

House Bill 387

By: Representatives Jones of the 167th, Nimmer of the 178th, Werkheiser of the 157th, Petrea of the 166th, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to solid waste management, so as to
3 regulate the disposal of coal combustion residuals; to require a permit or permit modification
4 and additional requirements prior to the dewatering of surface impoundments for coal
5 combustion residuals; to require certain electric utilities and power producers to convert to
6 dry storage of coal combustion residuals after a certain date; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,
11 relating to general provisions relative to solid waste management, is amended in Code
12 Section 12-8-22, relating to definitions, by revising paragraph (21), by renumbering
13 paragraph (4.1) as (4.2) and by adding new paragraphs to read as follows:

14 "(2.1) 'CCR Rule Compliance Data and Information website' means a publicly accessible
15 Internet site containing the information specified in the federal rule and other information
16 contained in this part.

17 (2.2) 'CCR surface impoundment' means a natural topographic depression, man-made
18 excavation, or diked area which is designed to hold an accumulation of CCR and liquids,
19 and which treats, stores, or disposes of CCR."

20 "(4.1) 'Coal combustion residuals' or 'CCR' means fly ash, bottom ash, boiler slag, and
21 flue gas desulfurization materials generated from burning coal for the purpose of
22 generating electricity by electric utilities and independent power producers."

23 "(6.1) 'Dewater' or 'dewatering' means the process of eliminating free liquids from a CCR
24 surface impoundment for purposes related to closure of such surface impoundment."

25 "(9.1) 'Existing CCR surface impoundment' means a CCR surface impoundment that
26 received CCR both before and after October 19, 2015, or for which construction

27 commenced prior to October 19, 2015, and which received CCR on or after
 28 October 19, 2015. A CCR surface impoundment shall be deemed to have commenced
 29 construction if the owner or operator had obtained the federal, state, and local approvals
 30 or permits necessary to begin physical construction and a continuous on-site, physical
 31 construction program had begun prior to October 19, 2015.

32 (9.2) 'Federal rule' means Part 257 of Title 40 of the Code of Federal Regulations
 33 (C.F.R.), including any appendices thereto, as it existed on January 1, 2017."

34 "(10.1) 'Free liquids' means liquids that readily separate from the solid portion of a waste
 35 under ambient temperature and pressure."

36 "(14.1) 'Lateral expansion' means a horizontal expansion of the waste boundaries of an
 37 existing CCR surface impoundment made after October 19, 2015."

38 "(21) 'Operator' means the person stationed on the site who is in responsible charge of
 39 and has direct supervision of daily field operations of a municipal solid waste disposal
 40 facility to ensure that the facility operates in compliance with the permit or the person
 41 responsible for the overall operation of a CCR surface impoundment, based on the
 42 context in which it is used.

43 (21.1) 'Owner' means the person who owns a municipal solid waste disposal facility or
 44 a CCR surface impoundment, based on the context in which it is used."

45 "(28.1) 'Retrofit' means removal of all CCR and contaminated soils and sediments from
 46 a CCR surface impoundment and compliance with the requirements in 40
 47 C.F.R. § 257.72 of the federal rule."

48 "(37.1) 'State waters' means any and all rivers, streams, creeks, branches, lakes,
 49 reservoirs, ponds, drainage systems, springs, wells, and all other bodies of surface or
 50 subsurface water, natural or artificial, lying within or forming a part of the boundaries of
 51 the state which are not entirely confined and retained completely upon the property of a
 52 single individual, partnership, or corporation."

53 **SECTION 2.**

54 Said part is further amended by adding a new Code section to read as follows:

55 "12-8-24.4.

56 (a)(1) On or before November 22, 2019, an owner or operator of an unlined existing
 57 CCR surface impoundment shall cease placing CCR and all other wastestreams into such
 58 CCR surface impoundment and shall initiate closure of such CCR surface impoundment
 59 in accordance with the requirements of 40 C.F.R. § 257.102 of the federal rule. This
 60 subsection shall not apply to an owner or operator of an unlined existing CCR surface
 61 impoundment who has initiated a retrofit of the impoundment in accordance with 40
 62 C.F.R. § 257.102(k) of the federal rule before October 1, 2018.

63 (2) Any deadline or time frame established in this subsection may be extended for a
64 period not to exceed two years if the owner or operator demonstrates that it is not feasible
65 to meet the deadline or time frame due to factors beyond the owner's or operator's control.
66 The owner or operator shall include in the demonstration a detailed explanation of why
67 additional time is necessary. The owner or operator shall place the demonstration in the
68 facility's operating record as required by 40 C.F.R. § 257.105 of the federal rule prior to
69 the end of the deadline or time frame. No more than a total of two two-year extensions
70 may be obtained for any CCR surface impoundment under this subsection.

71 (b)(1) As used in this subsection, the term 'NPDES permit' means National Pollutant
72 Discharge Elimination System permit.

73 (2) If the closure of any CCR surface impoundment includes dewatering by discharging
74 free liquids into state waters, the owner or operator shall meet the following additional
75 requirements before such dewatering may begin or, if dewatering has already begun,
76 before it may be continued:

77 (A) The owner or operator shall apply for and obtain from the director an NPDES
78 permit in accordance with Article 2 of Chapter 5 of Title 12, the 'Georgia Water Quality
79 Control Act.' If such owner or operator has an existing NPDES permit to discharge
80 pollutants from the CCR surface impoundment, the owner or operator shall apply for
81 and obtain a major permit modification to reflect the change in activity, which shall
82 require the following information to be deemed complete:

83 (i) A description of the specific measures that will be taken during the dewatering
84 process, including any treatment or monitoring plans;

85 (ii) The anticipated weekly average and maximum daily flow rates of effluent into
86 the receiving waters at each outfall during the dewatering process;

87 (iii) The number of outfalls and their locations;

88 (iv) Concentration levels of all constituents listed in Appendices III and IV to the
89 federal rule from samples taken at no less than four distinct depths in the water
90 column of the CCR surface impoundment, including at least one sample taken no
91 more than three feet above the base of the CCR surface impoundment and at least one
92 sample taken from the base of the CCR surface impoundment;

93 (v) Concentration levels of all constituents listed in Appendices III and IV to the
94 federal rule from samples taken from the receiving waters, both upstream and
95 downstream of any outfalls;

96 (vi) The number and location of any public drinking water intakes that are located
97 within ten miles downstream of any outfalls; and

98 (vii) Any other information the director may require.

99 (B) The complete application for a new or modified NPDES permit shall be placed on
100 the owner or operator's CCR Rule Compliance Data and Information website within
101 fourteen days of submitting the application to the director.

102 (3) At least 30 days before dewatering the CCR surface impoundment, the owner or
103 operator thereof shall notify the director and the operator of any public water system with
104 an intake located within ten miles downstream of any outfalls regarding the date such
105 dewatering will begin or is anticipated to begin. At least 30 days before dewatering, the
106 owner or operator shall also place on the CCR Rule Compliance Data and Information
107 website a notification that states the exact date when dewatering will begin or is
108 anticipated to begin."

109 **SECTION 3.**

110 All laws and parts of laws in conflict with this Act are repealed.