



Facts About...

Regulations on Coal Combustion Byproducts

Why has the Department of the Environment (MDE) issued regulations?

Additional controls are needed to ensure that we protect the public health and the environment. While the United States Environmental Protection Agency (EPA) has been developing a proposal to regulate the disposal and use of Coal Combustion Byproducts (CCBs) since 2000, no federal program currently exists. Therefore MDE believes it is necessary to move forward with our own regulatory program.

What is MDE's position on the need for CCB regulations at the federal level?

MDE supports the development of a federal program to regulate CCBs to provide a minimum baseline of protection for all states. This will ensure there are consistent safeguards in place throughout the nation on the use of CCBs. MDE does not support the regulation of CCBs as a hazardous waste.

What if the EPA issues new requirements to regulate CCBs at the federal level that are different from Maryland's program?

Any new requirements from the EPA are not likely to be final for several years. In the meantime, MDE will monitor the progress of federal proposals. Once the provisions of any new federal program are known, MDE will assess how any differences in the regulatory approaches should be resolved.

How can I obtain the regulations, and when do they take effect?

MDE's CCB regulations were published on November 21, 2008, in the Maryland Register and are available on MDE's website at: http://www.mde.state.md.us/CitizensInfoCenter/Health/ccbs_regs.asp. The new regulatory requirements take effect on December 1, 2008.

What is covered by the regulations?

The regulations provide a regulatory framework for the disposal of CCBs and the use of CCBs for mine reclamation. Disposal facilities will need to meet all of the same standards required for industrial solid waste landfills. This includes, but is not limited to, leachate (rainwater mixed with waste) collection, groundwater monitoring, the use of liners, and routine analysis of CCBs. As solid waste disposal facility, a CCB disposal facility will need to be sited in conformance with all local zoning and land-use requirements as well as the County's ten-year solid waste management plan. For mine reclamation sites, the regulations address both coal and non-coal mines. The use of CCBs in non-coal mines will need to meet standards similar to those required for industrial solid waste landfills. Standards for coal mine reclamation will ensure that only alkaline CCBs are used.

For both disposal and mine reclamation sites, dust control measures must be implemented and post closure monitoring and maintenance must be performed. MDE may also impose other requirements in addition to the regulations as part of the permitting process for new CCB disposal or mine reclamation sites. The regulations also impose new reporting requirements on generators of CCBs. This includes an annual report that covers how the material was recently used or disposed, as well as future plans for disposal or use.



How are the regulations different from prior requirements?

For the first time in Maryland, there will be consistent, standard regulatory requirements for facilities that are dedicated CCB disposal sites as well as mine reclamation sites using CCBs.

What is the relationship of MDE's CCB regulations to local land use controls?

MDE's principal role and authority is to develop regulations that are protective of human health and the environment. The human health and environmental issues related to CCB's are most effectively regulated at the state level. Likewise, it is the role and responsibility of local government to determine appropriate land use controls through zoning and local ordinances.

When the regulations are final, will the public have the opportunity for input into permits issued to CCB disposal facilities or mine reclamation projects involving the use of CCBs?

Yes. Dedicated disposal facilities for CCBs will be regulated by the Solid Waste Program through the permitting process. Mine reclamation activities using CCBs will be permitted through the Mining Program. The process for the issuance of permits will involve a public review and comment period involving one or more public meetings and/or hearings.

How do the regulations address existing facilities?

Existing CCB facilities that MDE has authorized prior to December 1, 2008 will be allowed to continue to operate under MDE's current authorization (i.e., existing approvals such as permits and consent orders). However, MDE reserves the right to modify an existing authorization to require additional controls or requirements considered necessary to protect public health and the environment or to prevent nuisance conditions. However, any existing CCB facility that proposes to expand beyond its current authorization or operations will be required to notify MDE in writing. MDE may then impose additional controls or requirements on the expansion of the facility as is considered necessary to protect public health and the environment or to prevent nuisance conditions. For example, this could include a requirement that the proposed expansion obtain an industrial waste landfill permit for the expansion.

What are CCBs and how much is generated in Maryland?

Energy companies that burn coal generate CCBs, which includes fly ash and bottom ash ("coal ash"), boiler slag, fluidized bed combustion ash, and flue gas desulphurization sludge. Approximately 2 million tons of coal ash is generated annually from Maryland plants. CCBs are either disposed or beneficially used. Disposal of fly ash and bottom ash occurs in surface impoundments or landfills. Beneficial uses of coal ash include mine reclamation, structural fill applications, or as a substitute for cement in the production of concrete. For more information please see MDE's Fact Sheet on Coal Combustion Byproducts (CCBs) at:

www.mde.state.md.us/assets/document/CCPs_Fact_Sheet.pdf

How will the beneficial use of CCBs be regulated?

In the December 21, 2007, issue of the Maryland Register, MDE published an Advance Notice of Proposed Action seeking public input and comment on the development of a regulatory program for the beneficial uses of CCBs. MDE held a public meeting on February 26, 2008, at its Montgomery Park office and the Department received significant input from stakeholders. MDE plans to propose regulations on the beneficial use of CCBs in 2009.