



Memorandum

TO: Solid Waste Subcommittee
Coal Policy Task Force

FROM: Lucas Joseph, Assistant General Counsel

DATE: August 5, 2025

SUBJECT: Recent EPA CCR Legacy Impoundments Rule Regulatory Actions

The National Mining Association (NMA) continues to monitor and track rulemaking actions on the U.S. Environmental Protection Agency's (EPA) regulations regarding the management of coal combustion residuals (CCR). Below are two updates.

CCR Legacy Impoundments Rule

Direct Final Rule - CCR Management Unit Deadline Extension

Recently, EPA [announced](#) a [direct final rule](#) and [companion proposal](#) to delay compliance deadlines for CCR management units (CCRMUs) within the 2024 [CCR Legacy Impoundments Rule](#). Recall CCRMUs, a newly defined term, are any area of land on which any non-containerized accumulations of CCR are received, placed, or otherwise managed, that is not a CCR unit. See a Nov. 22, 2024, NMA [memorandum](#) for more information on the legacy impoundments rule.

This direct final rule is open for public comment until Aug. 21, 2025, and will go into effect Jan. 22, 2026, unless EPA receives adverse comments. If necessary, and before the effective date, EPA will withdraw provisions that receive adverse comments. EPA is not reconsidering, proposing to reopen, or otherwise soliciting comment on any provisions of the legacy impoundments final rule or existing CCR regulations.

With this action, and among other things, EPA is allowing facilities to submit Parts 1 and 2 of their Facility Evaluation Report concurrently and by Feb. 8, 2027, a year later than previously required. In addition, EPA is proposing to extend the deadlines for installing groundwater monitoring systems and developing groundwater sampling and analysis program from May 8, 2028, to Aug. 8, 2029. The rule also seeks public comment on extending other CCR compliance deadlines by 12 months, including final reporting and

contamination assessment requirements. In justifying the scope of the extensions, EPA stated in the announcement that "because the Facility Evaluation Report and groundwater monitoring requirements are necessary for compliance with other CCRMU requirements, EPA is making the same extensions to the remaining CCRMU compliance deadlines." These extensions aim to provide facilities with regulatory relief and to insure they have adequate time to meet regulatory obligations.

CCR Legacy Impoundments Rule Litigation and Status Report

As previously [announced](#), EPA plans to review the 2024 Legacy Impoundments Rule within a year. Litigation over the Rule (*City Utilities of Springfield, Missouri v. EPA*, No. 24-1200 (D.C. Cir.)) remains in abeyance until Aug. 11, 2025. In a June 13, 2025, abeyance extension request, EPA stated that it "has determined that it will reconsider the Rule in whole or in part, but has not yet decided the full scope of reconsideration." Additionally, EPA stated they expect to determine, by mid-August, which aspects of the rule to reconsider, a process that will require a new round of notice-and-comment.

EPA Free Liquid Memorandum

On July 10, 2025, EPA published a [memorandum](#) clarifying a docket item, published in connection with EPA's 2024 Legacy Impoundments Rule, which caused confusion within the regulated community. The document, entitled "[Considerations for the Identification and Elimination of Free Liquids in Coal Combustion Residuals \(CCR\) Surface Impoundments and Landfills](#)," offers site-specific guidance to EPA regional and State permitting authorities, CCR unit owners and operators, and the public on how to identify, measure, monitor, and eliminate free liquids, and explains how EPA will exercise its discretion in implementing relevant regulations.

EPA's July memorandum, is meant to clarify that the free liquids memorandum "does not impose legally binding requirements on the EPA, states, or the regulated community," and that it is "not a regulation, nor does it augment or modify the existing regulations in 40 C.F.R. part 257." Furthermore, the memorandum provides that, "States and regulated entities are not required to adopt any of the methods discussed in the Free Liquids Memorandum or to follow any of the other statements contained therein." Lastly, the memorandum states that, due to "the confusion caused by the Free Liquids Memorandum, it should not be relied upon or used by EPA personnel to carry out the Agency's work to implement the regulatory requirements of this program." At a later time, EPA intends to provide clarification on these issues.

Next Steps

The extension of these compliance deadlines appears to give the agency more time to reconsider of the Legacy Impoundments Rule. The NMA will keep you informed of important developments as they happen. If you wish to discuss this further, please contact me at ljoseph@nma.org.

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