

**SUMMARY OF LAFARGE'S CONCERNS**  
**REGARDING EPA PROPOSAL**  
**TO REGULATE CCW AS RCRA HAZARDOUS WASTE**

November 13, 2009

1. Lafarge supports regulation of coal combustion wastes (CCWs) under federal guidelines to protect public health and the environment. Lafarge opposes regulation of CCWs as RCRA Subtitle C hazardous wastes, however, and defers to the voluminous record submitted by electric utility companies and others showing such regulation as unnecessary and inappropriate.
2. Lafarge's primary concern is the devastating effect a hazardous waste designation for CCWs would have on the beneficial re-use of coal combustion products (CCPs). Lafarge is a major marketer and user of CCPs in the U.S. (See slides 1-5 of attached "Lafarge Perspective" PowerPoint). Among Lafarge's primary CCP uses are (a) Portland cement replacement in concrete (slides 6-7); (b) treatment of soils and base materials (slides 8-12); (c) raw feed in Portland cement manufacturing (slides 13-15); (d) underground mine stabilization (slides 16-21); and (e) wallboard ingredient (slides 22-24).
3. EPA's Subtitle C approach may exempt CCPs used in certain types of beneficial modes from designation as a hazardous waste, but such exempted materials would still carry such a "stigma" that as a practical matter, significant barriers and deterrents would be placed on their use. (See attached Lafarge letter of August 7, 2009 to EPA.)
4. Common sense and logic show how there would be significant adverse impacts from such a stigma. If EPA listed disposed CCW as a hazardous waste, potential CCP users would be confronted with the fact that exactly the same material they could choose to use has been officially declared a hazardous waste. With many substitute materials available that do not carry this stigma, it is obvious that consumers would be highly motivated to avoid the CCP.
5. In the minds of the public any combination of the words "hazardous waste," "toxic waste," or "chemical waste," conjures up the specter of Love Canal, the Valley of the Drums, cancer, birth defects, and worse. This public phobia regarding hazardous wastes is also manifested in many judicial decisions, and prospective purchasers and users will presumably want to minimize their risks of tort liability.
6. Since word has spread that EPA may regulate CCW as hazardous waste, we have been inundated with inquiries from our customers and business associates, all pointing to a growing concern over using CCPs in general and a refusal to continue using CCPs if EPA were to actually classify CCWs as hazardous waste. It is clear to us the adverse business and economic impacts of such a classification would be severe for Lafarge and others similarly situated.
7. We understand EPA desires to propose several options for CCW controls, including Subtitle C, Subtitle D, and blends thereof. We believe that adverse impacts could be alleviated somewhat if EPA refrained from labeling Subtitle C as its "lead" option and simply presented Subtitle C as one of several options it is considering. As a legal matter, EPA is free to propose a number of options without indicating that one is a "preferred" or "leading" option.