

ALPHA-OMEGA ENVIRONMENTAL MANAGEMENT

February 5, 2008

Mr. Stephen Pattison, Assistant Secretary
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

RE: Proposed CCB Regulations

Dear Mr. Pattison:

We are writing to avail ourselves the opportunity to comment on the proposed regulations relating to coal combustion byproducts (CCB) as published in the Maryland Register December 21, 2007. The comments refer to revisions proposed in COMAR Title 26 Subtitles 04, 20, and 21 as follows:

COMAR 26.04.10

Section .02 – Definitions

- B(2)(b) – remove this exclusion. There is certainly a “beneficial use” for CCB in mining operations. As long as CCB is managed in accordance with the requirements of the applicable regulations, it “*does not contribute to adverse effects to public health or the environment*” as indicated in COMAR 26.04.10B(2)(a).

Section .04 – Disposal

- C&D – define what constitutes “*constructed*” as it relates to a CCB facility.

Section .05 – Storage

- E – define what constitutes “*near or in an area likely to*” pollute waters of the State. This is an arbitrary phrase.
- F&G – replace “*likely*” with “*imminent*.” Likely is too arbitrary.
- H – replace “*ensure*” with “*establish*.” The term “*ensure*” can be construed to mean guarantee and the appropriate management of CCB cannot be guaranteed since human factors and acts of God are involved.

Section .08 – Reporting

- E – add “except information deemed proprietary and requested to be confidential.” Proprietary information should be excluded from public domain.

COMAR 26.21.04

Section .02 – Definitions

- B(1)(c) – remove this section to allow flue gas desulfurization (FGD) materials as reclamation material. The properties of FGD are very similar to other CCB and does not constitute an additional threat to water or air quality. Also, the liner requirements for mine reclamation sites are essentially the same as an industrial waste landfill that does allow FGD. This applies to COMAR 26.21.04.03B(1) as well.

Section .03 – Authorization of Use and General Requirements

- B(1) – remove this section entirely. See comments above for COMAR 26.21.04.02B(1)(c).
- B(4) – reduce compaction requirement to 90% instead of 95%. The difference from 90% to 95% compaction provides little, if any, benefit and does not justify the additional cost to do so.
- B(5) – replace the phrase “*except where post-mining land use requires minimal variation and is*” with “*unless approved by the county where the site is located*”. This allows for greater control by the local county rather than MDE as to the final appearance of the reclamation site.
- B(6) – replace “*regional*” with “high” groundwater table.
- B(8) – remove the limitation for immediate placement and compaction. This places an undue burden on operators that may experience temporary equipment failure or other unforeseen conditions. As long as the site operator can meet the water and dust control requirements, CCB should be allowed to be placed within the active fill area, but not compacted.
- B(9) – remove this section since there are already leachate collection and no additional impact to surface water. At a minimum, replace “15 days” with “30 days.”
- B(10)(b&c) – remove these requirements while maintaining the requirement for water and fugitive dust control. See comments for B(8) above.

Section .04 – Application for Use

- C(14)(e) – this is contradictory to Section .03(B)(8) as proposed.

Section .06 – Leachate Control and Collection

- A(1)(b) – replace the requirements for synthetic liners from 50 mil to 40 mil and 30 mil to 20 mil. This should still achieve the required permeability while using more commercially available thicknesses.
- A(1)(f) – The groundwater buffer requirement should refer to the “composite” liner system to avoid confusion. Also, the liner references throughout COMAR 26.21.04 should be for a composite liner system rather than individual components.

Section .07 Monitoring

- C(4) – remove this section completely. Should avoid using personnel requirements and use sampling requirements such as USEPA SW

846 no matter who conducts the sampling. At a minimum, define what constitutes a "*qualified*" groundwater scientist and environmental technician.

- C(8) – remove the phrase "*for a qualified groundwater scientist or professional.*" This requirement and that noted in section C(4) are arbitrary.
- C(9) – define the phrase "*qualified groundwater scientist or professional's.*" or remove the section entirely.
- C(11) – remove the terms "immediately" and "as soon as possible." These are arbitrary terms that are not needed to accomplish the desired effect.
- C(17) – submit TCLP analyses on a graduated scale (semi-annual then annual then bi-annual) unless exceedances occur.

Section .08 – Closure

- A(1&3) – change the cap slope requirement to 3% to be consistent with other states.

Section .09 – Post-Closure Monitoring and Maintenance

- A & A(1) – suggest using a graduated scale for monitoring unless exceedances occur.
- A(2)(d) – replace "*for other good cause*" with "as deemed appropriate by the Department based upon data received." This is arbitrary and too open ended as written.
- H – The bond release needs to have maximum time limits established as long as monitoring requirements are not being exceeded.

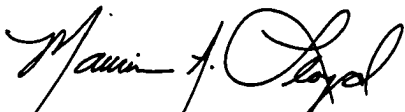
Section .10 – Drinking Water Supply

- A – define impact area or what constitutes an impact.

We certainly applaud the efforts of MDE to provide the regulatory framework necessary to protect the public health and welfare in managing CCB. We believe that the comments above will provide a more usable document for both the regulator and the regulated community. If there are specific questions relating to our comments, feel free to contact me.

Sincerely,

ALPHA-OMEGA ENVIRONMENTAL MANAGEMENT LLC



Maurice A. Lloyd, PE, CHMM
President