

House Bill 387

By: Representatives Jones of the 167<sup>th</sup>, Nimmer of the 178<sup>th</sup>, Werkheiser of the 157<sup>th</sup>, Petrea of the 166<sup>th</sup>, Oliver of the 82<sup>nd</sup>, 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.