

Message

From: Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]
Sent: 3/1/2018 11:34:47 PM
To: Roewer, James [JRoewer@eei.org]
Subject: RE: EPA Proposes First of Two Rules to Amend Coal Ash Disposal Regulations, Saving Up to \$100M Per Year in Compliance Costs
Attachments: Signed - Phase I Admendments to Disposal of CCR 3.1.2018.pdf

Here is an electronic copy. There appear to be technical delays in posting an electronic prepub version to OLEM's coal ash website.

From: Roewer, James [mailto:JRoewer@eei.org]
Sent: Thursday, March 1, 2018 5:35 PM
To: Brown, Byron <brown.byron@epa.gov>
Subject: Re: EPA Proposes First of Two Rules to Amend Coal Ash Disposal Regulations, Saving Up to \$100M Per Year in Compliance Costs

Thanks for sending this. Looking forward to getting a copy of the proposal, thanks

Sent from my Samsung Galaxy , an AT&T LTE smartphone

----- Original message -----

From: "Brown, Byron" <brown.byron@epa.gov>
Date: 3/1/18 5:29 PM (GMT-05:00)
To: "Roewer, James" <JRoewer@eei.org>
Subject: FW: EPA Proposes First of Two Rules to Amend Coal Ash Disposal Regulations, Saving Up to \$100M Per Year in Compliance Costs

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Fyi – I have not received an electronic copy of the signed, pre-publication version of the proposed rule yet.

From: EPA Press Office [mailto:press=epa.gov@cmail20.com] **On Behalf Of** EPA Press Office
Sent: Thursday, March 1, 2018 5:10 PM
To: Brown, Byron <brown.byron@epa.gov>
Subject: EPA Proposes First of Two Rules to Amend Coal Ash Disposal Regulations, Saving Up to \$100M Per Year in Compliance Costs

EPA Proposes First of Two Rules to Amend Coal Ash Disposal Regulations, Saving Up To \$100M Per Year in Compliance Costs

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WASHINGTON (March 1, 2018) – Today, the U.S. Environmental Protection Agency (EPA) is proposing the first of two rules that will amend the regulations for the disposal of coal combustion residuals, also known as CCR or coal ash, from electric utilities and independent power producers. EPA’s Regulatory Impact Assessment shows this proposal will save the utility sector up to \$100 million per year in compliance costs.

“Today’s coal ash proposal embodies EPA’s commitment to our state partners by providing them with the ability to incorporate flexibilities into their coal ash permit programs based on the needs of their states,” **said EPA Administrator Scott Pruitt.** “We

are also providing clarification and an opportunity for public comment - something that is much-needed following the public reaction to the 2015 coal ash rule.”

EPA estimates this proposed rule would save the regulated community between \$31 million and \$100 million per year. Today’s proposed rule includes more than a dozen changes to the 2015 final CCR rule, which established minimum national standards regulating the location, design, and operation of existing and new CCR landfills and surface impoundments at more than 400 coal-fired power plants nationwide.

The final 2015 CCR rule remains subject to litigation pending before the U.S. Court of Appeals for the D.C. Circuit. The proposal addresses four provisions of the 2015 CCR rule that the D.C. Circuit remanded back to EPA in 2016, as well as additional provisions in response to comments received since the final rule went into effect and a petition for rulemaking EPA received in May 2017.

The proposal would allow alternative performance standards for coal ash disposal units with operating permits issued under an approved state or federal coal ash permit program. The proposal also requests comment on whether a regulated facility could develop and implement similar alternative standards that would be subject to oversight and enforcement by EPA. Many of the proposed changes are based on the environmental protections and regulatory flexibilities contained in EPA’s longstanding rules governing disposal of municipal solid waste. The proposal includes:

- ✦ A change to allow a state regulatory program to establish alternative risk-based groundwater protection standards for constituents that do not have an established maximum contaminant level (MCL), rather than the use of background levels that are currently required. The proposal also requests public comment on whether a facility may be allowed to establish alternative risk-based standards using a certified professional engineer or other means, subject to EPA oversight.
- ✦ A request for comment on whether the current deadlines for groundwater monitoring and analysis remain appropriate in light of the new legal authorities and potential regulatory changes.
- ✦ A request for public comment on modifying the location restrictions and associated deadlines concerning construction or operation of a CCR landfill or surface impoundment in certain areas.
- ✦ Changes to allow states to establish alternative requirements for how facilities respond to and remediate releases from CCR landfills and surface impoundments. The proposal also requests comment on allowing states to determine when an unlined surface impoundment that is leaking may undertake corrective action rather than be forced to stop receiving CCR and close.
- ✦ The addition of boron to the list of constituents for which facilities would need to perform assessment monitoring.
- ✦ Streamlined administrative procedures that a facility may comply with if there is a non-groundwater release that can be addressed within 180 days. EPA also requests comment on whether this time period is appropriate.
- ✦ Modification of the performance standard for vegetative slope protection to protect against erosion and failure of a surface impoundment.

- A change to the closure provisions to allow the use of coal ash during the closure process and to allow non-CCR waste to continue to be placed in a CCR surface impoundment that is subject to closure.

At that time the final CCR rule was issued in 2015, EPA did not have the authority to allow states to become authorized to administer their own CCR permit programs in lieu of the federal regulations or to provide alternative regulatory standards and compliance options. However, in 2016, Congress amended the Resource Conservation and Recovery Act with passage of the Water Infrastructure Improvements for the Nation Act (WIIN Act), which provides authority for states to become authorized to operate CCR permit programs “in lieu of the federal regulations,” as long as the EPA determines that the state’s requirements are at least as protective as the standards in the 2015 final rule or successor regulations. The WIIN Act also provides EPA new authority to provide oversight of CCR units.

EPA will be accepting public comment on this proposal for 45 days after publication in the Federal Register and plans to hold a public hearing to receive additional feedback on the proposal during the public comment period. EPA plans to move quickly to take final action after the close of the comment period. EPA also plans to propose additional changes to the CCR rule later this year.

Additional information on this proposal and how to comment can be found at:

<https://www.epa.gov/coalash>.

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