

Revisions to the Coal Combustion Residuals (CCR) Closure Regulations

Background

In April 2015, the U.S. Environmental Protection Agency (EPA) promulgated a comprehensive set of requirements for the management of coal combustion residuals in landfills and impoundments. CCR include a variety of waste streams, specifically, fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from coal-fired electric utilities; these waste streams are commonly known as coal ash. The rule established corrective action, closure and post closure, technical standards, and inspection, monitoring, recordkeeping and reporting requirements. In *Utility Solid Waste Activities Group [USWAG et al. v. EPA]* (Aug. 21, 2018), the D.C. Circuit of Appeals overturned certain provisions of EPA's 2015 rule and remanded some provisions back to the agency.

Even though EPA is making several regulatory changes with this final rule, the regulations in place since 2015 to detect and assess, and as needed to remediate, impacts on groundwater from CCR in surface impoundments and landfills are in place and implementation remains on schedule. The 2015 requirements for facility inspection, monitoring, recordkeeping and reporting requirements remain in place and will now include summary tables for the monitoring data and assurances that the public can easily access the posted information. EPA's updates with this final rule keep the major protections and requirements of the 2015 rule in place while making changes to implement the Water Infrastructure Improvements to the Nation (WIIN) Act, respond to petitions, address litigation, and apply lessons

learned to ensure smoother implementation of the rule.

Summary of the Final Rule

This rule finalizes regulations to implement the court's ruling about unlined and "clay-lined" surface impoundments. More specifically:

- The final rule specifies that all unlined surface impoundments are required to retrofit or close, not just those that have detected groundwater contamination above regulatory levels.
- The rule also changes the classification of compacted-soil lined or "clay-lined" surface impoundments from "lined" to "unlined," which means that formerly defined clay-lined surface impoundments are no longer considered lined units and need to be retrofitted or closed.

In addition, EPA is establishing a revised date, April 11, 2021, by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit. EPA determined this new date after a careful analysis of the considerable amount of planning and construction timeline data submitted during the public comment period.

EPA is also finalizing revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste – primarily non-CCR wastewaters - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments.

Lastly, EPA is finalizing amendments to the annual groundwater monitoring and corrective action report and the requirements for the publicly accessible internet sites that were proposed on August 14, 2019. This provision enhances the public's access to information and includes:

- Revising the annual groundwater monitoring and corrective action report requirements to make the data easier for the public to understand and evaluate, including a requirement to summarize the results in an executive summary.
- Revising the CCR website requirements to ensure that relevant facility information required by the regulations is immediately available to the public.

Where Can I Find More Information on This Final Rule?

Additional information about this rulemaking is available at www.epa.gov/coalash. For information about the final rule, contact Kirsten Hillyer by telephone at 703-347-0369 or by email at hillyer.kirsten@epa.gov.
