

Response to the European Commission's Chemical, Product, Waste Interface - Stakeholder Consultation Paper

7 July 2017

About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 90 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 26 million homes and every business in Britain. Over 619,000 people in every corner of the country rely on the sector for their jobs with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry adds £83bn to the British economy, equivalent to 5% of GDP, and pays over £6bn in tax annually to HM Treasury.

Summary

In operating coal-fired and biomass-fired power stations, several useful by-products are generated, including Pulverised Fuel Ash (PFA), Furnace Bottom Ash (FBA) and gypsum. For example, PFA is a useful and economically important by-product which is typically used in the production of construction products such as concrete. Using PFA in place of primary aggregates for the production of concrete reduces pressure on natural resources and leads to a decrease in CO₂ emissions in the production of concrete of approximately 20-30%¹. Energy UK considers that the use of by-products in place of primary aggregates is a key aspect of the Circular Economy and, as such, regulatory obstacles to this should be removed as far as possible.

Comments

Energy UK welcomes the opportunity to respond to the Chemical, Product, Waste Interface - Stakeholder Consultation. Based on the information in the accompanying Roadmap document, and the Stakeholder Consultation paper we have the following comments:

Key Issue #1: Insufficient information about substances of concern in products and waste

The consultation document notes that "...since these REACH obligations only apply to a defined list of substances that meet strict criteria (SVHCs), users of articles, particularly

¹ Datasheet 8.1 Sustainability & Environment, UK Quality Ash Association, http://www.ukqaa.org.uk/wp-content/uploads/2014/02/Datasheet_8-1_July_2007.pdf

consumers, have only limited information about the presence in articles of substances that do not meet the SVHC criteria but may still be of concern (including the presence of such substances in imported articles).”

We have encountered circumstances where the testing of constituent parts of concrete is being proposed (apparently driven by national waste regulations), which ignores the combined chemical and physical effects of all the substances within the end-product. This in turn ignores their combined influence (positive or negative) on any leachate, and its potential to cause harm to the environment.

Results from laboratory testing on power station ashes do not correlate with the performance in the environment of the concrete product in which they are used. The constituent parts of the concrete are well understood and regulated, and further testing of the constituents rather than the environmental behaviour of the final product increases costs and risk for business without benefiting the environment. Focusing on the constituents prior to manufacture using a hazard-based rather than risk-based approach, with no consideration of the nature or intended use of the final substance or item, is counter-productive.

The ‘lack of information’ highlighted as a key issue is not a sufficient basis on which to force operators to collect and provide analytical data which is not directly relevant to either the manufacture or the end use of the product or substance in its final form. Such a requirement could discourage the use of recycled products, such as PFA in concrete, which would be contrary to the principles of the Circular Economy. There is already a substantial dataset available on these materials required by REACH, the Classification, Labelling and Packaging Regulation, and product and safety standards.

Key Issue #2: Presence of substances of concern in recycled materials (and in articles made thereof, including imported articles)

As an industry, we have encountered reluctance from UK environmental regulators to trust the European REACH process. As a consequence, producers can be required to undertake further testing beyond the requirements of REACH, adding additional cost burdens and providing a barrier to achieving the Circular Economy. Although combustion by-products such as ash are REACH-registered, environmental regulators continue to assess them inconsistently as by-products or wastes, regardless of their recovery or disposal status. Producers of PFA are still required to undertake product and safety standard testing on top of compliance testing. This undermines the intention that REACH should act as a comprehensive piece of chemicals legislation that “ensures a high level of protection of human health and the environment” across the EU.

Any “additional methodology” that considers the costs and benefits to society of recycled materials should consider the full-cycle benefits of secondary materials like PFA over primary aggregates; accordingly, it should avoid implementing any additional administrative costs that operators would have to incur that are not applied equally to the alternative virgin material.

In general, we would welcome the removal of conflicts between the chemical, products and waste legislation, and ways of facilitating the Circular Economy policy through greater clarity and harmonisation.

For further information contact:

Andy Limbrick

Environment Consultant
Energy UK
Charles House
5-11 Regent Street
London SW1Y 4LR

Tel: 020 7747 2924

andy.limbrick@energy-uk.org.uk

www.energy-uk.org.uk

India Redrup

Policy Assistant
Energy UK
Charles House
5-11 Regent Street
London SW1Y 4LR

Tel: 020 7024 7635

india.redrup@energy-uk.org.uk

www.energy-uk.org.uk