



## EPA TO RECONSIDER COAL ASH RULE

The EPA granted two petitions filed by coal ash producers to reconsider substantive provisions of the final rule regulating coal combustion residuals (CCR) as nonhazardous waste under Subtitle D of the Resource Conservation and Recovery Act (RCRA).

In granting the petitions, EPA determined that it was appropriate, and in the public's interest to reconsider specific provisions of the final CCR rule based in part on the authority provided through the Water Infrastructure for Improvements to the Nation (WIIN) Act. EPA stated that the Agency is not committing to changing any part of the rule, or agreeing with the merits of the petition-instead, the Agency is granting petitions to reconsider specific provisions. Should EPA decide to revise specific provisions of the final CCR rule, it will go through notice and comment period.

The petition from the Utility Solid Waste Activities Group (USWAG) was submitted May 12, 2017, and seeks reconsideration of 11 specific provisions of the final CCR rule, including provisions prohibiting the use of alternative points of compliance for ground water contamination, regulating inactive surface impoundments, and defining what activities constitute beneficial use of CCR. The petition from AES Puerto Rico LLP was submitted May 31, 2017, and seeks reconsideration of certain on-site storage practices.

The current rule went into effect on October 19, 2015, and regulates how CCR generated from electric utilities and independent power producers is managed and disposed of in surface impoundments and landfills. The rule also defines what constitutes beneficial use of CCR; and, therefore, is excluded from the rule's requirements. Among other things, EPA's 2015 coal ash rule required utilities to test the water near their coal ash dumps to make sure hazardous chemicals, like arsenic, lead, chromium, mercury and other toxins were not leaking into drinking water sources.

Coal ash contains heavy metals and PAHs. Requirements to monitor the water around dump sites-and to clean it up-are set to go into effect at all coal ash dumpsites next month. Unlined dumpsites and coal ash piles are of concern.

In December 2016, the WIIN Act was enacted into law. Section 2301 of the WIIN Act provides authority for states to operate permit programs under Subtitle D of RCRA, as long as the EPA determines that the state's requirements are as protective as the standards in the 2015 final rule or successor regulations. Should EPA decide to revise specific provisions of the final CCR rule, it will go through a notice and comment process.

(Environmental Resource Center - 9-18-17)



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215 West Church Road  
King of Prussia, PA 19406  
Phone: (610) 265-1510 / FAX: (610) 265-0687

**New Jersey**  
Pureland Complex, Suite 306  
510 Heron Drive, P.O. Box 521  
Bridgeport, NJ 08014  
Phone: (856) 467-2276 / FAX: (856) 467-3476

**Southwest Pennsylvania**  
591 East Maiden Street  
Washington, PA 15301  
Phone: (724) 206-0348 / FAX: (724) 206-0380

**E-mail: RTENV@AOL.COM**  
**World Wide Web: HTTP://RTENV.COM**  
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215 West Church Road Suite 301 King of Prussia, PA 19406 Phone: (610) 265-1510 FAX: (610) 265-0687	510 Heron Drive P.O. Box 521 Suite 306, Pureland Complex Bridgeport, NJ 08014 Phone: (856) 467-2276 FAX: (856) 467-3476	591 East Maiden Street Washington, PA 15301 Phone: (724) 206-0348 FAX: (724) 206-0380
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RT Environmental Services, Inc., 215 W. Church Road, King of Prussia, PA 19406

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