

January 11, 2010

Client Alert

EPA Coal Ash Regulation Update

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Last September we advised you that U.S. EPA Administrator Lisa Jackson had committed to have a rule on management of coal combustion residuals ready for public comment by the end of 2009. The EPA has now announced that the decision is being delayed, without providing any timeline for when the proposed rule will be issued. The EPA now says that the decision will be “delayed for a short period due to the complexity of the analysis the agency is currently finishing”. Environmentalists are urging the EPA to list coal ash as a hazardous waste. Industry is urging EPA not to list it as a hazardous waste because the failure that triggered this attention on coal ash was an engineering failure and had nothing to do with the waste itself. Industry also points out that 44% of coal ash is currently being reused. Industry predicts listing coal ash as hazardous waste will result in 100% having to be disposed, rate payers having to pay the additional cost associated with disposal, and the loss of the current reuse market. Plews Shadley Racher & Braun LLP will continue to track the development of the proposed rule.