



Department of
**Environment &
Conservation**

Coal Combustion Residual (CCR) update

Nashville AHMP February Chapter Meeting
Nashville, Tennessee

INTRODUCTION

Part I

- **Tennessee's Current CCR Regulatory Status**

Part II

- **WIIN Act's Overview – A State's Authority for CCR Permit Program**

Part III

- **EPA's CCR State Program Guidance Document; Interim Final**

Discussion

- **Talking Points – Take Away**



Tennessee's Current Regulatory Status

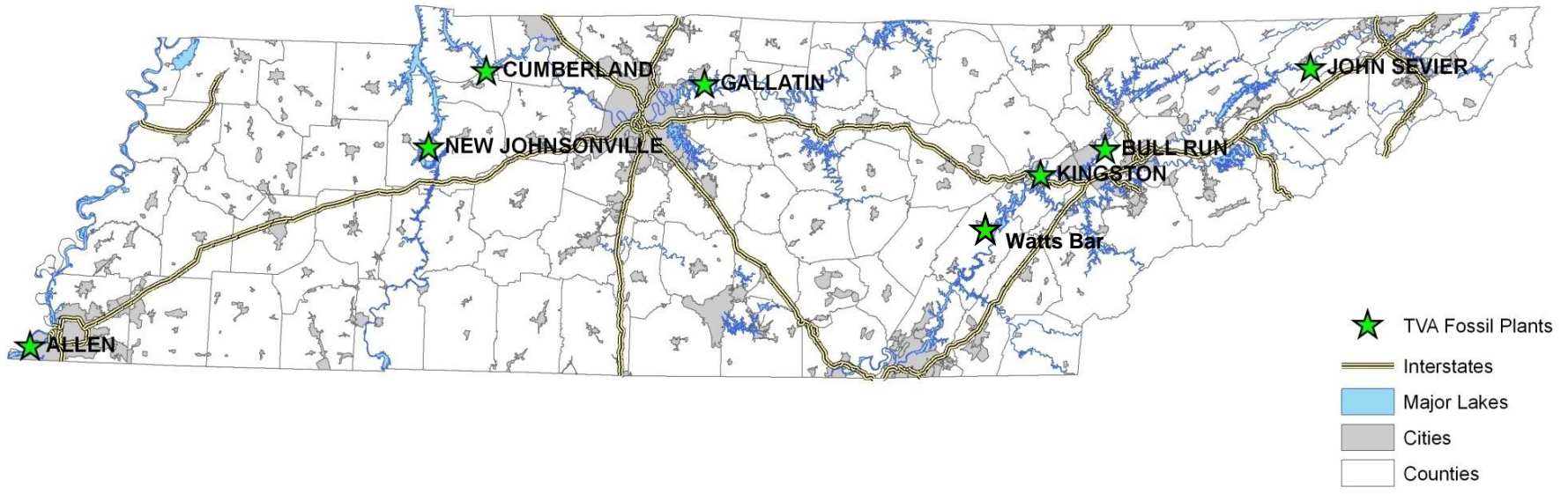
Part I

Tennessee's Current CCR Regulatory Status

- Senate Joint Resolution 784 (SJR 784)
- TVA Multi-Site Commissioner's Order (OGC 15-00117)
- Industrial Landfill Permitting Program (0400-11-1)
- Agreed Temporary Injunction (ATI 15-23-IV)



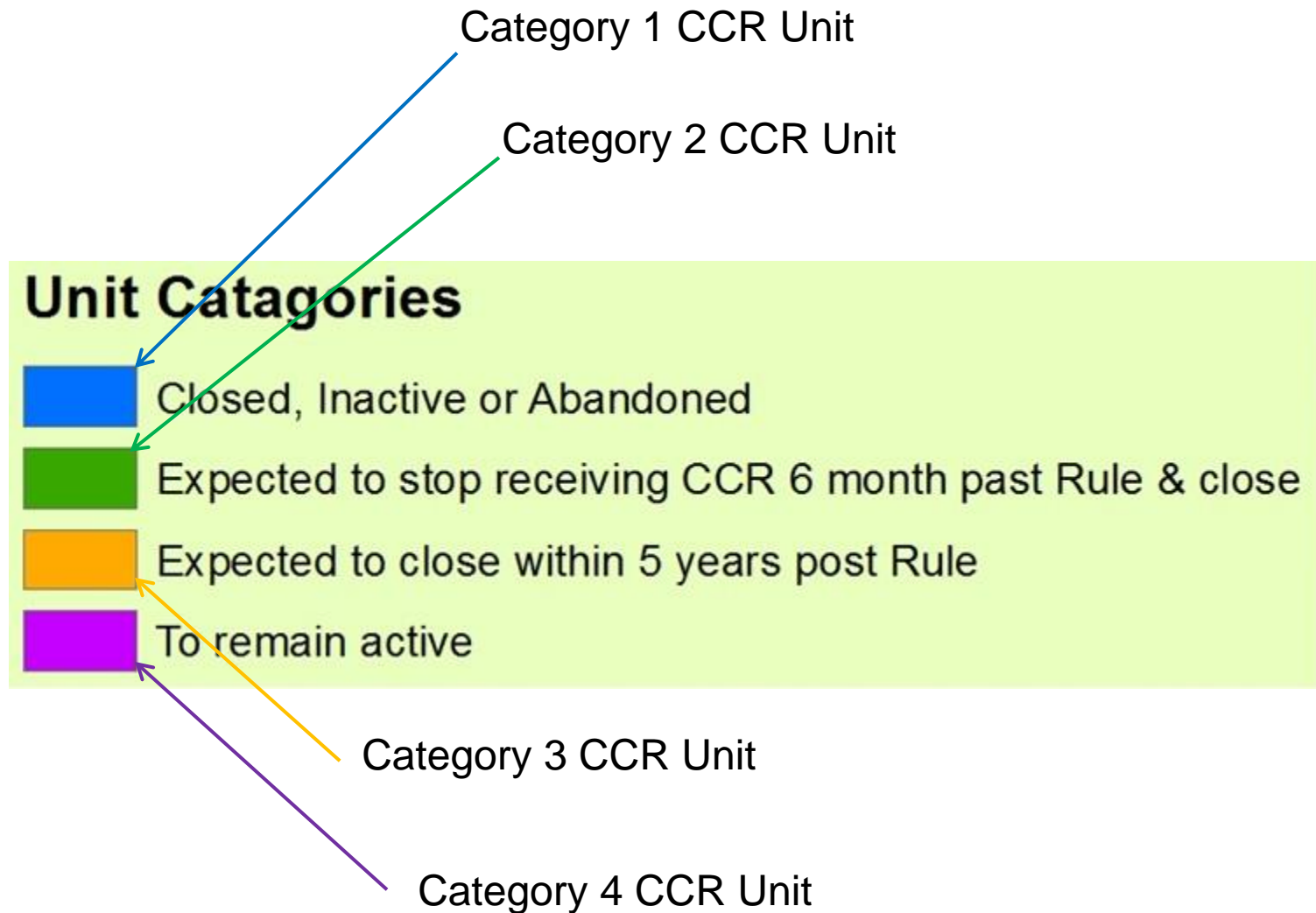
Tennessee TVA CCR Facilities



Commissioner's Order / Federal Rule CCR Units

Commissioner's Order CCR Units							
	Non-Permit Workload			Permit Workload			Total
	Legacy Sites	Non Registered Sites	Surface Impoundment	Industrial Landfills IDL's Closed/Inactive	Industrial Landfills IDL's Operational	Industrial Landfills IDL's Pending	
ALF		1	1				2
JOF	1	1	1	1			4
CUF			2		1	1	4
GAF	3	1	4		1		9
KIF	1		2	1	1		5
BRF	1	1	2	1	1	1	7
JSF	2		1	1			4
WBF	1	1					2
Total	9	5	13	4	4	2	37

TVA's Proposal for CCR Units



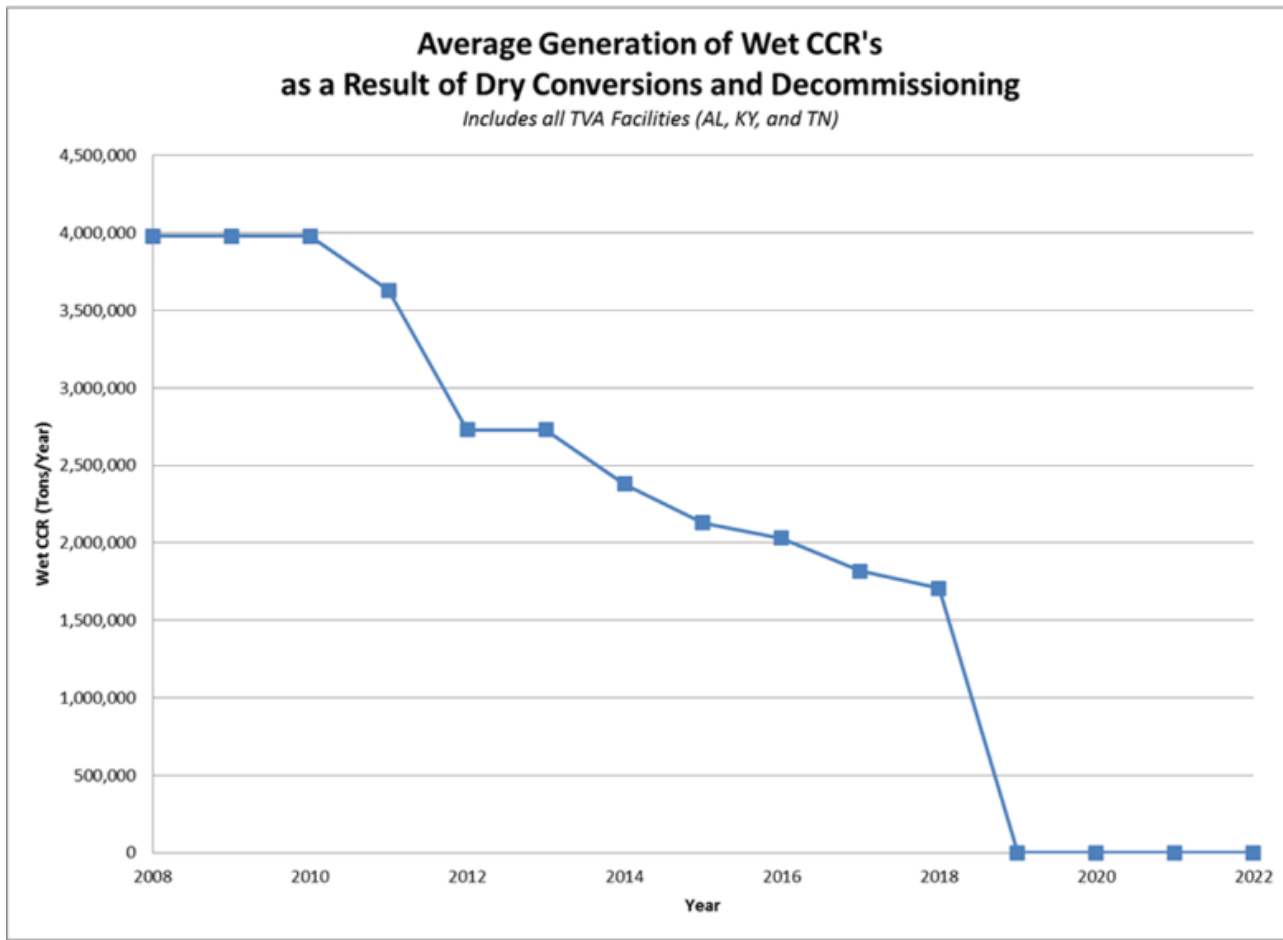
Senate Joint Resolution 784 (SJR 784)

TDEC's annual report requirements

- Documents TVA's progression in transition to dry coal ash storage at each TVA coal plants.
- Updates static structural evaluations of all active coal ash storage facilities.
- Report will be submitted in February of each year annually until transition to dry ash storage is complete at all TVA plants in Tennessee.

Senate Joint Resolution 784 (SJR 784)

TVA's Historical and Forecasted State-Wide Generation of Wet CCR



OGC15-0177 (Commissioner's Order) August 6, 2015

Order Has Two Purposes

1. Establish transparent and comprehensive process for the Investigation, assessment, and remediation of unacceptable risks, resulting from the management and disposal of coal combustion residuals (CCR) at the TVA's coal-fired power plants in Tennessee.
2. Coordination of Implementation of the federal CCR rule to insure compliance with Tennessee laws and regulations that govern the management and disposal of CCR.

Federal Court Case Gallatin

Judge to decide if TVA illegally polluted Cumberland River

January 30th, 2017 | by [Dave Flessner](#) | in Local Regional News | Read Time: 3 mins.





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WIIN Act's Overview – A State's Authority for CCR Permit Program

Part II

Water Infrastructure Improvement for the Nation (WIIN) Act.

- The WIIN Act passed a bipartisan senate and house vote and was signed into law December 16, 2016
- Includes a Summary of Key Provisions of Water Resource Development (WRDA) Act, Amends Open Dumping Provisions of RCRA.
- EPA encourages State to adopt a CCR permit program and implement standards at least as stringent as the Federal rule

WINN Act: Permit Program's coordination with the Federal CCR rule

- State **may** submit a permit program to EPA for Approval
- There is no requirement for a State to have a CCR permit program.
- The Federal CCR rule (part 257 regulations) applies to CCR units until a State permit, under an EPA approved CCR permit program, is effective for that unit
- EPA must determine that a State's criteria are "*at least as protective as*" the CCR rule
- Upon approval, permit programs will operate "*in lieu of*" the Federal CCR rule
- EPA shall implement a permit program in "*non-participating States*" subject to appropriations



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EPA's CCR State Program Guidance Document; Interim Final

Part III

EPA's CCR State Permit Program Guidance Document; Interim Final

- EPA's "interim" guide, released August 10, 2017 outlines how EPA plans to review States' proposed permit programs for CCR to ensure they will be "at least as protective as" the Federal CCR rule, as required by the WIIN Act.
- The Guidance describes EPA's interpretation of the WINN Act provisions
- Initially EPA plans to address implementation through guidance. The WIIN Act does not require EPA to promulgate of a rule in order to implement a State's permit program.
- EPA's review process, limited by 180 days, is not clear in the guide
- The Guidance encourages states to communicate with the EPA early and often in a State's permit program development
- EPA received comments on the Guidance through September 14, 2017.

Components of a States CCR permit program submittal

- 1) Transmittal Letter requesting program approval.
- 2) Narrative description of the State permit program.
- 3) A Legal Certification from the State Attorney General
- 4) Copies of all applicable State Statutes, regulations, and guidance.
- 5) A completed Part 257 Checklist provided in EPA's guidance.

Flexibilities – Altered Provisions

Flexibilities – provisions that deviate from the Federal CCR rule. States must provide demonstration(s) that such provisions are “at least as protective as the (federal) criteria”.

- The Guide urges States to craft defined conditions where variances from the Federal CCR rule are necessary or helpful.
- Flexibilities should lay out the standards under which they would be granted and provide evidence that demonstrates the flexibility is at least as protective as the Federal CCR rule.
- EPA provides 5 flexibilities provided in CFR 40 Part 258.

Communication Process with EPA

- EPA expects to delegate authority to approve a State permit program from the Administrator to the Regional Administrators with concurrence from the Assistant Administrators for the Office of Land and Emergency Management and Office of General Counsel.
- EPA Region 4
 - **Davey Simonson** – Senior Solid Waste Specialist
 - **Alan Farmer** – Resource Conservation and Restoration Division Director
- EPA Headquarters
 - **Barnes Johnson** – Office of Resource Conservation and Recovery (ORCR) Director
 - **Betsy Devlin** – Materials Recovery and Waste Management Division Director
 - **Mary Jackson** - Materials Recovery and Waste Management Division



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Talking Points – Take Away

Discussion

E. Scott Pruitt's Letter to Governors



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

April 28, 2017

The Honorable Bill Haslam
Tennessee State Capitol
Nashville, Tennessee 37243-0001

Dear Governor Haslam:

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,

E. Scott Pruitt

- Encourages States to work with EPA to submit a CCR permit program in a timely manner.
- Due to limited authority under RCRA the Federal CCR rule could not be tailored to unique circumstances of individual CCR units and states through authorized permit programs.
- Reiterates enforcement only by citizen suits.
- EPA expects to review and approve state CCR permit programs and allow flexibility of individual permits in lieu of the national standards.

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END

Questions and Comments ?

Environmental Show of the South 2018



The Environmental
Show of the South
Returns to Chattanooga
May 16-18, 2018



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TN

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