

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 (CCR) 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 further include improvements for the public to access posted information which were published in an August 28, 2020 final rule. 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 a two-step process from the March 2020 proposed rule (85 FR 12456) in § 257.71(d) to allow a limited number of facilities to demonstrate to EPA or a Participating State Director that based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to have no probability of adverse effects on human health or the environment. Therefore, the CCR surface impoundment should be allowed to continue to operate.

During the application step, facilities submit an initial application intended to show whether a unit meets certain minimum requirements before embarking on a comprehensive alternate liner demonstration. This first step must be submitted no later than November 30, 2020. Specifically, the owner or operator of the CCR unit must submit:

- An application letter;
- Certification that the CCR unit is in compliance with all CCR regulations;
- Documentation that the groundwater monitoring network meets the CCR regulations;
- Documentation that the CCR unit is in detection monitoring;
- Documentation that the CCR unit was designed and constructed to relevant standards;

- Documentation that the CCR unit meets all required location restrictions, structural stability, safety factor assessments, and construction quality requirements.

telephone at 703–347–8953 or by email at long.michelle@epa.gov.

If approved during the application step, facilities then submit a comprehensive final demonstration intended to ensure there will be no reasonable probability of adverse effects to human health or the environment resulting from groundwater contamination from the CCR surface impoundment. This demonstration step must be submitted no later than January 31, 2022. Specifically, the owner or operator of the CCR unit must submit:

- Documentation to characterize site hydrogeology;
- Documentation to evaluate the potential for infiltration through any liners and underlying soils of the unit;
- Modeling results of long-term unit performance; and
- Documentation that the CCR unit has remained in detection monitoring for the duration of the demonstration.

The final rule also includes procedures for approval and denial of the application step, demonstration step, timeline extensions, recertification process, and loss of authorization. It also details the relationship between the alternate liner demonstration and the recently finalized CCR Part A rule, which established alternative closure provisions in § 257.103(f)(1) and (f)(2).

At this time, EPA continues to read and evaluate the comments from the other topics proposed in the March 2020 rule. Provisions from the proposed rule that are not addressed in this rule will be addressed in a subsequent action.

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 Michelle Long by
