

Coal Combustion Residuals (CCR) Management and Permitting

Key Findings

- In 2015, the U.S. Environmental Protection Agency (EPA) determined that coal combustion residuals (CCR) are not hazardous wastes and encouraged their continued beneficial use (e.g. wallboard, concrete).
- EPA established one-size-fits-all federal requirements for managing CCR in coal ash ponds and landfills if it cannot be beneficially reused. Each cooperative with coal ash units must document their compliance with the regulation through public-facing websites.
- Congress authorized a risk-based CCR regulations, which have been proposed by EPA but not finalized.
- In response to a 2018 D.C. Circuit order, EPA promulgated a new closure deadline (April 2021) for unlined CCR ponds while providing an opportunity for plants to obtain additional time to close or demonstrate the protectiveness of alternative unit design.
- Congress provided states the authority and flexibility to implement and enforce the federal CCR regulations through state permit programs and required a federal program for states without EPA-approved programs. EPA has proposed, but not finalized, the federal CCR permit program and has approved state permit programs in Oklahoma and Georgia.

NRECA Position

NRECA supports EPA's proposed changes to the 2015 rule to provide a risk-based CCR management program implemented through federal or state permits. This approach will allow co-ops to make decisions regarding the continued use and eventual closure of CCR management units based on the environmental risks presented by the units as well as cooperative business and economic considerations. Units that meet federal criteria, or are as protective as those criteria, can continue to operate.

To achieve this goal, co-ops need EPA to: (1) finalize proposed changes to the federal CCR rules to incorporate the authority and flexibility provided by Congress; (2) establish a federal permitting program to issue risk-based CCR permits in states that do not establish their own program; and (3) review and approve state CCR permitting programs. Co-ops need Congress to continue appropriating funds annually for the federal CCR permit program (as required by law) and to provide support for the development and implementation of delegated state CCR permit programs.

Impact on Co-ops

The 2015 CCR rule applies to current, new, and inactive units (those no longer receiving CCR). The requirements provide no opportunity to tailor requirements to site-specific conditions or risks. The self-implementing rule requires co-ops to determine how the requirements apply to their plants, obtain Professional Engineer certification that the plant's measures meet the requirements of the regulation, and post all information supporting the certification on a dedicated public-facing web site. Unlike other environmental programs that are implemented through permits, the CCR rule provides no opportunity for

plants to negotiate with a knowledgeable regulator about how to apply the requirements at a specific site. Until EPA revises the rule to take environmental risk into consideration, units that don't meet the 2015 technical standard, but are as protective, would still have to close.

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