to be included in the regulations to minimize dust was

discussed. The time frame suggested by a committee member is 72 hours. This time period was suggested by a committee member involved with the use of fossil fuel combustion products to fill sites since it would not adversely impact operations. Minimizing the area actively receiving fossil fuel combustion products was also discussed. A suggestion was made to have an area not to exceed 15 acres. Also, a suggestion was made to require soil to be placed on top of fossil fuel combustion products if the area had not received material within 60 days.

The next meeting of the CCB RAP is scheduled for 10 a.m. Tuesday May 19, 2009 at the DEQ Piedmont Regional Office.

Topics for May meeting

Ecological Studies

Amended material