

authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF-FM channel 16 or (215) 271-4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) No vessel authorized to enter or remain in the zone may take on bunkers or conduct lightering operations within the safety zone during its enforcement period.

(4) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* (1) The safety zone created by this section will be enforced only upon issuance of a Broadcast Notice to Mariners (BNM) by the COTP or the COTP's representative, as well as on-scene notice or other appropriate means in accordance with § 165.7.

(2) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

Dated: November 4, 2024.

**Kate F. Higgins-Bloom,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Delaware Bay.*

[FR Doc. 2024-25958 Filed 11-7-24; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 257

[EPA-HQ-OLEM-2020-0107; FRL-7814.1-02-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; correction.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is taking direct final action to correct three errors 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). This document makes clear that the effective date of the Legacy Final Rule is November 8, 2024 and corrects inadvertent deletions in the existing 2015 regulatory text.

**DATES:** This rule is effective on February 6, 2025 without further notice unless EPA receives adverse comment by December 9, 2024. 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:

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](mailto:Holt.Taylor@epa.gov), or 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](mailto:Behan.Frank@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 Legacy Final Rule. 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. 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 40 CFR 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 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).

#### 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.

### IV. Revisions to Part 257, Subpart D

Since publication of the Legacy Final Rule, EPA has identified several errors in the Legacy Final Rule. 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 three of these errors in this direct final rule and companion proposed rule. These changes are: (1) Fixing an error that caused confusion regarding the November 8, 2024 effective date of the Legacy Final Rule; and (2) Correcting inadvertent deletions in existing 2015 regulatory text caused by incorrect amendatory instruction.<sup>1</sup>

#### A. The Effective Date of the Legacy Final Rule Is November 8, 2024

Section 4004(c) of RCRA establishes a six-month effective date for rules issued under section 4004(a), providing that "the prohibition contained in subsection (b) shall take effect on the date six months after the date of promulgation of regulations under subsection (a)." 42 U.S.C. 6944(c). In other words, RCRA requires that six months after promulgation of a rule under section 4004(a), solid waste must be managed in a manner that complies with the requirements of the rule. Under RCRA, promulgation of a rule occurs upon signature and publication in the **Federal Register**. *Horsehead Resource Development Co, Inc., v. EPA*, 130 F.3d 1090, 1094–1095 (D.C. Cir. 1997) ("We hold . . . at least in the absence of a contrary agency regulation, "promulgation" as used in section [7006(a)(1) of RCRA] means the date of **Federal Register** publication."). Thus, by operation of law the requirements in the Legacy Final Rule go into effect six months from the date of its publication in the **Federal Register**, which in this case is November 8, 2024.

The **DATES** preamble caption in the Legacy Final Rule states that the rule is effective on November 4, 2024. 89 FR 38950. This is incorrect. All other references to the effective date in the

<sup>1</sup> Amendatory instructions are the specific instructions the Agency provides to the Office of the Federal Register on how to amend the regulatory text.

Legacy Final Rule correctly specify the effective date of November 8, 2024, including eight times in the preamble and 11 times in the regulatory text.<sup>2</sup> This action corrects the single inaccuracy in the preamble to reflect the six-month effective date established by RCRA section 4004(c). In summary, the effective date of the Legacy Final Rule is November 8, 2024.

#### B. Revision to § 257.73(a) (Structural Integrity Criteria for Existing CCR Surface Impoundments)

For reasons that are discussed in the Legacy Final Rule, legacy CCR surface impoundments are required to comply with the same structural integrity criteria applicable to the CCR surface impoundments regulated by the 2015 CCR Rule. 89 FR 39011. EPA effected this requirement by revising § 257.73(a) to add legacy CCR surface impoundments to those CCR units subject to the structural integrity criteria. The Legacy Final Rule made no other revisions to the structural integrity criteria, which were codified in the 2015 CCR Rule. However, when implementing this revision in the regulatory text, the Agency inadvertently deleted the second sentence of § 257.73(a) due to a faulty amendatory instruction.<sup>3</sup> That is, EPA intended for the amendatory instruction to revise only the first sentence of paragraph § 257.73(a) and leave the remainder of the paragraph as promulgated in the 2015 CCR Rule. The faulty amendatory instruction inadvertently resulted in the deletion of the following sentence from § 257.73(a): "If an incised CCR surface impoundment is subsequently modified (e.g., a dike is constructed) such that the CCR unit no longer meets the definition of an incised CCR unit, the CCR unit is subject to the requirements of paragraphs (a)(1) through (4) of this section."

This final rule restores the inadvertently deleted second sentence back to § 257.73(a). Specifically, EPA is amending § 257.73(a) to read: "The requirements of paragraphs (a)(1) through (4) of this section apply to all existing CCR surface impoundments and legacy CCR surface impoundments, except for those that are incised CCR surface impoundments. If an incised

<sup>2</sup> Preamble references to an effective date of November 8, 2024 occur at 89 FR 39005, 39015 and 39016. Regulatory text references to November 8, 2024 are found at 89 FR 39105 through 39108, and 39110.

<sup>3</sup> Amendatory instructions are the specific instructions the Agency provides to the Office of the Federal Register on how to amend the regulatory text.

CCR surface impoundment is subsequently modified (e.g., a dike is constructed) such that the CCR unit no longer meets the definition of an incised CCR unit, the CCR unit is subject to the requirements of paragraphs (a)(1) through (4) of this section.”

*C. Revisions to § 257.105 (Recordkeeping Requirements)*

The Agency amended § 257.105, which specifies the requirements for recordkeeping, in the Legacy Final Rule by making several revisions and additions. Given the number of revisions and additions, EPA revised and republished § 257.105 in its entirety. That is, the regulatory text published in the Legacy Final Rule reflected a combination of revised or new content (i.e., the revisions and additions discussed in the final rule) and unchanged, republished content (i.e., previously codified text unaffected by the Legacy Final Rule). However, EPA inadvertently failed to include § 257.105(j) when republishing this section, which resulted in the deletion of paragraph (j) from § 257.105. Section 257.105(j) includes the recordkeeping requirements when retrofitting a CCR unit and this paragraph should not have been affected by the Legacy Final Rule. This action restores paragraph (j) back to § 257.105.

**V. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: 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. OMB has previously approved the information collection activities contained in the existing Legacy Final Rule and has assigned the temporary OMB control number 2050–0231. The burden contained in 2050–0231 will ultimately be merged into EPA information collection request number 2050–0223. This action merely corrects provisions of the CCR Legacy Final Rule and does not include any new 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 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 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 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*

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to

children. This rule corrects errors in the regulatory text of the CCR Legacy Final Rule. This rule does not impose any additional requirements and therefore does not address environmental health and safety risks that may disproportionately affect children.

*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 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).

**Correction**

In the **Federal Register** of May 8, 2024, in FR Doc. 2024–09157, on page 38950, in the first column, correct the **DATES** paragraph to read:

“**DATES:** This final rule is effective on November 8, 2024.”

**List of Subjects in 40 CFR Part 257**

Environmental protection, Beneficial use, Coal combustion products, Coal combustion residuals, Coal combustion

waste, Disposal, Hazardous waste, Landfill, Surface impoundment.

**Michael S. Regan,**  
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 § 257.73 by revising the introductory paragraph (a) to read as follows:

**§ 257.73 Structural integrity criteria for existing CCR surface impoundments.**

(a) The requirements of paragraphs (a)(1) through (4) of this section apply to all existing CCR surface impoundments and legacy CCR surface impoundments, except for those that are incised CCR surface impoundments. If an incised CCR surface impoundment is subsequently modified (*e.g.*, a dike is constructed) such that the CCR unit no longer meets the definition of an incised CCR unit, the CCR unit is subject to the requirements of paragraphs (a)(1) through (4) of this section.

\* \* \* \* \*

■ 3. Amend § 257.105 by adding paragraph (j) to read as follows:

**§ 257.105 Recordkeeping requirements.**

\* \* \* \* \*

(j) Retrofit criteria. The owner or operator of a CCR unit subject to this subpart must place the following information, as it becomes available, in the facility's operating record:

(1) The written retrofit plan, and any amendment of the plan, as required by § 257.102(k)(2), except that only the most recent retrofit plan must be maintained in the facility's operating record irrespective of the time requirement specified in paragraph (b) of this section.

(2) The notification of intent that the retrofit activities will proceed in accordance with the alternative procedures in § 257.103.

(3) The annual progress reports required under the alternative requirements as required by § 257.103.

(4) The written demonstration(s), including the certification in § 257.102(f)(2)(iii), for a time extension

for completing retrofit activities as required by § 257.102(k)(3).

(5) The notification of intent to initiate retrofit of a CCR unit as required by § 257.102(k)(5).

(6) The notification of completion of retrofit activities as required by § 257.102(k)(6).

\* \* \* \* \*

[FR Doc. 2024-25752 Filed 11-7-24; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 51, 79, 80, 85, 122, 300, 372, 501, 704, 745, 763, 790, 1036, and 1037**

**[EPA-HQ-OECA-2024-0208; FRL 11265-02-OECA]**

**RIN 2020-AA55**

**Inflation Adjustment References for Civil Monetary Penalty Amounts in Title 40 of the Code of Federal Regulations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is taking direct final action to address outdated maximum and minimum statutory civil monetary penalty amounts by adding language that refers readers to the up-to-date maximum and minimum statutory civil monetary penalty amounts. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires the EPA to annually issue rules that adjust the statutory maximum and minimum civil penalty amounts under the various environmental laws implemented by the EPA to account for inflation. The EPA makes inflation adjustments for each of the outdated penalty amounts in a separate rule. This rule adds language notifying the reader that the penalty amount listed may not be accurate and refers the reader to the EPA's regulation to find the correct amounts.

**DATES:** This rule is effective on November 8, 2024, without further notice, unless the EPA receives adverse comment by December 9, 2024. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OECA-2024-0208. 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:**

Ryan Didion, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564-0332; email: [didion.ryan@epa.gov](mailto:didion.ryan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

The EPA is publishing this rule without a prior proposed rulemaking because we view this as a noncontroversial action and anticipate no adverse comment because this matter is clerical in nature as these are minor technical amendments where there is no substantive issue and the EPA finds it has good cause to forgo notice and comment because notice and comment would be unnecessary and contrary to the public interest in understanding where the most current penalty limits may be found. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

**II. Background**

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) requires each Federal agency to adjust the level of statutory civil monetary penalties under the laws implemented by that agency with annual adjustments to account for inflation. The purpose of the 2015 Act is to maintain the deterrent effect of civil monetary penalties by translating originally enacted statutory civil penalty amounts to today's dollars. The EPA promulgates annual rules as required by the 2015 Act to adjust the statutory maximum and minimum civil penalty amounts in 40 CFR 19.4.

Currently, there are statutory civil penalty amounts in 40 CFR parts 51, 79,