



REGION 7

LENEXA, KS 66219

VIA ELECTRONIC MAIL

RETURN RECEIPT REQUESTED

bholder@indepmo.org

Mr. Eric Holder
Environmental Health & Safety Manager
Independence Power & Light
City of Independence
P.O. Box 1019
Independence, MO 64051-0519

Dear Mr. Holder:

Information Request

The U.S. Environmental Protection Agency is seeking information about the management of Coal Combustion Residuals ("CCR") managed in the Bottom Ash Pond, North Fly Ash Pond and South Fly Ash Pond at the Blue Valley Generating Station owned/operated by the City of Independence located at 21500 E Truman Road, Independence, Missouri (hereinafter referred to as the "referenced facility"). CCR are regulated under a comprehensive set of regulatory requirements for the management of CCR in landfills and surface impoundments. 40 C.F.R. Part 257. These regulations were promulgated pursuant to Subtitle D of the Resource Conservation and Recovery Act ("RCRA"), as amended in 2016 by the Water Infrastructure Improvements for the Nation ("WIIN") Act. Together, these authorities establish a framework for the handling and management of CCR and grant the Administrator the authority to use Section 3007 of RCRA to obtain requested information to evaluate compliance and Section 3008 of RCRA to enforce the prohibition on open dumping under Section 4005(a), 42 U.S.C. § 6945(a), with respect to CCR units (42 U.S.C. § 6945(d)(4)(A)(i).

Enclosed with this letter are instructions, requested information, and a certification that should be signed by someone authorized to sign on behalf of the City of Independence. Please carefully read and follow the instructions. The referenced facility's response to this request, in accordance with the instructions, is required, and substantial penalties may result for not complying. Please note that the EPA retains its authority to pursue appropriate enforcement actions, including penalties, for violations discovered as a result of EPA's review of the referenced facility's response to this letter, regardless of whether the violations were subsequently corrected.

The EPA strongly encourages submittal of electronic responses. Response files larger than 25 megabytes may be broken into smaller files for transmission in separate e-mails to the following email address:

Cynthia Sans (ECAD-WB)
Case Review Officer
U.S. Environmental Protection Agency, Region 7
sans.cynthia@epa.gov
913-551-7492

If you prefer to utilize a cloud-based system to share larger documents or if you are unable to provide your response electronically, notify the EPA contact to receive further instruction.

Any documents claimed as confidential business information should not be sent electronically. Such document should be marked and mailed to:

Cynthia Sans (ECAD-WB)
Case Review Officer
U.S. Environmental Protection Agency, Region 7
sans.cynthia@epa.gov
913-551-7492

Questions regarding submission of documents claimed as confidential business information should be directed to Ms. Sans before transmitting the documents. Additional information regarding confidential business information can be found in the 3007 Response Instructions enclosed with this letter.

Please submit your response to this information request within **30 calendar days** of receiving this letter. We appreciate your prompt response to this letter.

Sincerely,

JODI
BRUNO

Digitally signed by JODI
BRUNO
Date: 2023.10.23
15:34:58 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Enclosures:

1. 3007 Response Instructions
2. Statement of Certification
3. Requested Information

cc: Greg Snellen, MoDNR

RCRA 3007 RESPONSE INSTRUCTIONS

- Identify the person(s) responding to this request.
- Address each numbered item separately and precede each answer with the number of the item to which it responds.
- For each numbered item, identify all documents consulted, examined, or referred to in the preparation of the answer, or that contain information responsive to the requested item. Provide true, accurate, and legible copies of all such documents. (If information responsive to an item is available but there are no relevant source documents, you must still provide the information.)
- For each document provided, indicate on the document (or in some similar manner) the number of the item to which it responds.
- For each numbered item, identify all persons consulted in the preparation of the answer.
- For purposes of this request, the term “you” or “the referenced facility” refers to the city, municipality, and any public official, officer, principal, agent employee, or any other person(s) associated in any capacity.
- If information responsive to a requested item is not in your possession, identify the person(s) from whom the information may be obtained.
- If information that is not known or available at the time you make your response later becomes known or available to you, you must supplement your response.
- If, at any time after you submit your response, you find that any part of the information you submitted is incomplete, false, or misrepresents the truth, you must notify the EPA immediately.
- You must provide the requested information even though you consider it confidential information or trade secrets. If you want to make a confidentiality claim covering part or all the information submitted, identify the material with words such as “trade secret,” “proprietary,” or “company confidential.”
- The EPA will disclose this information only to the extent and by the means described in 40 C.F.R. Part 2, Subpart B., if it qualifies as confidential business information.
- The Code of Federal Regulations may be accessed at <https://www.epa.gov/laws-regulations/regulations/regulations>.
- This request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980.

- The EPA encourages you to conserve resources. Suggested methods include use of recycled paper, printing on both sides (duplex printing), and when possible, submitting documents electronically (i.e., email or compact discs). If hard copy submittals are necessary, please do not submit documents in binders.

Not responding to this information request within the stated time limit and in accordance with these instructions may subject your municipality to an enforcement action which could include the imposition of significant penalties per violation, per day of continued noncompliance. Providing false, fictitious, or fraudulent statements or representations could lead to criminal penalties.

STATEMENT OF CERTIFICATION

I certify that I am authorized to respond to this information request on behalf of Blue Valley Generating Station, City of Independence. I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

Executed on (date)

(Signature)

(Printed Name)

(Title)

(Entity)

NOTE: For the purposes of this form, your typed name, title and date as an electronic signature is equivalent to your valid signature on a paper copy of the form. As such, this electronically completed form bears the same rights and responsibilities as a hand-signed form.

LIST OF REQUESTED INFORMATION

Blue Valley Generating Station Independence, Missouri

The EPA has reviewed the documentation placed on Blue Valley Generating Station's publicly available webpage as it relates to the Coal Combustion Residuals Rule and it appears the Facility initially intended to close the North Fly Ash Pond, South Fly Ash Pond, and Bottom Ash Pond in accordance with the early closure provisions under § 257.100(b). Those provisions were subsequently vacated by the United States Court of Appeals for the District of Columbia Circuit¹ on June 14, 2016. Following vacatur, these units became subject to all the requirements for existing CCR surface impoundments and the EPA extended the compliance deadlines for the affected units. These new requirements were established in a direct final rule on August 5, 2016². On May 7, 2019, the EPA sent correspondence to all facilities regulated under the CCR rule reminding them of the obligation to post required documents on their CCR webpage (letter attached). It appears the Blue Valley Generating Station's website has not been updated to include the required documents. Accordingly, the EPA is seeking the following information:

1. Identify the person(s) answering these questions on behalf of the referenced facility. Additionally, please provide the name, title, mailing address, email, and phone number for each identified person.
2. Provide a separate response for each unit identified above (i.e. the Bottom Ash Pond, North Fly Ash Pond, South Fly Ash Pond, and any additional units not identified above that are subject to the CCR Rule).
3. The table below lists the required documents and the dates they were due. For each required document, please:
 - a. Provide a copy of the required document which is required to be maintained in the facility's operating record.
 - b. Note on the table below when it was placed in the operating record.
 - c. Explain the City of Independence's progress in preparing the required document if it does not have the document and provide a date when it will be provided to the EPA.
 - d. Describe the basis of any conclusion by the City of Independence that preparation of any of the required documents are not required.

¹ See Per Curiam Order, Utility Solid Waste Activities Grp. v. EPA, No. 15-1219 (D.C. Cir. June 14, 2016).

² <https://www.federalregister.gov/documents/2016/08/05/2016-18353/hazardous-and-solid-waste-management-system-disposal-of-coal-combustion-residuals-from-electric>

Federal CCR Citation	Requirement	Deadline to PREPARE	Deadline to POST	Date POSTED
§ 257.64(d)(1)	Unstable areas demonstration	Oct 17, 2018	Nov 16, 2018	
§ 257.80(b)(5)	Initial fugitive dust control plan	Oct 19, 2015	Nov 19, 2015	
§ 257.80(c)	Initial annual CCR fugitive dust control report	Dec 19, 2016	Jan 18, 2017	
	2 nd annual CCR fugitive dust control report	Dec 19, 2017	Jan 18, 2018	
	3 rd annual and subsequent CCR fugitive dust control reports	Dec 19, 20XX	Within 30 days of Dec 19	
§ 257.81(c)(3)	Initial run-on and run-off control system plan	Oct 17, 2016	Nov 16, 2016	
§ 257.84(b)(3)	Report by PE following initial annual inspection	Jan 19, 2016	Feb 18, 2016	
	Report by PE following 2 nd annual inspection	Jan 19, 2017	Feb 20, 2017	
	Report by PE following 3 rd annual and subsequent inspections	Jan 19, 20XX	Within 30 days of Jan 19	
§ 257.90(e)	Initial annual groundwater monitoring and corrective action report	Jan 31, 2018	Mar 2, 2018	
	2 nd annual groundwater monitoring and corrective action report	Jan 31, 2019	Mar 4, 2019	
	3 rd annual and subsequent groundwater monitoring and corrective action report	Jan 31, 20XX	Within 30 days of Jan 31	
§ 257.91(f) and	Groundwater monitoring system	Oct 17, 2017	Nov 16, 2017	

Federal CCR Citation	Requirement	Deadline to PREPARE	Deadline to POST	Date POSTED
§ 257.90(b)(1)(i)	certification			
§ 257.93(f)(6) and § 257.90(b)(1)(i)	Statistical method certification	Oct 17, 2017	Nov 16, 2017	
§ 257.94(e)(3)	Notification that an assessment monitoring program has been established	If triggered	Within 30 days	
§ 257.95(g)	Notification that Appendix IV constituents have been detected at SSI above GWPS	If triggered	Within 30 days	
§ 257.95(g)(2)	Notification to land owners	If triggered	Within 30 days	
§ 257.95(g)(5)	Notification of initiation of corrective measures	If triggered	Within 30 days	
§ 257.96(d)	Assessment of corrective measures	If triggered	Within 30 days	
§ 257.102(b)(2)	Initial closure plan	Oct 17, 2016	Nov 16, 2016	
§ 257.102(b)(3)(iii)	Amended closure plan	At least 60 days prior to change in operation of facility or unit	Within 30 days of amending	
§ 257.102(g)	Notification of intent to close CCR unit	No later than the date the owner or operator initiates closure	Within 30 days	
§ 257.102(k)	Initial retrofit plan	60 days prior to initiating retrofit	Within 30 days of completing the plan	
§ 257.102(k)(5)	Notification of intent to retrofit	Site-specific, if	Within 30 days	

Federal CCR Citation	Requirement	Deadline to PREPARE	Deadline to POST	Date POSTED
	CCR unit	applicable		
§ 257.104(d)(2)	Initial post-closure care plan	Oct 17, 2016	Nov 16, 2016	
§ 257.104(d)(3)(iii)	Amended post-closure care plan	At least 60 days prior to change in operation of facility or unit	Within 30 days of amending	