

## Document Log

From	To
"Dave Goss" <dcgoss@acaa-usa.org>	John Sager/DC/USEPA/US@EPA
CC	BCC
Subject	
FW: Re: URGENT---FW: HB 388 Environment- Pozzolan Use and Disposal	02/01/2008 10:10 AM

## Document Body

-----Original Message-----

From: William Aljoe [mailto:WILLIAM.ALJOE@NETL.DOE.GOV]

Sent: Thursday, January 31, 2008 1:09 PM

To: Dave Goss

Subject: RE: Re: URGENT---FW: HB 388 Environment- Pozzolan Use and Disposal

Dave,

If I recall correctly, the central question under TRI reporting is: what, exactly, constitutes a "release to land" that is reportable as such under TRI?

For example, placement in a permitted surface landfill or use for mine reclamation is certainly reportable as a "release to land." Page 4-46 of the publication EPA 745-B-00-004, "EPCRA Section 313 Industry Guidance, ELECTRICITY GENERATING FACILITIES (attached for reference) says:

"EPCRA Section 313 chemicals in ash sent off-site for use in mining reclamation or to be used as aggregate in road construction are also considered off-site transfers of wastes for disposal. These uses of ash are not considered analogous to using a substitute material with a commercial value. You must report amounts of EPCRA Section 313 chemicals in ash sent off-site for mining reclamation or for use as road aggregate on the Form R. Because these chemicals are being managed as a waste by the off-site location, the de minimis exemption does not apply."

But sale to a ready-mix supplier for use in concrete is not reportable, even if that concrete is eventually placed into contact with land, e.g., as poured concrete in a bridge pier. Again quoting from page 4-46 of EPA 745-B-00-004:

"Electricity generating facilities may also distribute ash into commerce for use in the construction industry, or for metals recovery. When ash is distributed in commerce to be directly used by an off-site entity, the amounts of EPCRA Section 313 chemicals distributed in commerce are not reported on the Form R. For example, an electricity generating facility that sells ash to a construction facility who incorporates the ash directly into the manufacture of cement, does not report quantities of EPCRA Section 313 chemicals in that ash on the Form R."

The gray area is when the CCP is sold for use in a commercial product such as "Poz-o-Tec" or "Stabil-Fill" that is subsequently used for a road base or mine reclamation - is this a "release to land" (reportable as a release) or "distributed into commerce" (not reportable)? If the beneficial use involves the latter italicized case rather than the former, then the affected utilities would appear to be justified in not reporting under TRI.

Bill

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>>> "Dave Goss" <[dcgoss@acaa-usa.org](mailto:dcgoss@acaa-usa.org)> 1/31/2008 10:46 AM >>>  
Thanks, Bill. Good ideas. I won't be able to attend this as I am traveling from Phoenix to Washington to attend a meeting on TRI on Friday the 14th. There are concerns from Region 3 about why beneficial use of CCPs is not being reported under TRI. Again, it stems back to Maryland. Dave

-----Original Message-----

From: William Aljoe [<mailto:WILLIAM.ALJOE@NETL.DOE.GOV>]  
Sent: Thursday, January 31, 2008 8:18 AM  
To: Dave Goss  
Cc: Jim Roewer  
Subject: RE: Re: URGENT---FW: HB 388 Environment- Pozzolan Use and Disposal

Dave,

It would probably help if the Maryland utilities would attend the Hearing on this bill - According to the website, it is scheduled for Feb. 13 at 1:00 PM.

A good approach would be for the utilities to voice their support of a State regulatory program for disposal that looks as much as possible like the voluntary program that USWAG has developed.

Simultaneously, they need to bring evidence, in the form of research results, to show that contaminant leaching from CCP beneficial use in roadbuilding and land reclamation is much less likely than when the same CCP materials are put in landfills. I would suspect that UMW-Milwaukee, Univ. of New Hampshire, and Ohio State (Warren Dick) can provide assistance in this regard.

Bill

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>>> "Dave Goss" <[dcgoss@aca-usa.org](mailto:dcgoss@aca-usa.org)> 1/31/2008 9:36 AM >>>  
Thanks, Bill.

I just wanted to make sure you were aware of the issues. As usual, any suggestions or thoughts you might have would be appreciated. I am working with Jim Roewer and a number of the utilities to follow this. I will go to the beneficial use hearing on February 26th in Baltimore, too.

Take care, Dave

From: William Aljoe [<mailto:WILLIAM.ALJOE@NETL.DOE.GOV>]  
Sent: Wednesday, January 30, 2008 7:09 AM  
To: David Goss  
Subject: Fwd: Re: URGENT---FW: HB 388 Environment- Pozzolan Use and Disposal

Dave,

I have no doubt this bill is a knee-jerk response to the contamination that has occurred as the result of the Gambrills fly ash landfill (see attached articles). Hopefully cooler heads will prevail and the bill will die

somewhere in committee. The web site where you can download the bill and track its progress is:  
<http://mlis.state.md.us/2008RS/billfile/hb0388.htm>

Bill

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>>> <[Lueckenhoff.Dominique@epamail.epa.gov](mailto:Lueckenhoff.Dominique@epamail.epa.gov)> 1/30/2008 8:51 AM >>>  
Dave - we're gathering more info on this. Our understanding is that this stems from well contamination resulting from the disposal of fly ash in sand and gravel pits. Does the Association have a scientific/technical response to such risk concerns?

----- Original Message -----

From: "Dave Goss" [[dcgoss@acaa-usa.org](mailto:dcgoss@acaa-usa.org)]

Sent: 01/29/2008 08:19 PM MST

To: <[Jason.Harrington@dot.gov](mailto:Jason.Harrington@dot.gov)>; "Rob Jolly" <[robb@revisionsd.com](mailto:robb@revisionsd.com)>; Dominique

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Cc: "Bill Aljoe" <[aljoe@netl.doe.gov](mailto:aljoe@netl.doe.gov)>; "Tuncer Edil"

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Subject: FW: URGENT---FW: HB 388 Environment- Pozzolan Use and Disposal

Colleagues,

The attached proposal from Maryland prohibiting CCPs (known as fly ash or pozzolans) in land reclamation, agriculture and soil improvements, would have a serious impact on the Green Highways Partnership, C2P2, beneficial use, harmonization of standards and other related activities.

Are any of you aware of the reason for this House Bill? It seems to go well beyond the proposed revision to Maryland's solid waste and beneficial use regulations.

Any suggestions on how to approach this issue?

Thanks, Dave Goss

-----Original Message-----

From: Tuncer B. Edil [mailto:tbedil@wisc.edu]  
Sent: Tuesday, January 29, 2008 6:52 PM  
To: 'Dave Goss'  
Cc: 'Craig H. Benson'  
Subject: FW: URGENT---FW: HB 388 Environment- Pozzolan Use and Disposal

Dave

Are you aware of this? What is going on?

Tuncer