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From: EPA Press Office
Sent: Thur 9/14/2017 9:11:13 PM
Subject: EPA TO RECONSIDER CERTAIN COAL ASH RULE PROVISIONS

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EPA TO RECONSIDER CERTAIN COAL ASH RULE PROVISIONS

WASHINGTON (September 14, 2017) The United States Environmental Protection Agency (EPA) has granted two petitions to reconsider substantive provisions of the final rule regulating coal combustion residuals (CCR) as nonhazardous waste under subtitle D of the Resource Conservation and Recovery Act (RCRA).

"In light of EPA's new statutory authority, it is important that we give the existing rule a hard look and consider improvements that may help states tailor their permit programs to the needs of their states, in a way that provides greater regulatory certainty, while also ensuring that human health and the environment remain protected," said **EPA Administrator Scott Pruitt**.

In granting the petitions, EPA determined that it was appropriate, and in the public's interest to reconsider specific provisions of the final CCR rule based in part on the authority provided through the Water Infrastructure for Improvements to the Nation (WIIN) Act. EPA is not committing to changing any part of the rule, or agreeing with the merits of the petition – the Agency is simply granting petitions to reconsider specific provisions. Should EPA decide to revise specific provisions of the final CCR rule, it will go through notice and comment period.

The petition from the Utility Solid Waste Activities Group (USWAG) was submitted May 12, 2017, and seeks reconsideration of 11 specific provisions of the final CCR rule, including provisions prohibiting the use of alternative points of compliance for ground water contamination, regulating inactive surface impoundments, and defining what activities constitute beneficial use of CCR. The petition from AES Puerto Rico LLP was submitted May 31, 2017, and seeks reconsideration of certain on-site storage practices.

The current rule went into effect on October 19, 2015 and regulates how CCR generated from electric utilities and independent power producers is managed and disposed of in surface impoundments and landfills. The rule also defines what constitutes beneficial use of CCR; and, therefore, is excluded from the rule's requirements.

In December 2016, the WIIN Act was enacted into law. Section 2301 of the WIIN Act provides authority for states to operate permit programs under subtitle D of RCRA, as long as the EPA determines that the state's requirements are as protective as the standards in the 2015 final rule or successor regulations. Should EPA decide to revise specific provisions of the final CCR rule, it will go through a notice and comment process.

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