



## EPA EVALUATING PROPOSED COAL ASH RULE REVISIONS

One of the worst environmental events which occurred in the United States was the failure of a large coal ash pile at a power plant near Knoxville, Tennessee. RT's President, Gary R. Brown, P.E., testified in Federal Court as an expert witness, and ultimately the landfill operator was found to be negligent and out of compliance with the Resource Conservation and Recovery Act (RCRA) Subtitle D requirements.

EPA and state regulators are still trying to finalize an appropriate rulemaking process under Subtitle D for the regulation of coal ash land disposal. There continue to be arguments as to whether coal ash should be covered under Subtitle C, which regulates hazardous waste. For some time, environmentalists have been pushing for hazardous Subtitle D rules to cover ash disposal. Subtitle D concerns the management of non-hazardous solid waste.

In a recent EPA rule proposal, EPA is proceeding with a program where there will be standards for state regulators to set site-specific standards for Solid Waste Landfills, which would cover Coal Ash sites. There was a 2016 settlement with environmentalists, but the issues are still not finalized. The Southern Environmental Law Center, a key environmental group in the U.S., has been consistently commenting on coal ash regulations. They recently stated:

*"Coal ash is polluting rivers, lakes and wells across America, but President Trump's EPA is trying to weaken the standards that are supposed to protect Americans from this toxic threat. These proposals will weaken rules that protect our groundwater from arsenic and mercury, and continue to extend the use of unlined, leaking coal ash pits next to our waterways," - Attorney Frank Holleman, Southern Environmental Law Center, March 1, 2018*

EPA is undertaking a two-step rulemaking process which is overhauling the RCRA Rule for coal ash, which is also referred to as the Disposal of Coal Combustion Residuals (CCR).

As solid waste disposal became more regulated in the United States after 1970, it took a long time for older facilities to be phased-out, and for closed sites to be studied to see if there were ongoing discharges impacting groundwater and/or surfacewater. While there are complications on the regulatory side and the facility operator side regarding groundwater impacts, EPA does require operators to perform "post closure care" for a minimum of thirty years.

*We at RT think that it is time to wrap up the debate about what regulations to apply, as states such as Pennsylvania have finalized appropriate regulations for coal ash sites decades ago. RCRA Subtitle D can be appropriately applied to coal ash CCR disposal sites based on long time experience with solid waste, coal ash, and residual waste landfills in Pennsylvania. As long as disposal is appropriately regulated and managed, risks are minimized. Most older coal ash sites in PA have been adequately addressed for some time.*

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