

EPA GUTTED COAL ASH RULE BY DELAYING CLOSURE OF LEAKING TOXIC PONDS In Giveaway to Utilities, Rule Allows Deadly, Polluting Ponds to Operate for a Dangerously Long Time

The EPA finalized a new rollback in July 2020 that will significantly postpone the closure of coal ash ponds. The rule adds exemptions and loopholes that allow utilities to postpone closure of coal ash ponds until as late as 2038. The rollback gives most coal plants at least 4.5 more years to dump toxic waste into their leaking ponds and allows some plants to dump for an additional 9.5 years more than previously allowed under the 2015 rule. Each year that closure is delayed, utilities will dump tens of millions of tons of toxic waste into these leaking ponds.

Across this nation, hundreds of leaking, unlined, toxic coal ash ponds are polluting drinking water sources, as well as bays, lakes, rivers and streams, releasing poisons and radioactive substances into the water. Coal ash is the toxic waste generated by burning coal to produce electricity, and it is the second largest industrial waste stream in the U.S., amounting to more than 100 million tons of coal ash per year. Coal ash contains deadly hazardous substances, including carcinogens like arsenic, cadmium and chromium, and neurotoxins such as lead, mercury and lithium.

For a century, utilities have used the cheapest, easiest — and most dangerous — method of disposal for their toxic waste: dumping it into unlined basins (euphemistically called “ponds”) next to the power plants. Over decades, hundreds of coal ash ponds have grown to span scores of acres, containing millions of tons of liquid toxic waste impounded behind ash or soil walls of aging coal ash dams. Many loom close to communities and water bodies, and essentially all of them are leaking.

Even as the [dangers of coal ash to public health and the environment](#) have grown ever clearer and even after catastrophic failures of coal ash ponds released millions of gallons of toxic sludge at multiple sites, nothing was done to ensure the safe disposal of coal ash until the Obama Administration [published a coal ash rule in 2015](#). The 2015 rule followed the largest toxic waste spill in U.S. history at a TVA plant in Kingston, TN, when one billion gallons of coal ash sludge destroyed 300 acres and dozens of homes, and polluted two rivers. Hundreds of cleanup workers were injured in the cleanup of the spill and more than 50 have died.

The 2015 rule established minimum disposal standards that applied to more than 700 coal ash dumps throughout the U.S. The rule included safeguards addressing toxic dust, structural stability of dams impounding coal ash, and design standards to prevent, detect and clean up toxic leaks from coal ash dumps. The 2015 EPA rule set standards that were applicable to power plants and dumps in all 50 states and Puerto Rico. Most importantly, the rule established dates by which leaking, unstable, and dangerous coal ash ponds were required to close in order to protect health and the environment and move the industry to safer methods of coal ash disposal in dry, lined landfills.

The rule was a compromise effort that made some strides but didn't address all of the vital public health and environmental issues posed by coal ash and made many concessions to the electric utility industry. But those concessions weren't enough, and when the Trump administration took office, industry pressed for a rollback of the rules. Utilities want to continue to dump wet coal ash in existing pits because it is cheaper in the short run than safer dry disposal in landfills.

The current administration happily obliged, moving forward with its efforts to weaken these rules even as flooding from storms like Hurricane Florence flushed [coal ash waste into North Carolina rivers](#).

According to the 2015 rule, utilities had to cease dumping coal ash in leaking, unlined ponds and ponds in dangerous locations by April 2019 and initiate closure. EPA extended that deadline in a final rule published in July 2018. After Earthjustice and partners sued the agency, the EPA agreed the July 2018 rule was indefensible. But EPA's revamped rule is worse.

Harm to health associated with exposure to the chemicals and heavy metals found in coal ash include cancer, neurological impairments, developmental and reproductive issues, blood disease, thyroid damage, liver disease and more.

This contamination threatens drinking water sources for communities throughout the nation. Weakening cleanup standards and pushing back deadlines endangers communities and ecosystems. All of these coal ash ponds — including inactive ones — must be cleaned up so that they are no longer leaching hazardous substances into groundwater and nearby bodies of water.

In addition to the pollution of water by coal ash ponds, the impoundments pose a danger of catastrophic failure until they are emptied and cease operation. There are over 50 coal ash ponds classified as high hazard dams, which means that a failure would cause loss of life. More than 175 additional ponds are significant hazard dams, where a failure would cause significant economic and/or environmental damage. The EPA is prolonging severe and unnecessary risks to our health, environment and economy by allowing utilities to place more and more toxic waste into these aging dams.

Further, the increase in the frequency and severity of storms due to climate change poses significant new hazards to coal ash ponds, most of which are located in flood plains or near lakes and streams.

ALLOWING CONTINUED OPERATION OF COAL ASH PONDS IS ENVIRONMENTAL INJUSTICE

EPA found that low-income communities and communities of color are [disproportionally impacted](#) by pollution and spills from coal ash ponds. EPA has a duty to protect the nation's most vulnerable communities, yet this giveaway to industry increases their risk of injury, disease and economic hardship.