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AMERICAN PUBLIC POWER ASSOCIATION
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U.S. Environmental Protection Agency
EPA Docket Center
Office of Land and Emergency Management
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Washington, D.C. 20460

Submitted electronically via www.regulations.gov.

Re: Comments of the American Public Power Association on Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Federal CCR Permit Program; Reopening of Comment Period; (91 Fed. Reg. at 31,684 (May 28, 2026)); Docket No. EPA-HQ-OLEM-2019-0361.

Dear Mr. Cook:

The American Public Power Association (APPA) appreciates the opportunity to submit the enclosed supplemental comments on the Environmental Protection Agency's (EPA) proposal to reopen the public comment period for the proposed federal Coal Combustion Residuals (CCR) permit program under the Water Infrastructure Improvements for the Nation (WIIN) Act.

APPA is the voice of not-for-profit, community-owned utilities that power more than 2,000 communities and serve approximately 55 million Americans. Public power utilities are committed to providing reliable, affordable, and environmentally responsible electricity service to their customers while complying with applicable environmental requirements.

APPA has long supported the development of CCR permitting programs and was an active supporter of the CCR permitting framework established by the WIIN Act. We continue to support EPA's efforts to develop a federal CCR permit program that provides a practical permitting pathway in nonparticipating states and facilitates the transition to EPA-approved state CCR permit programs. We also continue to support EPA's discretion under the WIIN Act to establish a federal permitting program and incorporate by reference the positions set forth in APPA's comments on the agency's February 2020 proposed Federal CCR Permit Program.[1]

Given the significant regulatory developments that have occurred since 2020, APPA believes it is appropriate for the agency to reevaluate key implementation aspects of the federal permitting program. As discussed in the enclosed comments, APPA makes the following recommendations:

- Clarify that the federal CCR permit program applies only to activities regulated under 40 C.F.R. part 257, subpart D, and does not extend to excluded activities, beneficial use, temporary storage, dewatering structures, or other non-disposal activities.

[1] 85 Fed. Reg. at 9,940 (February 20, 2020).

- Provide realistic permit application timelines that reflect the expanded scope and complexity of the CCR program, including the need for facility-specific analysis, contractor support, and coordination with federal and state requirements.
- Avoid duplicative federal permitting obligations for facilities located in states that are actively pursuing CCR program approval and establish a clear transition process between federal and approved state programs.
- Use a risk-based tiering framework that prioritizes permit review based on documented site-specific factors, including groundwater contamination that may impact drinking water, high-risk corrective action obligations, structural stability concerns, and other conditions presenting elevated risks.
- Implement electronic permitting flexibly by accommodating existing state systems, avoiding duplicative reporting, preserving state discretion, and minimizing unnecessary administrative burdens.

APPA appreciates EPA's willingness to solicit additional stakeholder input on these important implementation issues. We look forward to continuing to work with the agency to develop a Federal CCR Permitting Program that is protective of human health and the environment, provides regulatory certainty, and remains practical and workable for utilities managing CCR units.

Thank you for your consideration of these comments. If you have any questions or would like to discuss these recommendations further, please contact Carolyn Slaughter at (202) 467-2900 or email CSlaughter@PublicPower.org.

Sincerely,

Carolyn Slaughter
American Public Power Association
Sr. Director, Environmental Policy

Cc: Cecila DeRobertis
Taylor Holt
Frank Behan

Comments of the American Public Power Association on Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Federal CCR Permit Program; Reopening of Comment Period; (91 Fed. Reg. at 31,684 (May 28, 2026)); Docket No. EPA–HQ–OLEM–2019–0361.

The American Public Power Association (APPA) appreciates the opportunity to submit supplemental comments in response to the Environmental Protection Agency's (EPA or agency) proposal to reopen the public comment period on the February 2020 proposal titled, *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Federal CCR Permit Program.*[2] The proposal reopening the comment period seeks additional input on several aspects of the proposed Coal Combustion Residual (CCR) federal permitting program, including: (1) how much time facilities would need to gather and prepare the materials required under the proposed application requirements; (2) whether EPA should shorten the deadline for the first group of permit applications to the effective date of the final rule—six months after publication in the *Federal Register*; and (3) whether EPA should establish an electronic permitting process for both EPA-issued CCR permits and state-run CCR permitting programs.

APPA is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. Public power utilities collectively serve over 55 million people in 49 states and five U.S. territories, and account for 15 percent of all sales of electric energy (as measured in kilowatt-hours) to end-use consumers. They are load-serving entities with the primary goal of providing the communities they serve with safe, reliable electric service at the lowest reasonable cost, consistent with good environmental stewardship. This orientation aligns the interests of the utilities with the long-term interests of the residents and businesses in their communities.

The Proposed Permit Rule would establish a federal permitting program for CCR units in Indian country and nonparticipating states under the Water Infrastructure Improvements for the Nation (WIIN) Act.[3] The agency's proposed federal permit program would create three permit options: individual permits, general permits, and permits by rule. Once issued, these permits would replace the current self-implementing federal CCR requirements for covered units.

APPA supports the development of a federal CCR permit program because permitting would allow for site-specific implementation of the CCR rule rather than applying a uniform, one-size-fits-all framework to all CCR units. We view state CCR permit programs as the most effective regulatory approach and urge EPA to continue approving state programs promptly. A federal program, however, would provide an important interim pathway for permitting CCR units while states pursue WIIN Act authorization.

Public power utilities own and operate CCR units that may be affected by the Proposed Rule, giving the APPA a strong interest in this rulemaking. We have long supported development of CCR permitting programs. In 2016, APPA provided extensive feedback on and support for the WIIN Act to create state permitting programs to administer the agency's final CCR rule or operate in lieu of it. APPA also submitted comments in every major CCR rulemaking including the 2020 Proposed

[2] 85 Fed. Reg. at 9,940 (February 20, 2020) (2020 Proposed, Proposed Permit Rule); and 91 Fed. Reg. at 31,684 (May 28, 2026) (Proposed Rule Reopening Comment Period).
[3] Public Law 115-141 and 116-4.

Permit Rule, the 2024 proposed Legacy CCR Rule, and the recent proposal to amend the 2024 Legacy CCR Rule.[4]

In its 2020 CCR Permit Rule comments, APPA supported EPA's view that the WIIN Act gives it discretion to develop and implement a federal CCR permit program and that the proposed permit options were appropriate for different types of CCR units. We also supported exemptions for beneficial use activities, a WIIN Act permit shield protecting permittees from enforcement actions and citizen suits, flexible site-specific compliance schedules, and allowing either the owner or operator to serve as the permittee. APPA continues to support these positions and incorporates its 2020 comments by reference.

I. Executive Summary

APPA's supplemental comments urge EPA to implement the federal CCR permit program in a clear, practical, and flexible manner that reflects the realities facing public power utilities. We recommend that EPA confirms the federal program applies only to activities regulated under 40 C.F.R. part 257, subpart D, and does not extend to excluded activities, beneficial use, temporary storage, dewatering structures, or other activities that do not constitute CCR disposal.

EPA should establish realistic permit application timelines that account for the expanded scope and complexity of the CCR program following the 2024 Legacy CCR Rule and proposed Legacy/CCMU amendments. Preparing complete applications will require facility-specific analysis, contractor support, and coordination with evolving federal and state requirements. APPA recommends the agency provide sufficient time—potentially at least 18 months—for facilities to prepare accurate and complete applications.

We also urge EPA to avoid disadvantaging facilities in states that are actively considering or pursuing CCR program approval. The agency should not impose duplicative federal permitting obligations while state applications are under review and should provide a clear, flexible framework for transitions between the federal program and approved state programs to ensure continuity of permit coverage.

APPA supports a tiered application and permit-review framework grounded in environmental and public health risk. EPA should prioritize reviews based on documented site-specific factors, such as groundwater impacts that pose a risk to drinking water, high-risk corrective action obligations, structural stability concerns, and other conditions presenting elevated potential risk—not state participation status alone. This approach would allow EPA to focus resources where they are most needed while providing greater certainty for regulated entities.

APPA supports using general permits to streamline CCR permitting for similarly situated units, including units pursuing beneficial use during closure, while preserving individual permits for complex site-specific conditions. General permits could also provide an interim compliance pathway

[4] APPA Comments on the Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Federal CCR Permit Program Proposed Rule EPA-HQ-OLEM-2019-0361-0335 (85 Fed. Reg. 9,940, February 20, 2020);
APPA Comments on the Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy CCR Surface Impoundments Proposed Rule) EPA-HQ-OLEM-2020-0107-0976 (88 Fed. Reg. 31,982, May 18, 2023); and
APPA Comments on the Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy/CCRMU Amendments Proposed Rule EPA-HQ-OLEM-2020-0107-1647 (91 Fed. Reg. 18,968, April 13, 2026).

aligned with the proposed 2026 Legacy/CCRMU amendments.

Finally, APPA supports electronic permitting as a tool to improve efficiency, transparency, and consistency, provided it is implemented flexibly. The agency should not require states to use a federally mandated platform as a condition of program approval. Any system should accommodate existing state systems, avoid duplicative reporting, preserve state discretion, and minimize unnecessary administrative burdens.

II. Background

The regulatory framework governing the disposal of CCRs has significantly evolved over the past decade. The 2015 CCR rule promulgated under the agency's authority under the Resource Conservation and Recovery Act (RCRA), established minimum national standards for the disposal of CCR units through a self-implementing regulatory approach. While this framework provides uniform protective standards, its one-size-fits-all approach and lack of a federal permitting mechanism, has created challenges for implementation, oversight, and enforcement.

In 2016, Congress enacted the WIIN Act, which amended RCRA to authorize EPA to review and approve state CCR permit programs that may operate "in lieu" of the federal CCR rule and directed EPA to establish a federal permit program based on the availability of federal funds in non-participating states. The WIIN Act does not provide detailed requirements for the procedures associated with issuing CCR permits, but rather simply directs the agency to "implement a federal permit program to require" each CCR unit in Indian country or a non-participating state "to achieve compliance with applicable criteria" for CCR units established by EPA under 40 C.F.R. Part 257.[5]

In 2020, the agency initially proposed a federal CCR permitting program that outlined a framework that would replace the existing self-implementing approach with a permit-based system administered by it. In developing the proposal, EPA relied on its experience administering permitting programs under other environmental statutes, including the Clean Water Act (CWA), RCRA Subtitle C, the Safe Drinking Water Act (SDWA), and the Clean Air Act (CAA). Consistent with these models, the proposal includes multiple permit types—individual permits, general permits, and permits by rule—to address the wide range of CCR unit characteristics and site conditions. The proposal outlined three permit options for different types of CCR units.

However, since issuance of the 2020 Proposed Rule, EPA has expanded the scope and complexity of CCR regulatory requirements through the 2024 Legacy CCR Rule.[6] The Legacy CCR Rule establishes two new classes of regulated CCR units under the federal CCR rule: "legacy CCR surface impoundments" (referred to herein as "legacy impoundments") and CCR management units (CCRMUs). The agency issued a proposal in April 2026 to amend certain provisions in the 2024 Legacy/CCRMU Final Rule.[7] The proposed amendments would add new compliance flexibilities and reduce other compliance requirements; including expanded closure options for legacy surface impoundments, exemption of dewatering structures, and proposed rescission of CCRMU requirements. The proposed Legacy Rule Amendments would also establish new compliance pathways allowing site-specific considerations for groundwater

[5] RCRA § 4005(2)(B), 42 U.S.C. § 6945(2)(B).
[6] 89 Fed. Reg. at 38,950 (May 8, 2024) (2024 Legacy CCR Rule).
[7] 91 Fed. Reg. at 18,968 (April 13, 2026) (2026 Proposed Legacy/CCRMU Amendments).

monitoring, corrective action, and/or closure requirements, as well as revise the definition of beneficial use.

These developments have significant implications on the structure and implementation of a federal permitting program, including the scope of permit applications, the level of technical analysis required, and the time needed to prepare complete submissions. The evolution of CCR regulatory requirements since 2020 underscores the need for a permitting framework that is both flexible and responsive to site-specific conditions, while remaining practicable for public power utilities and protective of human health and the environment.

III. Supplemental Comments on Federal Permit Program

APPA appreciates the opportunity to provide supplemental comments considering regulatory developments and potential changes to the CCR regulations since EPA issued the 2020 Proposal. We reiterate and incorporate our prior comments on the 2020 Proposal and offer the following supplemental comments.[8]

A. Federal Permit Program Scope and Applicability

APPA reiterates that the federal CCR permit program should apply only to activities subject to the requirements of 40 C.F.R. part 257, subpart D. EPA should ensure that the final rule does not extend federal CCR requirements to activities that are not regulated under the CCR rule, including activities excluded under 40 C.F.R. § 257.50, beneficial use of CCR, and activities that do not constitute disposal, such as temporary CCR storage, CCR storage piles, and CCR dewatering structures as addressed in EPA's 2026 Legacy/CCRMU Amendments Proposal. To avoid confusion and prevent unnecessary permitting obligations, the agency should make clear in the final regulatory text that these activities are not subject to federal CCR requirements.

1. State Applicability

APPA recommends EPA clarify how the federal CCR permit program will apply in states that are seeking approval of their own CCR permit programs. Under the WIIN Act, the agency must implement a federal permit program in nonparticipating states, but the statute excludes states with approved CCR programs and states that have submitted evidence of a state CCR program while EPA approval is pending.[9] The proposal does not clearly explain when a state has submitted sufficient "evidence of a state CCR program" to qualify for that exclusion and whether a state is excluded upon applying or only after EPA deems the application complete. The agency should interpret this provision to avoid requiring facilities in states actively pursuing approval to obtain duplicative federal permits, only to later transition to state-issued permits. At a minimum, units in those states should be excluded from the first tier of federal permit applications, while preserving the ability of facilities to seek a federal permit voluntarily if doing so would support timely compliance or address site-specific needs. APPA recommends that EPA clarify that a state is no longer considered a "nonparticipating state" once it has submitted an application, regardless of whether EPA has completed its review. This would provide greater regulatory certainty, reduce duplicative permitting efforts, and better support the WIIN Act's goal of encouraging state-led permitting programs.

[8] APPA Comments on the Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Federal CCR Permit Program; EPA-HQ-OLEM-2019-0361-0335 (July 20, 2020).
[9] 42 U.S.C 6945(d)(2)(A).

B. Permit Application Timeline Considerations

EPA seeks comments on the time needed to compile permit application materials under the proposed amendments to the Legacy Rule and whether first-tier applications should instead be due six months after publication of the final rule in the *Federal Register*. APPA recommends the agency provide significant flexibility in permit application timing and retain, at a minimum, the proposed 18-month deadline for first-tier applications. We do not support shortening the first-tier deadline to six months. A six-month timeframe is not sufficient for many facilities to prepare complete, accurate, and technically defensible applications, particularly where applications involve multiple CCR units, complex CCR systems, legacy impoundments, CCRMUs, groundwater analyses, corrective action evaluations, alternative compliance pathways, or other site-specific demonstrations.

Since EPA issued the 2020 Proposal, the CCR regulatory framework has expanded in scope and complexity through the 2024 Legacy CCR Rule and the 2026 Legacy/CCRMU Amendments Proposal. These developments have created multiple compliance pathways with varying levels of technical analysis and documentation. Standard closure approaches may rely on more established engineering demonstrations and certifications, while risk-based or alternative demonstrations may require hydrogeologic investigations, groundwater monitoring data, fate-and-transport modeling, engineering analyses, closure designs, corrective action assessments, and other site-specific documentation developed over time. For CCRMUs, in particular, groundwater characterization and the development of representative background concentrations often require multiple rounds of monitoring data over an extended period, consistent with EPA's existing CCR groundwater monitoring framework. Requiring applications before sufficient data are available would likely result in incomplete submissions or later permit amendments, neither of which would promote efficient permitting or informed regulatory decision-making.

The agency should avoid establishing application deadlines based on the assumption that all first-tier facilities possess the same level of technical information or are equally prepared to submit complete applications. The time needed to prepare an application will vary significantly based on the number and type of CCR units, site conditions, groundwater impacts, closure status, selected compliance pathway, available technical information, and the scope of any additional data collection, modeling, engineering analyses, certifications, and expert coordination needed to support the application. Accordingly, APPA recommends realistic and flexible timelines that reflect site complexity and the selected compliance pathway. Applications based on more limited or eligibility-driven pathways may be prepared within 16 to 18 months, while applications requiring full risk-based demonstrations, alternative closure determinations, or substantial groundwater characterization may require two years or more.

APPA also recommends that EPA account for any changes in the scope of regulated units when setting application deadlines. If CCRMUs remain regulated in any capacity, the agency should provide sufficient time for permittees to identify and evaluate those units before requiring permit applications. EPA should also provide a mechanism for extensions when warranted and allow preliminary applications for facilities pursuing alternative compliance pathways, followed by submission of additional site-specific information during the permit review process.

At the same time, APPA supports allowing facilities that are ready to submit permit applications earlier than the applicable deadline to do so. The agency should establish an electronic

permitting system capable of accepting early applications, including applications from facilities seeking site-specific flexibilities or alternative compliance pathways. EPA also should allow facilities not included in the first tier to apply at any time, particularly where a permit would help address corrective action, closure, or other site-specific compliance issues. Providing adequate time and flexibility will improve application quality, promote efficient EPA review, reduce unnecessary administrative burdens, and ensure owners and operators can develop the information needed to demonstrate compliance with the CCR regulations while maintaining practicability and protectiveness under RCRA Subtitle D.

1. Availability of Qualified Contractors

Utilities often rely on specialized third-party engineers, hydrogeologists, environmental consultants, and other technical experts to develop the information necessary to comply with CCR requirements. These experts are often responsible for conducting groundwater assessments, preparing engineering evaluations, developing corrective action analyses, and compiling supporting permit documentation. The same limited pool of qualified contractors is likely to be in high demand across multiple facilities following promulgation of the final federal permitting rule. As a result, contractor availability may significantly affect the amount of time required to prepare complete permit applications. This is particularly true for facilities requiring additional site characterization, groundwater evaluation, modeling, engineering analyses, or other technical work that cannot be completed solely using existing information. EPA should recognize that these resource constraints are largely outside the control of permit applicants and may significantly affect the timing of application preparation.

APPA recommends that the agency provide flexibility in application deadlines to accommodate potential limited contractor availability. Allowing sufficient time for application preparation will help ensure that facilities can obtain the necessary technical support and submit complete, accurate applications that facilitate efficient permit review.

2. Uncertainty Regarding State Participation

EPA seeks comments from states that have not submitted a CCR program application regarding their intent to pursue program approval and the anticipated timeframe for doing so.[10] Many states are still evaluating whether to seek state CCR program approval because of uncertainty over the federal program's timing and structure, as well as the availability of WIIN Act funding to support the development and maintenance of state permitting programs.

Without greater certainty regarding EPA's implementation timeline, states may be hesitant to commit significant resources to developing a CCR permitting program. Additionally, state program approval requires state regulations to be at least as protective as the federal framework. The proposed revisions to the Legacy CCR Rule may require significant revisions to current state CCR regulations and depending on if or when those revisions are finalized, the scope and timing of state participation decisions may be altered. Furthermore, state regulatory and legislative processes often operate on timelines that do not align with federal rulemakings, which can create significant scheduling and resource constraints for states considering program approval.

The availability of federal funds is another significant factor affecting state participation decisions. Congress has directed EPA, by statute, to develop a federal CCR permit program using funding from

[10] 91 Fed. Reg. at 31,686.

the Environmental Programs and Management (EPM) budget. Since fiscal year 2017, Congress has appropriated $50 million to implement a federal CCR permit program. Twenty-seven million dollars of those EPM funds can also be used "to provide technical assistance to states establishing their own permitting program under section 4005(d) of the Solid Waste Disposal Act."[11] States may receive technical assistance grants through EPM for the purpose of creating a state-run CCR program, and since 2022, approximately $18.4 million dollars of EPM funds have been obligated to states.[12] However, these funds are not automatically or immediately available. Federal appropriations are subject to annual budget decisions, and uncertainty regarding the availability or timing of future funding is common. Even if adequate federal funding is available, states must first identify funding needs, prepare and submit grant applications, receive awards, and then use those resources to develop the legal, technical, and administrative infrastructure necessary to operate a CCR permitting program. States also must evaluate whether they have the regulatory framework, staffing, technical expertise, and long-term funding necessary to establish and maintain a CCR permit program. As a result, some states may not be able to declare, within EPA's requested timeframe, whether they intend to pursue program approval. Likewise, they may be unable to provide reliable application timeline estimates because those timelines will vary depending on several factors, including the availability and timing of federal funding, the extent of program development required, and state-specific regulatory processes.

EPA should clarify how changes in state participation status would affect the federal permitting program, including permit tiering and application deadlines. States may initially intend to seek CCR program approval but later determine that funding, staffing, or other resources are unavailable; others may initially decline to participate but later decide to apply. The proposal does not explain how these changes would affect facilities already assigned to permitting tiers or preparing permit applications.

APPA recommends that the agency establish a clear framework for addressing state participation changes during federal permit program implementation. EPA should explain how facilities will be categorized and prioritized if a state applies after implementation begins, the agency determines an application is incomplete, a state withdraws its application, or EPA disapproves a state program. EPA also should clarify whether transition periods will be provided and how application deadlines will be adjusted. Facilities should not be disadvantaged by state program status changes outside their control.

This clarification is important because uncertainty over state participation directly affects facility planning and compliance schedules. APPA supports EPA's proposed approach for transitioning permitting authority between the federal CCR permitting program and approved state programs, including the agency's commitment to maintain continuity of permit coverage. Because transfer procedures will vary by state, EPA should retain flexibility to manage transitions on a state-specific basis while avoiding duplicative permitting obligations and compliance disruptions for regulated facilities.

C. General Permit Program

APPA supports the agency's continued consideration of general permits as part of the federal CCR permit program. General permits can provide an efficient and effective permitting approach for

[11] 42 U.S.C. 6945(d)).
[12] State Programs for Control of Coal Combustion Residuals, Assistance Listing No. 66.205, SAM.gov, https://sam.gov/fal/1d09914bbfcc4b25bd7107556d5c8ab4/view (last visited July 21, 2026).

defined categories of similarly situated CCR units, while allowing EPA to reserve individual permits for facilities with unique or site-specific site conditions. APPA intends to submit separate comments on the agency's ANPRM regarding general permit coverage but believes the role of general permits also warrants brief discussion in these comments because general permits were included in the 2020 proposed federal permit framework.

The proposed 2020 federal CCR permit program provided an example of the types of CCR units eligible for coverage such as surface impoundments undergoing corrective action. In addition to those categories, APPA recommends a general permit for CCR units pursuing beneficial use during closure, including phased excavation or "unzipping" of a CCR landfill. This general permit category should include reasonable closure extensions when CCR is being used for beneficial purposes if the unit meets defined conditions. This flexibility would support proposed closure pathways, encourage resource recovery, reduce disposal volumes, and remain consistent with the agency's policy of promoting beneficial use of CCR.

General permits could serve as an important bridge during implementation by providing a practical interim compliance pathway consistent with the alternative compliance approaches proposed in the 2026 Legacy/CCRMU Amendments Proposal. General permits can streamline permit administration, promote consistency among similarly situated units, reduce permitting delays, and allow EPA to focus limited resources on facilities with more complex site-specific issues.

IV. Approach To Tiering and Prioritizing Individual Permits

EPA is also seeking comment on approaches to tiering permit applications, including prioritizing facilities in states that do not intend to seek state program approval.[13] While APPA recognizes the need for the agency to establish a framework for managing permit application workload and allocating resources, it should ensure that both permit application tiering and permit review prioritization is driven by environmental and public health risk considerations rather than the status of state permit program development. APPA supports a tiered permitting framework that prioritizes attention on CCR units presenting the greatest potential risk to human health and the environment. The criteria used to categorize facilities and the criteria used to prioritize permit review serve different functions and should be considered separately.

A. Tiering of Permit Applications and Review Should Be Based on Risk Considerations

EPA proposes to establish a tiered schedule requiring first-tier "high hazard" permit applications to be submitted within 18 months of the final rule's effective date, with timelines for other facilities to be established later. APPA supports the agency's effort to establish a tiered application framework.

Tier placement should be based on objective indicators of potential risk, such as documented significant exceedances of groundwater protection standards, structural stability concerns, proximity to sensitive receptors, ongoing high-risk corrective action obligations, or other factors demonstrating a greater need for near-term regulatory review. These factors provide a rational basis for determining which facilities are considered "high hazard" because they directly reflect the potential risks that the CCR permitting program is intended to address. While high-hazard units should remain the highest priority for permitting, EPA should avoid requiring permit applications for CCRMUs before permittees have adequate certainty regarding the applicability

[13] 91 Fed. Reg. at 31,686.

and extent of those requirements.

By contrast, APPA does not support basing tier placement on whether a state has indicated an intent to seek CCR program approval. State participation status is an administrative consideration that does not correlate with potential environmental risk. Facilities with similar site conditions and risk profiles should be treated consistently regardless of the state in which they are located.

Accordingly, APPA recommends that EPA establish a transparent and objective tiering framework that relies on risk-based criteria rather than state participation status or other administrative factors unrelated to potential environmental and human health impacts.

B. Permit Review and Processing Prioritization Should Focus on Applications Presenting the Greatest Potential Risk

APPA recommends that EPA establish a risk-based framework for both application tiering and permit review. The agency should prioritize applications involving facilities with documented groundwater contamination that pose a risk to drinking water, ongoing high-risk corrective action obligations, structural stability concerns, or other site-specific conditions presenting elevated risk. Facilities with lower-risk profiles, stable conditions, and fewer unresolved technical issues may warrant lower review priority. This approach would allow EPA to direct limited resources where they are most needed, while preserving appropriate flexibility for lower-risk facilities.

EPA also should establish a clear process for responding to any notice of intent to deny a permit application. Applicants should have a meaningful opportunity to address and correct deficiencies identified by the agency before it issues a final denial. Because permit denial may have significant operational and compliance consequences, the final rule should include a transparent and predictable process governing notices of intent to deny, applicant responses, and final agency determinations.

Finally, EPA should clarify that assignment to an application tier or permit review priority category is not a determination of compliance status, liability, or permit approvability. Tiering and prioritization should be used solely for administrative planning and resource allocation. A risk-based framework grounded in objective indicators of environmental and public health risk would promote consistency, transparency, and fairness while ensuring EPA resources are focused on facilities requiring the greatest regulatory attention under RCRA Subtitle D

V. Electronic Permitting

EPA is seeking comments on the implementation of an electronic permitting process, including development of a CCR module within the RCRAInfo system, and on whether such a system should apply to both EPA-issued permits and state-issued permits operating in lieu of the federal program.[14] APPA supports the use of electronic systems to improve the efficiency, transparency, and consistency of the permitting process. An appropriately designed electronic permitting system could facilitate submission and review of applications, enhance data accessibility, and promote national consistency in the administration of CCR permit programs.

[14] 91 Fed. Reg. at 31,685-86.

APPA recommends that EPA not condition state program approval on the use of a federally mandated electronic permitting system. States may already maintain electronic permitting databases capable of supporting CCR permitting, and requiring migration to a federal platform could impose unnecessary administrative burdens on state regulators and create duplicative reporting obligations for regulated entities. The agency should implement any electronic permitting system in a flexible manner that accommodates both federal and state permitting authorities, ensures that required forms and data elements are adaptable to site-specific CCR permitting decisions, and preserves permit writers' discretion to tailor permit conditions to facility-specific circumstances. EPA should also coordinate with state agencies to ensure appropriate system compatibility, avoid duplicative or inconsistent reporting requirements- such as retaining website posting requirements in addition to electronic submittals, and prevent electronic permitting procedures from delaying permit issuance or timely compliance.

VI. Conclusion

APPA appreciates the opportunity to submit additional comments on EPA's proposed federal CCR permit program to address key implementation considerations. APPA continues to support the establishment of a federal CCR permit program as a necessary regulatory backstop that provides permitting flexibility and facilitates the transition to authorized state programs consistent with the WIIN Act.

In finalizing the rule, EPA should ensure that the permitting framework reflects the expanded scope and complexity of post-2020 CCR regulatory requirements, including those applicable to legacy CCR units and site-specific risk-based determinations. The agency should retain realistic and achievable timelines for permit application preparation, avoid shortening deadlines in a manner that would compromise the completeness and quality of applications, and adopt a tiering approach that supports—rather than disrupts—state program development and facility compliance efforts. EPA should also implement any electronic permitting system in a manner that promotes efficiency and transparency while maintaining flexibility for state permitting authorities and avoids duplicative administrative burdens.

APPA appreciates the reopening of the comment period on the proposed rule and supports a final federal CCR permit program that is both protective and practicable and provides a clear and effective pathway for compliance. We look forward to EPA finalizing the rule as soon as practicable. If you have questions regarding these comments, please contact Ms. Carolyn Slaughter (202) 467-2900 or email CSlaughter@PublicPower.org.