

The Environmental Protection Agency (EPA) issued a proposed rule in June 2010 to regulate coal ash, the toxic waste left behind after coal is burned for energy. Coal ash contains elevated concentrations of toxic heavy metals like lead, mercury and arsenic that are risky to human health and the environment. EPA’s proposal gives two main options for governance of coal ash. One option, known as Subtitle C, would create robust standards for regulating coal ash as a special hazardous waste. The second option, unbelievably, would treat coal ash like household garbage and EPA would merely set advisory guidelines that industry could choose to ignore and states could choose not to enforce.

Subtitle C:

- ✓ This option would regulate coal ash under Subtitle C of the Resource Conservation and Recovery Act (RCRA).
- ✓ Coal ash would be listed as a “special waste” and subject to federally enforceable regulations very similar to hazardous waste regulations.
- ✓ These regulations would apply to the entire lifecycle of coal ash, from generation to transportation, treatment and disposal.
- ✓ If these regulations go into effect generators will be required to de-water their ash. This standard would lead to the eventual closure of all surface impoundments.
- ✓ The rules differ from normal hazardous waste regulations because they would exempt coal ash from all regulation if the ash were designated for beneficial re-use and certain compliance deadlines would then be extended.

Subtitle D:

- ✓ Under Subtitle D, EPA would develop unenforceable guidelines for management of coal ash instead of actually regulating the hazardous waste.
- ✓ While these guidelines would apply to ash generators, EPA would have no authority to issue permits or enforce against violations as they would under Subtitle C.
- ✓ Subtitle D guidelines would apply only to disposal of ash, not to generation, storage, transportation or treatment.

Subtitle D-Prime:

- ✓ The D-Prime option mirrors the Subtitle D option, except that the guidelines would not even suggest that surface impoundments close until the end of their useful lives. Given that most surface impoundments operate for many decades, this alternative poses the weakest and least effective option of all.

Regulatory costs and benefits over the next 50 years	Subtitle C	Subtitle D	Subtitle D-Prime
Costs	\$20,349 million	\$8,095 million	\$3,259 million
Benefits	\$102,191 million	\$41,761 million	\$17,501 million
Net Benefits	\$81,842 million	\$33,666 million	\$14,242 million

Source: [Regulatory Impact Analysis for EPA’s Proposed RCRA Regulation of Coal Combustion Residuals \(CCR\)](#)
Generated by the Electric Utility Industry