

Discussion on CIBO's Position on CCBs/CCRs/CCW

The Focus

- The Focus of the regulatory and legislative efforts has been almost exclusively on managing coal combustion waste, coal combustion byproducts, or coal combustion residuals on the Utility Sector.

The Utility Sector

- Lead by USWAG, EPRI, ACAA, and NMA
- Directed at a Subtitle D Regulatory Program
- Presenting a case that a Subtitle C Regulatory Program is not warranted and would have a negative impact on reuse and recycling of CCBs.

The Industrial Sector

- Worked to support the effort
- Has presented its case, but the case has been overshadowed by the Utility/Coal/Recycling efforts

To Restate the Non-Utility Industrial Sectors Impacts

- The regulations and legislation are primarily directed at the Utility Sector Implications
- The fall-out will be an impact on the Non-Utility Industrial Sector
- Ultimately, the implementation of the regulations and the legislation will be on the States
- The States have regulated the management of CCBs from all Industrial Sources

Continued

- EPA, in its REPORT TO CONGRESS, recommended the regulation of Coal Combustion Byproducts under Subtitle D using the Municipal Solid Waste Regulations as the basis for its Regulatory Program
- EPA's Subtitle C proposed rule is not what a typical Subtitle C rule looks like from the design of the Disposal Site, but the design requirements are more akin to Subtitle D requirements

EPA Failed

- In its leadership by not developing the regulatory program it had told Congress that it would
- IF EPA would have developed the Subtitle D rule as it indicated to Congress, many of the issues that are now central to the debate would have been in a regulation
- The failed leadership lead the States to address the issues dealing with managing CCBs

The States

- Have regulatory programs
- Had needed help from EPA to support additional regulatory implications to strengthen their programs
- Have been in the trenches addressing the management of CCBs with little to no support from EPA

The Problem Cases

- The cases used to drive the rulemaking have been a failure of other EPA regulatory programs were tied to failures of dams/impoundments or NPDES Programs
- Summarized
 - Water
 - Dam Safety
 - Ground Water Protection

Support

- Support a Subtitle D regulatory approach, that includes beneficial uses
- Support that the States should be responsible for the program
- Support EPA having an oversight role
- Strongly encourage Congress to support the amendment to the Transportation regarding the management of coal ash

Congress

- Must recognized that the Non-Utility Industrial Sector will ultimately be impacted by an EPA Regulatory Program
- The severeness of the impact will be predicated on the regulatory approach EPA decides
- Congress needs to pass the legislation that directs EPA on how they will manage CCBs under a Subtitle D regulatory approach
- Congress needs to direct EPA to insure beneficial use of CCBs continues