

Coal Ash and Water Toxics Briefing


Trump EPA Proposed Rollbacks

December 12, 2019

Agenda

1. Housekeeping
2. Water Toxics Rollback
3. Coal Ash (Part A) Rollback
4. Update on other Coal Ash Rollbacks
5. Questions?


EPA's Proposal to Weaken Effluent Limitations Guidelines & Standards (ELGs) for Power Plants



**STOP TRUMP'S TOXIC
WATER PLAN**

Coal-burning power plants are THE largest toxic water polluters in the country. Trump's EPA is giving the coal industry a lifeline — making it easier to pollute our water with arsenic, lead and mercury.

#NoToxicWater

 CLEAN WATER ACTION | CLEAN WATER FUND

ELGs for Power Plants - Background

- Clean Water Act ELG program authorizes EPA to set pollution limits for industrial dischargers, including power plants
- In September 2015 EPA published new CWA Effluent Limitations and Guidelines and Standards (ELGs) for power plants
- Had not been updated since 1982
- Required zero discharge of coal ash wastewater
- Set the first-ever pollution limits for heavy metals and other chemicals in scrubber sludge air pollution control devices
- Did not require limits on bromide

ELGs for Power Plants – Background (con't)

- In early 2017 industry petitioned EPA to reconsider limits on scrubber sludge and zero discharge for bottom ash
- In September 2017 EPA postponed compliance dates for scrubber sludge and bottom ash from November 2018 to November 2020
- November 2019 proposal weakens protections for those two waste streams and carves out new exemptions for some plants

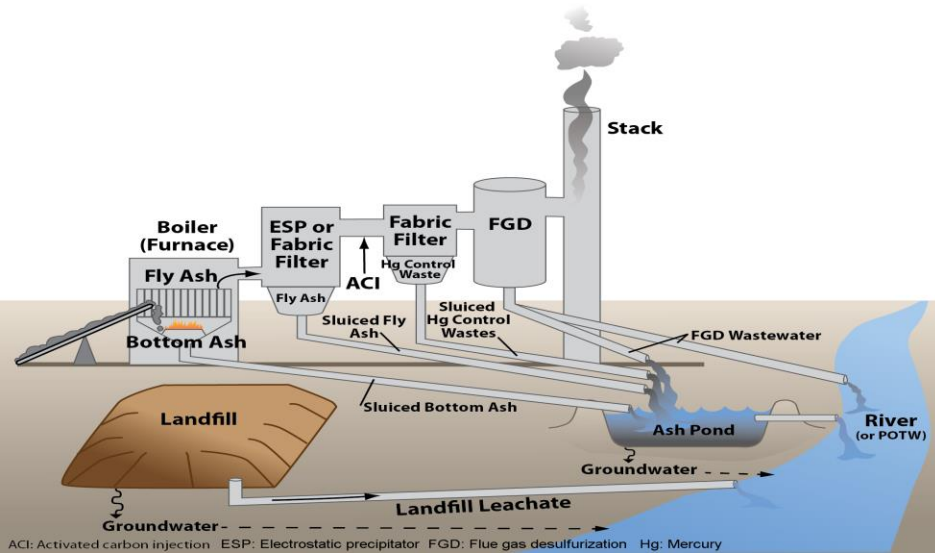


Illustration of power plant wastewater streams. Credit: EPA

- Zero discharge/dry handling of fly ash and **bottom ash transport water***
- Zero discharge for flue gas Hg (mercury) control wastewater
- Strict limits on arsenic, mercury, selenium, and nitrogen from wet scrubber systems (FGD)***
- Strict limits on arsenic, mercury, selenium, and total dissolved solids in coal gasification wastewater
- No change for landfill leachate or “legacy” waste in ash ponds
- Any plants built in future will require zero discharge of FGD

***Compliance deadline delayed until November 2020**

EPA's Proposal to Weaken ELGs for Power Plants - Overview

- Allows plants to discharge millions of gallons of bottom ash wastewater daily (up to 10 percent)
- Allows higher levels of arsenic and selenium in scrubber sludge discharges, and gives plants up to five years to come into compliance
- New loopholes for plants that claim they will retire by 2028 or operate for a limited number of hours per year

EPA's Proposal to Weaken ELGs for Power Plants – Overview (con't)

- Still no limits on bromide- but record shows it should be controlled
- EPA claims current proposal “would achieve greater pollution reductions than the 2015 rule would have achieved”
- Based on assumption 18 plants will voluntarily adopt membrane technology to treat scrubber sludge/FGD

#TOXICPOWERPLANTS

HAVE MADE IT UNSAFE TO EAT FISH
FROM AT LEAST 94 RIVERS, LAKES, AND BAYS.

#NOTOXICWATER



PHOTO CREDIT: PETE HARRISON,
WATERKEEPER ALLIANCE



- 23,000 miles of rivers and streams are contaminated because of these discharges
- Many plants discharge upstream of drinking water sources or near public drinking water wells
- Pollutants in power plant wastewater accumulate up food chain and can cause cancer and other health problems

EPA Should Strengthen, Not Weaken These Pollution Safeguards

- Instead of gutting critical protections, EPA must strengthen pollution safeguards for power plants to keep toxic metals, nutrients, and bromide out of our rivers, lakes, and drinking water sources
- Technology to eliminate all coal ash wastewater discharges is widely used and affordable
- Technology to control arsenic, selenium, bromide and other dangerous chemicals in scrubber sludge is available and affordable
- Weakening these protections is nothing but a giveaway to prop up an archaic industry that has burdened communities with their toxic pollution for far too long

EPA Should Strengthen, Not Weaken These Pollution Safeguards



- Register to speak at December 19th virtual hearing
- Submit a comment by January 21, 2019
- Send an action alert to mobilize your members and supporters to submit comments
- Write an LTE or Op-Ed



EPA's "Part A" CCR Rollback

**How the Trump EPA proposal threatens health and
the environment**

December 12, 2019

**Lisa Evans
Earthjustice**

A Flood of Proposed Rollbacks Threatens Protections Secured in the 2015 CCR Rule

- July: EPA determines financial assurance unnecessary
- Aug: EPA proposes to lift protections on CCR piles and large fill projects (“Phase 2”)
- Dec: “Part A” proposal to delay closure of CCR ponds
- More to come... at least two more rollbacks expected in 2020

National Coal Ash Report (March 2019)

92 PERCENT OF COAL ASH PONDS
ARE CONTAMINATING
GROUNDWATER ABOVE FEDERAL
HEALTH STANDARDS

See “Coal’s Poisonous Legacy” at

<https://earthjustice.org/sites/default/files/files/National%20Coal%20Ash%20Report%203.4.19.pdf>

 Zn zinc	 Cd cadmium	 Ni nickel	 Cr chromium	 B boron	 Cu copper	 V vanadium	 Cl chlorine	 As arsenic	 Hg mercury	 Co cobalt
 Fe iron	 Pb lead	 Se selenium	 Tl thallium	 Sb antimony	 Mo molybdenum	 Al aluminium	 Mn manganese	 Ba barium	 Be beryllium	

Essential Facts About CCR Ponds

- Unlined coal ash pits (or ponds) are the MOST dangerous way to dispose of toxic coal ash.
- 95% have no liner to stop hazardous chemicals from leaking to groundwater. Nearly 70% are located within five feet of groundwater.
- EPA currently regulates 442 impoundments in 36 states.
- It is estimated that there are more than 100 “legacy” pits at retired coal plants.
- Coal ash ponds are subject to catastrophic collapse (e.g., TVA Kingston (2008) and Duke Dan River (2014) disasters) and are almost always located adjacent to lakes, rivers & streams.
- This is an environmental justice issue. Coal ash ponds threaten low-income communities and communities of color disproportionately.

Summary of the “Part A” CCR Proposal (1)

- The proposal would allow dangerous coal ash ponds to continue to operate long past the deadlines for closure in the 2015 CCR rule.
- The 2015 CCR rule required all dangerously-sited ponds and leaking unlined ponds to stop receiving CCR and non-CCR waste by **April 2019**. Ponds that had to close by April 2019 included:
 - Leaking unlined ponds that contaminated groundwater above federal health standards;
 - All coal ash ponds in dangerous locations (within 5 feet of groundwater and in wetlands, seismic areas, fault zones and unstable areas).
- In sum, under the 2015 rule, most coal ash ponds would have had to cease accepting waste in April 2019.

Summary of the “Part A” CCR Proposal (2)

- The proposal would extend the operating lives of dangerous ponds up to **4.5 years** from the date they were required to close under the 2015 CCR Rule.
 - All unlined pits can operate until **Aug. 31, 2020** (a 16-month extension (from April 2019) for most units).
 - There is a self-implementing 3-month extension until **Nov 30, 2020** (19-mon extension from April 2019).
 - Owners can seek approval from EPA to operate pits until **Oct 15, 2023** (final closure potentially 2038).
- For each coal ash pit that receives such an extension, approximately 1 million tons of additional toxic ash will be dumped in the leaking and/or dangerous pit.
- The proposal also extends the deadline to close pits at power plants that are permanently ceasing operation.
 - Final closure of the pits can be as late as **October 2028** (for pits 40 acres or larger) or **October 2023** (for pits smaller than 40 acres), if the owner can show that there is no alternative disposal site for coal ash, as well as all non-coal ash waste.
 - The way that this standard is defined sets a low bar will likely be met by most closing power plants.

Summary of the “Part A” CCR Proposal (3)

- A victory in the federal appeals court last August resulted in a court order requiring EPA **to strengthen** the 2015 coal ash rule. The Part A proposal is intended to address this order, in part, by setting a deadline (albeit unsatisfactory) for the closure of all unlined ponds.
- EPA fails entirely, however, to respond to the court’s order to address contamination from “legacy” coal ash ponds: those pits at coal plants that retired before Oct 2015.
- EPA’s failure to establish closure and cleanup requirements for more than 100 legacy ponds across the nation is a huge omission that leaves communities near these leaking ponds totally unprotected.

Summary of the “Part A” CCR Proposal (4)

The Trump EPA is preventing meaningful public participation.

- Breaking with decades of precedent, the Trump administration refuses to hold an in-person public hearing on the CCR rollback, despite a letter from **87 public interest groups**.
- This is in sharp contrast to the Obama EPA, which held **eight** live public hearings on its proposed CCR rule in 2010, seven of them in impacted communities outside DC.
- The Trump administration’s refusal to hold an in-person public hearing violates the Resource Conservation and Recovery Act (RCRA).
- *We hope that all speakers will mention this injustice in their oral comments.*

TELL EPA: IT MUST STRENGTHEN, NOT WEAKEN COAL ASH PROTECTIONS

- EPA must not extend the operating life of dangerous coal ash ponds.
- Hundreds of coal ash ponds across the nation (92%) are leaking some of the most toxic chemicals known to man into our water, including arsenic and hexavalent chromium.
- Coal ash contamination can cause cancer, neurological damage, heart and lung disease, reproductive failure, kidney and liver disease, and more.
- Industry has had more than enough time to convert to safe disposal methods. Most plants have known for decades that their pits are leaking hazardous chemicals.
- Find coal ash pits near your community by going to: www.earthjustice.org/coalash/map
- Register online by **January 3, at 5 pmET** to testify at the January 7 virtual public hearing.

An aerial photograph showing a large-scale environmental disaster. A thick, dark, greyish-brown slurry of coal ash has inundated a residential area. In the foreground and middle ground, several houses are visible, some partially submerged or surrounded by the ash. The ash has covered the ground, roads, and some vegetation. In the background, more houses and trees are visible on a hillside, some appearing to be in the path of the ash flow. The sky is clear and blue.

For more information:
www.earthjustice/coalash

Contact:
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Please join the coal ash listserv!
For coal ash cleanups, use our toolkit at
www.earthjustice.org/coalash/toolkit

“Virtual” Hearings via GoToWebinar

EPA Fails to Hold In-person Hearings

Water Toxics:

- **Thursday, December 19 from 1-5pmET**
- **REGISTER ASAP!!**
- **Comments due January 21**

Coal Ash (Part A):

- **Tuesday, January 7 at 9amET**
- **REGISTER by January 3**
- **Comments due January 31**

“How to Testify” Guidance includes background information, talking points and sample testimony; links to register for hearing.

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Questions?