

Coal Combustion Residuals (Coal Ash)

MREA Energy Issues Summit

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Brief history

- “Bevill Amendment” – Congress directed EPA to conduct study on CCRs
- Bevill determinations (1993 & 2000)
 - CCRs should be regulated as non-hazardous
 - Regulation as hazardous is inappropriate
 - State approach is appropriate way to regulate CCRs

Brief history

- TVA Kingston “spill” happened
 - 1.1 billion gallon release in December 2008
 - Triggered closer look at regulation of CCRs
- No Congressional authorization for EPA to reconsider its prior determinations
- EPA issued proposed rule June 2010
 - Would potentially overturn Bevill determinations

Regulatory scheme

- Current management of coal ash
 - Beneficially used
 - Sent to surface impoundments or landfills
- Wastes (ash) are regulated by Resource Conservation & Recovery Act (“RCRA”)
- 2 regulatory schemes under RCRA
 - Subtitle C – governs hazardous waste
 - Subtitle D – governs non-hazardous waste

Proposed rule

- Subtitle C (hazardous)
 - CCRs (not destined for beneficial use) are “special wastes” (essentially “hazardous”)
 - Much more rigorous and costly requirements
 - Even ash destined for reuse would have hazardous stigma
 - EPA expressed preference for Subtitle C regulation
- Subtitle D (non-hazardous)
 - Fewer, less severe requirements
- Subtitle D-Prime – allows use of existing landfills to end of useful lives

Cost – Coal Creek Station

- Subtitle C
 - Capital costs – Est. \$40M to \$66M
 - Closure of impoundments
 - Conversion from wet to dry handling
 - O&M costs; loss of ash sales – \$11M annually
- Subtitle D
 - O&M costs – \$0.5M annually
 - Expanded groundwater monitoring
 - Independent inspections and certifications

Loss of ash sales

- North Dakota
 - Generates 8k tons per day = 3M tons per year
 - Approx. 40% is beneficially used = 1.25M tpy
- Great River Energy
 - Majority of ash sold into beneficial use market
 - Est. \$40M in lost revenue over next 10 years

Reaction to proposed rule

- Comment period closed November 2010
- Comments/letters of support
 - Congressional representatives
 - Over 30 state environmental agencies
 - Utilities/associations
- EPA received over 450,000 comments
 - At least 10,000 were substantive in nature

Latest from EPA

- Expect NODA this month(?)
 - Seeking comments on new information in 2010 comments
 - Likely focus on new data on H&E risks from constituents in CCRs
 - Suspect it is to support EPA's Subtitle C position
- EPA says will not issue final rule this year

Current status in Congress

- HR 2273 – passed Energy & Commerce Committee on July 13
- Adds new section to RCRA Subtitle D
 - Authorizes states to establish permit programs
 - Outlines procedure for EPA to deal with deficiencies
 - If EPA properly takes over state program, can't go beyond criteria identified in the bill
- Next step – Consideration by full House
- Challenge – Bi-partisan support so can move in Democrat-controlled Senate

