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Nation's Environmental Stewardship Since 1974

## **ASTSWMO STATEMENT ON COAL COMBUSTION RESIDUALS PROGRAM IMPLEMENTATION**

The Disposal of Coal Combustion Residuals (CCRs) from Electric Utilities final rule was published in the *Federal Register* on April 17, 2015, after administrative signature by the U.S. Environmental Protection Agency (EPA) on December 19, 2014. This rule finalized national regulations to provide a comprehensive set of requirements for the safe disposal of CCRs from coal-fired power plants. The final rule and subsequent amendments establish technical requirements for CCR landfills and surface impoundments under Subtitle D of the Resource Conservation and Recovery Act (RCRA), the nation's primary law for regulating solid waste. EPA is encouraging States and Territories (States) to adopt the federal rule, by seeking EPA approval of States' CCR permit programs. In December 2022, EPA announced a grant program designed to help States develop and obtain approval for CCR permit programs, and in March 2023, EPA provided a memo discussing considerations for developing public participation opportunities.

On November 3, 2021, a session to discuss issues surrounding the implementation of the CCR rule and permit programs across the country was held by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) as part of its Annual Meeting. Since then, ASTSWMO has had ongoing conversations with EPA, and on January 10, 2023 met with 28 States on the topic. States continue to work with EPA toward approval and/or implementation of their CCR permit programs. Several topics related to State adoption and implementation of the CCR program require additional input from EPA in the form of rules or guidance. To provide for greater certainty, ASTSWMO urges EPA to:

- Enable States to receive their full CCR permit program approval by expediting all necessary steps toward finalizing the remaining applicable federal regulations.
- Provide current timeframes for EPA's review of State CCR Permit Program Approval applications.
- Continue to provide written decisions on the demonstrations submitted under the Part A and Part B rules.
- Update the Interim Final State Permit Program Guidance, to provide clear, consistent direction to States as to what is necessary for a complete submittal of a State CCR Permit Program application, including evaluation criteria.
- Include procedures and guidance for States to update partially-approved State CCR Permit Programs.
- Issue written expectations for the environmental justice component of State CCR Permit Program applications, as EPA has done for the public participation component, to provide for consistency in what States are expected to demonstrate in State CCR Permit Program applications and implementation.
- Provide guidance to States regarding their CCR compliance and enforcement programs.
- Consistently coordinate with States, prior to and during, any compliance and enforcement actions taken under authority of Section 2301 of the 2016 Water Infrastructure Improvements for the Nation Act.
- Provide written expectations of compliance and enforcement efforts such as timeliness of both assessment of corrective measures completion and remedy selection.
- Provide guidance on beneficial use of CCR, which continues to be a key State issue. ASTSWMO prefers beneficial use guidance to a regulatory approach. States need flexibility to implement procedures that work within their existing regulatory framework and for making site-specific technical decisions.
- ASTSWMO agrees that a proposed use of large quantities of CCR without a proven functional benefit should be thoroughly investigated, due to risks of environmental harm, and should not be necessarily viewed as a beneficial use. However, a "one-size-fits-all" regulatory approach is not practical or effective.

To provide clarity and certainty for State CCR program implementation, ASTSWMO stands ready to assist EPA, by providing input on rulemaking and guidance and assistance in the development of documentation of EPA's expectations for program elements.

**Approved for release by the ASTSWMO Board of Directors on April 27, 2023.**