

Info Alert

National Conference of State Legislatures Office of State-Federal Relations

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EPA Issues Coal Ash Regulations

On Dec. 19, the U.S. Environmental Protection Agency (EPA) [issued the first-of-its-kind federal regulations](#) on the disposal of coal combustion residuals (CCRs), known commonly as coal ash, which is the by-product that results from coal being burned by an electric utility.

The regulations would designate coal ash as a non-hazardous substance under Subtitle D of the Resource Conservation and Recovery Act (RCRA). Under the proposed regulations, power plants would have to meet certain requirements for landfills and disposal ponds of the material, including monitoring leaks and instituting regular inspections of the impoundment sites. The proposal would also require any new surface impoundment sites that are built be lined and not be built in “sensitive areas” such as wetlands or earthquake zones.

Additionally, since these regulations are being promulgated under subtitle D of RCRA, EPA has no formal role in implementation nor can it enforce the requirements. Therefore, the regulations leave oversight powers to the states and citizens, giving them the right to sue if they believe that these regulations are not being adhered to. Because the proposal does not provide federal enforcement of the standards, EPA is strongly encouraging, but not requiring, states to adopt and enforce the regulations of coal ash on their own. However, utility companies are still required, under the proposal, to monitor and report leaks and contamination.

Coal ash may contain certain heavy metals and chemicals including arsenic, mercury and lead. According to EPA, in 2012, more than 470 coal-fired plants generated approximately 110 million tons of CCRs in 47 states. Of that, roughly 60 percent of the CCRs generated were disposed in surface impoundments and landfills while 40 percent were beneficially recycled, as coal ash is often used in products such as wallboard and concrete.

Important Links

[Final Rule: Disposal of Coal Combustion Residuals from Electric Utilities](#)

[Rule Fact Sheet](#)

[Frequently Asked Questions](#)

[EPA Summary: Subtitle D of RCRA](#)

For any additional questions or concerns please contact NCSL staff [Ben Husch](#) (202-624-7779) or [Melanie Condon](#) (202-624-3597).