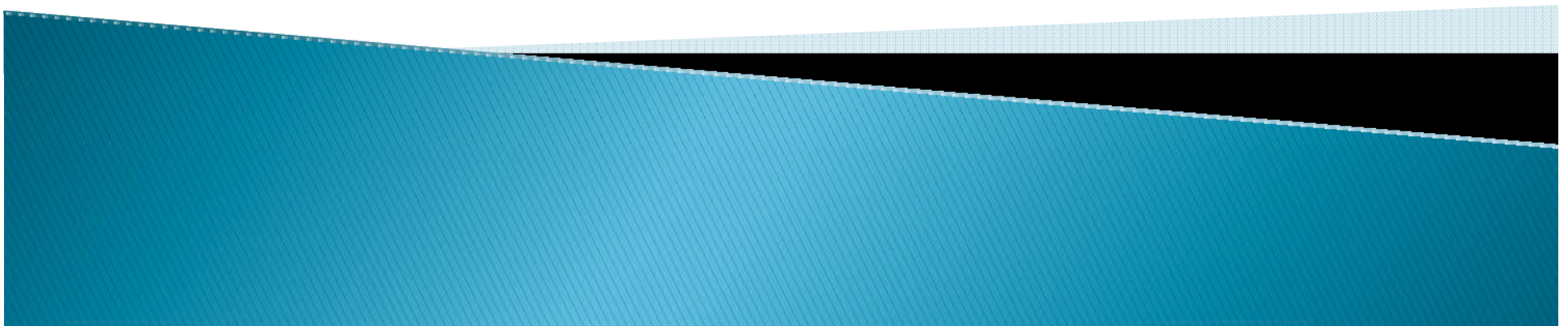


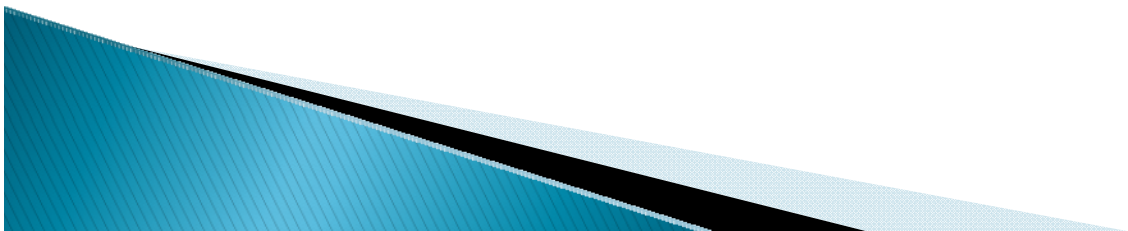
CIBO Environmental and Energy Meeting

March 13–14, 2012



Question

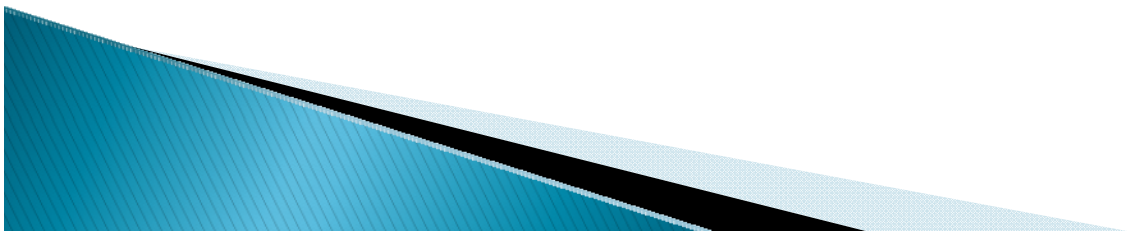
- ▶ Lisa Jackson was asked if a “Subtitle C” Rule for CCRs or CCBs is off the Table.
- ▶ Her response was “NO”.
- ▶ The concern is that EPA will attempt to finalize a Subtitle C rule before the end of the Administration by going final shortly after the 2012 Elections (win or lose)



Recent Legal Actions

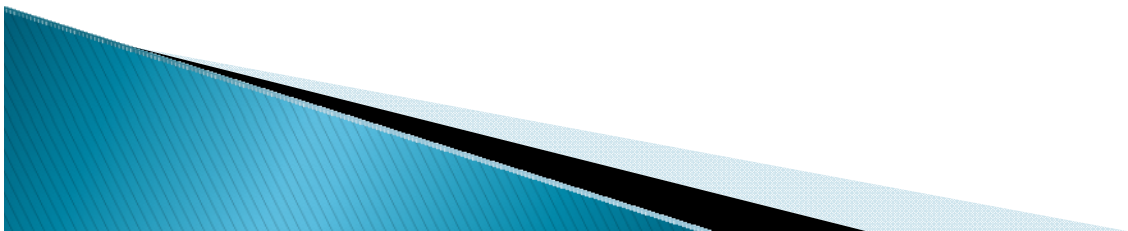
- ▶ Environmental Activist Organizations
 - Jan. 18, 2012 filed Notice of Intent to Sue (“NOI”)
 - (60–Day Notice)
 - Follow up to a Dec. 8, 2011 Notice from Environmental Integrity Project

- ▶ Issues:
 - The EPA failed to fulfill its duty under RCRA section 2002(b) to review and revise regulations that have long been:
 - inadequate to address the widespread risks posed by the unsafe disposal of coal ash (40 C.F.R. § 261.4(d) and 40 C.F.R. Part 257);
 - inadequate to determine the toxicity of certain solid wastes because they establish a test that does not accurately measure the leaching properties of many waste streams (40 C.F.R. § 261.24); and
 - insufficient to establish guidelines to protect groundwater and surface water and define prohibited —open dumps|| under RCRA (40 C.F.R. §§ 257.3–3 and 257.3–4).



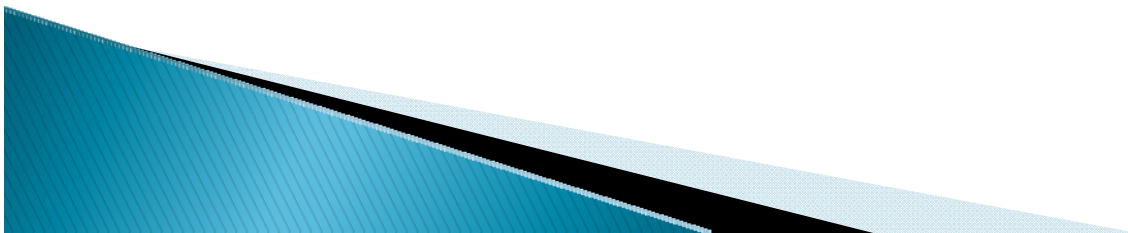
Concerns

- ▶ EPA and the Environmental Organizations at the Table agreeing to certain steps and time tables that
 - Circumvent OMB's role
 - Force EPA to act in a restricted time table without having time to adequately review and obtain technical information before proposing any changes to existing rules or proposing new rules!



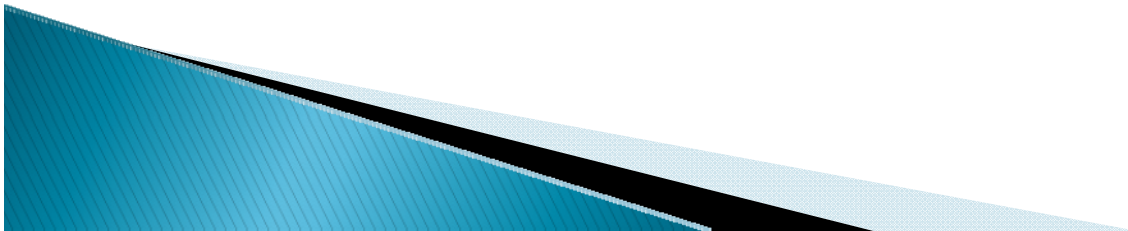
ECOS

- ▶ ECOS is concerned that acceding to the demands in the NOI would set a precedent that will jeopardize the thoughtful development of federal and state RCRA programs going forward.
- ▶ This could result in a burdensome cycle of never-ending RCRA rulemaking that would prove unworkable for EPA and the states while delaying the environmental improvements we are seeking to make.



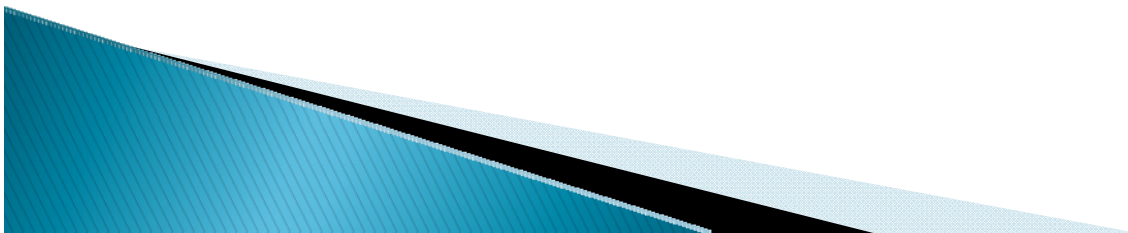
ACAA

- ▶ Filed Notice of Intent to Sue EPA on Solid Waste–Coal Ash
- ▶ The Intent is to be at the “Table” in case or when the Environmental Organizations filed their law suit.



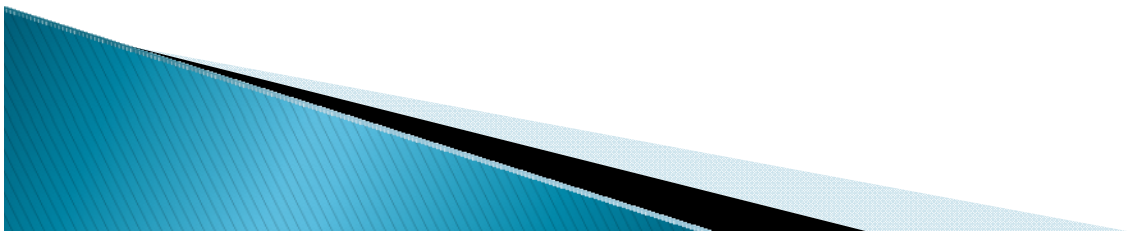
Congressional Action – Senate

- ▶ S. 1751 – The Coal Residuals Reuse and Management Act
- ▶ Bipartisan Support
- ▶ 5/5 Sponsors
- ▶ Working to obtain ne



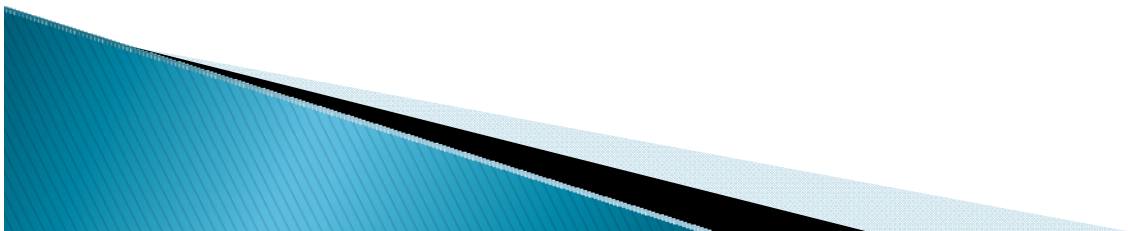
Congressional Action – House

- ▶ Oct. 14, 2011 – House approved H.R. 2273, the Coal Residuals Reuse and Management Act.
- ▶ The bill, authored by Rep. David McKinley, R-W.Va., is intended to provide an alternative to the Obama administration's plans to regulate coal ash under the Resource Conservation and Recovery Act.
- ▶ "Rather than imposing a high-cost, one-size-fits-all federal mandate, the bill recognizes that states can effectively maintain responsibility for recycling and disposal of coal combustion residuals in a way that protects jobs. Estimates project up to 316,000 jobs could be lost under EPA's proposed regulation," Upton said in the report.



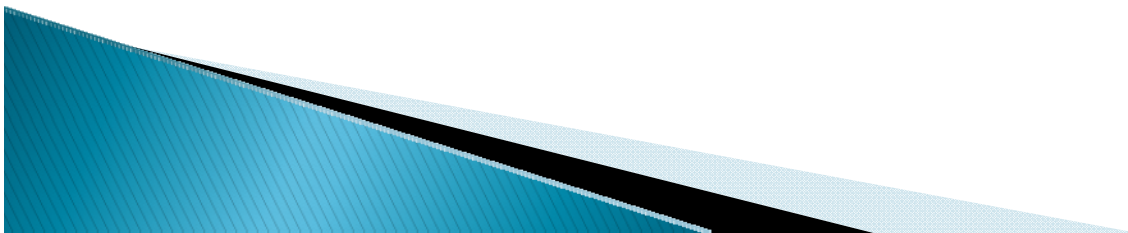
S.1751

- ▶ Ensures that CCR disposal units are subject to enforceable permits under a state-administered CCR permit program that meets minimum federal requirements;
- ▶ Establishes a federal floor for state regulation of CCR disposal by applying the controls already in place for municipal solid waste landfills (Part 258 criteria), which EPA itself has said is an appropriate comprehensive framework for regulating all aspects of CCR disposal in land-based units and “would be expected to address the risks presented by the constituents in CCR wastes”⁴;
- ▶ Ensures impoundment safety by establishing structural integrity standards for CCR impoundments and by establishing groundwater monitoring and closure requirements targeted specifically for coal ash disposal facilities;
- ▶ Ensures CCR permits will incorporate standards for facility design, groundwater monitoring/protection, corrective action, closure, and financial assurance;
- ▶ Gives EPA the authority to enforce compliance with the standards if a state fails to meet certain conditions and preserves a state’s prerogative to regulate more stringently than the federal floor;
- ▶ Preserves the beneficial uses of coal ash on which many good American jobs depend.



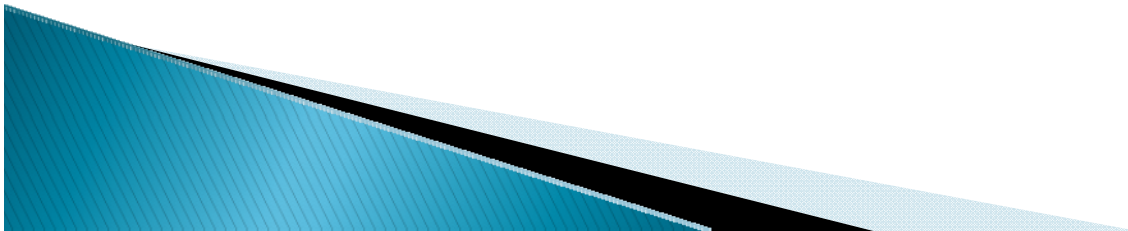
The Senate Staff

- ▶ Working on obtaining additional democratic support
- ▶ Will consider some minor technical adjustments to the Bill, but will work with house to insure the technical corrections are acceptable.



Looking for 10+ Democratic Senators

- ▶ Ultimately to sign on but to insure a commitment to vote for!!!!



A Major Effort

- ▶ Working with Senate Staff to obtain support.

