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Coal Combustion Residuals - Key Differences Between Subtitle C and Subtitle D Options

Key Differences Between Subtitle C and Subtitle D Options

	SUBTITLE C	SUBTITLE D
Effective Date:	Timing will vary from state to state, as each state must adopt the rule individually- can take 1 – 2 years or more	Six months after final rule is promulgated for most provision: certain provisions have a longer effective date
Enforcement:	State and Federal enforcement	Enforcement through citizen suits; States can act as citizens.
Corrective Action	Monitored by authorized States and EPA	Self-implementing
Financial Assurance	Yes	Considering subsequent rule using CERCLA 108 (b) Authority
Permit Issuance	Federal requirement for permit issuance by States	No
Requirements for storage, including containers, tanks, and	Yes	No

containment buildings		
Surface Impoundments built before rule is finalized	Remove solids and meet land disposal restrictions; retrofit with a liner within five years of effective date. Would effectively phase out use of existing surface impoundments	Must remove solids and retrofit with a composite liner or cease receiving CCRs within 5 years of effective date and close the unit
Surface Impoundments built after rule is finalized	Must meet Land Disposal Restrictions and liner requirements. Would effectively phase out use of new surface impoundments.	Must install composite liners. No Land Disposal Restrictions
Landfills built before rule is finalized	No liner requirements, but require groundwater monitoring	No liner requirements, but require groundwater monitoring
Landfills built after rule is finalized	Liner requirements and groundwater monitoring	Liner requirements and groundwater monitoring
Requirements for Closure and post-closure care	Yes; monitored by States and EPA	Yes; self-implementing

The requirements under subtitle D are those that EPA will be proposing based on statutory authority. States, under their own programs, can adopt requirements for which we do not have authority.

While the co-proposed RCRA subtitle D regulations do not include provisions for financial assurance, EPA has stated that classes of facilities within the Electric Power Generation, Transmission, and Distribution industry are among those for which EPA plans to develop, as necessary, a proposed regulation under the authority of CERCLA 108(b).