



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

SEP 02 2011

THE INSPECTOR GENERAL

MEMORANDUM

SUBJECT: Close-out of OIG Report No. 11-P-0173, *EPA Promoted the Use of Coal Ash Products With Incomplete Risk Information*, March 23, 2011

TO: Mathy Stanislaus, Assistant Administrator
Office of Solid Waste and Emergency Response

We have reviewed your August 22, 2011, final response to the subject report. The OIG has now received a complete final response to the subject report, we will close this report in the OIG's tracking system. We acknowledge your efforts and commitment to address the OIG recommendations. The following describes the Agency's agreed-to actions on each recommendation and the estimated completion dates.

Recommendation 1:

"Define and implement risk evaluation practices to determine the safety of the CCR beneficial uses EPA promotes."

OSWER is developing a process or evaluation hierarchy to evaluate the potential risk of beneficial uses of CCRs. OSWER expects 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. OSWER plans 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.

Estimated Completion Dates:

1. By April 2012: OSWER will complete internal development of the process or evaluation hierarchy for encapsulated beneficial uses.
2. 2nd Quarter 2014: OSWER will complete development of the conceptual model for evaluating risks from unencapsulated uses.

Recommendation 2:

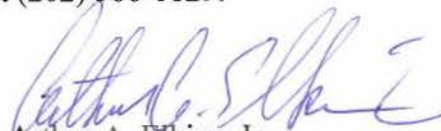
“Determine if further EPA action is warranted to address historical CCR structural fill applications, based on comments on the proposed rule and other information available to EPA.”

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. OSWER considers the Agency’s evaluation of all of those comments and its final rulemaking decisions 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.

Estimated Completion Date:

By the end of FY 2012: OSWER will provide milestones for determining whether further action is warranted to address historical CCR structural fill applications.

If OSWER finds it necessary to modify any of the agreed-to corrective actions or planned milestones, the OIG should be consulted in advance. If you or your staff have any questions regarding this memo, please contact Wade Najjum, Assistant Inspector General for Program Evaluation, at (202) 566-0827, or Carolyn Copper at (202) 566-0829.


Arthur A. Elkins, Jr.

cc: Wade Najjum, OIG
Elizabeth Grossman, OIG
Carolyn Copper, OIG
Steve Hanna, OIG
Lisa Feldt, OSWER
Barry Breen, OSWER
Suzanne Rudzinski, ORCR
Sandra Connors, ORCR
Renee Wynn, OPM
Betsy Smidinger, ORCR
Richard Kinch, ORCR
Lee Hofman, ORCR
Roy Prince, ORCR
Johnsie Webster, OSWER



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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

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 2nd 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.

cc: Lisa Feldt, OSWER
Barry Breen, OSWER
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