CCP in a New Regulatory Era

World of Coal Ash
Lexington, KY
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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?

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