

# MD-DC Utilities Association 2012 Environmental Conference October 10, 2012

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# CCR Regulations

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# CCR Rulemaking

- 1980 Bevill Amendment to RCRA
- 1988, 1999 Reports to Congress
- 1992, 2000 Regulatory Determinations
- Rulemaking Initiated in response to December 2008 Ash Spill at TVA Kingston Power Plant
- June 2010 Proposal
  - “Special” Hazardous Waste (Subtitle C)
  - “Self-implementing” Subtitle D
  - Also Proposed “D Prime”

# CCR Rulemaking

- EPA received over 450,000 comments on Proposal
  - 13,000 Substantive Comments
  - 2 million pages
- NODA
  - ELG ICR responses
  - Originally expected Spring 2012 – Timing uncertain
- Final rule delayed until after 2012 election
- CCR Deadline Litigation

# CCR Deadline Litigation

- Environmental Activists Filed Lawsuit April 2012
- Seeking to Compel Rulemaking Under RCRA Section 2002(b)
- Ash Marketers (Headwaters, Boral) also Filed Lawsuit
- USWAG, NMA Intervened in Lawsuit
- Briefing to be Completed by mid-December
- Hearing January 2013

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# Coal Residuals Reuse & Management Act (CRRMA) HR 2273, S 1751

- Amends RCRA's Subtitle D non-hazardous waste program to add a new section for CCR
- Authorizes states to adopt a non-hazardous waste permit programs for CCR under RCRA subtitle D
- Requires state notification and certification to EPA that state program meets federal minimum criteria for CCR permit program
- Assures coal ash is regulated as non-hazardous (subtitle D)

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# Core Elements of CRRMA

- Structural integrity standards & key elements of MSWLF Standards
- Design standards
- Groundwater monitoring/corrective action
- Location restrictions
- Air quality
- Constituents for groundwater monitoring
- Financial Assurance
- Closure

# Core Elements of CRRMA

- EPA Authority
  - May review state programs to ensure state CCR permit programs meet minimum criteria
  - If not, notice to states with ability to correct deficiencies
  - EPA may implement CCR permit program *only* if states do not adopt program or do not correct deficiencies in program
  - EPA CCR permit program limited to minimum criteria; may not adopt new regulations

# Coal Ash Recycling and Oversight Act (CAROA) S. 3512

- Modified Version of S 1751
- 12 Democrats, 12 Republicans as Co-sponsors
- Clarifies Requirement to Obtain Permit
- Clarifies Standards Applicable to CCR Units (e.g., gw monitoring, structural integrity)
- Accelerated Timetable for Corrective Action for Unlined Impoundments

# CCR Legislation - Bottom Line

- Establishes non-hazardous, minimum federal requirements
- Will require all disposal units receiving CCR to obtain an enforceable permit
- Provides EPA with oversight authority but gives states the first opportunity to establish and implement the program

# Support Coal Ash Legislation

## Action Needed Now

- Ash legislation will ensure CCRs are managed safely, protecting human health and the environment, jobs, ash use and the economy
- Activists' threatened lawsuit seeking a rulemaking deadline will result in rushed and flawed rule
- Coal ash recycling rates continue to decline as result of regulatory uncertainty
- Congressional action necessary to establish protective, non-hazardous waste regulations

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[www.regulatecoalahright-now.org](http://www.regulatecoalahright-now.org)

- **Urge The Senate To Support The Regulation of Coal Ash As A Non-Hazardous Waste**
- Contact Senators to support S. 3512, the Coal Ash Recycling and Oversight Act.
- Will ensure that coal ash is managed properly and in an environmentally protective way by the states, while providing for its continued recycling or beneficial use.

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# CCR Issues – Moving Forward

- Regulatory Status – C or D?
- Changing Characteristics
- Pressure to Move to Dry Handling
- Effluent Limitation Guidelines
- Citizen Suits
- Challenges to Beneficial Use



# PCB Regulations

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# PCB ANPRM

- Published April 2010
- Re-examination of PCB Use Authorizations
- Testing, marking of >50 ppm electrical equipment
- Change “PCB Article” from  $\geq 3$  lbs to  $>0.05$  l w/ >50 ppm PCB
- Registration of Large Capacitors
- Eliminate Storage for Re-use
- Continued Use of PCB-Contaminated Porous Surfaces

# PCB ANPRM

- Solicited Information Regarding:
  - Inventory of PCB-Containing Equipment
  - Increased failure rates of Older Equipment
  - Alternatives to PCBs
  - Removal and Replacement Costs
  - Disposal Costs

# PCB Proposed Rule

- Proposal Mid-2013?
- Phase Out of PCB Equipment Likely to be Proposed
  - Transformers, Large Capacitors Likely Targets
- Proposed Revisions to 761.30(p) Likely
- Storage for Reuse remains a Concern
- Testing and Labeling Requirements Problematic
- Little Support for Definitional Changes to “PCB Article”

# Questions?

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