



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

April 28, 2017

The Honorable Brian Sandoval
Capitol Building
Carson City, Nevada 89701

Dear Governor Sandoval:

I am writing to inform you about steps the U.S. Environmental Protection Agency (EPA) is taking to implement new authority for authorizing state coal combustion residual (CCR) management permit programs provided by section 2301 of the Water Infrastructure Improvements for the Nation Act (WIIN Act), P.L. 114-322. The successful implementation of this authority will require cooperation between EPA and state technical experts, the regulated community, and other stakeholders. I know that some states have already discussed with EPA how they manage CCR, and I encourage you to continue those efforts and work with EPA to submit your program applications for approval in a timely manner. If you have not done so, I encourage you to evaluate developing a CCR permit program and submitting it to EPA for authorization.

As you may know, in 2014, the EPA issued national standards for the management of CCR under Subtitle D of the Resource Conservation and Recovery Act (RCRA). As EPA explained in the Preamble to the CCR rule, due to the limited authority under RCRA Subtitle D, these standards applied directly to the owners and operators of CCR landfills and surface impoundments and could not be tailored to the unique circumstances of individual facilities and states through EPA-authorized permit programs. In addition, these standards were enforceable only by citizen suits.

Based on the concept of cooperative federalism that is a hallmark of our environmental laws, section 2301 of the WIIN Act authorizes state permit programs to manage CCR. EPA has started developing guidance for states about how EPA expects to review and approve state applications to operate permit programs and allow flexibility in individual permits in lieu of the national standards. EPA discussed plans for this draft guidance with a number of state environmental directors at the Environmental Council of States on April 7, 2017. EPA also is discussing this in greater detail with technical experts at the Association of State and Territorial Solid Waste Management Officials.

I look forward to assisting your state with implementing section 2301 of the WIIN Act.

Respectfully yours,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", written over a horizontal line.

E. Scott Pruitt



News Releases from Headquarters

EPA Promotes Cooperation with States to Facilitate Safe Disposal of Coal Ash

05/01/2017

Contact Information:

press@epa.gov

U.S. Environmental Protection Agency Administrator Scott Pruitt sent a **letter** today informing states that EPA is working on guidance for implementing state permitting programs that allow flexibility in individual permits to manage the safe disposal of coal combustion residuals, known as CCR or “coal ash.” EPA expects that its new guidance will allow for the safe disposal and continued beneficial use of coal ash, while enabling states to decide what works best for their environment.

“EPA continues to support the environmentally sound recycling of coal ash,” said EPA Administrator Scott Pruitt. “Through the authority granted by Congress in the WIIN Act, EPA is issuing this guidance to promote the swift submission and review of state permit programs, make state and federal management of coal ash more consistent, and place enforcement in the hands of state regulators – those who best know the needs of local communities.”

Based on the concept of cooperative federalism that is the hallmark of our environmental laws, section 2301 of the Water Infrastructure Improvements for the Nation Act (WIIN Act) authorizes state permit programs to manage coal combustion residuals. Through the WIIN Act, Congress provided authority for states to operate permit programs, as long as the EPA determines that the state’s requirements are at least as protective as the federal standards.

Legislation was necessary to better-facilitate implementation of EPA's 2014 CCR Final Rule. On December 19, 2014, EPA’s CCR Final Rule was issued, but did not grant EPA or states the authority to directly regulate and permit safe coal ash disposal, making citizen lawsuits the primary enforcement mechanism for disposal of coal ash under the rule. In December of 2016, Congress passed the WIIN Act, which included language giving state agencies the authority to implement and enforce coal ash under the 2014 CCR Final Rule through EPA-approved state permit programs. The WIIN Act also gives EPA the authority to regulate coal ash in states that choose not to implement state permitting programs and in states whose permitting programs are determined to be inadequate by EPA.