

**EPA Public Hearing Testimony on
Hazardous and Solid Waste Management System: Disposal of Coal Combustion
Residuals from Electric Utilities; Legacy/CCRMU Amendments**
Docket: EPA-HQ-OLEM-2020-0107
May 28, 2026

My name is Stacey Yonce, and I am speaking today on behalf of the Environmental Protection Network as a former environmental regulator. We are concerned about EPA's recent proposed changes to the minimum national criteria for management of CCR, or coal ash.

As an initial matter, the proposal reads more like an Advanced Notice of Proposed Rulemaking than a Proposed Rule. Many proposals are unaccompanied by reg text, and so no adequate notice of the Agency's intent has really been provided. Where proposed reg text is provided, EPA often does not explain its rationale for these changes in the context of RCRA; the only rationale is to minimize burden on facilities, which is not a RCRA requirement. The proposal attempts to transform RCRA 4004(a) from a minimum protectiveness standard, which EPA's regulations must meet, into a limit on EPA's authority, which EPA's regulations cannot exceed. This is a corruption of the Act which is inconsistent with decades of established practice and case law.

RCRA was designed to prevent contamination before it occurs. The current CCR framework establishes national standards to prevent releases, because the persistent toxic metals in coal ash do not become less dangerous when they migrate across a state boundary. This proposal would allow individual state permit writers to establish less protective groundwater standards and cleanup and closure requirements based on a facility's own assessment of its risk. The proposal provides very few relevant criteria that a permit writer could use to review a utility's assessment.

At the same time, this proposal would exempt certain CCR management from regulation (dewatering structures, piles, CCRMU and some Legacy ponds) without consideration of risk data. EPA also proposes to remove environmental demonstration requirements for large-scale unencapsulated beneficial uses of coal ash. These two actions move in the opposite direction of the rest of the proposal and this inconsistency is troubling and unsupported by available data and evidence.

The proposal risks delaying cleanup at a time when many facilities have already identified groundwater releases and are in various stages of cleanup. Communities near coal ash disposal sites have waited years, in some cases decades, for cleanup and protection of groundwater and surface water resources. EPA should not create new pathways for noncompliant facilities to further postpone their obligations.

This proposal relies heavily on site-specific standards established in permits rather than regulations. This is not how RCRA is supposed to work. Additionally, EPA's recent budget proposal would eliminate funds that EPA and state agencies would need to implement this labor-intensive regulatory approach. Without adequate resources, EPA and states may be pressured to issue approvals in permits without adequate review.

Finally, coal ash facilities are often located near disproportionately impacted communities. Exemptions and weaker cleanup requirements will result in unequal risk across the country.

For these reasons, I urge EPA to:

1. Retain protective national minimum standards for groundwater, closure, and corrective action.
2. Retain environmental demonstrations for large-scale unencapsulated beneficial use of coal ash.
3. Maintain protective requirements for dewatering units (surface impoundments), piles (landfills), CCRMU and Legacy ponds to prevent and clean up releases.
4. Prohibit contaminated or noncompliant facilities from using permit flexibility to delay cleanup.
5. Establish clear, enforceable criteria for permit writers rather than broad discretionary authority.

Key Messages for the Written Record

- **RCRA is a prevention statute, not a risk-balancing statute.**
- **National minimum protections should not be replaced by state-by-state discretionary standards.**
- **Coal ash contaminants are persistent and remain environmental liabilities for generations.**
- **Permitting flexibility should never become a mechanism for delaying cleanup.**
- **Environmental justice communities will bear disproportionate impacts from weakened standards.**
- **EPA should strengthen implementation capacity before weakening self-implementing safeguards.**
- **Permits may supplement national standards, but should not substitute for them.**
- **Public health, groundwater protection, and long-term stewardship must remain the primary objectives of the CCR program.**