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Environmental Protection Agency
1200 Pennsylvania Avenue NW,
Washington, DC 20460

RE: Comment on EPA Effluent Guidelines and Standards for Unmanaged Combustion Residual Leachate Revision.

The Iowa Environmental Council submits the following comments on the Environmental Protection Agency's proposal to revise the effluent guidelines and standards (ELGs) for unmanaged combustion residual leachate, Docket ID No. EPA-HQ-OW-2009-0819.

The Iowa Environmental Council (IEC) consists of nearly 100 organizations, over 500 individual members, and an at-large board representing IEC's membership. IEC is dedicated to advancing a safe, healthy environment and a sustainable future for Iowa; its members value clean air and water and regularly enjoy Iowa's natural spaces through hiking, recreation, and other outdoor activities. With a strong commitment to protecting human health and natural resources, IEC recognizes the importance of effective environmental regulations and enforcement and appreciates the opportunity to comment on behalf of Iowa's residents and environment.

IEC submits this statement to comment on the EPA's proposed revisions to unmanaged combustion residual leachate (CRL) regulations. We emphasize that weakening regulatory safeguards could pose significant risks to both environmental quality and public health in Iowa. Of the three proposed rules, IEC urges the EPA to select Option 3 as the new ELG.

Current Status of Coal Pollution in Iowa

There are 69 known utility coal ash disposal sites in the state of Iowa. In a 2024 report, we wrote that 75% of Iowa coal plants under federal regulation are producing ash and heavy metals that exceed federal health standards.[1] In addition to those sites currently regulated,

[1] Raihan Rashidi, *Toxic by Design: Understanding Coal Ash Pollution in Iowa* (Iowa Envtl. Council July 2025), www.iaenvironment.org/webres/File/Toxic%20By%20Design%20Report.pdf

evidence indicates pollution of arsenic, cobalt, manganese, and molybdenum at disposal sites consistent with that of unmanaged CRL.

Data on unmanaged CRL sites in Iowa remains scarce because oversight is weak and regulatory requirements are limited. Rather than rolling back existing standards, this gap shows the need for stronger regulation. Oversight failures, such as utilities missing reporting deadlines, mean that the amount of leachate entering Iowa waterways is likely understated. Environmental risks are also significant: 22 closed coal ash deposits sit within five feet of groundwater. Although technically under regulatory authority, these sites still pose a high potential for pollutant migration.[2]

Monitoring practices further compound the problem. In Iowa, most disposal sites that may contain unmanaged CRL only receive visual inspections from energy providers who submit reports to the Iowa Department of Natural Resources (IDNR). These visual inspections both lack specific data about the quality of current liners and landfill infrastructure and to what extent leachate discharge is actually being controlled.[3] At one site, IDNR even approved a request to stop reporting despite elevated sulfate, cobalt, and barium levels, leading the agency to estimate that 5.4 million gallons of leachate are generated annually and likely leaking off-site.[4] Updated ELGs can require more transparency in reporting and provide concrete data for state agencies like the IDNR to make more informed regulatory decisions.

While the EPA's 2015 and 2024 rules have improved oversight of legacy coal combustion residual sites, gaps in enforcement and broad exemptions continue to leave unmanaged CRL insufficiently addressed, reinforcing IEC's conclusion that stronger ELGs are necessary.

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[2] *Id.*
[3] *See* SCS Engineers, "*Annual CCR Landfill Inspection*" (Dec. 2024), available at https://ccr.alliantenergy.com/-/media/aeccr/ccrdocuments/ottumwa/landfill/operatingcriteria/omlannuallfinspection2024.pdf?sc_lang=en
[4] SCS Engineers, *Annual Water Quality Report, Monitoring System Evaluation Report, Leachate Performance Evaluation Report; 2025 AWQ MSER LCSPER* (Nov. 25, 2025) at 42, available at https://programs.iowadnr.gov/solidwaste/OpenText/DownloadDocument/114848.; Iowa DNR, *Review of 2003 Annual Water Quality Summary Report and Landfill Closure Recommendation* (June 16, 2004), Midwest Flyash Landfill Permit number 90-SDP-03-81, available at https://programs.iowadnr.gov/solidwaste/OpenText/DownloadDocument/59180.

Environmental and Public Health Impacts of Unmanaged CRL

Heavy metals in drinking water have known negative externalities which are felt across the state. Currently, Iowa has the second highest new cancer rate in the country according to the National Cancer Institute. Environmental risk factors are a large contributor to the complicated mix of factors known to cause cancer, and while specific research on coal and leachate and cancer is scarce it may play an underlying role.[5] Anecdotal evidence comes from Linn County, Iowa, the county with the second highest individual cancer cases in the state and is also home to the most coal ash deposits in the state, where concerning levels of arsenic and molybdenum have been found for at least the last 5 years.

The heavy metals like those found in CRL are proven to cause harm to nearly every major organ system and can stunt growth and development for children and pregnant women.[6] CRL can also endanger cleanup workers as it did in the 2008 Kingston, Tennessee, ash spill and contribute to premature death.[7]

Unmanaged CRL may also be a contributing factor to water contamination as coal-fired power plants are the nation's largest contributors of water pollution by toxicity.[8] As temperatures rise, arsenic captured in sediment begins to be released back into waterways putting at risk entire species of fish and endangering people recreating in the waters. In North Carolina, coal operations killed more than 900,000 fish and caused severe mutations in other aquatic species.[9]

The EPA should ensure that economic considerations do not override its duty to protect public health and the environment.[10]

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[5] National Cancer Institute, *State Cancer Profiles: Iowa*, https://statecancerprofiles.cancer.gov/quick-profiles/index.php?statename=iowa

[6] Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health & Human Services. *Toxicological Profiles*. www.atsdr.cdc.gov/toxprofiles;
Sears, Clara, and Zierold, Kristina, *Health of Children Living Near Coal Ash*, National Library of Medicine, 25 July 2017, https://pmc.ncbi.nlm.nih.gov/articles/PMC5533260/#bibr17-2333794X17720330;
American Academy of Pediatrics, *Arsenic Exposure*, https://www.aap.org/en/patient-care/environmental-health/promoting-healthy-environments-for-children/arsenic/?srsltid=Afm-BOopzKuUHw3kXbNCHRaJEDuKEOOfyqUO0aGojDXpq0gQcvpwv1Hm1;

[7] Southeast Coal Ash, *The Kingston Disaster*, http://www.southeastcoalash.org/about-coal-ash/coal-ash-disasters/the-kingston-disaster/

[8] Lisa Evans, et al., *Coal Ash Primer*, Earthjustice, 2023, p.6-11, https://earthjustice.org/wp-content/uploads/coal-ash-primer_earthjustice_2023.pdf

[9] Southern Environmental Law Center, *Duke Energy Coal Ash Pollution Deforms Fish in Sutton Lake*, 3 December 2013, https://www.selc.org/press-release/duke-energy-coal-ash-pollution-deforms-fish-in-sutton-lake/

[10] 33 U.S.C. §1314 (b)(2)(B)

Proposed Option 1 Shortcomings

The EPA's preferred ELGs, to allow permitting authorities to use their best professional judgment of treatment method for unmanaged CRL, has three main shortfalls. First, it creates inconsistencies within pollution regulation. Although being framed as case-by-case flexibility, this format allows utility companies to persuade decision makers and avoid responsibility for the environmental impacts of their waste management. Second, this passes the burden of filtering and treating contaminated water onto downstream communities who are often in a worse place than the utility companies to prevent potential harm. Finally, it ignores the mandate by the Clean Water Act to treat toxic pollutants (like arsenic and mercury found in Iowa waterways) with the best available technology, which is economically feasible for achieving net zero discharge of CRL.[11]

The EPA cites rising energy demands as one of the main economic barriers; however, meeting energy demands and treating the pollution of those demands is not mutually exclusive.[12] In fact, stricter regulation will encourage more efficient energy practices as utility companies avoid future remediation costs. The requirement here is to clean up locations like legacy disposal sites that may no longer be in operation but have the potential to leach at peak pollutant levels 78 to 150 years after waste placement.[13] The adoption of Option 1 would be a step backwards in pollution regulation.

Proposed Option 3 is Reasonable and Feasible

IEC supports the adoption of proposed Option 3 as it brings the greatest environmental benefits at the lowest external costs to communities.

The damaging effects of managed and unmanaged CRL are virtually identical. The only difference is in the way their treatment is regulated under current ELGs. The EPA has considered the harm caused by leachate to require zero-discharge limits for managed CRL in its rule revision of May 9, 2024.[14] The same rule declared this outcome as "available, economically achievable, and has acceptable non-water quality environmental impacts."[15] The EPA lists three available

[11] 40 C.F.R. § 401.15; 33 U.S.C. §1311(a)(2)(A)
[12] 33 U.S.C. §1314 (b)(2)(B)
[13] The Environmental Integrity Project and Earthjustice, *Coming Clean: What the EPA Knows About the Dangers of Coal Ash*, p. 4 https://earthjustice.org/wp-content/uploads/final-coming-clean-ejeip-report-20090507.pdf
[14] Environmental Protection Agency, *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*, 89 Fed. Reg. No 91, 39268 (May 9, 2024)
[15] *Id*. at 40224

methods including: membrane filtration systems, spray dry evaporators (SDEs), and thermal evaporation systems along with pre- and post-treatment; all of which were considered reasonable BAT practices.[16] With the harm to public health and the environment being the same from leachate toxins of unmanaged CRL, the same level of protection should be taken to lower exposure of the heavy metals to WOTUS and local communities.

While the polluters may incur additional costs, choosing not to fully regulate unmanaged CRL simply shifts those costs onto local communities and individuals who are least equipped to bear them. When leachate escapes into groundwater or surface waters, the financial burden of contamination does not disappear, it is absorbed by households facing higher water bills, private well owners forced to install treatment systems, and municipalities that must invest in additional monitoring and remediation. This can be seen in Des Moines, where water treatment facilities cannot keep up with demand prompting a lawn watering ban.[17] Public health impacts, including increased exposure to heavy metals, also translate into long-term medical expenses and reduced quality of life. In effect, weak regulation externalizes the true cost of coal ash disposal, leaving communities to subsidize the pollution created by utilities.

The EPA's estimate of 4.2 million tons of unmanaged CRL waste per year is cited as a reason for a weaker regulatory framework, due to the sheer size and volume of treatment required.[18] However, it is for this same scale that zero-discharge treatment is necessary to prevent the harms from the large volume of polluted waste. A requirement to adopt zero-discharge technology will provide incentives for the development of more cost-effective and climate friendly BATs, especially for a pollutant that lasts decades after plants retire. The technology to achieve zero discharge already exists; SDEs are a proven solution for treating CRL.[19] Implementing these practices and requiring zero-discharge as soon as possible has practical, environmental, and economic benefits that will only become more crucial as leachate continues to outflow from landfills to water supplies.

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[16] *Id*. at 40209
[17] Rachel Cramer, *High Nitrate Levels Prompt a Lawn Watering Ban for 600,000 People in Central Iowa*, Iowa Public Radio (June 9, 2026), https://www.iowapublicradio.org/environment/2026-06-09/central-iowa-water-works-nitrate-lawn-watering-ban-drinking-water.
[18] 89 Fed. Reg. No. 91, at 40268 (May 9, 2024).
[19] *Id*. at 40209

Option 3 is the only alternative that aligns with the Clean Water Act, the EPA's own technical findings that treatment is feasible, and meets the needs of communities affected by CRL pollution. While any reduction in unmanaged CRL deposits is a step in the right direction, the EPA can improve water quality and lower the costs to communities by choosing proposed Option 3 and reducing harmful leachate exposure to zero.

Recommendation and Conclusion

The EPA should strive for the strictest feasible regulation on unmanaged CRL and all forms of leachate pollution and require transparency and swift cooperation by parties responsible for pollution. IEC urges the EPA to adopt Option 3, establishing zero-discharge limits for both pumped and functional equivalents of groundwater discharge. Despite the associated costs, it is imperative that energy companies implement the best available technology in cleaning up pollution as is required by the Clean Water Act. This would lead to the lowest social and environmental costs, protect public health, improve the environment, and protect affected communities.

Thank you for the opportunity to provide comments on this proposal. If you have questions or we can clarify these comments further, please feel free to contact us.

Sincerely,

/s/ Michael Schmidt	/s/ Steve Guyer	/s/ Elijah Redington
Michael Schmidt	Steve Guyer	Elijah Redington
General Counsel	Senior Energy Policy Counsel	Law Clerk
Iowa Environmental Council	Iowa Environmental Council	Iowa Environmental Council