



Coal Ash Management: Change IS Coming

By: Joshua R. More

Overview EPA CCR Co-Proposal

- On May 4, 2010 USEPA issued their Proposed Rule for Coal Combustion Residues Reassess Bevill determination
- Revisiting its regulatory determination for CCRs under the Bevill amendment
- Decision is driven by Kingston and additional damages cases

Potentially Affected Parties and Operations

- Generators
- Storage facilities
- Disposal facilities
- Beneficial users
- Transporters
- *The proposed rule applies to all CCRs generated by electric utilities and independent power producers.*

Two Co-Proposed Regulatory Options

- “Special Waste” under Subtitle C
- Solid Waste under Subtitle D
- *Both regulatory proposals attempt to accomplish the same goals; the major difference involves implementation, enforcement, and costs*

RCRA Hazardous Waste Subtitle C

- Existing surface impoundments
 - Surface impoundments which were in operation prior to effective date
 - All existing surface impoundments that have not been closed in accordance with RCRA performance standards are subject to all Subtitle C closure requirements (e.g. obtain a Part A permit and comply with interim status regulations)

RCRA Hazardous Waste Subtitle C

- Active vs. Inactive Existing Surface Impoundments
 - Active
 - Within 5 years from the effective date cease receiving CCRs
 - Closure within 2 years after cessation
 - Inactive
 - Rule could be interpreted to mean closure within 2 years from the effective date (Section 268.14)

Preamble and Section 264.1300 suggest that inactive existing facilities are subject to the proposal

RCRA Solid Waste Subtitle D

- All existing surface impoundments must be lined within 5 years or closed
 - Unlike Subtitle C, lined surface impoundments may continue to receive CCRs
- All existing surface impoundments must meet certain location restrictions or be closed within 5 years (e.g., not be located in unstable areas or take measures to address the issues)

Closure Requirements

- Closure and post-closure care for surface impoundments
 - Closure in place is an option
 - Closure plan required
 - Cover system
 - Post-closure care and monitoring (detection, assessment, corrective action) (30 year)

Closure of an Unlined Pond

- Like most state programs, Illinois' water pollution control rules govern the operation (discharges) of the surface impoundment, but not closure
- State initially treated closed impoundment as a landfill
 - However, many of the technical requirements applicable to landfills were not applicable to impoundments (e.g., cap, leachate collection, and operating requirements)

Closure of an Unlined Pond

- Working with the State we developed a site specific rule that incorporated many of the landfill closure requirements, but tailored for this situation.
 - Waste to remain in place
 - Groundwater trench to address transport
 - Geosynthetic cap
 - Assessment, detection and limited corrective action

Mitigating Risks

- Understand how EPA proposal will impact operations
- Review and assess current ash management
- Understand state requirements
- Understand potential opportunities to avoid applicability of expected regulation



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