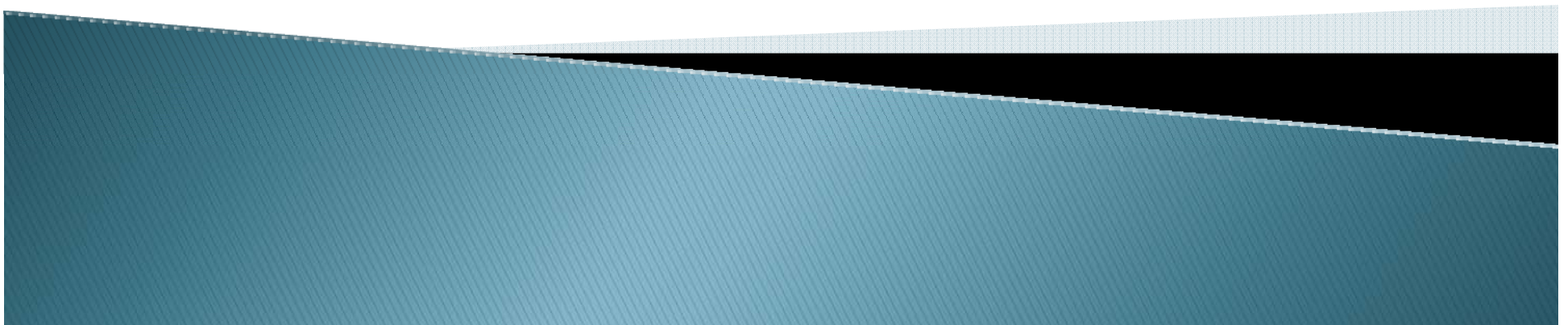


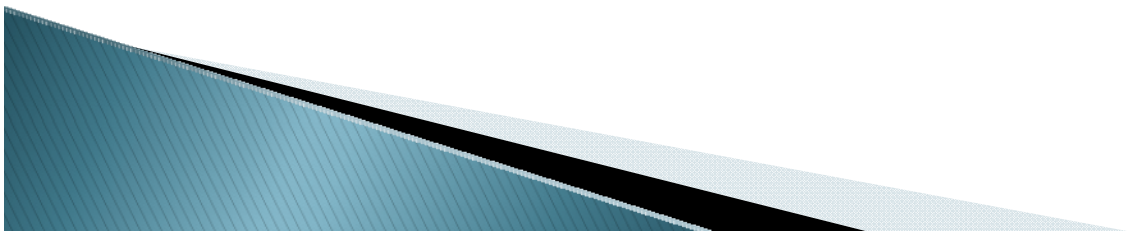
CIBO – RCRA CCR Comments

E/E Meeting
December 7–8, 2010
Arlington, Va



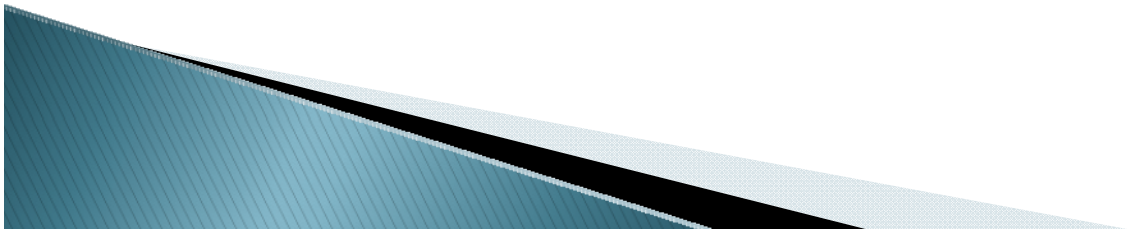
Internal Comments

- ▶ Members
 - provided considerable inputs
 - provided technical data to support different technical and economic arguments
 - Raised questions relative to the non-EGU industrial sector being covered
 - Addressed beneficial use concerns



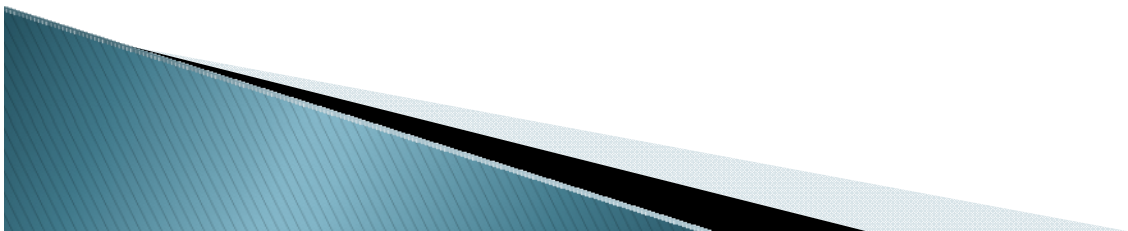
Comments

- ▶ Difficult to say how many comments were received. As of 12/01/2010 there were over 6000 comments on the regulations.gov web site
- ▶ There are comments being added every day
- ▶ On one occasion a number of 63,000 showed up on a website
- ▶ Most of these comments are form letters or emails supporting either a “C” approach or a “D” approach



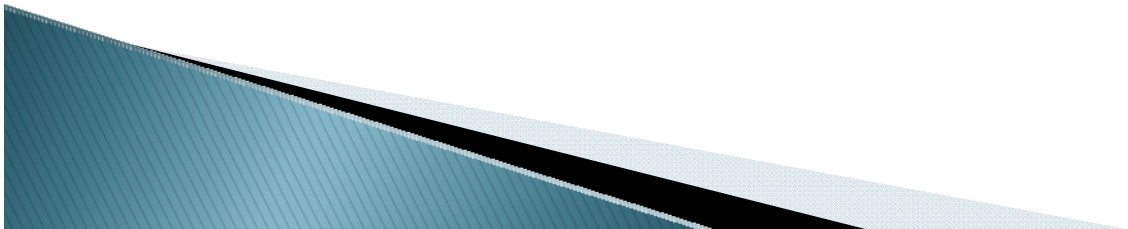
CIBO COMMENT Overview

- ▶ Stigma from hazardous classification Stigma from hazardous classification
- ▶ State Subtitle D programs
- ▶ EPA mischaracterizes the differences between the Subtitle C and D programs, contending without support that the Subtitle D program lacks enforceability
- ▶ States can perform effectively; the present state of CCB regulation is not an example of a failed Subtitle D program, rather it is a Subtitle D program never launched



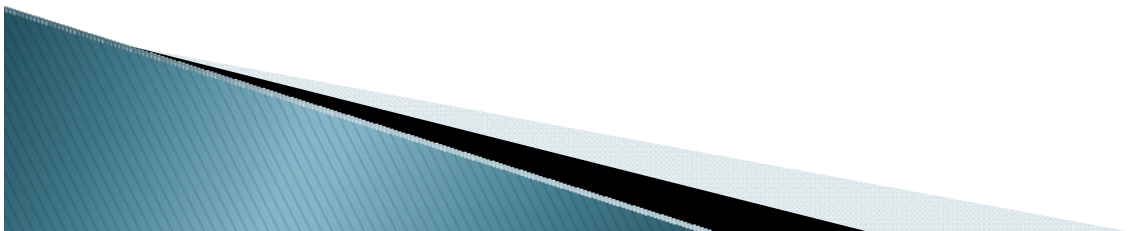
Areas of Specific Comments

- ▶ EPA lacks scientific and legal justification for Subtitle C classification of CCBs.
- ▶ EPA ignores fundamental science by categorically defining CCBs as hazardous
- ▶ EPA violates mandatory RCRA procedures for decisions regarding Bevill wastes by categorically defining CCRs as hazardous
- ▶ EPA violates RCRA by proposing to list CCBs as hazardous without fully evaluating regulatory authorities



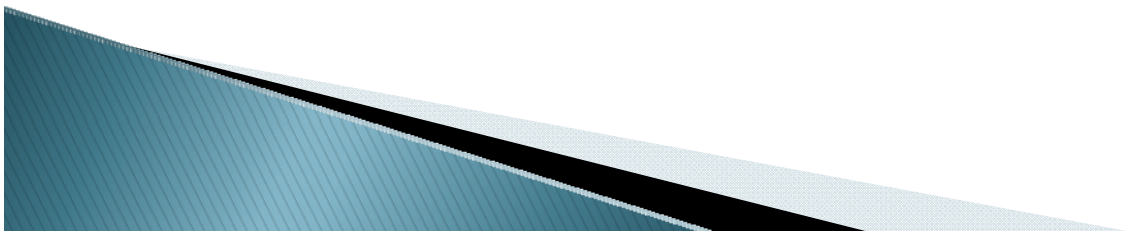
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- ▶ Damage cases do not provide factual or legal justification for EPA's approach
- ▶ A hazardous classification directly conflicts with EPA's proposed definition of solid waste, directly impacting the potential use of CCRs as a fuel
- ▶ A hazardous classification is contrary to national energy and conservation goals



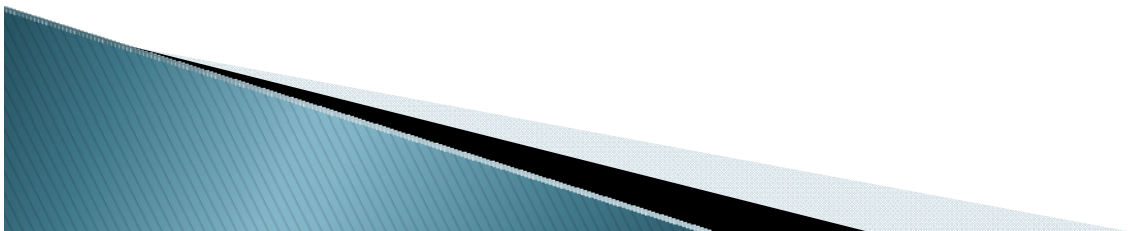
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- ▶ A hazardous classification has far-reaching implications not addressed in the rule, for on-site management and transportation for all generators (utility, IPP, industrial, institutional)
- ▶ Provisions for “uniquely associated wastes” are vague and insufficient and will lead to significant costs that are not accounted for in the Regulatory Impact Analysis (RIA)



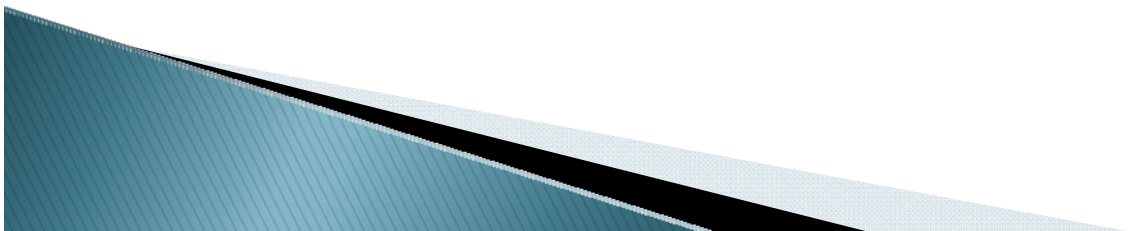
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- ▶ The proposed “special waste” Subtitle C category lacks fundamental detail necessary for affected entities to analyze and comment on its effect on their operations
- ▶ Subtitle D is the appropriate regulatory approach
- ▶ EPA's economic analysis does not consider known, direct cost impacts from this rule,
- ▶ nor its downstream cost impacts



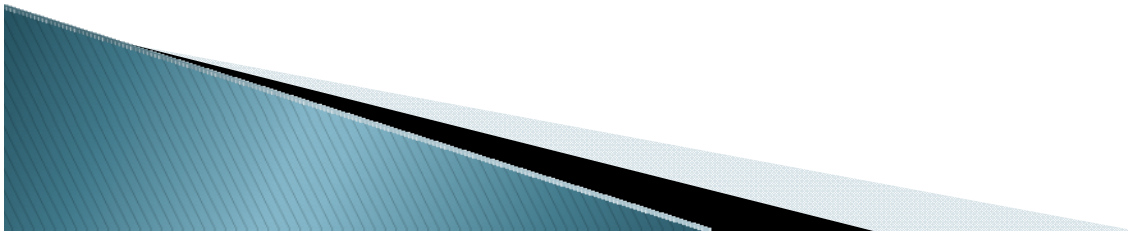
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- ▶ Five years to acquire, permit, and construct a landfill is unreasonably short, and will result in a landfill shortage and dramatically increased disposal costs for all CCB generators
- ▶ Prohibition on new CCB surface impoundments and landfills and closure of existing CCB surface impoundments and landfills is arbitrary



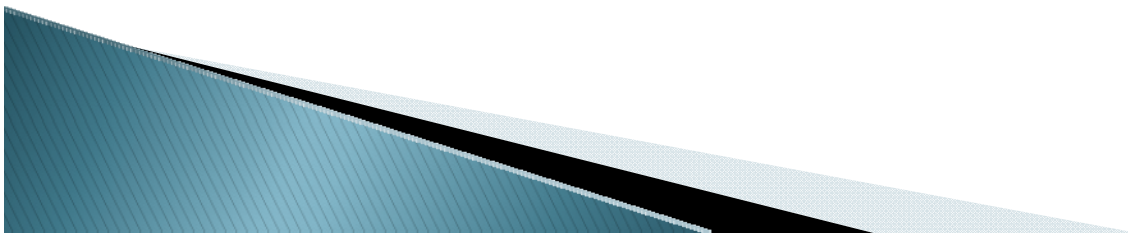
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- ▶ The definition of “surface impoundment” is unreasonably expansive
- ▶ Liner Requirement
- ▶ EPA relies on a flawed risk assessment and does not adequately account for site specific regulatory controls
- ▶ EPA cannot use Guidance to define core terms



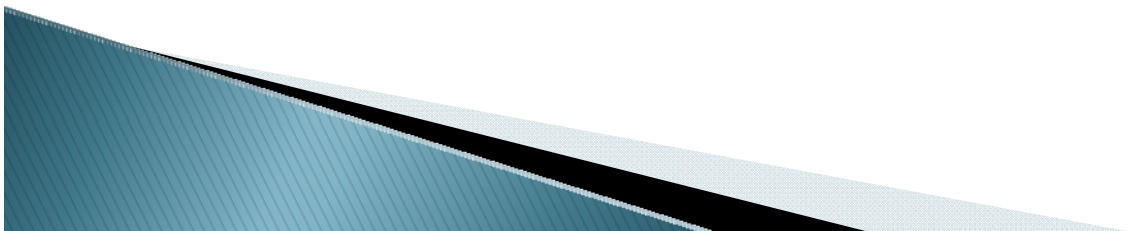
Specific issues regarding the impact of EPA's Proposal

- ▶ Although EPA states that the rule applies only to utilities and IPPs, the institutional and industrial sectors will be directly or indirectly regulated under the rule as proposed
- ▶ As drafted, the proposed Subtitle D rule will regulate CCRs from non-utility facilities
- ▶ Proposed Subtitle C and D rules will result in equivalent treatment for all CCRs by states



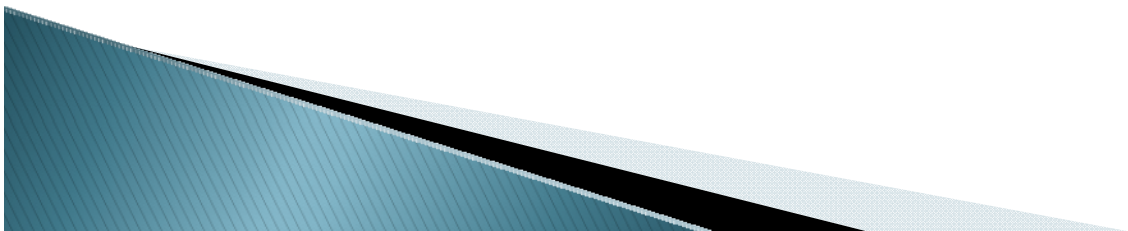
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- ▶ Proposed Subtitle C listing will result in liability and use limitations on CCBs produced by non-utility sources
- ▶ Liability
- ▶ Negative effect on beneficial uses
- ▶ Reduced beneficial uses will have adverse environmental impacts



Mine land reclamation

- ▶ Minefill
- ▶ Beneficial use
- ▶ Landfill
- ▶ Unencapsulated uses



Latest Attack –TVA Spill Impact

- ▶ Duke Scientists Find More Coal Ash Hazards 'Under the Rug'

