
CIBO
Energy-Environmental Meeting
June 6-7, 2017
Arlington, VA

RCRA Update



Items to be cover

RCRA rule under review
WIIN Act
CCR-USWAG Comments



Rules under review compliance deadlines extended

- There are 30 rules under review
- 1 RCRA Related Rule
 - Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act



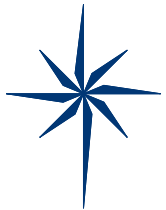
WIIN Act -- COAL COMBUSTION RESIDUALS

- **S. 612 (114th): Water Infrastructure Improvement for the Nation Act (WIIN) Signed Dec. 16, 2016**
- Title II—Water and Waste Act of 2016
 - Subtitle C—Control of Coal Combustion Residuals
 - Sec. 2301. Approval of State programs for control of coal combustion residuals.
 - Provides EPA oversight and approval of state programs with respect to 40 CFR Part 257 related to coal combustion residuals.



The WINN Act

- Fundamentally changes the self-implementing nature of the Coal Combustion Rule
- The Act authorizes states to submit an application requesting EPA's approval to administer the CCR rule
- Directs EPA to implement the CCR rule through a federal permit program for states that do not submit a request (non-participating states).



Overview

- To implement the Act, EPA will need to develop regulations on the process including
 - Public notice and involvement
 - Timing
 - “Effective as demonstrations”

(Problem to develop implementation regulation in light of Executive Order on new rules/regulations)



Questions/Concerns

- The statute is directed at the CCR rule related to EGUs.
- Questions:
 - Will the States limited their request for approval only to EGUs or include non-EGU Industrials, commercial and educational facilities?
 - If the State broadens their intent to expand the rule beyond CCRs for EGUs, If EPA approves the State program, does this approval give EPA jurisdiction over non-EGU CCRs?
 - What will the criteria for effective as demonstrations and how flexible will EPA be?
 - While the rule is design to insure uniform enforcement and minimize citizens suits, it may expand citizens suits of EPA approval of State Program; has potential to create a “hodge podge” of rules across the country based on each different Federal Court's interpretations!



CIBO and its Members

- Need to monitor what actions the State initiates to obtain approval under this program per WIIN Act (This would be a State by State review)
- Monitor the outstanding issue of a regulations for the beneficial use of coal ash in coal mine land reclamation.
- Monitor what EPA does in light of the partial remand and modification to the existing rule
- Monitor legal action and potential precedents that might evolved.
- Take appropriate actions especially in commenting on proposed regulations and regulatory actions



USWAG – Comments on CCRs in response to
the Presidential Executive Order for Regulatory
Review



USWAG Considerations

- Recent regulatory reform Executive Orders like 13771 and 13783 will impact the rule, and justify reconsideration
- Current rule is one size fits all and does not include risk based approaches to closure.
- CCR compliance deadlines need to be extended.



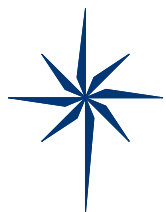
USWAG - 12 provisions for reconsideration

- Alternative Risk-Based Groundwater Protection Standard.
- Modification of Corrective Action Remedy.
- Allowance for Alternative Points of Compliance and Site-Specific Groundwater Monitoring Constituents.
- Ability of Unlined CCR Impoundments to Operate While Undertaking Corrective Action
- Adjustment to Post Closure Care Period
- Repeal the Rule's Regulation of Inactive Service Impoundments



USWAG - 12 provisions for reconsideration

- Clarification of Using the “Closure in Place” Option
- Confirming Beneficial Use of CCR to Close CCR Units
- CCR Beneficial Use at Clay Mine Sites
- Correction to Definition of Beneficial Use
- State Approved Liner Systems
- Aquifer Locations Restrictions as Applied to Existing Impoundments



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- Questions?

