

Administrator Wheeler, Whose EPA Proposed A Rule Rolling Back Closure Initiation Deadlines For Unlined Coal Ash Ponds, Lobbied For A Member Of A Group Pushing For Rollbacks To Unlined Coal Ash Pond Closure Regulations

2019 EPA Published A Proposed Rule That Would Extend The Closure Initiation Deadlines Of Unlined Coal Ash Ponds

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December 2, 2019: EPA Published A Proposed Rule Revising The Date By Which Unlined Surface Impoundments Must Cease Receiving Waste And Initiate Closure. “This rule proposes regulations to implement the court’s vacatur of the provisions that allow unlined impoundments to continue receiving coal ash unless they leak, and that classify ‘clay-lined’ impoundments as lined, thereby allowing such units to operate indefinitely. In addition, EPA is proposing to establish a revised date by which unlined surface impoundments must cease receiving waste and initiate closure, following its reconsideration of those dates in light of the USWAG decision.” [Federal Register – Proposed Rule -- Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; A Holistic Approach to Closure Part A: Deadline To Initiate Closure, [12/2/19](#)]

The EPA Rule Would Allow Sites To Initiate Closure Five Years After The USWAG Decision Mandate Date.

Proposed Compliance Deadlines for CCR Surface Impoundments	Deadline Date
New cease receipt of waste deadline for unlined and formerly clay-lined surface impoundments (§ 257.101(a)(1))	August 31, 2020.
New cease receipt of waste deadline for surface impoundments that failed the minimum depth to aquifer location standard (§ 257.101(b)(1)(i))	August 31, 2020.
New short-term alternate to initiation of closure (up to 3-month extension to cease receipt of waste deadline) (§ 257.103(e))	No later than November 30, 2020.
New site specific alternate to initiation of closure due to lack of capacity (§ 257.103(f)(1))	No later than October 15, 2023 (maximum of 5 years after USWAG decision mandate date).
New site specific alternate to initiation of closure due to permanent cessation of a coal-fired boiler(s) by a date certain (§ 257.103(f)(2))	No later than October 17, 2023 for surface impoundments 40 acres or smaller. No later than October 17, 2028 for surface impoundments larger than 40 acres.

[Federal Register – Proposed Rule -- Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; A Holistic Approach to Closure Part A: Deadline To Initiate Closure, [12/2/19](#)]

- **The Rule Would Allow Some Plants Five More Years Before They Would Need To Close Unlined Coal Ash Ponds.** “Under a rule finalized in 2015, all unlined coal ash ponds were to begin closing in 2018. The Trump administration's rewrite would allow some of these plants up to five more years before they begin shutting down these facilities.” [NPR, [11/4/19](#)]

Coal Ash Is Toxic And The Rules In Place Were A Response To A Large Coal Ash Spill That Polluted Rivers

The Obama Era Rules Governing Coal Ash Pond Closure Came After A Coal Ash Spill In 2008 That Dumped Millions Of Cubic Yards Of Toxic Coal Ash Into Nearby Rivers. “The Environmental Protection Agency has proposed relaxing two Obama-era regulations on waste products from coal-fired power plants, a move environmental groups say would prolong the risk of toxic spills or drinking water contamination. The agency wants to ease restrictions on coal ash — the solid residue left over from burning coal — and wastewater from coal plants. In the rule changes announced Monday, plants could have up to three more years to close unlined coal ash ponds, which can leak contaminants into surrounding groundwater. Coal ash is a powdery residue laced with heavy metals like arsenic, lead, and mercury. The rules governing it were spurred by a catastrophic coal ash spill in 2008, in Tennessee, that dumped millions of cubic yards of toxic slurry into nearby rivers.” [NPR, [11/4/19](#)]

EPA Administrator Wheeler Lobbied For A Member Of USWAG For Three Years -- USWAG Pushed For The Rollback Of Unlined Coal Ash Pond Regulations

EPA Administrator Wheeler Lobbied For Xcel Energy For Three Years

Xcel Energy Was A Former Client Of EPA Administrator Andrew Wheeler. “After Wheeler left Capitol Hill in 2009, he took on a cadre of lobbying clients, eventually leading FaegreBD Consulting’s energy and environment practice group. His job was dedicated to advocating for chemical manufacturer Celanese Corp., coal producer Murray Energy Corp., uranium miner Energy Fuels Resources Inc., utility holding company Xcel Energy Inc. and other clients.” [Time, [01/9/19](#)]

- **Xcel Energy Was A Member Of The Utility Solid Waste Activities Group (USWAG) As Recently As September 22, 2020.** [USWAG Member List, [accessed 09/22/20](#)]

Wheeler Lobbied To Help Xcel Energy Obtain A Charitable Deduction And Backed Legislation To Protect Its Ability To Remove Dead Wood In National Forests. “In his first detailed discussion of his lobbying, Mr. Wheeler explained the bulk of his private-practice work over the past two years: [...] For Xcel Energy, a utility company based in Minneapolis, he lobbied to help the company obtain a charitable deduction and backed legislation that would

have protected its ability to remove dead wood around transmission lines in national forests, an issue that the United States Forest Service deals with.” [New York Times, [08/1/18](#)]

Andrew Wheeler Lobbied For Xcel Energy From 2013 Through 2016. [OpenSecrets, accessed [06/10/20](#)]

Utility Solid Waste Activities Group (USWAG) And Its Member Xcel Energy Expressed Interest In The EPA’s Proposed Coal Ash Rule, Arguing It’s Deadlines To Initiate Closure Were “Too Short”

USWAG Argued In Comments On The EPA’s Proposed Coal Ash Rule That The Closure Deadlines Were Impossible To Meet As They Were “Too Short.” “Given the flaws in EPA’s development of the 22.5-month timeframe, the date of August 31, 2020 to replace October 31, 2020 as the deadline for unlined impoundments to cease the receipt of wastes and initiate closure is not valid. The record evidence makes clear that a majority of unlined units will not be able to meet the existing October 31, 2020 deadline, let alone an accelerated date of August 31, 2020. USWAG is not aware of any USWAG unit that will be able to meet the proposed August 31, 2020 date. The Agency’s own Regulatory Impact Analysis contemplates every one of the USWAG units having to seek extended time to operate under the proposed alternative closure provisions.” [Utility Solid Waste Activities Group EPA Comment, [02/05/20](#)]

Xcel Energy Commented On The EPA’s Proposed Coal Ash Rule, Endorsing USWAG’s Comments. “Xcel Energy endorses the comments filed by the Utility Solid Waste Activities Group (‘USWAG’).” [Xcel Energy EPA Comment, [02/04/20](#)]

In 2017, USWAG Petitioned For A Rollback Of Coal Ash Storage Regulations.

May 12, 2017: USWAG Petitioned EPA Administrator Scott Pruitt To Roll Back Coal Ash Storage Regulations. “Enclosed please find the Utility Solid Waste Activities Group’s (‘USWAG’) Petition for Reconsideration of EPA’s final rule titled Rulemaking to Reconsider Provisions of the Coal Combustion Residuals Rule (‘CCR Rule’), 80 Fed. Reg. 21302 (April 17, 2015), and a Request for EPA to seek to Hold In Abeyance the Challenge to the Coal Combustion Residuals Rule, No. 15-1219, et al. (D.C. Cir.).” [USWAG Petition, [05/12/17](#)]

Between 2017 And 2020, Xcel Energy And Other USWAG Members Spent Tens Of Millions Lobbying The Federal Government, Including The EPA.

In 2017, Xcel Energy Spent \$1.9 Million Lobbying The Federal Government, Including The EPA.

Xcel Energy Spent \$1,910,000 Lobbying The Federal Government In 2017, Including The EPA. [OpenSecrets – Client Profile: Xcel Energy, Accessed [6/10/20](#)]

USWAG And Its Other Members Also Lobbied The EPA

Between 2017 And 2020, USWAG Itself Lobbied The EPA. [OpenSecrets, accessed [06/10/20](#)]

Between 2017 And 2020, USWAG Member DTE Energy Spent \$3,010,000 Lobbying The Federal Government, Including The EPA And CEQ. [OpenSecrets, accessed [06/10/20](#); USWAG Member List, [01/09/20](#)]

Between 2017 And 2020, USWAG Member Berkshire Hathaway Energy Spent \$18,249,000 Lobbying The Federal Government, Including The EPA. [OpenSecrets, accessed [06/10/20](#); USWAG Member List, [01/09/20](#)]

Between 2017 And 2020, USWAG Member Duke Energy Spent \$20,864,953 Lobbying The Federal Government, Including The EPA And CEQ. [OpenSecrets, accessed [06/10/20](#); USWAG Member List, [01/09/20](#)]

Between 2017 And 2020, USWAG Member FirstEnergy Spent \$7,850,000 Lobbying The Federal Government, Including The EPA And CEQ. [OpenSecrets, accessed [06/10/20](#); USWAG Member List, [1/9/20](#)]

Special Interests Who Commented On EPA's Coal Ash Rule Donated Over \$40,000 To Donald Trump.

Members Of The Geosynthetic Materials Association Donated At Least \$4,600 To Donald Trump.

Employees Of Owens Corning, A Member Of The Geosynthetic Materials Association, Contributed \$4,633.03 To Trump. [GMA Executive Council Member Company/Representatives, Accessed [6/10/20](#); FEC – Receipts, Accessed [6/10/20](#)]

Employees Of DTE Energy Donated At Least \$9,700 To Donald Trump.

DTE Energy Employees Contributed \$9,756.14 To Trump. [FEC – Receipts, Accessed [6/10/20](#)]

Employees Of NRG Energy Donated At Least \$6,100 to Donald Trump.

NRG Energy Employees Contributed \$6,167.61 To Trump. [FEC – Receipts, Accessed [6/10/20](#)]

Employees Of Duke Energy Donated At Least \$20,000 to Donald Trump.

Duke Energy Employees Contributed \$20,799.46 To Trump. [FEC – Receipts, Accessed [6/10/20](#)]

Special Interests Who Commented On EPA's Coal Ash Rule Spent Over \$54 Million Lobbying The Federal Government During The Trump Administration.

USWAG Has Actively Lobbied The EPA During The Trump Administration.

USWAG Lobbied The EPA Between 2017 And 2020. [OpenSecrets, accessed [06/10/20](#)]

In 2019, Geosynthetic Materials Association Spent \$150,000 Lobbying The Federal Government.

GMA Spent \$150,000 Lobbying The Federal Government In 2019, Including The EPA. [OpenSecrets, accessed [06/10/20](#)]

Between 2017 and 2019, DTE Energy Spent \$3,010,000 Lobbying The Federal Government.

DTE Energy Spent \$3,010,000 Lobbying The Federal Government Between 2017 And 2020, Including The EPA And CEQ. [OpenSecrets, accessed [06/10/20](#)]

Between 2017 and 2019, APPA American Public Power Association Spent \$2,551,638 Lobbying The Federal Government.

APPA Spent \$2,551,638 Lobbying The Federal Government Between 2017 And 2020, Including The EPA. [OpenSecrets, accessed [06/10/20](#)]

Between 2017 and 2019, Berkshire Hathaway Spent \$18,249,000 Lobbying The Federal Government.

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Between 2018 And 2020, America's Power Spent \$600,080 Lobbying The Federal Government

America's Power Spent \$600,080 Lobbying The Federal Government Between 2018 And 2020, Including The EPA. [OpenSecrets, accessed [06/10/20](#)]