

Message

From: Roewer, James [JRoewer@eei.org]
Sent: 5/2/2017 12:02:46 PM
To: Brown, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9242d85c7df343d287659f840d730e65-Brown, Byro]
Subject: RE: Meeting with ORCR on CCR Rule

I think having someone from Policy in this meeting will be helpful, thanks

From: Brown, Byron [mailto:brown.byron@epa.gov]
Sent: Monday, May 01, 2017 7:35 PM
To: Roewer, James
Subject: RE: Meeting with ORCR on CCR Rule

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Hi Jim – I now have a conflict and won't be able to attend this meeting but will try to find someone else from policy team to attend in my place.

From: Roewer, James [mailto:JRoewer@eei.org]
Sent: Wednesday, April 26, 2017 1:37 PM
To: Brown, Byron <brown.byron@epa.gov>
Subject: RE: Meeting with ORCR on CCR Rule

Correction, our meeting is **May 4th**, not April 4th

Jim

From: Roewer, James
Sent: Wednesday, April 26, 2017 12:18 PM
To: 'brown.byron@epa.gov'
Subject: Meeting with ORCR on CCR Rule

Byron – FYI, USWAG will be meeting with ORCR staff next Thursday, April 4th, 3 – 4 pm to discuss one of the issues in the Remand Rule, alternative closure provisions under § 257.103. This meeting is one of a series of meetings to discuss our concerns and seek more reasonable regulations for CCR.

Here's some background on the issue:

§ 257.103 of the CCR rule allows CCR impoundments that would otherwise have to close for cause (i.e., not meeting groundwater protection standards, not meeting location restrictions) to continue to operate if there is no alternative disposal capacity for CCR. Such units could operate until alternative disposal capacity becomes available, and would of course be operating under corrective action to address any groundwater impacts. Without alternative CCR disposal capacity, CCR could not be generated and the plant would have to

cease operations. EPA has acknowledged that the goal of this provision is to prevent the abrupt closure of power plants and impacts to grid reliability.

Since CCR impoundments often serve a dual function of managing non-CCR wastewaters as well as CCR, alternative capacity for those wastewaters should also be taken into account when making a determination that the CCR impoundment needs to continue to operate. Specifically, an impoundment can cease managing CCR, but still be vital for purposes of receiving the plant's non-CCR wastewaters. Therefore, if we cannot take into account the availability of disposal capacity for non-CCR wastewaters, the value of the alternative closure provision is significantly limited. If there is no disposal capacity for non-CCR wastewaters, they could not be generated and the plant would have to cease operations.

We have advocated that EPA should amend the CCR rule at 40 C.F.R. § 257.103 to allow for the consideration of alternative disposal capacity for non-CCR wastewaters for purposes of qualifying for extended closure and avoiding abrupt closure of the facility. We have also suggested that the omission of non-CCR wastewaters was a drafting oversight and the same policy reasons that led EPA to adopt the provision in the first instance applies equally to non-CCR wastewaters.

There is a real urgency to addressing this issue, as units could be required to cease receiving non-CCR wastewaters and commence closure by January 2019. Therefore, for purposes of strategic and capital planning, we need certainty on this issue by no later than June of 2018, which means issuing a final Rule by that time.

Given the significant implications of this issue – providing a mechanism to avoid the abrupt closure of power plants – we wanted advise you of our continuing discussion and concerns . We appreciate your attention to this issue.

Please contact me with any questions.

Jim