

EPA Releases Possible Stance on Coal Ash Rule

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EPA has signaled that it may be considering regulating coal ash as a non-hazardous municipal and solid waste under Subtitle D of RCRA rather than as a special waste under Subtitle C, which subjects the material to stricter waste management rules, in a move that is garnering praise from industry groups concerned about high costs of stringent requirements and the uncertainty created by the Agency's lengthy rulemaking process.

In the preamble to its recently proposed [effluent limitation guidelines \(ELGs\)](#) for power plants, EPA stated: "Although a final risk assessment for the CCR rule has not yet been completed, reliance on the data and analyses...may have the potential to lower the CCR rule risk assessment results by as much as an order of magnitude." The Agency went on to say that its "current thinking" is that regulation of coal ash under subtitle D requirements of the Resource Conservation and Recovery Act (RCRA) "would be adequate."

As discussed in our [prior blog post](#), the proposed ELGs, issued on April 19, would address wastewater discharges from steam electric power plants. According to the pre-publication version of the proposed rule, EPA is selecting comment on several options for regulating wastewater discharges from steam electric power plants, including five options EPA has identified as its preferred alternatives (four for existing sources and one for new sources).

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