

# EPA Seeks Comment and Data on Inactive Coal Ash Surface Impoundments

## Background

In April 2015, the U.S. Environmental Protection Agency (EPA or Agency) promulgated a comprehensive set of requirements for the management of coal combustion residuals (CCR) in landfills and impoundments. CCR include a variety of waste streams, specifically, fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from coal-fired electricity utilities; commonly known as coal ash. The 2015 rule established corrective action, closure and post closure, technical standards, and inspection, monitoring, recordkeeping and reporting requirements.

The 2015 rule exempted from regulation inactive surface impoundments at inactive utilities. In *Utility Solid Waste Activities Group (USWAG) et al. v. EPA* (Aug. 21, 2018), the D.C. Circuit Court of Appeals overturned this exemption and remanded it back to the Agency.

Although certain provisions of EPA's 2015 rule were overturned, the rules in place to detect and assess, and as needed to remediate, impacts on groundwater from CCR in surface impoundments and landfills are being implemented on their original schedule and are not being changed.

## What Information Does This Notice Request?

As a first step to implement this part of the court decision, EPA is seeking comment and data in an Advanced Notice of Proposed Rulemaking (ANPRM) on inactive surface impoundments at inactive electric utilities, referred to as legacy surface impoundments or legacy units.

Specifically, EPA is seeking comment on:

- EPA's regulatory authority,
- A potential definition of a legacy surface impoundment,
- Information on the number of legacy units,
- Current status of legacy units, and
- Names and locations of former power plants that may have legacy units and when they closed.

Also, the Agency is taking comment on the appropriate regulatory approach to legacy surface impoundments and the timeframes to come into compliance with those regulations.

EPA anticipates this and other relevant information will assist in the development of future regulations for legacy surface impoundments.

EPA will be accepting public comment on the proposed revisions for 60 days once the

ANPRM is published in the *Federal Register* via [Regulations.gov](https://www.regulations.gov).

## **Where Can I Find More Information About This ANPRM?**

- Information about the ANPRM is available at: [www.epa.gov/coalash](https://www.epa.gov/coalash)
- For information regarding how to submit comments, contact Michelle Long at: [long.michelle@epa.gov](mailto:long.michelle@epa.gov) or by telephone at (703) 347-8953.
- For Press Inquiries, please contact: [press@epa.gov](mailto:press@epa.gov).