

CCP in a New Regulatory Era

**World of Coal Ash
Lexington, KY
April 2013**

CCP Facts

- 130 million tons of fly ash, bottom ash, boiler slag, and flue gas desulfurization gypsum produced every year
- Second largest “waste” stream in the US
- About 60 million tons recycled per year
- Value of CCP to US economy = \$9 to 10 billion per year in direct impact
- Indirect and direct impacts = \$23 billion per year

Where are we now?

- No federal regulation of coal combustion product disposal
- Many states have some form of regulation
- State regulators do not believe federal regulation is needed, but if regulation is created, it should be as a non-hazardous material
- All three branches of the federal government are considering disposal regulation

A little history

- 1976 Congress passes the Resource Conservation and Recovery Act
- RCRA Subtitle C for hazardous wastes
- RCRA Subtitle D for non-hazardous wastes
- 1980 Bevill Amendment passed
- 1993 EPA determines CCP does not warrant hazardous waste management
- **2000 EPA makes a final determination that CCP does not warrant hazardous waste management but a non-hazardous management program should be considered**

Current status

- Since 2009 the EPA has been trying to create regulation of coal combustion product (CCP) disposal
- The EPA preferred path is hazardous waste regulation of disposal
- The collateral effects of hazardous waste rules have been a major stumbling block in the EPA's efforts
- Having received over 450,000 comments since 2010 on the June 2010 proposal, no end is in sight

Executive Branch

- EPA has said another Notice of Data Availability is coming out
- EPA has said they support beneficial use of CCP (or at least some beneficial uses)
- EPA has said they would like to help industry stabilize markets to the extent they can
- EPA has said they will be issuing a protocol for evaluation of beneficial use
- The reality is no rule will be forthcoming from EPA until the end of 2013 at the earliest
- No deadline to finish

Judicial Branch

- ENGOs file suit in January 2012 to get a date set for EPA regulation of disposal
- Sue and Settle??
- Headwaters Resources and Boral Materials join the plaintiff side
- NMA and USWAG obtain intervener status
- Suits consolidated
- Briefs due December 21
- Conference set for April 26, 2013

Legislative Branch

- **House passed McKinley bill in October 2011 (HR 2273)**
- **Senate introduces its own version with bipartisan support**
- **No Senate vehicle available to carry a bill**
- **Transportation funding conference considers HR 2273 as an amendment to the funding mechanism**
- **HR 2273 is pulled at the last minute**
- **Senate reintroduces its bill, now S 3512, with 12 Democrats and 12 Republicans sponsoring**
- **Election year schedule stops consideration**

Legislative Branch continued

- Lame duck action was possible
- Senate considers adding CCP legislation to Defense appropriation
- CRS issues report critical of HR 2273
- Senate fails to act
- Back to the drawing board for 113th Congress

Impacts on Beneficial Use?

- 2000 – 30%
- 2008 – 44%
- 2010 – 41%
- 2011 – 43%
- 2012 - ?

B.U. going forward

- EPA is reconsidering how and what they will support
- Inspector General challenges past EPA support
- EPA response to IG
- EPA risk evaluation protocol
- Do we need the EPA to advance beneficial use?

Materials available for B.U.

- Coal fired generation has been losing market share
- Power plants are adding emission control measures
- Energy demand will continue to grow
- Estimated **150 to 200 years** of coal reserves in the U.S.
- Millions of tons of CCP in disposal already

Challenges = Opportunities

- Market demand for CCP will drive technology
- Beneficiation technology continues to evolve
- Generators appreciate the value of CCP

Questions?

American Coal Ash Association
Thomas H. Adams, Executive Director
thadams@acaa-usa.org
(720)870-7897