



UPDATE: Over at [CPRBlog](#), Rena Steinzor and James Goodwin have a nice analysis of the [red-lined version of the proposal](#) EPA has posted at [regulations.gov](#), showing the difference between what it wanted to do and what OIRA was able to bully it into doing. Transparency really is a wonderful thing. Looks like EPA was ready to do the right thing, designating coal ash as a RCRA hazardous waste, until OMB got into the act.

Sticking with this week's fossil-fuel theme, after much delay EPA has issued a ["Proposed Rule" on coal ash disposal](#). I use the quote marks because although that's how EPA describes this document, in reality it's merely a request for public comment on a couple of alternatives, postponing any regulatory decision for at least another 3 months.

You may recall that just before Christmas 2008 a retaining wall holding back a mountain of "coal combustion residue" (the ash left after coal is burned in power plants) at a TVA plant in Tennessee failed, sending about 1 billion gallons of sludge into local waterways, and even swamping some homes, as seen in the photo. That brought renewed attention to the decades-old problem of disposal of the waste ash. EPA promised that it would decide by the end of 2009 whether to regulate coal as a hazardous waste under RCRA.

But a funny thing happened along the way. Rumor has it that EPA drafted a tough rule, but ran into a buzz-saw at the Office of Management and Budget's [Office for Information and Regulatory Affairs](#). The Center for Progressive Reform, which has been keeping an [Eye on OIRA](#), has documented the [number of meetings](#) OIRA officials had with industry interests about coal ash regulation, and the much smaller number of meetings with environmental interests. Industry's pleading seems to have borne fruit, although EPA looks to be standing its ground as well as it can. EPA is not issuing a proposed rule calling for treatment of coal ash as hazardous waste, but neither is it completely caving to industry's preference to leave the states in control as if this ash were no worse than ordinary household garbage. Instead, EPA is floating two major alternatives. One would require disposal of the ash in facilities meeting federal hazardous-waste standards (although EPA is not proposing to formally label

the waste as hazardous), while the other would prescribe weaker national standards for impoundments. Rena Steinzor, President of the Center for Progressive Reform offers this [explanation of the difference](#), or you can read the entire 562 pages of the “Proposed Rule.”

At a minimum, this postpones any actual regulation of coal ash for at least several more months. That’s got to make the coal industry happy, but it should worry all the people living downstream of ash impoundments.