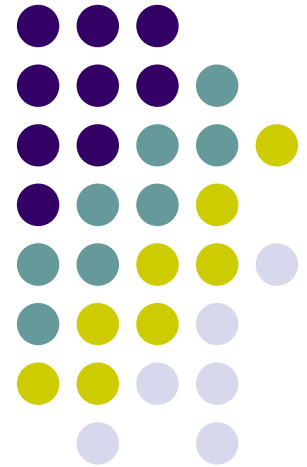


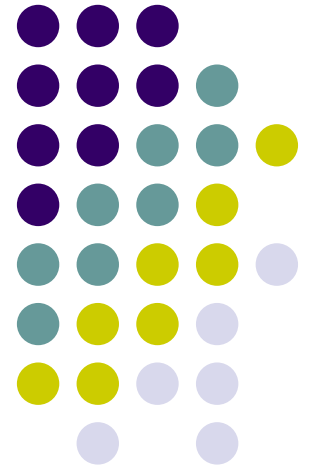
USWAG Update

Jim Roewer
MD-DC Utilities Assn
Fall Environmental Conference
October 29, 2008

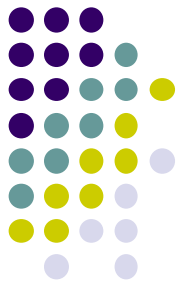


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Coal Combustion Products (CCPs)

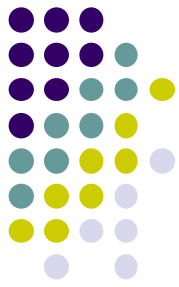


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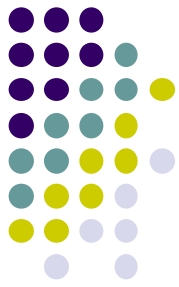
CCP Regulatory Background

- August 1993 & May 2000 Non-Hazardous Regulatory Determinations
- Rulemaking Schedule:
 - CCP Disposal
 - NODA August 2007
 - Mineplacement
 - OSM ANPRM March 2007
 - OSM Proposed Rule Late 2008



EPA NODA

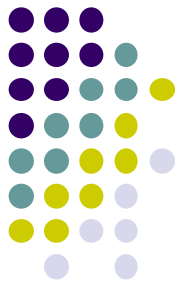
- Issued by EPA to assess the next steps for determining whether to regulate the disposal of coal combustion wastes (“CCWs”) at the federal level
- Updating Record Since 2000 Regulatory Determination



EPA NODA

- Issued to request comment on recent studies that assessed coal combustion waste disposal
 - Joint DOE/EPA report titled *Coal Combustion Waste Management at Landfills and Surface Impoundments, 1994-2004*
 - EPA's Risk Assessment on the management of CCWs in landfills and surface impoundments
 - EPA's damage case assessment

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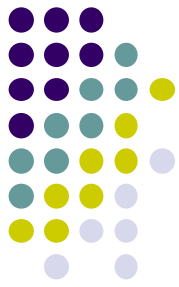


EPA NODA

- The NODA also made available and invited comments on:
 - USWAG's CCP Action Plan
 - A petition for rulemaking submitted by environmental activist groups to prohibit the placement or disposal of CCW into groundwater and surface water
 - A framework for federal regulation of CCW disposal in landfills and surface impoundments submitted by other environmental activists.

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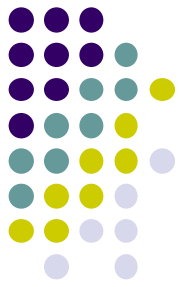
Earthjustice Proposed Regulations



- Essentially federalizes ash disposal, ignoring states' activities & role in RCRA Subtitle D
- Covers active and closed disposal units
- Groundwater protection point of compliance 50 m from unit boundary
- Prohibits new/expanded surface impoundments; existing units must closed within 2 years
- Beneficial uses except in product (e.g., cement/concrete, wallboard) regulated same as disposal
- Suggests hazardous waste listing for noncompliance

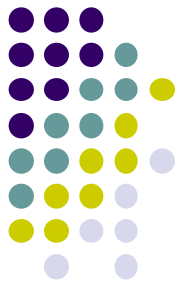
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Earthjustice Regulations – Our View



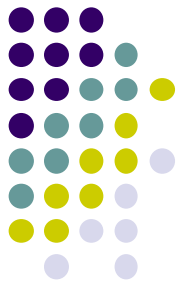
- Unsupported by data collected by EPA
- Scope exceeds any RCRA Subtitle D regulations
- Targets areas of ash management not identified by EPA in 2000 Regulatory Determination as concern
- Maintains myth that no Federal regulation = no regulation
- Regulation of beneficial use would hinder utilization efforts

CCP Disposal Regulations – Our View



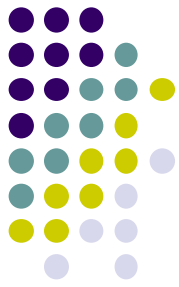
- Action Plan & State Regulations are Sufficient
- No Need for Comprehensive Federal Regulatory Program
 - Performance Based Standards for Disposal and Mineplacement
 - State Regulatory Oversight of Disposal
 - No Regulation of Beneficial Use
 - EPA's Role = Technical Assistance & Filling Gaps

CCP Disposal Regulations – Environmentalists’ View



- “Contingent C” regulatory approach
- States cannot be trusted
- Only federal regulations can ensure CCPs are not mis-managed
- Industry cannot be trusted to implement voluntary plan

CCP Disposal Regulations – States' View

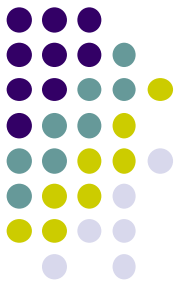


- “The need for additional federal regulations is ... questioned (ASTSWMO)”
- “The department believes that any additional federal regulation of these wastes is unnecessary” (Nebraska DEQ)
- “If federal rulemaking for CCW is necessary, we suggest ... MSW landfill regulatory structure in Part 258 of Subtitle D of RCRA” (Wisconsin DNR)

CCP Disposal Regulations – States' View

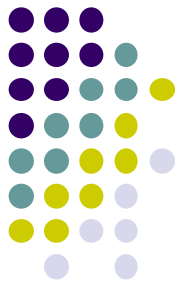


- ECOS Resolution on Regulation of CCPs
 - Agrees CCPs should not be regulated as hazardous waste
 - Confirms States are and should remain the principal regulatory authority
 - Calls on EPA to NOT develop federal disposal regulations; and
 - Calls for dialog between EPA and States to encourage beneficial use



CCP Mineplacement

- OSM Implementation of NAS Report on Mineplacement
 - SMCRA Does Not Contain Explicit Regulations Addressing CCP Mineplacement
 - Proposed Modifications to SMCRA Title V & IV
 - Demonstrates OSM Commitment to Mine Reclamation & Environmental Protection
 - Will Allow for Continued CCP Mineplacement

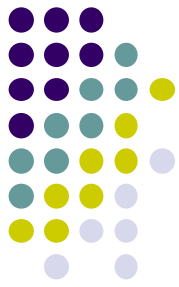


CCP Mineplacement

- Environmental Groups have requested
 - Separate NODA on Mineplacement
 - Risk Assessment on Mineplacement
 - Mineplacement Damage Case Assessment
- OSM is preparing EIA on proposed rule
- Proposed Rule – Late 2008
- EPA likely to develop rule for non-SMCRA mineplacement

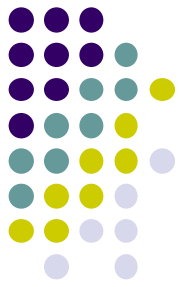
What Does the Future Hold?

State Level Activities



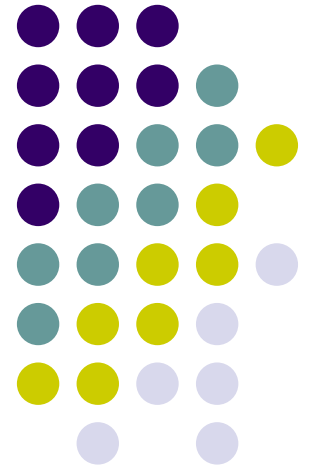
- Assertion by States of Regulatory Authority
 - ECOS, ASTSWMO Letters to EPA
- Revisions to State Regulations
 - Iowa, Maryland (Disposal & Utilization), Ohio (Solid Waste Rules), Pennsylvania, Virginia
- Citizen Suits
 - Sierra Club challenge to Kansas Disposal Permit
 - Environmental Integrity Project notice of intent to sue re. CCP disposal in Maryland

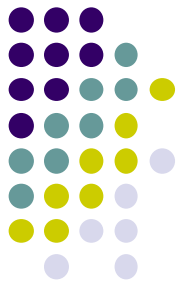
What Does the Future Hold? Federal Activities



- EPA Disposal Regulations
- OSM Mineplacement Regulations
- EPA Mineplacement Regulations
- Congressional Oversight
- Effluent Guideline Revisions
- ORD Studies on Hg Control & CCPs

Spill Prevention Control and Countermeasures (SPCC)



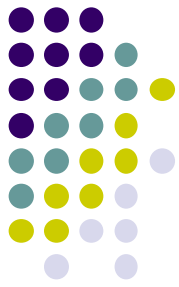


SPCC

- “Loose ends” proposal issued October 15, 2007 (72 Fed. Reg. 58378)
- Intended to address SPCC issues that arose after the 2002 rulemaking that had not yet been addressed
- Final rule scheduled for October 2008
- Deadline for compliance with 2002 (and future) rules is still July 1, 2009*

SPCC

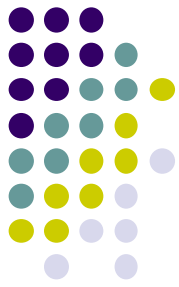
Key Loose Ends Proposals



- Minimal SPCC plan template for facilities with less than 5,000 gallons of oil storage capacity
- Expansion of mobile refueler exemption from sized secondary containment to cover trucks used to transfer non-fuel oils
- Definition of loading rack that would trigger sized secondary containment requirements

SPCC

Key Loose Ends Proposals

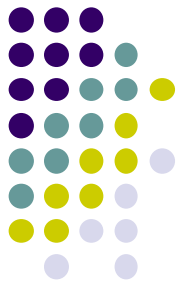


- Codification of guidance that active containment measures may satisfy secondary containment standards
- Clarification of the rule's application to wind turbines
- Codification of flexibility in defining “facility” for program applicability
- Elimination of dual regulation of EDG Tanks at Nuclear Power Plants

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SPCC

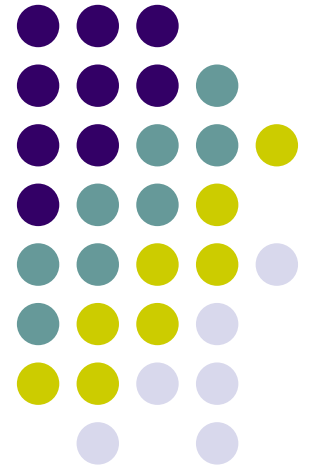
Loose Ends Rulemaking



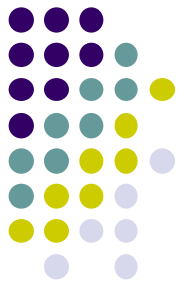
- USWAG comments generally supported most of EPA's proposals except its definition of loading rack
- Most of the proposals would dramatically reduce compliance burdens
- Possible USWAG Workshop Late 2008/Early 2009?

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Treated Wood Issues



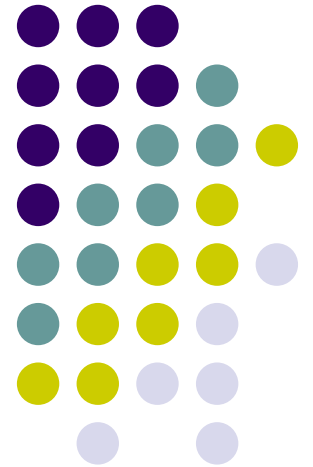
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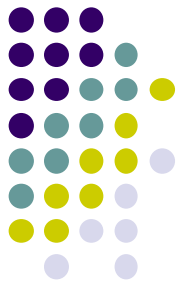
Treated Wood Issues

- Draft Risk Information for Heavy-duty Preservatives (CCA, Creosote, Penta) Published April 16, 2008
- REDs Published September 2008 – CCA, Creosote, Penta eligible for re-registration
- Next Step: Registration Review
- Environmentalists' Petition re Disposal
- EPA Looking at Secondary Use?

PCB Regulations



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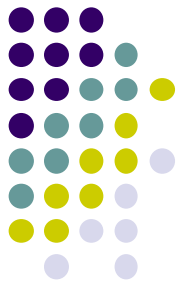


PCB Issues

- PCB Phase-Down Initiatives
 - International Treaties
 - Environment Canada Regulations
 - Mandatory vs. Voluntary Efforts
- EPA's 2009 – 2001 Strategic Plan
 - PCBs in Caulk, Pipelines
- PCB Remediation Waste Disposal
- PCB Workshop – November 19 – 20, 2008 in Memphis

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Questions?



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