

Comparison of Coal Ash Regulation under Four RCRA Regulatory Schemes

The following table indicates the presence or absence of regulatory requirements under four different regulatory schemes: (1) EPA’s proposed subtitle C (special waste) rule; (2) EPA’s proposed subtitle D (nonhazardous waste) rule; (3) the municipal solid waste (household trash) regulations found in 40 C.F.R. Part 258; and (4) H.R. 2273/S. 1751.

| | EPA's Proposed Regulation of Coal Ash Under Subtitle C of RCRA | EPA's Proposed Regulation of Coal Ash Under Subtitle D of RCRA | Federal Household Waste Landfill Standards | House/Senate Coal Ash Bill (H.R. 2273/S. 1751) |
|---|--|--|--|--|
| Req't to protect human health and environment | ✓ | ✓ | ✓ | ✗ |
| Req't to meet specific engineering stds for ash ponds | ✓ | ✓ | N/A- disposal of liquid banned | ✗ |
| Req't to close disposal units in floodplains and unstable areas | ✓ | ✓ | ✓ | ✗ |
| Req't to issue actual permits for coal ash disposal units | ✓ | ✗ | ✓ | ✗ |
| Req't to control run-on to waste units | ✓ | ✓ | ✓ | ✗ |
| Req't to design ponds for maximum volume of <i>material</i> that will be impounded | ✓ | ✓ | N/A- disposal of liquid banned | ✗ |
| Req't for waste ponds to comply with MSHA standards¹ | ✓ | ✓ | N/A- disposal of liquid banned | ✗ |
| Req't for states to adopt standard as stringent as federal standards | ✓ | Limited waiver based on specific criteria | Limited waiver based on specific criteria | ✗ |
| Req't to inspect ash ponds for leaks and structural stability | ✓ | ✓ | N/A- disposal of liquid banned | ✗ |
| Req't to phase out existing coal ash ponds | ✓ | ✓ (or retrofit) | N/A- disposal of liquid banned | ✗ |
| Public Participation requirement in permitting and siting | ✓ | ✓ | ✓ | ✗ |
| EPA inspection authority | ✓ | ✗ | ✗ | ✗ |
| Req'ts enforceable by EPA | ✓ | ✗ | ✗ | ✗ |
| Req't to clean up pollution cause by past onsite disposal | ✓ | ✗ | ✗ | ✗ |

¹ Mine Health and Safety Administration (MSHA) Standards applying to coal ash slurry ponds.