

Critics Urge EPA To Pull Approval Of TVA Coal Ash Disposal In Alabama

Alabama residents are urging EPA to rescind its determination that a solid waste landfill in the state is an acceptable location for disposing millions of cubic yards of coal ash from the massive Tennessee Valley Authority (TVA) spill last December.

The residents filed a [Dec. 7 petition](#) under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) asking EPA to rescind its “determination of acceptability” it issued Jan. 16 to dispose 3 million cubic yards of ash from TVA at a Perry County Associates, LLC landfill in Alabama.

EPA and some environmentalists have downplayed the significance of the approval as being made under unique circumstances, though local activists are now raising growing concerns about health impacts as more ash is dumped there.

Industry officials have said that EPA’s approval of disposal of the coal ash at a solid waste landfill -- rather than a hazardous waste landfill that would impose more stringent disposal requirements -- boosts their claim that the ash is non-hazardous and should be regulated as a solid waste under EPA’s pending first-time disposal rules for coal ash. Industry fears that hazardous waste disposal rules would create massive new costs and could shutter coal plants nationwide.

But the residents’ petition argues strongly against allowing disposal of the TVA coal ash as solid waste in the Alabama landfill, saying it cannot accept CERCLA waste because it fails to comply with all applicable requirements, including federal air, water and solid waste rules.

“Such coal ash contains constituents such as arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium and zinc which are ‘hazardous substances’ as defined by CERCLA,” according to the residents’ CERCLA petition to the agency. It adds that the landfill is not a suitable venue for the ash because it is not operating in compliance with Clean Air Act, Solid Waste Disposal Act and Clean Water Act requirements. The residents also filed Dec. 7 notices of intent to sue the landfill over the alleged air and waste law violations, claiming that the violations pose a health risk to residents.

The company has been operating the landfill “in such a manner as to permit or cause the presence of one or more [air] contaminants, including odor, in the outdoor atmosphere which are injurious to human health and welfare, interfere with the enjoyment of life and property, are unpleasant to persons, tend to upset appetite, lessen food intake, interfere with sleep, produce irritation of the upper respiratory tract, and cause dizziness, headache, nausea and vomiting. Thus, Perry County Associates, LLC is permitting or

causing air pollution in violation of [Alabama law] and the Jan. 16 . . . determination of acceptability granted by EPA under CERCLA should be rescinded,” the petition says.

Similarly, the residents say because of odors from the landfill, the facility is operating as a prohibited “open dump” in violation of the Solid Waste Disposal Act. Additionally, because the landfill is a “significant industrial user” and failed to obtain a water discharge permit, it is violating the Alabama Water Pollution Control Act, the petition alleges.

One attorney says the petition to EPA and notices to the company do not address EPA’s pending rule for the ash or claim that the material must be defined as hazardous waste, but instead they seek to correct problems with the way the waste is being managed.

But a Perry County Associates source says the claims are not valid and that state officials have certified the landfill is in compliance. An EPA Region IV source confirms the agency received the petition and is reviewing it.

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