

# Coal Combustion Residuals: U.S. Environmental Protection Agency Finalizes Phase I Amendments



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

07/19/2018

The United States Environmental Protection Agency (“EPA”) issued July 18th revisions to the 2015 regulations for the disposal of coal combustion residuals (“CCR”) from electric utilities and independent power producers.

EPA describes these revisions as amending the 2015 CCR rule.

CCR (also referred to as coal ash, fly ash, or bottom ash) is typically created when coal is combusted by power plants to produce electricity.

EPA previously granted in a September 13th, 2017, letter Petitions for Reconsideration from the Utility Solid Waste Activities Group and AES Puerto Rico, LLP, of the rule that EPA had previously finalized in 2015. The federal agency’s rationale for granting the Petitions for Reconsideration included:

- Issues raised in the Petitions
- New authorities provided in the Water Infrastructure Improvements for the Nation Act

The referenced federal legislation provides the authority for states to operate permit programs in addressing CCR that EPA determines are at least as protective as the federal baseline requirements.

The initial set of revisions are described as:

- Providing utilities and states more flexibility in how CCR is managed
- Enabling states to tailor coal ash disposal requirements based on site-specific risk considerations
- Providing two types of alternative performance standards
- Allowing a State Director (with an approved coal ash permit program) or EPA (where the agency has permitting authority) to suspend groundwater monitoring requirements if there is evidence there is no potential for migration of hazardous constituents to the uppermost aquifer during the active life of the unit in post closure case
- Allowing issuance of technical certification in lieu of a Professional Engineer
- Revision of the Groundwater Protection Standard for constituents that do not have an established drinking water standard
- Extension of the deadline to which facilities must cease placement of waste in coal ash units closing for cause in two specified situations

A link to the [pre-publication federal rule](#) can be found here.