

I. Safe and reliable electricity supply is essential to American lives, and a well-functioning economy.

- As identified by President Trump in Executive Order 14156 “*Declaring a National Energy Emergency*,” domestic energy production is inadequate, and it’s essential the U.S. prioritize the integrity and expansion of energy infrastructure to ensure economic prosperity and national security.
- Coal Combustion Residuals (CCRs) are a natural by-product of generating electricity with coal. For decades, coal producers have re-purposed CCRs to produce millions of tons of useful products. Among other things, these products are used for critical infrastructure and provide important community resources.
- Without immediate intervention by the Trump Administration, CCR regulations and policies of the Biden Administration will continue to jeopardize electricity supply and affordability by imposing excessive and undue costs.

II. EPA’s latest CCR actions are detrimental to electric supply, overly broad¹ and unlawful.

- In 2015, EPA first promulgated CCR regulations under the Resource Conservation and Recovery Act (RCRA). Importantly, the regulations identified CCRs as nonhazardous solid waste. However, the regulations did not contain site-specific, risk-based provisions. Instead, a one-size-fits all, impractical and inflexible regime was deployed resulting in exorbitant costs.
- Under Trump’s first Administration, important steps were taken to supplement the federal CCR regulations to allow additional time for critical CCR units to operate, paving a way for longer-term U.S. energy production.
- Biden’s Administration took numerous steps to undermine the Trump Administration’s progress, including the issuance of the Legacy CCR Rule and subsequent technical corrections. These actions will increase costs and hinder future development that is critical for national security and economic leadership.
- Pathways exist for the Trump Administration to undo the harmful policies of the Biden Administration.

III. Swift action by the Trump Administration is needed to protect the U.S. economy.

- CCR regulations and requirements need to be practical and based on demonstrated risks. Changes to CCR regulation are consistent and authorized by Executive Order 14154 “*Unleashing American Energy*” and Executive Order 14219 “*Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative*.” Specifically, the Trump Administration should:

- (1) Decline to defend the Legacy CCR Rule in the D.C. Circuit because it exceeds EPA’s statutory authority, is arbitrary and capricious, and is unlawfully retroactive.
- (2) Request voluntary vacatur of the Legacy CCR Rule’s unlawful CCR Management Unit (CCRMU) provisions.
- (3) Rescind the Biden EPA’s incorrect, and new, interpretation that on-site uses of CCRs do not qualify for the beneficial use exemption and provide clear affirmation that all beneficial uses of CCR, whether on- or off-site, are exempt from federal CCR regulations.
- (4) Revoke and revise as required the Biden EPA’s “liquids” guidance accompanying the Legacy CCR Rule, and any similar “contact with groundwater” guidance, proposals, and other actions issued by EPA.
- (5) Develop a federal CCR permitting program and provide a streamlined process for State CCR permit program approval; revise the CCR regulations to allow for site-specific, risk-based considerations.
- (6) Defeat environmental groups’ meritless claims of CCR noncompliance which were aided by the Biden Administration’s inappropriate and retroactive guidance and rule interpretations.

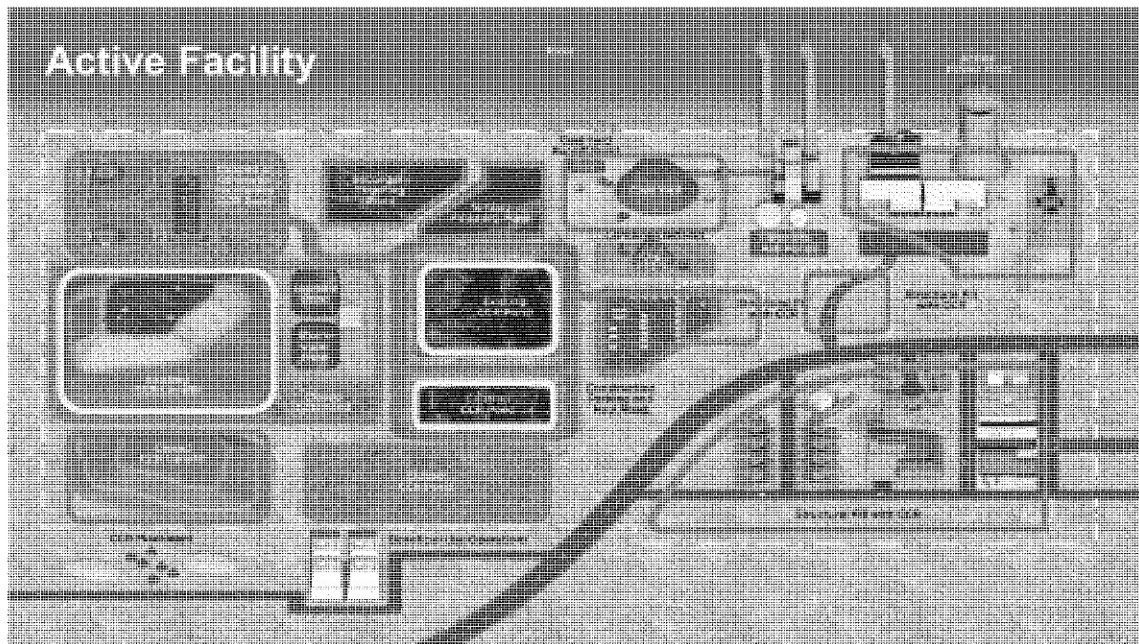
IV. Attention by the new Administration cannot wait.

- Action by the Trump Administration cannot be delayed because the costs and resources necessary to meet the Legacy CCR Rule’s initial and long-term compliance obligations will have immediate and significant economic and community impacts.
- Without strong, swift action, information on CCRMU’s will be posted publicly starting in February 2026, and for some companies’ groundwater network establishment will commence in 2025 around CCRMU’s.
- The CCRMU provisions of the Legacy CCR Rule are unlawful and should be revoked. Immediate action to suspend the regulations and change the liquids definition, is required to preserve and promote power generation and provide safe, reliable and affordable electricity to consumers, businesses, and institutions.

V. Actions support President Trump’s objectives.

- Actions described above promote energy independence through the continued use of American-produced fossil fuels.
- To achieve demand growth and promote national security, aspects of the Legacy CCR Rule must be rescinded and/or revised, and clear, strong guidance must be issued on liquids and beneficial use.

1 - Figures 1 and 2 depict how broad the Biden EPA’s Legacy CCR Rule is in comparison to the initial 2015 federal CCR regulations.

Figure 1 – Active Power Plant CCR Area Regulation Impacts (2015 CCR Rule vs 2024 Legacy CCR Rule)

Regulated in 2015 (active units and those not closed); Additionally regulated under 2024 rule as CCRMUs (closed ponds, other ponds not fully cleaned out; closed or inactive landfills; certain roads; structural fill areas)

Figure 2 – Inactive Power Plant CCR Area Regulation Impacts (2015 CCR Rule vs 2024 Legacy CCR Rule)

Additionally regulated under 2024 rule - Legacy CCR Surface Impoundments; CCRMUs (inactive or closed landfills, closed ponds, fill sites (i.e. structural, certain roads, certain parking lots))