

July 7, 2010

Administrator Lisa Jackson
U.S. Environmental Protection Agency Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Jackson:

You are no doubt aware of the recent decision by your agency to remove the web-pages of the Coal Combustion Products Partnership (“C²P²”) program from the Environmental Protection Agency (EPA)’s web site while that program undergoes re-evaluation. On behalf of Public Employees for Environmental Responsibility (PEER), I am writing you to request public disclosure of the criteria that are being used as the basis of that reevaluation.

As you are also aware, EPA’s C²P² program has for years actively promoted a variety of coal combustion waste applications under the rubric of “beneficial use.” In November 2009, EPA’s own Office of Inspector General (OIG) noted in a report that it had “referred the question how EPA established a reasonable determination for these endorsements [EPA’s promotion of beneficial use through C²P²] to the appropriate OIG office for evaluation.”¹ Also, PEER has recently requested correction of coal combustion waste greenhouse gas benefit statements on the C²P² website.

The C²P² program web-pages were abruptly removed this week and replaced with the following statement:

“The Coal Combustion Products Partnerships (C²P²) program web pages have been removed while the program is being re-evaluated.”²

In announcing your agency’s plan to regulate coal ash, EPA press statements proclaimed that this “proposal opens a national dialogue...for addressing the risks of coal ash...”³ To the extent that EPA truly wants a national dialogue, PEER strongly urges that you make public the basis for removal of these pages from EPA’s website, as well as the criteria that are being used to “re-evaluate” the C²P² program so that the role of this program can be a constructive part of that dialogue.

At the very least, EPA should also undertake formal consideration of the conflict between its role as a regulatory agency and the role of a promotional partner with the coal ash industry for combustion waste products over which it has regulatory purview. One example of this clash is illustrated by agency records showing EPA officials with C²P² routinely allowed industry officials to review and edit agency reports, brochures and factsheets in ways to downplay or eliminate mention of potential risks of coal ash and other combustion wastes.

¹ U.S. ENVTL. PROT. AGENCY, OFFICE OF INSPECTOR GENERAL, REP. NO. 10-N-0019, RESPONSE TO EPA ADMINISTRATOR’S REQUEST FOR INVESTIGATION INTO ALLEGATIONS OF A COVER-UP IN THE RISK ASSESSMENT FOR THE COAL ASH RULEMAKING 7 (2009).

² <http://www.epa.gov/epawaste/partnerships/c2p2/index.htm>

³ Press Release, U.S. Env’tl. Prot. Agency, EPA Announces Plans to Regulate Coal Ash: Agency proposals would address risks of unsafe coal ash disposal, while supporting safe forms of beneficial use (May 4, 2010), <http://www.epa.gov/newsroom/newsreleases.htm#date> (follow “2010” hyperlink; then follow “Earlier Releases” hyperlink and scroll to “05/04/2010”).

In addition, PEER remains concerned about untested uses of coal combustion wastes and continues to urge EPA to consider toxic implications. In particular, PEER is concerned about recycling captured mercury and other toxics into coal combustion waste products, as well as end-of-product-life and worker health impacts that arise when recycling this hazardous waste stream.

Finally, PEER would like assurance that these recent EPA actions will not slow the coal ash rulemaking that is also currently underway. PEER hopes that EPA will ensure that any necessary background documentation that would have been available on the C²P² website remain available for review throughout the rulemaking process.

I look forward to your prompt attention to this important matter.

Sincerely,

Jeff Ruch
Executive Director