Message

From: Haldeman, David [david.haldeman@nebraska.gov]
Sent: 1/23/2020 1:55:58 PM
To: Aston, Robert [Aston.Robert@epa.gov]
Subject: RE: CCR extension workload

Flag: Follow up

Hello Bob,

I forwarded this email to our permits supervisor Dan LeMaistre to run down the information you are requesting.

Dave

From: Aston, Robert <Aston.Robert@epa.gov>
Sent: Tuesday, January 14, 2020 7:57 AM
To: Haldeman, David <david.haldeman@nebraska.gov>
Cc: Kloeckner, Jane <Kloeckner.Jane@epa.gov>; Catlin, Kelley <Catlin.Kelley@epa.gov>; Martin, Mike <Martin.Mike@epa.gov>; Werner, Leslye <Werner.Leslye@epa.gov>
Subject: CCR extension workload

David,

On Monday December 2, 2019 EPA published in the Federal Register a proposed rule for the Disposal of Coal Combustion Residuals From Electric Utilities: A Holistic Approach to Closure Part A: Deadline To Initiate Closure. The major elements of this proposed rule include:

- Definition of Lined Unit (removing a clay-lined unit from the definition),
- New initiation of Closure and Cease Receipt of Waste Deadline of August 31, 2020,
- New Alternate Closure Provisions for surface impoundment: Extensions to the initiation of closure

Nationally, EPA is gathering data to determine the number of facilities and units which may be seeking an extension under the alternate closure provisions in 2020 and is tasking the regions to work with our state partners and the facilities to determine the number of such facilities and units and what type of extension may be requested. Region 7 is seeking the state's assistance/input in gathering this information.

To be eligible for an extension the surface impoundment needs to be:

- An existing surface impoundment (eligible inactive surface impoundments should already be closing)
- An unlined or "clay-lined" surface impoundment
- Passed all location restrictions or only failed the uppermost aquifer restriction
  - Those that failed multiple location restrictions or did not post should have ceased receipt of waste in April 2019

This proposed rule offers facilities three options with regards to an extension

1.) Three month self-implementing extension (§ 257.103(e)(1)). Under this provision the surface impoundment must cease receipt of waste no later than November 30, 2020, and the facility must document certain conditions and certify "that the CCR and/or non-CCR waste streams must continue to be managed in that CCR surface impoundment to allow the facility to complete the measures necessary to provide alternative disposal capacity, either on-site or off-site of the facility" on its publicly available website no later than August 31, 2020.

2.) Site specific alternative to initiation of closure deadline due to lack of disposal capacity (§ 257.103(f)(1)). This provision allows facilities to submit demonstrations to EPA for approval for a specific amount of time to be able

to continue to use their surface impoundment while developing alternate capacity for the CCR and non-CCR waste streams. This extension allows the facility to continue to use a unit (surface impoundment) for a maximum of 5 years, until October 15, 2023. Under this extension, facilities are required to submit their demonstrations to EPA no later than June 30, 2020.

3.) Site specific alternative to initiation of closure deadline due to Permanent Cessation of Coal Fired Boiler(s) by a Date Certain (§ 257.103(f)(2)): If a facility is ceasing generation of coal fired boiler(s) by a date certain, then the facility must complete closure by October 17, 2023 for surface impoundments less than 40 acres and by October 17, 2028 for surface impoundments larger than 40 acres. The facility is required to submit a demonstration to EPA for approval to continue to use their CCR surface impoundments. Under this extension, demonstrations are required to be submitted to EPA for approval no later than May 15, 2020.

As you can see above, the deadlines for requesting extensions are approaching quickly and will become effective when the proposed rule is final. EPA is requesting assistance from the regions, states, and facilities to estimate the number and types of extensions facility owners/operators may be requesting. EPA headquarters has developed a list of facilities which may be eligible for extensions by EPA Region and State. This list was developed by examining information included on individual facility web sites which are required as part of the CCR regulations. EPA headquarters has identified one site in Nebraska, the Whelan Energy Center, as a potential facility that may be requesting an extension (attached Excel file). EPA headquarters has requested that individual regions reach out to their state counterparts to identify facility contacts and reach out to those contacts to determine which facilities and units may be requesting an extension and which type of extension may be requested. EPA headquarters has requested that this information be collected by February 14, 2020.

As part of the effort to determine what type of an extension a facility may need, EPA would also like the state's assistance in obtaining input regarding an estimate of the length of the extension that may be requested by the facility owners/operators. As part of the discussions, we need an estimate regarding the length of the extension. For example, EPA needs to estimate the following:

- Facilities that will not need an extension
- Facilities that will only need till November 2020 (short term extension)
- Longer than November – need about 6 months more
- Longer than November – need about 1 year
- Longer than November – need longer than 18 months

EPA is collecting this data in order to estimate the potential workload which could be associated with reviewing the above mentioned extension requests.

In addition, EPA headquarters routinely reviews the information posted on individual facility web sites. As part of that review EPA headquarters has identified sites in each region where specific facility information which is required to be posted is either missing, incomplete or technical questions exist. As part of this review EPA has developed two lists. One list deals with compliance issues related to documents which are, or in some cases are not, posted on the specific facility websites. The second list deals with groundwater questions related to Alternate Source Demonstrations and Intrawell analyses. With regards to the list dealing with compliance issues related to documents, EPA headquarters has requested that the regions work with their state counterparts to identify the appropriate facility contact. The plan is that EPA Headquarters would take the lead in coordination with the regions and states to contact the facilities to discuss and remedy the identified issues. With regards to the second list dealing with Alternate Source Demonstrations, EPA headquarters has requested that the regions work with their state counterparts to identify the appropriate facility contacts. The regions and or the states would then take the lead to address any identified issues. No specific timeframe has been established to address the questions related to either of the above lists. At this time EPA headquarters has not identified any facilities in Nebraska on the two lists discussed above and this information is shared solely for you information.

It should be noted that EPA headquarters continues to review CCR facility websites and could identify additional questions or facilities at a later date. If that should occur Region 7 would again reach out to the states.

At your convenience I would like to follow-up with you on the facility extension issue to discuss Nebraska's perspective, any comments you may have and the role you would like to play in gathering the requested information. If you have any questions please do not hesitate to call or email me.

Thanks

Bob Aston
USEPA Region 7
(913)551-7392