

**EPA – Hybrid Subtitle C  
Regulatory Approach  
Submitted to OMB in October**

CIBO  
Environmental/Energy Meeting  
December 8-9, 2009

# OMB Seeks Input

- OMB obtain review comments from
  - DOE
  - DOI
  - ACOE

It has been reported that these groups commented and favored a Subtitle D Approach

There comments were forwarded to EPA for review and comment

Meeting was reported to have occurred the week of Nov.30



# OMB Meetings

- EPRI
- USWAG
- ACAA
- NMA
- Beneficial Reuse
- ARIPPA-IMCC-PADEP
- HARSCO
- LAFARGE
- Gypsum Association
- PCA-ACPA
- NGA-ASTSWMO

# OMB - Meeting Requests

- CIBO
- ACI

# Status of OMB Sign-off

- Unknown
- The General Thought was OMB was going to sign off last week.
- It is believe that OMB will sign-off, even thought the NGA (The Governors) and ASTSWMO (he State Regulators) were strongly recommending a Subtitle D Approach.
- This is the first time that NGA went to OMB on a regulation to express their concerns.

# Status and Driver

- Lisa Jackson promised Congress to have a proposed rule out by the end of 2009
- EPA would, at a minimum, like to announced they are moving forward on rule making by Dec. 22.
- The entire basis for this approach is tied to “**Federally Enforceable Permits**”



# The Regulations

- Hybrid Subtitle C Regulation for Utility CCBs
- Problems
  - Any Regulations that would classify CCBs as hazardous will have a detrimental affect on reuse.
  - Major re-users of ash are the Cement Industry and the Highway Construction Industry
  - Use of Ash in Mine Land Reclamation is not being considered as a beneficial use



# Failure to look at impacts

- The proposal is for Utility CCBs
- CCBs from Industry, Education, Health-Care Facilities will be picked up as the States will regulate all under the same umbrella
- If CCBs are classified as hazardous, under RCRA, will the facilities producing this waste need to obtain permits as hazardous waste generators?
- Are there new OSHA/MSHA Regulations related to personnel who are providing maintenance?





## Interesting Slides

### ARIPPA-IMCC-PADEP OMB Meeting

- The following slides were prepared by PADEP

# CCB Leaching Analysis

- The CCBs are leached to determine the potential impact and to be compared with different standards as to how the CCBs are managed.
- The three basic regulatory standards that the leaching analysis are compared to are:
  - Hazardous Waste
  - Residual Waste
  - Beneficial Use Criteria

# A Comparison of Numbers

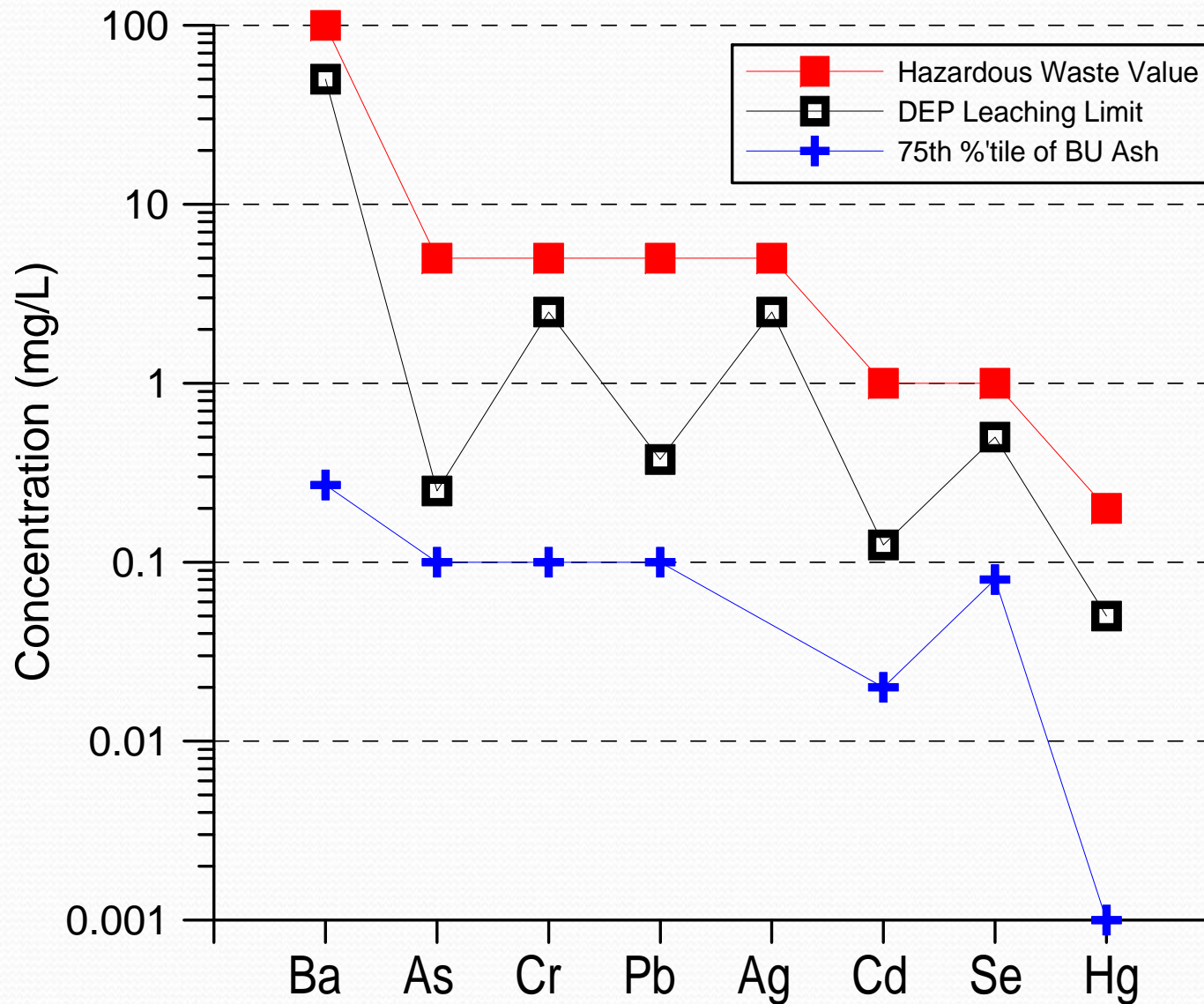
Parameter	Hazardous	DEP	75 <sup>th</sup> Percentile		
	TCLP	SPLP	PC	A-FB	B-FB
Arsenic	5.0	0.25	0.10	0.05	0.05
Barium	100	50	0.25	0.26	0.27
Cadmium	1.0	0.125	0.005	0.02	0.02
Chromium	5.0	2.5	0.08	0.10	0.08
Lead	5.0	0.375	0.05	0.1	0.1
Mercury	0.2	0.05	0.0002	0.0004	0.001
Selenium	1.0	0.5	0.08	0.05	0.06
Silver	5.0	2.5	not enough data yet		

\*DEP SPLP Standards are for Beneficial Use of CCBs

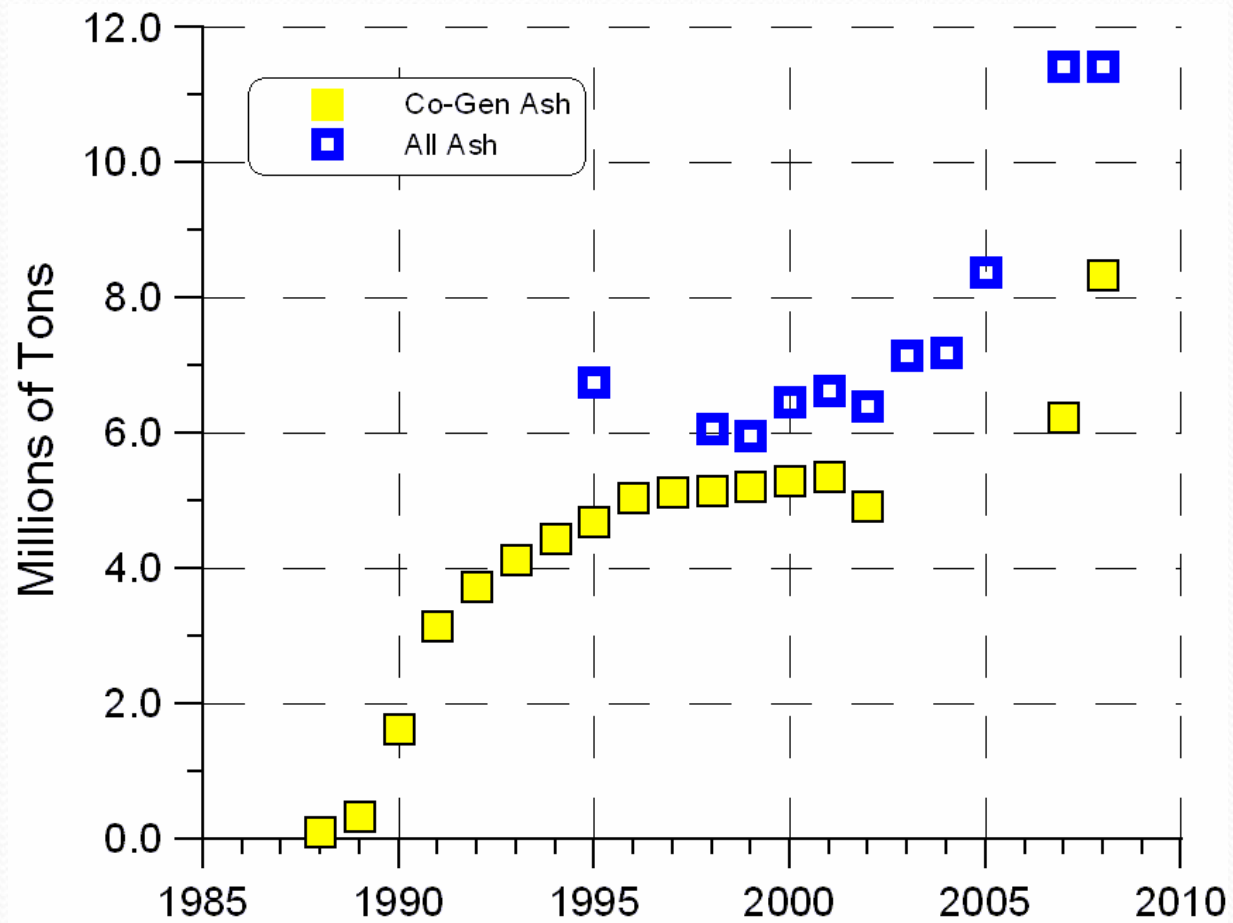
Units are mg/L

# Is Beneficially Used Ash Toxic? The answer is NO.

Coal ash is more than an order of magnitude less than "toxic" values



# CCBs from Waste Coal (aka Co-Gen Ash)



# Points that have been made

- A hazardous waste classification will significantly reduce, if not eliminate, the beneficial use of CCBs.
- This is further complicated by the question of how do you manage construction waste when they contain CCBs?
- The cost implications are significant.
- The lack of existing and the inability to permit new hazardous waste landfills.
- Impact on mine land reclamation
- In the case of waste coal, it is projected that the cost of disposal of CCBs would be more than the revenues of the plant.

# CIBO EFFORTS

- We need to educate and gain support of our State Delegations
- We need to meet with OMB or at a minimum send them a letter outlining new issues from an Industrial, University, Public School, and Health Care Perspectives.
- Raise questions that were not made by those that net with OMB



# Other Efforts

- December 16 a presentation at the Hall of States to members of Congress or their representatives
- Working with Congressman Holden to be able to brief and educate Congressional members



# CCB Coalition

- USWAG has been maintaining a site that has information regarding the Coalition's efforts including letters that have been sent to EPA, Congress, and OMB.
- WEBSITE: [WWW.USWAG.ORG/CCBC.HTM](http://WWW.USWAG.ORG/CCBC.HTM)



# Talking Points -- CIBO HANDOUT

- Coal Ash is Coal Ash
- Most coal ash, when tested, does not meet EPA criteria to be classified as a hazardous waste
- Subtitle C listing is contrary to National goals
- Liability, Long-term Exposures, Costs
- Disposal costs
- Lack of and Inability to permit sites
- Impacts on small entities and manufacturing
- Impact on Boiler Operations
- Myriad of Permitting Issues