

# CCR Rule – What Do We Know?

Current Issues in Pondered CCPs

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# Developing CCR Rule Issues

- \* Approval of State CCR Permit Programs
- \* Revisions to the CCR Rule
- \* Litigation – DC Circuit & Citizen Suits

# Changes in Implementation

## Implementation of the federal rule by States is on the horizon

EPA guidance on the approval of State CCR permit programs

- \* The guidance addresses potential tailoring of rule requirements by States on case-by-case basis
- \* Implementation & enforcement of the rule by States will bring greater regulatory certainty

Oklahoma Program Approval

# Changes to the Rule

## Remand Rule – Signed March 1<sup>st</sup>; Published March 15<sup>th</sup>

- \* Issues originally raised in legal challenge & subject to settlement
- \* Other issues relating to petition for reconsideration

# Proposed Changes in the Rule

## Remand Issues

- \* Response to Non-GW Releases
- \* Impoundment Slope Protection
- \* Alternative Closure Provisions
- \* Addition of B to Appendix IV

# Proposed Changes in the Rule

## WIIN Act Changes

- \* Groundwater Monitoring Deadlines
- \* Alternative Groundwater Protection Standards
- \* Modified Corrective Action Remedy
- \* Suspension of Groundwater Monitoring
- \* Alternate Remediation Time Period
- \* Modification of Post-Closure Care Period
- \* Alternative Location Restriction
- \* State Certifications

# Proposed Changes in the Rule

## **Additional Changes**

- \* Use of CCR In Closure

**Public Hearing April 24<sup>th</sup>**

**Comments Due April 30<sup>th</sup>**

# CCR Rule Deadlines

- \* October 17, 2017
  - \* Install Groundwater Monitoring System; Develop Sampling & Analysis Program; Initiate Detection Monitoring; Begin Evaluating Monitoring Data for Increases > Background (§§ 257.90 -.98)
- \* January 31, 2018
  - \* Prepare 1<sup>st</sup> Annual Groundwater Monitoring & Corrective Action Report (§ 257.90(e))

**If Groundwater Protection Standard Cannot be Met, Unit Must Cease Receipt of CCR and Initiate Closure within 6 Months**



# Unlined Impoundment Closure Timeline

- \* October 17 2017 – Begin Detection Monitoring
- \* January 15 2018 – Complete Statistical Analysis of Samples for Appendix III Constituents
- \* April 15 2018 – Complete Alternative Source Demonstration
- \* July 14 2018 – Establish Assessment Monitoring Program
- \* October 12 2018 – Resample Wells and Evaluate Samples for Appendix IV v GW Protection Standard
- \* Complete Statistical Analysis for Appendix IV
- \* Initiate Assessment of Corrective Measures
- \* Cease Receipt of CCR & Initiate Closure

# CCR Rule Deadlines

- \* October 17, 2018
  - \* Demonstration Landfill Complies with Unstable Areas Location Restriction (§ 257.64)
  - \* Demonstration Impoundment Complies with Location Restriction for Aquifers; Wetlands; Fault Areas; Seismic Impact Zones; and Unstable Areas (§§ 257.60 - .64)

**If Demonstrations Cannot be Made, Unit Must Cease Receipt of CCR and Initiate Closure within 6 Months**

# But is it Legally Valid? Challenge to CCR Rule

- \* USWAG v EPA (USCA #15-1219)
- \* Oral Argument Originally Scheduled October 17
- \* EPA Motion to Hold Case in Abeyance
- \* Briefing on Impact of WIIN Act on Litigation
- \* EPA Status Report Identified Aspects of Rule it Plans to Revisit
- \* Oral Argument held November 20, 2017

# So ... Where are we?

- \* State Permit Programs on Horizon
- \* Remand Rule & Follow-up Rulemakings
- \* Self-Implementation of Rule per Requirements/Schedule
- \* DC Circuit Decision & Citizen Suits