(3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

The Inflation Adjustment Act, as amended, requires agencies to adjust civil monetary penalties by the inflation adjustment described in section 5 of the Inflation Adjustment Act. The Act also provides that any increase in a civil monetary penalty shall apply only to civil monetary penalties, including those whose associated violation predated such an increase, which are assessed after the date the increase takes effect.

The Inflation Adjustment Act, as amended, provides that the inflation adjustment does not apply to civil monetary penalties under the Internal Revenue Code of 1986 or the Tariff Act of 1930.

Alcoholic Beverage Labeling Act

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the Federal Alcohol Administration Act (FAA Act) pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

The FAA Act contains the Alcoholic Beverage Labeling Act (ABLA) of 1988, Public Law 100–690, 27 U.S.C. 213–219a, which was enacted on November 18, 1988. Section 204 of the ABLA, codified in 27 U.S.C. 215, requires that a health warning statement appear on the labels of all containers of alcoholic beverages manufactured, imported, or bottled for sale or distribution in the United States, as well as on containers of alcoholic beverages that are manufactured, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the U.S. Armed Forces, including those located outside the United States.

The health warning statement requirement applies to containers of alcoholic beverages manufactured, imported, or bottled for sale or distribution in the United States on or after November 18, 1989. The statement reads as follows:

Government Warning: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems.

Section 204 of the ABLA also specifies that the Secretary of the Treasury shall have the power to ensure the enforcement of the provisions of the ABLA and issue regulations to carry them out. In addition, section 207 of the ABLA, codified in 27 U.S.C. 218, provides that any person who violates the provisions of the ABLA is subject to a civil penalty of not more than $10,000, with each day constituting a separate offense.

Most of the civil monetary penalties administered by TTB are imposed by the Internal Revenue Code of 1986, and thus are not subject to the inflation adjustment mandated by the Inflation Adjustment Act. The only civil monetary penalty enforced by TTB that is subject to the inflation adjustment is the penalty imposed by the ABLA at 27 U.S.C. 218.

TTB Regulations

The TTB regulations implementing the ABLA are found in 27 CFR part 16, and the regulations implementing the Inflation Adjustment Act with respect to the ABLA penalty are found in 27 CFR 16.33. This section indicates that, in accordance with the ABLA, any person who violates the provisions of this part is subject to a civil penalty of not more than $10,000. Further, pursuant to the provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, this civil penalty is subject to periodic cost-of-living adjustments. Accordingly, any person who violates the provisions of 27 CFR part 16 is subject to a civil penalty of not more than the amount listed at *https://www.ttb.gov/laws-regulations-and-public-guidance/other/penalties.* Each day constitutes a separate offense.

To adjust the penalty, § 16.33(b) indicates that TTB will provide notice in the **Federal Register** and at the website mentioned above of cost-of-living adjustments to the civil penalty for violations of 27 CFR part 16.

Penalty Adjustment

In this document, TTB is publishing its yearly adjustment to the maximum ABLA penalty, as required by the amended Inflation Adjustment Act.

As mentioned earlier, the ABLA contains a maximum civil monetary penalty. For such penalties, section 5 of the Inflation Adjustment Act indicates that the inflation adjustment is determined by increasing the maximum penalty by the cost-of-living adjustment. The cost-of-living adjustment means the percentage increase (if any) between the Consumer Price Index for All Urban Consumers (CPI–U) for the October preceding the date of the adjustment and the prior year's October CPI–U.

The CPI–U in October 2023 was 307.671, and the CPI–U in October 2024 was 315.664. The rate of inflation between October 2023 and October 2024 was therefore 2.598 percent. When applied to the current ABLA penalty of $25,561 this rate of inflation yields a raw (unrounded) inflation adjustment of $664.0748. Rounded to the nearest dollar, the inflation adjustment is $664, meaning that the new maximum civil penalty for violations of the ABLA will be $26,225.

The new maximum civil penalty will apply to all penalties that are assessed after January 16, 2025. TTB has also updated its web page at *https://www.ttb.gov/laws-regulations-and-public-guidance/other/penalties* to reflect the adjusted penalty.

Dated: January 10, 2025.

Amy R. Greenberg,

Acting Assistant Administrator, Headquarters Operations.

[FR Doc. 2025–00912 Filed 1–15–25; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 257

[EPA–HQ–OLEM–2020–0107; FRL–7814.1–04–OLEM]

RIN 2050–AH34

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Legacy CCR Surface Impoundments; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is taking direct final action to correct errors and clarify several provisions published in the **Federal Register** on May 8, 2024. This May 8, 2024 rule (Legacy Final Rule) established regulatory requirements for legacy coal combustion residuals (CCR) surface impoundments and CCR management units, among other things, under the Resource Conservation and Recovery Act (RCRA).

DATES: This final rule is effective on May 16, 2025 without further notice unless EPA receives adverse comment by March 17, 2025. If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public about the specific regulatory paragraph or amendment that will not take effect.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2020–0107. All documents in the docket are listed on

the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Behan, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304T, Washington, DC 20460; telephone number: (202) 566–0531; email address: *behan.frank@epa.gov,* or Taylor Holt, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304T, Washington, DC 20460; telephone number: (202) 566–1439; email address: *Holt.Taylor@epa.gov.* For more information on this rulemaking, please visit *https://www.epa.gov/coalash.*

SUPPLEMENTARY INFORMATION:

I. Why is the EPA using a direct final rule?

EPA is publishing this rule without a prior proposed rule because EPA views this as a noncontroversial action and anticipates no adverse comment since the amendments merely correct errors in the regulatory text and conform the regulatory text to the decisions articulated in the Legacy Final Rule preamble. However, in the ''Proposed Rules'' section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposed rule to adopt the provisions in this direct final rule if adverse comments are received on this direct final rule. The Agency will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of the proposed rule document.

If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public about the specific regulatory paragraph(s) or amendment(s) that will not take effect. The corrections that are not withdrawn will become effective on the date set out above. EPA would address all public comments in any subsequent final rule based on the comments and new information submitted in response to the proposed rule.

In light of the narrow purpose of this rule to conform the regulatory text to the final actions described in the Legacy Final Rule, EPA is only soliciting comment on whether the changes in this direct final rule conform the text to EPA's stated intent in the Legacy Final Rule preamble. EPA is not reconsidering, proposing to reopen, or otherwise soliciting comment on any provisions of the Legacy Final Rule itself. For the reader's convenience, EPA has provided a background description of individual provisions in the Legacy Final Rule in several places throughout this preamble. These descriptions do not reopen the underlying described provisions, but merely explain the context to inform the public of the basis for this action's technical corrections. In addition, for the convenience of the reader, EPA is revising and republishing §§ 257.75 and 257.100 in their entirety, which means that the regulatory text presented in this action is a combination of revised content (discussed in this preamble) and unchanged, republished content. The Agency is not reconsidering, proposing to reopen, or otherwise soliciting comment on the unchanged, republished content of these sections of the regulatory text. EPA will not respond to comments submitted on any issues other than those specifically identified in this action, and such comments will not be considered part of the rulemaking record.

II. General Information

A. Does this action apply to me?

This rule may be of interest to electric utilities and independent power producers that fall within the North American Industry Classification System (NAICS) code 221112. The reference to NAICS code 221112 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This discussion lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not described here could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in § 257.50 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

EPA is correcting errors and conforming the regulatory text to the decisions articulated in the Legacy Final Rule published in the **Federal Register** on May 8, 2024, which established regulatory requirements for legacy CCR surface impoundments and CCR management units (CCRMU). In addition, EPA is making a number of revisions to clarify the final requirements, such as consolidating the compliance deadlines for CCRMU into a single section and providing a deadline for the initial fugitive dust plan for CCRMU at facilities without a regulated unit.

C. What is the Agency's authority for taking this action?

EPA is publishing this rule under the authority of sections 1008(a)(3), 2002(a), 4004, and 4005(a), (d) of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, 42 U.S.C. 6907(a), 6912(a), 6944, 6945(a) and (d).

III. Background

On April 17, 2015, EPA issued national minimum criteria for the disposal of CCR as solid waste under subtitle D of RCRA (80 FR 21302) (2015 CCR Rule or CCR regulations). The 2015 CCR Rule, codified in subpart D of part 257 of Title 40 of the Code of Federal Regulations, established regulations for existing and new CCR landfills, existing and new CCR surface impoundments, and all lateral expansions of these CCR units. The 2015 CCR Rule also imposed requirements on inactive surface impoundments at active facilities but exempted inactive surface impoundments at inactive facilities. On August 21, 2018, the U.S. Court of Appeals for the District of Columbia Circuit vacated and remanded the provision that exempted inactive impoundments at inactive facilities from the CCR regulations. *Utility Solid Waste Activities Group, et al.* v. *EPA* (*USWAG*) 901 F.3d 414 (D.C. Cir. 2018).

On May 8, 2024, EPA published the Legacy Final Rule regulating inactive surface impoundments at inactive facilities (legacy CCR surface impoundments or legacy impoundments) under 40 CFR part 257, subpart D. (89 FR 38950). In addition, the final rule established requirements to address the risks from solid waste management activities involving the direct placement of CCR on the land

that was exempt from regulation under the 2015 CCR Rule. This included inactive CCR landfills, and CCR surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule; the final rule refers to these newly regulated units as CCRMU. The Legacy Final Rule added a definition for legacy CCR surface impoundments, CCRMU, among other terms. It also established the regulatory requirements applicable to legacy CCR surface impoundments and CCRMU, which largely consist of requiring compliance with certain existing CCR regulations, along with tailored compliance deadlines.

On November 8, 2024, EPA published a direct final rule to correct three errors in the Legacy Final Rule. In addition to taking action to correct inadvertent deletions of existing regulatory text in part 257, subpart D, the direct final rule made clear that the effective date of the Legacy Final Rule is November 8, 2024. These corrections are effective on February 6, 2025 (89 FR 88650).

IV. Revisions to Part 257, Subpart D

Since publication of the Legacy Final Rule, EPA has identified a number of errors in the final regulatory text. Some of these are typographical errors, while others are regulatory text that does not conform to the Agency's stated positions in the Legacy Final Rule preamble. EPA has also identified regulatory provisions that, as drafted, have the potential to be ambiguous or confusing. Some of these issues were raised to the Agency's attention by members of the public including industry, non-governmental organizations, and State regulatory agencies. EPA is addressing these errors, inconsistencies, and ambiguities in this direct final rule and companion proposed rule. These changes include: (1) Fixing incorrect regulatory text citations; (2) Clarifying and adding provisions in the regulatory text to match what is clearly described in the preamble; and (3) Improving rule implementation by adding a new section consolidating compliance deadlines for CCRMU.

A. Revisions to § 257.50(d) (Scope and Purpose)

In the preamble to the Legacy Final Rule, EPA explained its decision to extend regulation to certain other facilities currently generating power for the electrical grid that only have CCRMU onsite. 89 FR 39053. EPA explained that it was concerned that CCRMU (*e.g.,* inactive CCR landfills, closed CCR landfills, or closed CCR surface impoundments) are located at these facilities. EPA estimated that this category would consist of nine units at five facilities. Id., n. 141 (referencing ''Universe of CCR Management Units. April 2024.'').[1] The preamble described these facilities as ''other active facilities'' and defined them as those that: (1) On or after October 19, 2015, were producing electricity for the grid; (2) Had ceased placement of CCR in their onsite CCR units before the effective date of the 2015 CCR Rule (October 19, 2015); and (3) Had no inactive CCR surface impoundments. This was codified in the final regulatory text at § 257.50(d), which provides that ''This subpart applies to CCR management units . . . , located at active facilities.''

After the final rule was published EPA received several questions regarding the scope of the active facilities covered under § 257.50(d). Several entities noted that the final regulatory text could be read to extend beyond the scope described in the final rule preamble, to include all facilities producing power for the grid on or after October 19, 2015 regardless of whether there was any history of onsite CCR disposal or coal combustion for power generation at the facility, such as a nuclear electric power generation plant at which coal was never burned, or a wind electric power generation site developed on an agricultural field.

For example, one entity requested that EPA confirm that power generation sites that have never been ''used for treating, storing, disposing, or otherwise conducting solid waste management of CCR'' are not considered ''active facilities'' (*e.g.,* greenfield solar electric power generation sites or other electric generation facilities that have not combusted coal) and would not have to undertake a CCRMU facility evaluation. Another asked whether a facility that generates power that has beneficially used CCR onsite (*e.g.,* structural fill beneath a building structure) is required to comply with the facility evaluation requirements even if the location never burned coal.

EPA acknowledges that as currently written the regulation could result in the inclusion of electric utilities or independent power producers that have not placed CCR onsite or operated an onsite coal-fired electric generating unit (EGU), including, for example, the scenarios described in the previous paragraph. As the preamble made clear, this was never EPA's intent. Rather EPA intended the CCRMU regulations to only apply to facilities with a regulated CCR unit and to the small subset of active facilities described in the Legacy Final Rule preamble. Indeed, EPA specifically declined requests to extend coverage more broadly. See 89 FR 39053–39054. Consistent with that intent, today's technical correction rule amends the regulatory text at § 257.50(d), by replacing the phrase ''active facilities'' with the phrase ''other active facilities.'' EPA is also defining ''other active facility'' in § 257.53, to mean ''. . . a facility that meets all of the following conditions: (1) On or after October 19, 2015, the facility has produced electricity for the grid using fossil fuel; (2) By October 19, 2015, the facility had ceased placing at the facility any CCR generated by the onsite electric generating unit; and (3) There are no regulated CCR units at the facility.''

Consistent with that revision, a nuclear electric power generation facility at which coal was not burned, a wind electric power generation facility developed on an agricultural field or other electric generation facilities that have not combusted coal onsite would not be subject to the CCRMU regulations. The nuclear facility described above would not be subject to the CCRMU regulations because all three criteria of the definition of ''other active facility'' are not met. The wind facility described above also does not meet any of these criteria and consequently would not be subject to the CCRMU regulations. Similarly, other electric generation facilities (*e.g.,* solar facilities) that have never combusted coal onsite do not meet all of the ''other active facility'' criteria; even if the facility had produced electricity for the grid using fossil fuel, criteria 2 and 3 still have not been met. The same is generally true where the only activity at the electric generation facility involving CCR was its use as structural fill beneath a structure because the facility would not meet all three criteria. However, where CCR has been placed on the ground onsite, the facility owner or operator needs to be careful in conducting any redevelopment activities. If CCR is moved from its original placement as part of redeveloping the site, and is (re)placed directly on the land, this would constitute active disposal, subject to the CCR regulations in part 257 applicable to active disposal units.

In addition, EPA is revising § 257.100 to conform to the new definition of ''other active facility.'' Specifically, the term ''fuel'' in the regulatory text of § 257.100(a)(1) is revised to read ''fossil fuel.'' A similar conforming change is reflected in new paragraph (b)(4)(ii) of § 257.90.

[1] Docket item EPA–HQ–OLEM–2020–0107–1031 identifies the CCRMU at other active facilities.

Finally, the introductory paragraphs of § 257.75(a), (b), (c)(1), and (d)(1) of the Legacy Final Rule incorporated the same language from § 257.50(d) that EPA is now revising. Therefore, EPA is revising the introductory paragraphs of those provisions to add references to ''other active facilities'' so that those provisions conform with the description of regulated facilities in § 257.50(d). EPA is also correcting other errors in § 257.75(c) and (d), which are discussed in Unit IV.C of this preamble.

B. Revisions to § 257.53 (Definitions)

Since publication of the Legacy Final Rule, EPA has identified a number of errors in certain regulatory definitions. Some of these involve an inconsistency between the preamble and the regulatory text. Others are provisions that, as drafted, have the potential to be ambiguous or confusing. Several of these issues were raised to the Agency's attention by members of the public including industry, non-governmental organizations, and State regulatory agencies. To address these issues, EPA is amending three definitions so that they are consistent with the final actions described in the Legacy Final Rule preamble. Additionally, EPA is adding a definition of ''other active facility'' to § 257.53, which is discussed in Unit IV.A of this preamble.

1. Closed Prior to October 19, 2015

In the Legacy Final Rule, EPA established requirements for CCRMU and for legacy CCR surface impoundments. In the process, EPA explained several key classifications of CCR units. Importantly, EPA noted that since promulgation of the 2015 CCR Rule, any CCR surface impoundment that had ceased receiving CCR but still contained liquid and CCR on or after October 19, 2015, is classified as an ''inactive'' impoundment. 89 FR 38986–94. See also, *Electric Energy* v. *EPA,* 106 F4th 31, 42 (D.C. Cir 2024); *USWAG,* 941 F.3d at 432. Inactive impoundments located at active utilities have been regulated since issuance of the 2015 CCR Rule. 40 CFR 257.50(c). By contrast, inactive impoundments at inactive facilities are considered legacy impoundments. 89 FR 39100. However, EPA has realized that its new definition of a CCRMU conflicts with these provisions. Specifically, the definition's phrase ''closed prior to October 19, 2015'' could be read to cover both inactive impoundments currently regulated under the 2015 CCR regulations and legacy impoundments. Therefore, a correction is necessary.

The Legacy Final Rule defines a CCR management unit to ''include [ ] . . . CCR units that closed prior to October 19, 2015.'' 40 CFR 257.53. That phrase is defined in turn to include a ''CCR surface impoundment [that] completed closure . . . in accordance with state law prior to October 19, 2015.'' Id. But at the same time, the 2015 CCR regulations distinguish between ''closed'' and ''inactive'' impoundments based on whether free ''liquids'' are present. See 40 CFR 257.53 (definitions of ''closed'' and ''inactive CCR impoundment.''). As EPA explained in 2015, '' '[i]nactive' surface impoundments are those that contain both CCR and water, but no longer receive additional wastes. By contrast, a 'closed' surface impoundment would no longer contain water, . . . and would be capped or otherwise maintained.'' 80 FR 21343. See also, 89 FR 38992–38993. EPA accordingly defined ''closed'' in 2015 to mean that ''placement of CCR in a CCR unit has ceased, and the owner or operator has completed closure of the CCR unit in accordance with § 257.102 and has initiated post-closure care in accordance with § 257.104.'' 40 CFR 257.53. An impoundment closed in accordance with § 257.102 has eliminated free liquids and consequently would no longer contain liquids.

But this distinction between a closed and inactive impoundment was inadvertently omitted from the definition of a CCRMU, which referred only to a unit that had ''completed closure in accordance with state law'' without any further qualification. And as a factual matter, most inactive impoundments in existence in 2015 could be considered to have ''closed in accordance with state law.'' This is because as EPA has previously explained—and numerous commenters confirmed during the rulemaking—many State laws prior to 2015 either exempted CCR surface impoundments from State solid waste closure requirements or otherwise allowed free liquids to remain in a closed impoundment. See, 89 FR 38983–38984, 38990, 39029–39030; 80 FR 21322–21325.

Thus, that phrase in the CCRMU definition could be interpreted to re-classify every inactive CCR surface impoundment as a CCRMU, simply because of its status under State law, even if the impoundment meets the definition of an inactive or legacy CCR surface impoundment as defined elsewhere in the CCR regulations. This interpretation is, however, clearly inconsistent with the proposed Legacy Rule and the Legacy Final Rule, in which EPA explicitly considered—and rejected—the approach of classifying an impoundment based on its status under State law rather than on the existing definitions in § 257.53.

The proposed Legacy Rule explained that under the existing definitions in § 257.53, to the extent an impoundment still contains liquid, it would be an inactive impoundment, and that when located at an inactive facility, such a unit would be considered a legacy impoundment. 88 FR 31992. This is because under the existing definitions an ''inactive CCR surface impoundment'' means ''a CCR surface impoundment that no longer receives CCR on or after October 19, 2015[,] and still contains both CCR and liquids on or after October 19, 2015.'' 40 CFR 257.53. EPA further proposed that ''[t]his would apply whether the unit is considered 'closed' under state law.'' Id. 89 FR 38986.

The Legacy Final Rule retained this approach. In response to comments, the Legacy Final Rule discussed at length that under the existing definition, *any* impoundment that was no longer receiving CCR but contained CCR and liquids after 2015 is an inactive CCR surface impoundment, not a CCRMU, regardless of any other consideration, including its status under State law. See, 89 FR 38986–38996. As part of that discussion, EPA reiterated that, consistent with the original 2015 Rule, the presence of liquid remaining in an impoundment is a significant part of what distinguishes an ''inactive'' impoundment from a ''closed'' impoundment. Id. at 38992–38994. *See also id.* at 38996, specifically identifying ''[a]ny impoundment that still contains free liquids: (a) even if it is considered 'closed' under State law'' as a legacy impoundment.

The Legacy Final Rule preamble thus expressly maintained EPA's interpretations from 2015. It also contains no indication that EPA intended to reclassify as a CCRMU either any unit currently regulated under the 2015 Rule or any unit that EPA had proposed to regulate as a legacy impoundment. To the contrary, EPA disagreed with a commenter who characterized an impoundment that had closed under State law in 2008, but still contained CCR and liquids, as either a legacy CCR surface impoundment or a CCRMU. EPA explained the unit was actually an ''inactive CCR surface impoundment'' regulated under the 2015 Rule rather than either a legacy impoundment or a CCRMU. 89 FR 39027.

To correct this mistake, EPA is amending the definition of ''closed prior to October 19, 2015'' at 40 CFR 257.53 to include an express statement that any

unit that ''meets the definition of an inactive CCR surface impoundment or legacy CCR surface impoundment in § 257.53 is not a CCR management unit.''

2. CCR Landfill or Landfill

For reasons explained in the Legacy Final Rule preamble, EPA amended the definition of ''CCR landfill or landfill'' by changing the word ''receive'' to ''contain.'' See 89 FR 39043–39044, 39053. However, in the regulatory text, EPA inadvertently only changed the first instance of the word ''receives.'' This action corrects that error by amending the definition of ''CCR landfill or landfill'' so that all instances of ''receive'' are changed to ''contain.''

3. Facility

In the Legacy Final Rule, EPA adopted provisions that allow an owner or operator to complete the closure by removal of a CCR unit in two stages. See 89 FR 39082–39088. In the first stage, the owner or operator must complete the removal of all CCR from the unit and the removal or decontamination of all areas affected by releases from the CCR unit during the active life of the CCR unit (*e.g.,* soil contaminated by CCR), except for groundwater. In the second stage, the owner or operator must complete the groundwater corrective action during a separate post-closure care period that commences only after the first stage has been completed (*i.e.,* all CCR has been removed from the unit and affected areas have been decontaminated). Therefore, at some sites, during this post closure care period, the only solid waste remaining at the facility would be the contamination in the groundwater that is in the process of being remediated.

In order to effectuate this, conforming changes needed to be made to other provisions. EPA included some of these revisions in the final rule, (*e.g.,* EPA amended the definition of an operator to clarify that the term includes those person(s) or parties responsible for directing or overseeing groundwater monitoring, closure, or post-closure activities at a CCR unit). 89 FR 39052, 39100–39101. But the Agency failed to make similar revisions to the definition of a facility to account for this situation. As currently drafted, the term is defined to mean the land, and structures, other appurtenances, and improvements on the land, used for treating, storing, disposing, or otherwise conducting solid waste management of CCR. Although the provision could fairly be interpreted to include the CCR constituents contaminating the groundwater, to avoid any ambiguity EPA is amending the definition to expressly address this situation. Specifically, EPA is making two revisions. The first is to replace the phrase ''used for treating, storing, disposing, or otherwise conducting solid waste management of CCR'' with a phrase that mirrors the statutory formulations: ''where CCR is treated, is stored, or is disposed, or where solid waste management of CCR is otherwise conducted.'' In addition, EPA is adding the following sentence to the definition: ''A facility includes any onsite soil or groundwater that contains CCR or leachate, or where one or more constituent listed in appendix IV of this part is detected at a statistically significant level above the groundwater protection standard.''

C. Revisions to § 257.75 (Requirements for CCR Management Units)

1. Conforming Revisions to § 257.75(a), (b), (c), and (d)

As discussed in Unit IV.A of this preamble, EPA is making conforming changes to § 257.75(a) through (d), consistent with the revisions to § 257.50(d).

2. Typographical Error in § 257.75(c)(1)(xiv)

Section 257.75(c) specifies requirements for the Facility Evaluation Report Part 1. One of the paragraphs of § 257.75(c) includes a typographical error and this final rule corrects the error. The typographical error is in the first sentence of § 257.75(c)(1)(xiv) as shown in the Legacy Final Rule. Specifically, the cross-reference to paragraph (c)(i) is missing the second paragraph designation level and should instead read (c)(1)(i). Therefore, this final rule corrects the first sentence of paragraph § 257.75(c)(1)(xiv) to read: ''A narrative description of any data gaps for information in paragraphs (c)(1)(i) through (xiii) of this section . . .''

3. Typographical Errors in § 257.75(d)

Section 257.75(d) specifies requirements for the Facility Evaluation Report Part 2. One of the paragraphs of § 257.75(d) includes a typographical error and this final rule corrects the error. The typographical error is in the first sentence of § 257.75(d)(1) as shown in the Legacy Final Rule. Specifically, the cross-reference to paragraph (d)(i)(xiii) is incorrect and should instead read (d)(1)(xiv). Therefore, this final rule corrects this part of the first sentence of paragraph § 257.75(d)(1) to read: ''information specified in paragraphs (d)(1)(i) through (xiv) of this section . . .''

In addition, § 257.75(d) also includes two references to the Facility Evaluation Report Part 2; however, the text included in the Legacy Final Rule is uncapitalized. This final rule capitalizes these terms to read ''Facility Evaluation Report Part 2'' to be consistent with other uses of the term.

4. Consolidation of CCR Management Unit Deadlines in § 257.75(e) and Addition of § 257.75(f)

The Legacy Final Rule established various deadlines for CCRMU to comply with the regulatory requirements. These compliance deadlines are specified in multiple sections of part 257, subpart D, including, for example, §§ 257.75, 257.90, 257.101, 257.102, and 257.104. Since publication of the Legacy Final Rule, EPA has heard from entities that navigating multiple sections to identify the compliance deadlines for CCRMU is cumbersome. For clarity, EPA is adding a new paragraph at § 257.75(e) to the CCRMU Facility Evaluation provisions that consolidates all of the compliance dates for CCRMU. EPA is not revising any of these dates or removing the provisions from other sections of part 257, such as in the groundwater monitoring and corrective action sections. As a result of adding a new paragraph to § 257.75, the Agency is revising the section heading of § 257.75 to read ''Requirements for identifying CCR management units and deadlines.'' Finally, EPA is also redesignating the existing paragraph (e) as (f).

D. Revisions to § 257.80 (Fugitive Dust Requirements)

In the Legacy Final Rule, EPA required owners or operators of CCR units to comply with the fugitive dust requirements in § 257.80. In the final rule preamble, EPA explains that EPA expects facilities with CCRMU to already have a fugitive dust control plan because: (1) Fugitive dust requirements apply to the entire facility and (2) CCRMU are located at facilities with a regulated CCR unit. 89 FR 39061. Therefore, instead of creating a deadline for the creation of fugitive dust plans for CCRMU, EPA finalized a deadline of no later than 30 days following a triggering event, such as the closure of a CCRMU or change in facility or CCR unit operations, for owners or operators to amend their existing fugitive dust plans. However, not all facilities regulated under the CCRMU provisions will be required to have a fugitive dust plan prior to identifying a CCRMU (*i.e.,* ''other active facilities''). As such, the owners or operators of these facilities do not have regulatory certainty regarding when they must develop their initial

fugitive dust plan. This action corrects this oversight by finalizing a deadline of no later than August 9, 2027 (*i.e.,* six months after the Facility Evaluation Report Part 2 pursuant to § 257.75(d) is due) for the initial fugitive dust plan for CCRMU located at other active facilities. This compliance timeframe (*i.e.,* six months after determining applicability of the fugitive dust requirements) is consistent with timeframes provided in the 2015 CCR Rule and for legacy CCR surface impoundments in the Legacy Final Rule. See revisions to § 257.80(b)(5).

E. Revisions to § 257.90 (Groundwater Monitoring and Corrective Action Applicability)

The Legacy Final Rule preamble clearly stated CCRMU must conduct assessment monitoring simultaneously with detection monitoring. 89 FR 39065–39066. However, the corresponding regulatory text was inadvertently omitted from the final rule. Therefore, consistent with the Legacy Final Rule preamble, this action is amending § 257.90(b)(3)(iii) to include the requirement for owners or operators of CCRMU to comply with the assessment monitoring requirements.

Additionally, the Legacy Final Rule established various deadlines for CCR units to comply with the groundwater monitoring and corrective action requirements in §§ 257.90–98. The compliance deadlines for different CCR units (*i.e.,* landfills, CCRMU, inactive surface impoundments, legacy surface impoundments) are specified in multiple sections of part 257, subpart D, including, §§ 257.90, 257.100(a), 257.100(e), and 257.100(f). Since publication of the Legacy Final Rule, EPA has heard from entities that navigating multiple sections to determine initial groundwater monitoring compliance deadlines is cumbersome. Therefore, for clarity, EPA is adding a new paragraph at § 257.90(b)(4) that will duplicate and consolidate the initial timeframes for the groundwater monitoring requirements applicable to inactive CCR surface impoundments and legacy CCR surface impoundments. With the addition of this new paragraph, readers of § 257.90(b) will be able to locate the initial groundwater monitoring timeframes for all CCR units. With this action EPA is not revising the initial timeframes, nor removing, or otherwise modifying the provisions in § 257.100(a)(1), (e)(5) and (f)(4) that are now referenced in the new § 257.90(b)(4).

F. Revision to § 257.95 (Assessment Monitoring Program)

As stated above and in Unit IV.E of this preamble, in contradiction with the Legacy Final Rule preamble, the provisions requiring owners and operators of legacy CCR surface impoundments and CCRMU to conduct simultaneous detection and assessment monitoring were inadvertently omitted from the regulatory text. Additionally, the provisions that contain the groundwater monitoring compliance deadlines are in different locations within the Legacy Final Rule regulatory text; EPA expects this may cause confusion about the compliance deadline. Therefore, consistent with the Legacy Final Rule preamble and to improve implementation, this action is amending § 257.95(a) and (b) to clarify the applicability of the assessment monitoring requirements to legacy CCR surface impoundments and CCRMU and the associated compliance deadlines.

G. Revisions to § 257.100 (Inactive CCR Surface Impoundments and Legacy CCR Surface Impoundments)

1. Requirements and Deadlines for Certain Facilities With an Inactive CCR Surface Impoundment in § 257.100(a)(1)

The preamble to the Legacy Final Rule states that EPA adopted a pathway to compliance for facilities that believed they were inactive facilities and did not have units subject to the requirements of the 2015 CCR Rule, despite these facilities producing electricity through renewables. The Legacy Final Rule further states that such facilities producing electricity through renewables (*i.e.,* non-fossil fuels) are subject to the same applicable compliance deadlines as inactive impoundments at inactive facilities (*i.e.,* legacy CCR surface impoundments). 89 FR 39001. EPA is revising the regulatory text in § 257.100(a)(1) to clarify that the requirements and compliance timeframes applicable to these facilities are specified in § 257.100(f)(1).

2. Facility Evaluation Report Requirements for Facilities With a Legacy CCR Surface Impoundment in § 257.100(f)(1)(iii)

The Legacy Final Rule preamble states that an owner or operator of a legacy CCR surface impoundment who utilizes the applicability report extension(s) available through § 257.100(f)(1)(iii) will have the subsequent deadlines delayed by the length of the extension(s). 89 FR 39007–39008. The regulatory text includes provisions to extend those deadlines for legacy CCR surface impoundments. However, the provision that cross-referenced the extensions for the CCRMU requirement deadlines was inadvertently omitted from the final rule. This action is amending § 257.100(f)(1)(iii) to include the deadline extensions for the CCRMU requirements for these owners or operators, consistent with the final rule preamble.

3. Typographical Error in § 257.100(f)(1)(iii)(A)(3)

EPA identified a typographical error in § 257.100(f)(1)(iii)(A)(*3*) as the regulatory text does not include the word ''all.'' Therefore, EPA is correcting this error so the regulatory text now reads: ''The details of a written field investigation work plan, including all of the following.''

4. Groundwater Monitoring and Corrective Action Under § 257.100(f)(4)

The Legacy Final Rule preamble clearly stated legacy CCR surface impoundments must conduct assessment monitoring simultaneously with detection monitoring. 89 FR 39020. However, the corresponding regulatory text was inadvertently omitted from the final rule. Therefore, consistent with the Legacy Final Rule preamble, this action is amending § 257.100(f)(4)(iii)(A) to include the requirement for owners or operators of legacy CCR surface impoundments to comply with the assessment monitoring requirements.

5. Typographical Error in § 257.100(f)(4)(iv)

EPA identified a typographical error in § 257.100(f)(4)(iv), which is the paragraph that contains the deadline when the first annual groundwater monitoring and corrective action report is due for legacy CCR surface impoundments. The regulatory text established a deadline for this report of January 31, 2027. However, after publication, EPA realized that this deadline was one year too soon, as the actions required to be included in this report are not required to be completed by that date. Therefore, EPA is correcting the date when the first annual groundwater monitoring and corrective action report is due for legacy CCR surface impoundments to be January 31, 2028 to ensure the report contains all the required information set forth in § 257.90(e).

6. Certification of Closure by Removal for Legacy CCR Surface Impoundments in § 257.100(g)

The Legacy Final Rule preamble clearly states an owner or operator of a legacy CCR surface impoundments who is able to complete the certification of

closure by removal pursuant to § 257.100(g) is not subject to any further requirements under the Legacy Final Rule, including the CCRMU requirements. 89 FR 39008–39010. The corresponding regulatory text was inadvertently omitted from the final rule. Therefore, in this action, EPA is amending § 257.100(g) to include a provision that exempts owners and operators of legacy CCR surface impoundments that complete the certification of closure by removal from any further requirements under part 257, consistent with the Legacy Final Rule preamble.

7. Typographical Error in § 257.100(g)(6)(vii)

EPA identified a typographical error in § 257.100(g)(6)(vii) that mistakenly references ''paragraph (g)(3) of this section,'' rather than (g)(6). Section 257.100(g)(3) requires documentation that all CCR and other contaminated materials were removed from the unit. This is different from what § 257.100(g)(6) requires, which is all the documentation that groundwater monitoring concentrations do not exceed the groundwater protection standards established pursuant to § 257.95(h) for constituents listed in Appendix IV to part 257. Therefore, for accuracy, EPA is correcting this citation to reference ''paragraph (g)(6) of this section''.

8. Simplification of § 257.100(h)

To simplify the final regulation, EPA is replacing a cross-reference with the actual compliance date found in the referenced provision. Section 257.100(h) in the Legacy Final Rule sets the compliance deadline for the owner or operator of a legacy impoundment to complete a certification as November 8, 2024 by referencing ''the date listed in paragraph (f)(1)(i) of this section.'' In this action, EPA is simplifying the regulation by replacing that phrase with the referenced date, November 8, 2024.

9. Compliance Date Clarification in § 257.100(i)

In § 257.100(i), EPA finalized a set of requirements for legacy CCR surface impoundments that have completed closure in accordance with § 257.102(d) no later than November 8, 2024 or a closure that meets the criteria in § 257.101(g). As finalized in the Legacy Final Rule, the introductory paragraph could be mistakenly read as setting a November 8, 2024 deadline for all the requirements in the paragraph instead of the date by which closure must have been completed for the requirements listed subsequently to be applicable. Additionally, § 257.100(i) of the Legacy Final Rule included the wrong compliance deadlines for certain requirements (*e.g.,* to compile a unit history of construction). For some requirements § 257.100(i) refers to the deadlines in the 2015 CCR rule, rather than the deadlines applicable to legacy impoundments. To clarify these deadlines for the regulated community, EPA is amending the introductory paragraph and adding dates to § 257.100(i)(1) through (11), as appropriate.

Finally, for the reasons explained in Unit IV.E of this preamble and consistent with the changes in § 257.100(f)(4) and the Legacy Final Rule preamble, this action is amending § 257.100(i)(7)(iii)(A) to include the requirement for owners or operators of these legacy CCR surface impoundments to comply with the assessment monitoring requirements.

H. Revisions to § 257.102 (Criteria for Conducting the Closure or Retrofit of CCR Units)

1. Closure for Cause for Legacy CCR Surface Impoundments and CCR Management Units in § 257.102(e)(4)

The regulations require certain CCR units to close for cause. In the 2015 CCR Rule, this included CCR surface impoundments that are unlined (§ 257.71), fail location restrictions (§§ 257.60 through 257.64), or fail factors of safety (§ 257.73), and landfills that fail the location restriction for unstable areas (§ 257.64). The 2015 CCR Rule implements this with regulatory text in § 257.101 (mandatory closure deadlines) and § 257.102 (closure standards). The 2015 CCR Rule also included specific regulatory text in § 257.102(e) stating that CCR units closing for cause are not eligible for the provisions in § 257.102(e)(2) that allow units to idle. The Legacy Final Rule also mandated the closure of legacy CCR surface impoundments and CCRMU. 89 FR 39026–39027, 39070–39071, 39108. However, EPA inadvertently failed to similarly amend § 257.102(e) to make clear that these units are not eligible for the idling provisions under § 257.102. Therefore, EPA is amending § 257.102(e)(4) to clarify that legacy CCR surface impoundments and CCRMU are not eligible for the idling provisions by adding paragraphs (vi) and (vii) referencing the closure for cause provisions in § 257.101.

2. Completion of Closure Deadlines in § 257.102(f)(1)(ii)

The Legacy Final Rule establishes a deadline of five years to complete closure of a legacy CCR surface impoundment, which is the same time provided to CCR surface impoundments regulated by the 2015 CCR Rule. 89 FR 39033. However, the regulatory text was not amended to add legacy CCR surface impoundments to the list of CCR units that are provided five years to complete closure. Therefore, EPA is amending § 257.102(f)(1)(ii) to add legacy impoundments to the list of CCR units that are provided five years to complete closure.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14904: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. An ICR covering the information collection activities contained in the existing Legacy Final Rule has been submitted for OMBs approval under the temporary OMB control number 2050–0231. The corrections and clarifications to the CCR Legacy Final Rule contained in this action do not have an effect on the established information collection requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities (SISNOSE) under the RFA. This final rule clarifies and corrects errors in the regulatory text of the CCR Legacy Final Rule. This rule does not impose any additional requirements on any entities, including small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The rule clarifies and corrects errors in the regulatory text of the CCR Legacy Final Rule. This rule does not impose any additional requirements, and thus the costs involved in this action are estimated not to exceed $183 million in 2023$ ($100 million in 1995$ adjusted for inflation

using the GDP implicit price deflator) or more in any one year.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. The rule clarifies and corrects errors in the regulatory text of the CCR Legacy final rule. This rule does not impose any additional requirements. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that this action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This rule clarifies and corrects errors in the regulatory text of the CCR Legacy Final Rule. This rule does not impose any additional requirements. EPA conducted an extensive Environmental Justice analysis for the Legacy CCR rule. The results of that analysis can be found in the preamble for that final rule. 89 FR 39098.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 257

Environmental protection, Beneficial use, Coal combustion products, Coal combustion residuals, Coal combustion waste, Disposal, Hazardous waste, Landfill, Surface impoundment.

Jane Nishida,

Acting Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

■ 1. The authority citation for part 257 continues to read as follows:

Authority: 42 U.S.C. 6907(a)(3), 6912(a)(1), 6927, 6944, 6945(a) and (d); 33 U.S.C. 1345(d) and (e).

■ 2. Amend § 257.50 by revising paragraph (d) to read as follows:

§ 257.50 Scope and purpose.

* * * * *

(d)(1) This subpart applies to CCR management units containing 1,000 tons or greater of CCR, located at facilities with a regulated CCR unit or other active facilities.

(2) CCR management units containing greater than or equal to 1 ton and less than 1,000 tons of CCR, located at facilities with a regulated CCR unit or other active facilities are subject only to the requirements of the facility evaluation report in § 257.75 until a permitting authority determines that regulation of these units, either individually or in the aggregate, is warranted and determines the applicable requirements.

* * * * *

■ 3. Amend § 257.53 by:

■ a. Revising the definitions of ''Closed prior to October 19, 2015'', ''CCR landfill or landfill'' and ''Facility''; and

■ b. Adding in alphabetical order the definition of ''Other Active Facility''.

The revisions and addition read as follows:

§ 257.53 Definitions.

* * * * *

Closed prior to October 19, 2015 means the closure of the CCR landfill or surface impoundment was completed in accordance with State law prior to October 19, 2015. However, a CCR surface impoundment that meets the definition of an inactive CCR surface impoundment or legacy CCR surface impoundment in § 257.53 is not a CCR management unit.

* * * * *

CCR landfill or landfill means an area of land or an excavation that contains CCR and which is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. For purposes of this subpart, a CCR landfill also includes sand and gravel pits and quarries that contain CCR, CCR piles, and any practice that does not meet the definition of a beneficial use of CCR.

* * * * *

Facility means all contiguous land, and structures, other appurtenances, and improvements on the land, where CCR is treated, is stored, or is disposed; or where solid waste management of CCR is otherwise conducted. A facility may consist of several treatment, storage, or disposal operational units (*e.g.,* one or more landfills, surface impoundments, or combinations of them). A facility includes any onsite soil or groundwater that contains CCR or leachate, or where one or more constituent listed in appendix IV of this part is detected at a statistically significant level above the groundwater protection standard.

* * * * *

Other Active Facility means a facility that meets all of the following conditions:

(1) On or after October 19, 2015, the facility has produced electricity for the grid using fossil fuel;

(2) By October 19, 2015, the facility had ceased placing at the facility any CCR generated by the onsite electric generating unit; and

(3) There are no regulated CCR units at the facility.

* * * * *

■ 4. Revise and republish § 257.75 to read as follows:

§ 257.75 Requirements for identifying CCR management units and deadlines.

(a) *Applicability.* The requirements of this section apply to owners and operators of facilities with a regulated CCR unit or other active facilities.

(b) *Facility evaluation.* The owner or operator of a facility with a regulated CCR unit or other active facility must conduct a facility evaluation to identify all CCR management units at the facility in accordance with paragraphs (c) through (e) of this section. At a minimum, the presence or absence of CCR management units at the facility must be confirmed and documented through a thorough evaluation of reasonably and readily available records that contain the information needed to prepare the Facility Evaluation Reports Part 1 and Part 2 required by paragraphs (c) and (d) of this section. The facility evaluation must also include a physical inspection of the facility. Where necessary, the physical inspection must include field investigation activities to fill data gaps, such as conducting exploratory soil borings, geophysical assessments, or any other similar physical investigation activities to establish the location and boundaries of potential or likely CCR management units, and to affirmatively rule out other areas of potential CCR placement at the facility that were identified during the information review or physical inspection. The facility evaluation must identify all CCR management units at the facility regardless of when the CCR management unit came into existence.

(c) *Facility Evaluation Report Part 1.* (1) No later than Monday, February 9, 2026, the owner or operator of a facility with a regulated CCR unit or other active facility must prepare a Facility Evaluation Report Part 1, which shall contain, to the extent reasonably and readily available, the information specified in paragraphs (c)(1)(i) through (xiv) of this section. The owner or operator has prepared the Facility Evaluation Report Part 1 when the report has been placed in the facility's operating record as required by § 257.105(f)(25).

(i) The name and address of the person(s) owning and operating the facility; the unit name associated with each regulated CCR unit and CCR management unit at the facility; and the identification number of each regulated CCR unit and CCR management unit if any have been assigned by the State or by the owner.

(ii) The location of any CCR management unit identified on the most recent U.S. Geological Survey (USGS) 2 minute or 15-minute topographic quadrangle map, or a topographic map of equivalent scale if a USGS map is not available. The location of each regulated CCR unit at the facility must also be identified in the same manner.

(iii) A statement of the purpose(s) for which each CCR management unit at the facility is or was used.

(iv) A description of the physical and engineering properties of the foundation and abutment materials on which each CCR management unit is constructed.

(v) A discussion of any known spills or releases of CCR, including any associated remediation activities, from each CCR management unit and whether the spills or releases were reported to State or Federal agencies.

(vi) Any record or knowledge of structural instability of each CCR management unit.

(vii) Any record or knowledge of groundwater contamination associated or potentially associated with each CCR management unit.

(viii) The size of each CCR management unit, including the general lateral and vertical dimensions and an estimate of the volume of waste contained within the unit.

(ix) Dates when each CCR management unit first received CCR and when each CCR management unit ceased receiving CCR.

(x) Identification of all types of CCR in each CCR management unit at the facility.

(xi) A narrative description of any closure activities that have occurred, including any applicable engineering drawings or reports.

(xii) A narrative that documents the data reviewed as part of the facility evaluation process, and that lists all data and information indicating the presence or absence of CCR management units at the facility.

(xiii) Any supporting information used to identify and evaluate CCR management units at the facility, including but not limited to any construction diagrams, engineering drawings, permit documents, wastestream flow diagrams, aerial photographs, satellite images, historical facility maps, any field or analytical data, groundwater monitoring data or reports, inspection reports, documentation of interviews with current or former facility workers, and other documents used to identify and evaluate CCR management units at the facility.

(xiv) A narrative description of any data gaps for information in paragraphs (c)(1)(i) through (xiii) of this section, not available in existing information collection records and a plan for remedying identified data gaps through a physical examination of the facility, including any field or laboratory work needed to remedy data gaps in the Facility Evaluation Report Part 1 record. The plan must include the major milestones needed to fill the identified data gaps (*e.g.,* a physical examination of the facility, sampling of media, measurements of CCR concentrations in and around the unit or physical presence, delineation of CCR management unit(s)) and dates to complete such needed tasks. Also, as necessary and timely, any updates to data gap remedy plans must be added to the public record during the Facility Evaluation Report Part 1.

(2) The owner or operator of any facility regulated under this subpart must obtain a certification from a qualified professional engineer stating that the Facility Evaluation Report Part 1 meets the requirements of paragraph (c)(1) of this section.

(3) The owner or operator of any facility regulated under this subpart must certify the Facility Evaluation Report Part 1 required by paragraph (c)(1) of this section with the following statement signed by the owner or operator or an authorized representative:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(4) No later than Monday, February 9, 2026, the owner or operator must notify the Agency of the establishment of a CCR website using the procedures in § 257.107(a) via the ''contact us'' form on EPA's CCR website.

(5) The owner or operator of any facility regulated under this subpart that does not contain any CCR management unit must submit Facility Evaluation Report Part 1 documenting the steps taken during the facility evaluation to determine the absence of any CCR management unit. The Facility Evaluation Report Part 1 must include the certifications required under paragraph (c)(3) of this section.

(d) *Facility Evaluation Report Part 2.* (1) No later than Monday, February 8,

2027, the owner or operator of a facility with a regulated CCR unit or other active facility must prepare a Facility Evaluation Report Part 2, which shall contain, to the extent not provided in the Facility Evaluation Report Part 1 under paragraph (c) of this section, the information specified in paragraphs (d)(1)(i) through (xiv) of this section obtained from a physical evaluation of the facility, including where necessary field sampling. The owner or operator has prepared the Facility Evaluation Report Part 2 when the report has been placed in the facility's operating record as required by § 257.105(f)(26).

(i) The name and address of the person(s) owning and operating the facility; the unit name associated with each regulated CCR unit and CCR management unit at the facility; and the identification number of each regulated CCR unit and CCR management unit if any have been assigned by the State or by the owner.

(ii) The location of any CCR management unit identified on the most recent U.S. Geological Survey (USGS) 2 minute or 15-minute topographic quadrangle map, or a topographic map of equivalent scale if a USGS map is not available. The location of each regulated CCR unit at the facility must also be identified in the same manner.

(iii) A statement of the purpose(s) for which each CCR management unit at the facility is or was used.

(iv) A description of the physical and engineering properties of the foundation and abutment materials on which each CCR management unit was constructed.

(v) Any further evidence of known spills or releases, including any associated remediation activities, of CCR from each CCR management unit and whether the spills or releases were reported to State or Federal agencies.

(vi) Any further evidence of structural instability of each CCR management unit.

(vii) Any further evidence of groundwater contamination associated or potentially associated with each CCR management unit.

(viii) The size of each CCR management unit, including the general lateral and vertical dimensions and an estimate of the volume of CCR contained within the unit.

(ix) Identification of the types of CCR in each CCR management unit.

(x) A narrative description of any closure activities that have occurred, including any applicable engineering drawings or reports.

(xi) A narrative that documents the nature and extent of field oversight activities and data reviewed as part of the facility evaluation process, and that lists all data and information that was reviewed indicating the presence or absence of CCR management units at the facility.

(xii) Any additional supporting information used to identify and evaluate CCR management units at the facility, including but not limited to any construction diagrams, engineering drawings, permit documents, wastestream flow diagrams, aerial photographs, satellite images, historical facility maps, any field or analytical data, groundwater monitoring data or reports, inspection reports, and other documents used to identify and assess CCR management units at the facility. Additionally, as necessary and timely, any updates to the part 1 data gap remedy plan must be added to the record during the facility evaluation report part 2 timeframe.

(xiii) The Facility Evaluation Report Part 2 must explain how each data gap identified in Facility Evaluation Report Part 1 was addressed.

(xiv) A description of each CCR management unit for which regulation under this subpart is deferred for allowable reasons as specified in § 257.101(g) or (h). The owner or operator must provide documentation in the Facility Evaluation Report Part 2 to substantiate that the requirements § 257.101(g) or (h) have been met.

(2) The owner or operator of any facility regulated under this subpart must obtain a certification from a qualified professional engineer stating that the Facility Evaluation Report Part 2 meets the requirements of paragraph (d)(1) of this section.

(3) The owner or operator of any facility regulated under this subpart must certify the Facility Evaluation Report Part 2 required by paragraph (d)(1) of this section with the following statement signed by the owner or operator or an authorized representative:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(4) The owner or operator of any facility regulated under this subpart that does not contain any CCR management unit must submit Facility Evaluation Report Part 2 documenting the steps taken during the facility evaluation to determine the absence of any CCR management unit. The Facility Evaluation Report Part 2 must include the certifications required under paragraph (d)(3) of this section.

(e) Except as provided in paragraphs (e)(6) and (7) of this section, the owner or operator of a CCR management unit must comply with all of the following:

(1) *Facility evaluation.* (i) No later than February 9, 2026, prepare a Facility Evaluation Report Part 1 as specified in § 257.75(c);

(ii) No later than February 9, 2026, notify the Agency of the establishment of a CCR website as specified in § 257.75(c)(4);

(iii) No later than February 8, 2027, prepare a Facility Evaluation Report Part 2 as specified in § 257.75(d);

(2) *Fugitive dust requirements.* The owner or operator of a CCR management unit must amend the written facility fugitive dust plan no later than 30 days whenever there is a change in conditions that would substantially affect the written plan in effect, such as the construction and operation of a new CCR unit, as specified in § 257.80(b)(6).

(i) The owner or operator of a CCR management unit at an other active facility must prepare the initial fugitive dust plan no later than August 9, 2027 as specified in § 257.80(b)(5)(ii).

(ii) The owner or operator of a CCR management unit at an other active facility must, prepare the initial annual fugitive dust control report no later than October 9, 2028 as specified in § 257.80(c).

(3) *Groundwater monitoring and corrective action.* (i) No later than May 8, 2028, be in compliance with the requirements of § 257.90(b)(3);

(ii) No later than January 31, 2029, prepare the initial groundwater monitoring and corrective action report as set forth in § 257.90(e).

(4) *Closure and post-closure care.* Except as provided in (e)(8) of this section:

(i) No later than November 8, 2028, prepare an initial written closure plan as specified in § 257.102(b);

(ii) No later than November 8, 2028, prepare an initial written post-closure care plan as specified in § 257.104(d); and

(iii) No later than May 8, 2029, initiate the closure of the CCR management unit as specified in § 257.101(f)(1).

(iv) No later than the date closure of the CCR management unit is initiated, complete the notification of intent to close as specified in § 257.102(g).

(v) No later than the deadlines specified under § 257.102(f), complete closure of the CCR management unit.

(vi) Within 30 days of completing closure of the CCR management unit,

complete the notification of completion of closure as specified in § 257.102(h).

(vii) For owners and operators of CCR management units operating under the deferral provisions in § 257.101(g) and (h), the closure deadlines of this paragraph (e)(4) are deferred until permitting as described in § 257.101(g) or (h);

(5) *Recordkeeping, Notification, and internet Posting.* Comply with all applicable recordkeeping, notification, and internet posting requirements as specified in §§ 257.105 through 257.107.

(6) For owners and operators of CCR management units that have utilized the legacy CCR surface impoundment applicability report extension(s) in § 257.100(f)(1)(iii), the deadlines in paragraphs (e)(1) through (5) of this section are adjusted by the length of the extension(s) as described in § 257.100(f)(1)(iii)(E).

(7) For owners and operators of CCR management units that are operating under the provisions in § 257.100(h)(2), the deadlines in paragraphs (e)(1) through (5) of this section are adjusted as described in § 257.100(h)(2)

(f) The owner or operator of the facility must comply with the recordkeeping requirements specified in § 257.105(f), the notification requirements specified in § 257.106(f), and the internet requirements specified in § 257.107(f).

■ 5. Amend § 257.80 by revising paragraph (b)(5) to read as follows:

§ 257.80 Air criteria.

* * * * *

(b) * * *

(5) (i) Except as provided in § 257.100(a)(1), (e)(4)(i), and (f)(3)(i), the owner or operator of a regulated CCR unit must prepare an initial CCR fugitive dust control plan for the facility no later than October 19, 2015, or by initial receipt of CCR in any CCR unit at the facility if the owner or operator becomes subject to this subpart after October 19, 2015.

(ii) The owner or operator of a CCR management unit at an other active facility must prepare an initial CCR fugitive dust control plan for the facility no later than August 9, 2027.

(iii) The owner or operator has completed the initial CCR fugitive dust control plan when the plan has been placed in the facility's operating record as required by § 257.105(g)(1).

* * * * *

■ 6. Amend § 257.90 by revising paragraph (b)(3)(iii) and adding (b)(4) to read as follows:

§ 257.90 Applicability.

* * * * *

(b) * * *

(3) * * *

(iii) Initiate the detection monitoring and assessment monitoring programs to include obtaining a minimum of eight independent samples for each background and downgradient well, as required by §§ 257.94(b) and 257.95.

* * * * *

(4) *Inactive CCR surface impoundments and legacy CCR surface impoundments.* (i) Except for as provided in paragraph (b)(4)(ii) of this section, owners and operators of inactive CCR surface impoundments must comply with the initial groundwater monitoring and corrective action requirements no later than April 17, 2019, as specified in § 257.100(e)(5)(i).

(ii) Owners and operators of inactive CCR surface impoundments at active electric utilities and independent power producers that generate electricity without the use of fossil fuel, provided the facility has not generated electricity using fossil fuels on or after October 19, 2015, must comply with the initial groundwater monitoring and corrective action requirements no later than May 10, 2027, as specified in § 257.100(a)(1) and (f)(4)(i) through (iii).

(iii) Owners and operators of legacy CCR surface impoundments must comply with the initial groundwater monitoring and corrective action requirements no later than May 10, 2027, as specified in § 257.100(f)(4)(i) through (iii).

* * * * *

■ 7. Amend § 257.95 by revising paragraphs (a) and (b) to read as follows:

§ 257.95 Assessment monitoring program.

(a) Assessment monitoring is required for all of the following:

(1) Whenever a statistically significant increase over background levels has been detected for one or more of the constituents listed in appendix III to this part;

(2) For legacy CCR surface impoundments, assessment monitoring must be initiated no later than Monday, May 10, 2027; and

(3) For CCR management units, assessment monitoring must be initiated no later than Monday, May 8, 2028.

(b) Within 90 days of triggering an assessment monitoring program, or as provided in §§ 257.90(b)(3) and 257.100(f)(4), and annually thereafter, the owner or operator of the CCR unit must sample and analyze the groundwater for all constituents listed in appendix IV to this part.-The number of samples collected and analyzed for each well during each sampling event must be consistent with § 257.93(e), and must account for any unique characteristics of the site, but must be at least one sample from each well.

* * * * *

■ 8. Revise and republish § 257.100 to read as follows:

§ 257.100 Inactive CCR surface impoundments and Legacy CCR surface impoundments.

(a) *General.* (1) Inactive CCR surface impoundments are subject to all of the requirements of this subpart applicable to existing CCR surface impoundments, except that an active electric utility or independent power producer that generates electricity without the use of fossil fuel is subject to the compliance requirements and associated deadlines applicable to legacy CCR surface impoundments in paragraph (f)(1) of this section, provided the facility has not generated electricity using fossil fuels on or after October 19, 2015.

(2) Legacy CCR surface impoundments are subject to all of the requirements of this subpart applicable to existing CCR surface impoundments, except for the requirements in §§ 257.60 through 257.64 and 257.71.

(b) through (d) [Reserved]

(e) *Timeframes for certain inactive CCR surface impoundments.* (1) An inactive CCR surface impoundment for which the owner or operator has completed the actions by the deadlines specified in paragraphs (e)(1)(i) through (iii) of this section is eligible for the alternative timeframes specified in paragraphs (e)(2) through (6) of this section. The owner or operator of the CCR unit must comply with the applicable recordkeeping, notification, and internet requirements associated with these provisions. For the inactive CCR surface impoundment:

(i) The owner or operator must have prepared and placed in the facility's operating record by December 17, 2015, a notification of intent to initiate closure of the inactive CCR surface impoundment pursuant to § 257.105(i)(1);

(ii) The owner or operator must have provided notification to the State Director and/or appropriate Tribal authority by January 19, 2016, of the intent to initiate closure of the inactive CCR surface impoundment pursuant to § 257.106(i)(1); and

(iii) The owner or operator must have placed on its CCR website by January 19, 2016, the notification of intent to initiate closure of the inactive CCR surface impoundment pursuant to § 257.107(i)(1).

(2) *Location restrictions.* (i) No later than April 16, 2020, the owner or

operator of the inactive CCR surface impoundment must:

(A) Complete the demonstration for placement above the uppermost aquifer as set forth by § 257.60(a), (b), and (c)(3);

(B) Complete the demonstration for wetlands as set forth by § 257.61(a), (b), and (c)(3);

(C) Complete the demonstration for fault areas as set forth by § 257.62(a), (b), and (c)(3);

(D) Complete the demonstration for seismic impact zones as set forth by § 257.63(a), (b), and (c)(3); and

(E) Complete the demonstration for unstable areas as set forth by § 257.64(a), (b), (c), and (d)(3).

(ii) An owner or operator of an inactive CCR surface impoundment who fails to demonstrate compliance with the requirements of paragraph (e)(2)(i) of this section is subject to the closure requirements of § 257.101(b)(1).

(3) *Design criteria.* The owner or operator of the inactive CCR surface impoundment must:

(i) No later than April 17, 2018, complete the documentation of liner type as set forth by § 257.71(a) and (b).

(ii) No later than June 16, 2017, place on or immediately adjacent to the CCR unit the permanent identification marker as set forth by § 257.73(a)(1).

(iii) No later than October 16, 2018, prepare and maintain an Emergency Action Plan as set forth by § 257.73(a)(3).

(iv) No later than April 17, 2018, compile a history of construction as set forth by § 257.73(b) and (c).

(v) No later than April 17, 2018, complete the initial hazard potential classification, structural stability, and safety factor assessments as set forth by § 257.73(a)(2), (b), (d), (e), and (f).

(4) *Operating criteria.* The owner or operator of the inactive CCR surface impoundment must:

(i) No later than April 18, 2017, prepare the initial CCR fugitive dust control plan as set forth in § 257.80(b).

(ii) No later than April 17, 2018, prepare the initial inflow design flood control system plan as set forth in § 257.82(c).

(iii) No later than April 18, 2017, initiate the inspections by a qualified person as set forth by § 257.83(a).

(iv) No later than July 19, 2017, complete the initial annual inspection by a qualified professional engineer as set forth by § 257.83(b).

(5) *Groundwater monitoring and corrective action.* The owner or operator of the inactive CCR surface impoundment must:

(i) No later than April 17, 2019, comply with groundwater monitoring requirements set forth in §§ 257.90(b) and 257.94(b); and

(ii) No later than August 1, 2019, prepare the initial groundwater monitoring and corrective action report as set forth in § 257.90(e).

(6) *Closure and post-closure care.* The owner or operator of the inactive CCR surface impoundment must:

(i) No later than April 17, 2018, prepare an initial written closure plan as set forth in § 257.102(b); and

(ii) No later than April 17, 2018, prepare an initial written post-closure care plan as set forth in § 257.104(d).

(f) *Timeframes for legacy CCR surface impoundments.* Owners and operators of legacy CCR surface impoundments are subject to the requirements of paragraphs (f)(1) through (5) of this section, except as provided in paragraphs (g) through (i) of this section.

(1) *Legacy CCR surface impoundment applicability report.* (i) Except as provided in paragraph (f)(1)(iii) of this section, owners and operators of legacy CCR surface impoundments must prepare a report for each legacy CCR surface impoundment no later than Friday, November 8, 2024. The owner or operator has prepared the applicability report when the report has been placed in the facility's operating record as required by § 257.105(k)(1). At a minimum, the report for each legacy CCR surface impoundment must contain:

(A) The name and address of the person(s) owning and operating the legacy CCR surface impoundment with their business phone number and email address.

(B) The name associated with the legacy CCR surface impoundment.

(C) Information to identify the legacy CCR surface impoundment, including a figure of the facility and where the unit is located at the facility, facility address, and the latitude and longitude of the facility.

(D) The identification number of the legacy CCR surface impoundment if one has been assigned by the state.

(E) A description of the current site conditions, including the current use of the inactive facility.

(ii) (A) The owner or operator of any legacy CCR surface impoundment must certify the applicability report required by paragraph (f)(1)(i) of this section with the following statement signed by the owner or operator or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(B) The owner or operator must notify the Agency of the establishment of the facility's CCR website and the applicability of the rule, using the procedures in § 257.107(a) via the ''contact us'' form on EPA's CCR website.

(iii)(A) Notwithstanding the deadline to complete the applicability report under paragraph (f)(1)(i) of this section, an owner or operator may secure additional time to complete the report for the sole reason of determining through a field investigation whether the unit contains both CCR and liquids. The amount of additional time that can be secured is limited as specified in paragraph (f)(1)(iii)(B) of this section. For owners and operators following the procedures of this paragraph (f)(1)(iii), the compliance timeframes for all other applicable requirements under this subpart are adjusted by the length of the extension(s) justified under this paragraph (f)(1)(iii). To qualify for additional time, the owner or operator must prepare an applicability extension report consisting of the following:

(*1*) The information specified in paragraph (f)(1)(i)(A) through (C) of this section;

(*2*) A statement by the owner or operator that to the best of their knowledge or belief, existing and available information does not provide a sufficient basis to determine that the unit contained free liquids on or after October 19, 2015; and

(*3*) The details of a written field investigation work plan, including all of the following:

(*i*) A detailed description of the approach to characterize the physical, topographic, geologic, hydrogeologic, and hydraulic properties of the CCR in the unit and native geologic materials beneath and surrounding the unit, and how those properties will be used to investigate for the presence of free liquids in the CCR unit.

(*ii*) A detailed description of the methods and tools that will be employed to determine whether the unit contains free liquids, the rationale for choosing these methods and tools, how these methods and tools will be implemented, and at what level of spatial resolution at the CCR unit to identify and monitor for the presence of free liquids.

(*iii*) A detailed description of how groundwater elevations will be determined, and at what level of spatial resolution, in relation to the sides and

bottom of the CCR unit and how any intersection of the groundwater table with the CCR unit will be evaluated, and at what level of spatial resolution.

(*iv*) A plan for evaluating stormwater flow over the surface of the unit, stormwater drainage from the unit, and stormwater infiltration into the unit and how those processes may result in the formation of free liquids in the CCR unit. This plan must include a current topographic map showing surface water flow and any pertinent natural or man-made features present relevant to stormwater drainage, infiltration and related processes.

(*v*) An estimated timeline to complete the workplan and make a determination if the CCR unit contains free liquids.

(*vi*) A narrative discussion of how the results from implementing the workplan will determine whether the unit contains free liquids specified.

(*vii*) A narrative discussion describing any anticipated problems that may be encountered during implementation of the workplan and what actions will be taken to resolve the problems, and anticipated timeframes necessary for such a contingency.

(*viii*) The owner or operator of the CCR unit must obtain a written certification from a qualified professional engineer stating that the field investigation work plan meets the requirements of paragraph (f)(1)(iii)(A)(*3*) of this section.

(B) The maximum amount of additional time that can be secured under paragraph (f)(1)(iii) of this section is 18 months, secured in 6-month increments, provided each 6-month increment is supported by an applicability extension report.

(C) Owners and operator must prepare the initial applicability extension report no later than Friday, November 8, 2024. Subsequent applicability extension reports must be prepared no later than 6 months after completing the preceding applicability extension report. The owner or operator has prepared the applicability extension report when the report is placed in the facility's operating record as required by § 257.105(k)(2).

(D) No later than Friday, November 8, 2024, the owner or operator must notify the Agency of the establishment of a CCR website using the procedures in § 257.107(a) via the ''contact us'' form on EPA's CCR website.

(E) If the owner or operator determines that the unit contains free liquids during implementation of the written field investigation workplan, the owner or operator must cease operating under these extension provisions and prepare the applicability report required by paragraph (f)(1) of this section within 14 days of determining that the unit contains free liquids. The owner or operator must comply with all other applicable requirements under this subpart under new timeframes. The new timeframes are determined by adding the total length of the extension(s) justified under paragraph (f)(1)(iii) of this section to each of the applicable requirement deadlines specified under this subpart.

(F) If the owner or operator determines that the unit does not contain both CCR and liquids during implementation of the written field investigation work plan, the owner or operator must prepare a notification stating that the field investigation has concluded and that the owner or operator has determined that the unit does not contain both CCR and liquids and does not meet the definition of a legacy CCR surface impoundment. The owner or operator has prepared the notification when the report is placed in the facility's operating record as required by § 257.105(k)(3).

(G) If the owner or operator does not complete the field investigation work within the timeframes specified in paragraph (f)(1)(iii)(B) of this section, the unit shall be considered a legacy CCR surface impoundment and must comply with all other applicable requirements under this subpart pursuant to the timeframes specified under paragraph (f)(1)(iii)(E) of this section.

(2) *Design criteria.* The owner or operator of a legacy CCR surface impoundment must:

(i) Except for legacy CCR surface impoundments that are incised, no later than Wednesday, January 8, 2025, place on or immediately adjacent to the CCR unit the permanent identification marker as set forth by § 257.73(a)(1).

(ii) Except for legacy CCR surface impoundments that do not exceed the height and/or storage volume thresholds under § 257.73(b), no later than Monday, February 9, 2026, compile a history of construction as set forth by § 257.73(c).

(iii) Except for legacy CCR surface impoundments that are incised, no later than Friday, May 8, 2026, complete the initial hazard potential classification assessment as set forth by § 257.73(a)(2) and (f).

(iv) Except for legacy CCR surface impoundments that do not exceed the height and/or storage volume thresholds under § 257.73(b), no later than Friday, May 8, 2026, complete the structural stability and safety factor assessments as set forth by § 257.73(d), (e), and (f).

(v) Except for legacy CCR surface impoundments that are incised, no later than Friday, May 8, 2026, prepare and maintain an Emergency Action Plan as set forth by § 257.73(a)(3).

(3) *Operating criteria.* The owner or operator of the legacy CCR surface impoundment must:

(i) No later than Friday, November 8, 2024, prepare the initial CCR fugitive dust control plan as set forth in § 257.80(b).

(ii) No later than Friday, November 8, 2024, prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the legacy CCR surface impoundment.

(iii) No later than Friday, November 8, 2024, initiate the inspections by a qualified person as set forth by § 257.83(a).

(iv) No later than Monday, February 10, 2025, complete the initial annual inspection by a qualified professional engineer as set forth by § 257.83(b).

(v) No later than Friday, May 8, 2026, prepare the initial inflow design flood control system plan as set forth in § 257.82(c).

(vi) No later than Thursday, January 8, 2026, prepare the initial annual fugitive dust control report as set forth in § 257.80(c).

(4) *Groundwater monitoring and corrective action.* No later than Monday, May 10, 2027, the owner or operator of the legacy CCR surface impoundment must:

(i) Install the groundwater monitoring system as required by § 257.91.

(ii) Develop the groundwater sampling and analysis program, including the selection of the statistical procedures, that will be used for evaluating groundwater monitoring data as required by § 257.93.

(iii) Be in compliance with the following groundwater monitoring requirements:

(A) Initiate the detection monitoring and assessment monitoring programs to include obtaining a minimum of eight independent samples for each background and downgradient well, as required by §§ 257.94(b) and 257.95.

(B) Begin evaluating the groundwater monitoring data for statistically significant increases over background levels for the constituents listed in appendix III of this part, as required by § 257.94.

(C) Begin evaluating the groundwater monitoring data for statistically significant levels over groundwater protection standards for the constituents listed in appendix IV of this part as required by § 257.95.

(iv) No later than January 31, 2028, prepare the initial groundwater monitoring and corrective action report as set forth in § 257.90(e).

(5) *Closure and post-closure care.* Except as provided in § 257.102(g), the owner or operator of the legacy CCR surface impoundment must:

(i) No later than Monday, November 8, 2027, prepare an initial written closure plan as set forth in § 257.102(b); and

(ii) No later than Monday, November 8, 2027, prepare an initial written post-closure care plan as set forth in § 257.104(d).

(g) For owners and operators of legacy CCR surface impoundments that completed closure of the CCR unit by removal of waste prior to Friday, November 8, 2024, no later than Friday, November 8, 2024, complete a closure certification that includes the information in paragraphs (g)(1) through (g)(6) of this section. If the owner or operator meets all the requirements of this paragraph (g), no further requirements under this subpart apply.

(1) The type and volume of CCR and all other materials in the unit prior to closure;

(2) The methods used to verify complete removal of all CCR and other contaminated materials from the unit, including any post-removal sampling and analysis;

(3) Documentation that all CCR and other contaminated materials were removed from the unit, including, the results of any post-removal sampling and analysis that was conducted;

(4) The methods used to verify complete decontamination of all areas affected by releases from the unit, including but not limited to post-decontamination sampling and analysis;

(5) Documentation that all areas affected by releases from the unit were decontaminated and that all groundwater affected by releases has achieved groundwater protection standards; and

(6) Document that groundwater monitoring concentrations do not exceed the groundwater protection standards established pursuant to § 257.95(h) for constituents listed in appendix IV to this part. The documentation must also include a demonstration that the groundwater monitoring system has met all of the following:

(i) Was capable of accurately representing background water quality unaffected by a CCR unit;

(ii) Was capable of accurately representing the quality of water passing the waste boundary of the unit;

(iii) Was capable of detecting contamination in the uppermost aquifer;

(iv) Monitored all potential contaminant pathways;

(v) Established groundwater background concentrations for appendix IV constituents and compared samples to those background concentrations;

(vi) Monitoring wells must have been cased in a manner that maintains the integrity of the monitoring well borehole. This casing must have been screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (*i.e.,* the space between the borehole and well casing) above the sampling depth must have been sealed to prevent contamination of samples and the groundwater; and

(vii) The last groundwater monitoring sample used to document that the standard in paragraph (g)(6) of this section has been met must have been collected no earlier than one year prior to the initiation of closure.

(h) If the owner or operator of a legacy CCR surface impoundment is unable to complete the closure by removal certification by November 8, 2024, they may elect to conduct groundwater monitoring in accordance with §§ 257.90 through 257.95 to demonstrate there are no exceedances of the groundwater protection standards. If the owner or operator meets all the requirements of paragraph (h)(1) of this section, no further requirements under this subpart apply. If the owner or operator does not meet the requirements of paragraph (h)(1) of this section by Monday, May 8, 2028 or if one or more constituents in appendix IV to this part are detected at statistically significant levels above the groundwater protection standard established under § 257.95(h), they must proceed in accordance with paragraph (h)(2) of this section.

(1) In order to comply with this paragraph (h)(1), the owner or operator must complete all of the following:

(i) Prepare a notification of intent to certify closure no later than Friday, November 8, 2024. The owner or operator has prepared the notification when the report is placed in the facility's operating record as required by § 257.105(k)(4).

(ii) Conduct groundwater monitoring in accordance with §§ 257.90–257.95 for at least two consecutive sampling events to demonstrate that all constituents in appendix IV of this part have concentrations that do not exceed the groundwater protection standards listed in § 257.95(h).

(iii) Complete a closure by removal certification documenting compliance with paragraphs (g)(1) through (5) and (h)(1)(ii) of this section no later than Monday, May 8, 2028.

(2) If the owner or operator does not meet the requirements of paragraph (h)(1) of this section (*e.g.,* by the date or they detect an SSL of an appendix IV constituent), they must comply with all of the following:

(i) If a statistically significant level is detected, the corrective action provisions and proceed in accordance with § 257.102(c)(2).

(ii) The permanent marker requirements in § 257.73(a)(1) no later than 8 months from the date they became subject to this requirement.

(iii) The applicability report requirements of paragraph (f)(1)(i) of this section no later than 6 months from the date they became subject to this requirement.

(iv) The facility evaluation provisions for CCR management units under § 257.75 no later than 33 months from the date they became subject to this requirement.

(v) If any CCR management unit is discovered after completing the facility evaluation report, the fugitive dust requirements of § 257.80(b) no later than 6 months from the date of the facility evaluation report.

(vi) The groundwater monitoring requirements for CCR management units under § 257.90(b)(3)(i) through (iv) no later than 48 months from the date they became subject to this requirement.

(vii) The requirement to prepare an initial written closure plan for CCR management units consistent with the requirements specified in § 257.102(b)(1) no later than 54 months from the date they became subject to this requirement.

(viii) The requirement to prepare an initial post-closure plan for CCR management units consistent with the requirements specified in § 257.104(d)(2)(iii) no later than 54 months from the date they became subject to this requirement.

(ix) The requirement to initiate the closure of CCR management units in accordance with the requirements of § 257.102 no later than 60 months from the date they became subject to this

(i) Owners and operators of legacy CCR surface impoundments that, prior to Friday, November 8, 2024, either completed closure of the unit in accordance with § 257.102(d) or met the requirements in § 257.101(g) must only:

(1) Prepare the applicability report as set forth by § 257.100(f)(1) no later than November 8, 2024;

(2) Prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or

livestock onto the legacy CCR surface impoundment as set forth in § 257.100(f)(3)(ii) no later than November 8, 2024;

(3) Place on or immediately adjacent to the unit the permanent identification marker as set forth by § 257.73(a)(1) no later than January 8, 2025;

(4) Compile a history of construction as set forth by § 257.73(c) no later than February 9, 2026;

(5) Prepare the initial CCR fugitive dust control plan as set forth in § 257.80(b) no later than November 8, 2024;

(6) Prepare the initial annual fugitive dust control report as set forth in § 257.80(c) no later than January 8, 2026;

(7) No later than May 10, 2027, the owner or operator of the legacy CCR surface impoundment must:

(i) Install the groundwater monitoring system as required by § 257.91;

(ii) Develop the groundwater sampling and analysis program, including the selection of the statistical procedures, that will be used for evaluating groundwater monitoring data as required by § 257.93;

(iii) Be in compliance with the following groundwater monitoring requirements:

(A) Initiate the detection monitoring and assessment monitoring programs to include obtaining a minimum of eight independent samples for each background and downgradient well, as required by §§ 257.94(b) and 257.95.

(B) Begin evaluating the groundwater monitoring data for statistically significant increases over background levels for the constituents listed in appendix III of this part, as required by § 257.94;

(C) Begin evaluating the groundwater monitoring data for statistically significant levels over groundwater protection standards for the constituents listed in appendix IV of this part as required by § 257.95;

(8) Include in the applicability report specified in § 257.100(f)(1) information on the completed closure, along with supporting documentation to demonstrate that the closure meets the performance standards in § 257.102(d) or the standards specified in § 257.101(g);

(9) Prepare an initial written post-closure care plan as set forth in § 257.104(d) no later than November 8, 2027;

(10) Conduct post-closure care as set forth in § 257.104(b); and

(11) Comply with applicable recordkeeping, notification, and website posting requirements as set forth by §§ 257.105 through 257.107.

(j) The owner or operator of the legacy CCR surface impoundment must comply with the recordkeeping requirements specified in § 257.105(k), the notification requirements specified in § 257.106(k), and the internet requirements specified in § 257.107(k).

■ 9. Amend § 257.102 by adding paragraphs (e)(4)(vi) and (vii), and revising paragraph (f)(1)(ii) to read as follows:

§ 257.102 Criteria for conducting the closure or retrofit of CCR units and closure of CCR management units.

* * * * *

(e) * * *

(4) * * *

(vi) An owner or operator of a legacy CCR surface impoundment closing the CCR unit as required by § 257.101(e).

(vii) An owner or operator of a CCR management unit closing the CCR unit as required by § 257.101(f).

(f) * * *

(1) * * *

(ii) For existing and new CCR surface impoundments, any lateral expansion of a CCR surface impoundment, and legacy CCR surface impoundments, within five years of commencing closure activities.

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[FR Doc. 2025–00848 Filed 1–15–25; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA–HQ–OAR–2022–0007; FRL 9344.1–01–OAR]

RIN 2060–AV63

Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere (Chemiluminescence Method); Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction and correcting amendment.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule published in the **Federal Register** on October 12, 2023, that became effective on November 13, 2023. The final rule updated the current ozone absorption cross-section to the recommended consensus-based value of $1.1329x10^{-17}$ cm^2 $molecule^{-1}$ or 304.39 atm^{-1} cm^{-1}. After publication, the EPA became aware of an error in the preamble text regarding the date for State, local, and Tribal monitoring agencies to complete implementation of the new ozone cross-section value, as well as a lack of clarity as to which entities the 2025 and 2026 implementation dates apply. With this action, the EPA is updating the final rule preamble and regulatory text to clarify the applicable implementation dates and the specific entities to which they apply. These corrections do not include any substantive changes to the final rule.

DATES: This final rule is effective on January 16, 2025.

ADDRESSES: The EPA has established a docket for the final rule under Docket ID No. EPA–HQ–OAR–2022–0007. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Melinda Beaver, Air Quality Assessment Division (C304–06), Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1062; email address: *beaver.melinda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Correction to Preamble of October 12, 2023 Final Rule

In the final rule preamble, the EPA incorrectly stated that State, local, and Tribal monitoring agencies will complete cross-section implementation by January 1, 2026. The cross-section will begin implementation at the highest level of the calibration hierarchy, the Standard Reference Photometer (SRP), on January 1, 2025. Because of the time needed to fully implement the cross-section across the national traceability hierarchy for the calibration of the ozone monitoring network, the State, local, and Tribal monitoring agencies are not expected to complete implementation of the cross-section at the monitor level by January 1, 2026; instead, the EPA expects the cross-section implementation will be complete throughout the traceability hierarchy by December 31, 2026.

Also, the accompanying regulatory text in section 2.2 of appendix D to part 50 is inconsistent with the preamble