

Proposed Revisions to the Coal Combustion Residuals (CCR) Rule

Summary

In April 2015, the U.S. Environmental Protection Agency (EPA) promulgated a comprehensive set of requirements for the management of coal combustion residuals (CCR) in landfills and impoundments. CCR include a variety of waste streams, specifically, fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from coal-fired electricity utilities; these waste streams are commonly known as coal ash. The rule established corrective action, closure and post closure, technical standards, and inspection, monitoring, recordkeeping and reporting requirements. In *Utility Solid Waste Activities Group (USWAG et al. v. EPA* (Aug. 21, 2018), the D.C. Circuit of Appeals overturned certain provisions of EPA's 2015 rule and remanded some provisions back to the agency.

Why Does EPA Support Beneficial Use of CCR?

Coal combustion residuals are an important resource and the environmentally responsible beneficial use of these materials offers many benefits including:

- **Environmental benefits** such as reduced need for disposal;
- **Economic benefits** such as reduced costs associated with coal ash disposal, increased revenue from the sale of coal ash, and savings from using coal ash in place of other more costly materials;
- **Product benefits** such as improved strength, durability, and workability of materials that are used in wallboard and concrete and therefore

enhance our nation's highways and infrastructure projects.

Creation of State CCR Permit Programs

Congress recognized the essential role states play in managing coal ash when they passed the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act. The WIIN Act, among other changes, gave states the authority to operate coal ash management permit programs in lieu of the federal requirements, provided that EPA determines the state's requirements are as protective as the federal standards. EPA is currently working with several states to establish their own permit programs. Last year, EPA [approved](#) Oklahoma's coal ash program and this year has [proposed](#) the approval of Georgia's program.

Proposals to Provide Regulatory Clarity and Flexibility

In light of court rulings, the WIIN Act, and a number of petitions, EPA has proposed and is working on developing new rules regarding CCR.

1. In Aug., EPA proposed amendments to CCR regulations that encourage appropriate [beneficial use](#) and provide greater clarity on managing coal ash in piles, two issues which were remanded back to the agency for reconsideration. The proposal would also make revisions to the web posting requirements to make facility information more readily available to the public, enhancing transparency. These sensible changes will further responsible management of coal ash while protecting

human health and the environment. The comment period closed in Oct. 2019.

2. The Nov. 4 proposal establishes Aug. 2020 as the date for utilities to cease receipt of waste in affected impoundments. Furthermore, it provides utilities the ability to demonstrate the need to develop new environmentally protective waste disposal technology subject to EPA approval. This proposal however does not alter the fundamental requirements of the 2015 rule (e.g., groundwater monitoring, corrective action).
3. As directed by Congress, the agency will soon propose a federal permitting program for coal ash disposal units. As mentioned previously, EPA has already accepted and approved some state permitting programs and is working with a number of states in the development of their programs. EPA will issue the permits in those states that choose to not obtain approval and for facilities in Indian Country.

Once completed, these and other contemplated revisions to EPA's CCR management regulations will provide a workable and reasonable framework for facilities and states to follow enabling states to more easily develop CCR permit programs and submit them to EPA for approval.

More importantly, even though EPA is working on several regulatory proposals, the vast majority of the 2015 coal ash rule remains in place and its implementation continues. All units managing coal ash are required to monitor groundwater, publicly report the data, and take action to address exceedances of the groundwater protection standards.

What Specifically Would the Nov. 4 Proposal Require?

The Nov. proposal addresses the deadline to cease receipt of waste for unlined surface impoundments managing coal ash. It includes the following:

- A new date of Aug. 31, 2020, for facilities to stop placing waste into these units, and either retrofit

them or begin closure. EPA determined this date after evaluating the steps owners and operators need to take to cease receipt of waste and develop alternate disposal capacity.

- Revisions to the alternate closure provisions that would allow certain facilities additional time to develop alternate capacity to manage their waste streams (including any additional waste beyond CCR generated at the facility) before they must initiate closure of their surface impoundments.
- A court mandated change in the classification of compacted-soil lined or "clay-lined" surface impoundments from "lined" to "unlined," which means that formerly defined clay-lined surface impoundments would no longer be considered lined units and will need to be retrofitted or closed. In addition, pursuant to the court's decision, the revisions will specify that all unlined units are required to retrofit or close, not just those that have detected groundwater contamination above regulatory levels.

Where Can I Find More Information on This Proposal?

For information about the proposed rule, contact Kirsten Hillyer by telephone at 703-347-0369 or by email at hillyer.kirsten@epa.gov. The EPA will be accepting public comment on the proposed revisions for 60 days once the rule is published in the *Federal Register* via [Regulations.gov](https://www.epa.gov/regulations). The EPA will conduct a virtual public hearing about the proposed rule in early Jan. 2020. Additional information is available on [epa.gov/coalash](https://www.epa.gov/coalash).