

Fact Sheet: Legacy Coal Combustion Residuals (CCR) Surface Impoundments and CCR Management Units Proposed Rule

The United States Environmental Protection Agency (EPA) issued a proposed rule that would require the safe management of coal ash dumped in areas that are currently unregulated at the federal level. This includes inactive power plants with surface impoundments that are no longer being used and historical coal ash disposal areas at power plants with regulated coal ash units. This proposal applies to historical contamination and inactive units that no longer support current power plant operations.

What Does the May 2023 Proposal Do?

On May 18, 2023, EPA proposed to amend the rules governing the disposal of CCR in landfills and surface impoundments. EPA proposed regulatory requirements for inactive surface impoundments at inactive facilities (referred to as “legacy CCR surface impoundments”). This proposal responds to the 2018 U.S. Court of Appeals for the District of Columbia Circuit ruling that vacated the exemption for legacy CCR surface impoundments from the CCR regulations.

Why is the Legacy CCR Surface Impoundment Proposal Important?

Coal ash is a byproduct of burning coal in power plants that, without proper management, can pollute waterways, groundwater, drinking water, and the air. Coal ash contains contaminants like mercury, cadmium, chromium, and arsenic associated with cancer and various other serious health effects. Many facilities stored coal ash in surface impoundments, which have the potential to leak or to fail, sending coal ash and its

contaminants into water sources, including surface water and groundwater.

On April 17, 2015, the EPA promulgated national minimum criteria for existing and new CCR landfills and existing and new CCR surface impoundments. This final rule did not impose any requirements on inactive facilities. On August 21, 2018, the U.S. Court of Appeals for the District of Columbia Circuit vacated the exemption for inactive surface impoundments at inactive facilities and remanded the issue back to EPA to take action consistent with the opinion in “Utility Solid Waste Activities Group, et al. v. EPA.”

Legacy CCR surface impoundments are more likely to be unlined and unmonitored, making them more prone to leaks and structural problems than units at facilities that are currently in service. These units are currently not regulated at the federal level and could adversely impact groundwater. To address these concerns, EPA proposed safeguards for legacy CCR surface impoundments that largely mirror those for inactive impoundments at active facilities, including requiring the proper

closure of the impoundments and remediating CCR-contaminated groundwater.

CCR Management Units Proposal

In addition, through implementation of the 2015 CCR rule, EPA found that power plants with regulated impoundments had also disposed of coal ash in areas outside of regulated units, and that many utilities had identified these areas as the source of detected groundwater contamination. These areas, referred to as “CCR management units,” include coal ash in surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule, inactive CCR landfills, and other areas where coal ash is placed directly on the land. EPA also proposed to establish groundwater monitoring, corrective action, closure, and post closure care requirements for these areas.

Applicability Documentation

EPA proposed that for both legacy CCR surface impoundments and CCR management units, facilities would first need to write reports with information to identify the units, delineate the boundaries of the units, include figures of the facilities and where the units are located, and the sizes of the unit. The facilities would then post these reports on their websites for the public to access.

Compliance Deadlines

This rule would become effective six months after publication of the final rule in the *Federal Register*. No facility would be required to meet any of the new requirements before that six-month date.

The proposed compliance deadlines would allow additional time beyond the effective date for facilities to comply with certain technical criteria based on the amount of time EPA projects that facilities would need to complete them (e.g., installing the groundwater

monitoring system, developing the groundwater sampling and analysis program).

Power Sector Engagement and Outreach

Power plants no longer use the areas that are the subject of this proposal to support their current operations (i.e., they no longer need to place additional coal ash in these units). However, EPA will continue to work with power facilities and grid operators to address any reliability concerns.

Public Comment

EPA will collect public comments on this proposal through July 17, 2023. EPA will host an in-person hearing in Chicago, Illinois on June 28, 2023. Additionally, EPA will host an online public hearing on July 12, 2023.

Where Can I Find More Information?

1. Read about the proposed rule and the public hearings on our proposal webpage:
<https://www.epa.gov/coalash/proposed-changes-legacy-coal-combustion-residuals-surface-impoundments-and-ccr-management>.
2. Learn about coal ash:
www.epa.gov/coalash.
3. For information about how to submit comments, contact Michelle Lloyd by email at lloyd.michelle@epa.gov or by telephone at (202) 566-0560.
4. For press inquiries, contact:
press@epa.gov.