

## U.S. Investors with \$240 Bln in Assets Urge Strict Federal Regs on Coal Ash

*Shareholders want assurance from companies about ability to pay for needed safety upgrades*

by Stacy Feldman - Sep 15th, 2010

A coalition of investors today urged the Obama administration to tightly regulate toxic coal waste in every state in order to mitigate financial risk in the event of another coal-ash disaster like the one experienced in 2008 by the Tennessee Valley Authority (TVA).

Instead of the current "patchwork of weak and inconsistent state rules," the [Environmental Protection Agency](#) (EPA) should "create a consistent national requirement that will help reduce potential value loss and allow investors to better assess this sector's risk profile," the 22 institutional investors and shareholder groups said in a letter to EPA Administrator Lisa Jackson.

The signatories have combined assets totaling more than \$240 billion.

It is the first time that investors have weighed in together on national coal ash regulation — a sign it has become an area of grave environmental concern in America.

The EPA is currently crafting a decision on a federal coal ash rule. Many of the signatories to the letter, which include the Connecticut State Treasurer's Office and New York State Comptroller Thomas DiNapoli, are heavily invested in coal-fired utilities that would be subject to the new regulations.

### 'Financial Assurance Requirement' Vital

Led by [Green Century Capital Management](#), a Boston-based investment advisory firm, the letter requests, among other things, that EPA demand "financial assurance" from coal plant operators that they can pay for a possible coal ash catastrophe.

It is "critical" that utilities be required "to assure shareholders and the public that they are financially prepared to manage the costs associated with a catastrophic coal ash spill," the investors said in the letter.

But shareholders want assurance on more than just unforeseen disasters.

Ratcheting up regulations on the residue of coal burning could force power plants to take on costly upgrades, including landfill liners, groundwater monitoring at dump sites and even closing down wet coal ash impoundment ponds.

The assurance requirement "enables shareholders to understand which companies are prepared to pay for the closure of ash ponds, as well as possible health and environmental impacts of coal ash," Emily Stone, shareholder advocate for Green Century Capital Management, told SolveClimate News.

In 2008, a retaining wall burst open on a TVA wet ash pond at the Kingston Fossil power plant, sending a billion-gallon flood of chemical slush into Tennessee's Emory River. Hundreds of acres of property and farmland were left coated in

a toxic stew of arsenic, selenium, lead and mercury, among many other potential contaminants.

The chemicals in coal waste have been linked to cancer, organ failure and other health problems, and are leaching into streams and drinking water at sites across the country.

TVA, which was in compliance with state law before its pond ruptured, now faces an estimated \$1.2 billion in spill-related costs on top of expenses from 50 lawsuits.

"The current regulations that are in place on the state level [are] just not enough to prevent the kind of catastrophe that we saw at TVA," Stone said.

### Signatories Urge 'Subtitle C'

Regulation of the almost 900 coal ash landfills and surface impoundments nationwide is in the hands of states, after EPA determined it to be a nonhazardous waste in 2000 under the [Resource Recovery and Conservation Act](#).

But in May, in the wake of the TVA disaster and in the face of mounting pressure from environmental groups, [EPA proposed the nation's first pair of rules](#) to govern ash.

The first, under "Subtitle C" of the Resource Recovery and Conservation Act, would reclassify the coal byproduct as hazardous waste. Pollution controls would be mandatory in every state, and EPA would have to enforce them.

Under the industry-preferred "Subtitle D" option, oversight would continue through a series of patchy state-level laws. Citizen lawsuits would be the main enforcement mechanism, with no mandatory federal oversight.

"The EPA regulations as proposed under 'Subtitle C' do the most to help lessen risk to shareholder value for shareholders who are invested in coal-burning electric utilities," Stone said.

In an [April report](#), EPA said that Subtitle C would save an estimated \$5.3 to \$16.7 billion in avoided costs associated with cleanups from ash pond collapses and other catastrophes.

"We believe these avoided costs are significant and illustrate the importance of consistent, enforceable federal regulation," the investors wrote.

EPA is considering both options. The public comment period for the rule was recently extended from Sept. 20 to Nov. 19.

Stone said it appears "too early to tell" the direction EPA is leaning.

"It's been a very contentious time, I think, for the EPA," she said. "There has been so much input into the rules, both from industry and from environmental groups. It's a really important issue."

EPA held recent [public hearings](#) about the proposed regulations in Arlington, Va.; Denver, Co.; Dallas, Texas; and Charlotte, N.C. A hearing is scheduled for Thursday in Chicago, Ill., with the final two hearings to take place in Pittsburgh, Penn. and Knoxville, Tenn. in late September and October.