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## **EPA'S PROPOSED "PHASE 2" COAL ASH ROLLBACK REMOVES CRITICAL HEALTH PROTECTION Rule Affects Massive Ash Piles and Re-Use of Toxic Ash in Playgrounds, Parks, Land Near Homes**

The Trump EPA is accelerating its ongoing effort to gut landmark safeguards that protect people's health and the environment from toxic coal ash pollution. Coal ash is one of the nation's largest industrial waste products, and the Trump administration has granted the industry's request to escape accountability. The new Trump proposal, dubbed "Phase 2," eviscerates essential protections for two extremely dangerous ways of disposing coal ash- the creating of mountainous, uncontained piles of toxic waste and the use of ash in construction projects, as a cheap alternative to soil as fill. The administration's proposal exempts both coal ash waste piles and ash reuse projects from important safeguards established in the 2015 Coal Ash Rule.

Coal ash contains deadly toxic substances, including carcinogens like arsenic, cadmium and chromium, and neurotoxins such as lead and lithium, which have polluted air and water at hundreds of coal ash dump sites across the nation. Decades of dumping by the electric utility industry have created hazardous leaking dumps at almost all U.S. coal plants. In fact, monitoring data found that 91 percent of U.S. coal plants are currently contaminating groundwater with toxic substances above federal health standards.

### **EXEMPTION OF HUGE COAL ASH REUSE PROJECTS FROM ALL PROTECTIVE REQUIREMENTS**

EPA's proposal exempts most projects involving placement of toxic coal ash on land from any regulation whatsoever. Under most circumstances, regardless of the volume of toxic ash used, there are no requirements to provide notice to communities, to test ash for heavy metals, to determine radioactivity or leaching potential, to control hazardous fugitive dust, or to prevent toxic leaking to groundwater.

Yet only four years ago, EPA confirmed that large coal ash fill projects cause the same damage to health and the environment as unlined coal ash landfills. EPA found that toxic coal ash that was re-used in construction or landscaping projects near homes, wells and water bodies severely contaminated drinking water, soil, lakes, streams and air at sites across the nation. Use of ash as a substitute for clean fill has created multiple Superfund sites, including in Pines, IN, where coal ash placed as fill contaminated the drinking water of an entire town and a playground was found to have arsenic at nearly 1,200 times the safe level. At the Battlefield Golf Course Superfund Site in Chesapeake, VA, where 1 million tons of ash were used to sculpt a golf course, neighbors were inundated with toxic dust and groundwater contaminated with arsenic. In Puerto Rico, AES used 2 million tons of coal ash as "fill" in 14 towns between 2004 and 2011. Today, at many of these sites, coal ash is exposed and breathed by residents daily.

EPA's proposal is exceedingly dangerous because the proposed rule:

- Permits use of unlimited volumes of toxic coal ash in projects where ash is placed on land, with no safeguards such as liners (to prevent leaking), monitoring (to detect water contamination) or controls of toxic dust that blow from ash placement projects.
- Requires only a small minority of reuse sites (at just six specific types of locations) to complete an environmental demonstration that shows contamination will not occur.

- Is likely to greatly increase the use of toxic coal ash in land placement projects because coal ash is much cheaper than clean fill.

### **EXEMPTION OF TOXIC COAL ASH WASTE PILES FROM PROTECTIVE REGULATIONS**

Coal ash waste piles are aboveground accumulations of toxic waste where coal ash is simply piled on the ground. A coal ash waste pile is not covered with grass or soil and is open to wind and rain, ensuring the toxins travel in the air and water. Coal ash piles, like the mountainous AES waste pile in Guayama, Puerto Rico, can reach 12 stories high and contain half a million tons of toxic waste. Coal ash waste piles are more dangerous than landfills because greater amounts of toxic waste are exposed to wind and water, causing ash to become windblown and leak into groundwater. Waste piles are also often unstable and can cause uncontrolled contaminated runoff during storms.

Recognizing the danger of toxic waste piles, EPA's 2015 Coal Ash Rule requires coal ash piles to comply with all the safeguards applicable to landfills. New waste piles must be lined, have leachate collection systems, and comply with siting restrictions. Existing piles must minimize toxic dust, control polluted run-off, conduct frequent inspections, monitor groundwater, clean up contaminated groundwater, and provide the public with extensive information concerning compliance with these safeguards. The 2015 Rule was finalized after the EPA found the AES' Guayama ash pile caused toxic dust pollution. AES' current monitoring data reveals that the pile is contaminating groundwater with multiple hazardous substances above federal health standards. Studies conducted by the University of Puerto Rico in 2016 and 2018 demonstrate an increase in miscarriages, skin rashes/hives, respiratory problems and cardiovascular illness in residents near the AES-PR plant.

After Trump's election, AES filed a petition demanding the exemption of waste piles from the 2015 Rule. EPA's proposal allows toxic coal ash waste piles to escape these critical protective safeguards:

- Coal ash waste piles are no longer subject to landfill requirements if the owner claims that the ash pile is "temporary" and will be removed at some future date—even hundreds of years from the creation of the waste pile.
- Consequently, the owner does not have to lift a finger to inspect the pile, monitor groundwater, execute a dust control plan, or clean up contaminated groundwater, among other safeguards.
- New coal ash waste piles, if claimed to be "temporary" storage piles, are not subject to liner and siting restrictions or any other specific enforceable pollution control requirements.
- There is no limit on the height or volume of a "temporary" coal ash storage pile, and no requirements to cover the pile, to take specific measures to prevent toxic dust, to respond to citizen complaints, to address spills or slope failures, to notify the public of water contamination, or to notify the public that the waste pile even exists.
- The rule releases AES from all groundwater cleanup obligations despite AES' admission that it polluted groundwater with hazardous substances above federal health standards.

### **EPA IS ILLEGALLY SUPPRESSING PUBLIC PARTICIPATION OF U.S. CITIZENS IN FEDERAL RULEMAKING**

EPA has refused, despite public requests, to publish the proposed "Phase 2" rule in Spanish and hold a public hearing in Puerto Rico. Low-income and Spanish-speaking Puerto Rican communities such as Miramar, Puente de Jobos, and Santa Ana de Guayama are impacted regularly by coal ash dust carried from the AES-PR waste pile by wind. Yet the voices of these residents are illegally silenced because EPA will not provide a Spanish translation and will not hold a hearing in Puerto Rico.

**For more information:** Lisa Evans, Earthjustice, [levans@earthjustice.org](mailto:levans@earthjustice.org), 781-631-4119