



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Waste Management Division Of Water And Waste
Management

TITLE-SERIES: 33-01B

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: Requirements for the Management of Coal
Combustion Residuals

CITE STATUTORY AUTHORITY: W. Va. Code §§ 22-5-15 and 22-15-10

COMMENTS LIMITED TO:

Oral and Written

DATE OF PUBLIC HEARING: 07/26/2021 6:00 PM

LOCATION OF PUBLIC HEARING:

Virtual - Details in Public Notice

DATE WRITTEN COMMENT PERIOD ENDS: 07/26/2021 6:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Johnsely S. Cyrus

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Charleston, WV 25304

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule establishes the standards for the disposal of coal combustion residuals in landfills and surface impoundments.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

This subpart establishes minimum national criteria for purposes of determining which solid waste disposal facilities and solid waste management practices do not pose a reasonable probability of adverse effects on health or the environment under sections 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act.

This subpart applies to owners and operators of new and existing landfills and surface impoundments, including any lateral expansions of such units that dispose or otherwise engage in solid waste management of CCR generated from the combustion of coal at electric utilities and independent power producers. Unless otherwise provided in this subpart, these requirements also apply to disposal units located off-site of the electric utility or independent power producer. This subpart also applies to any practice that does not meet the definition of a beneficial use of CCR.

This subpart also applies to inactive CCR surface impoundments at active electric utilities or independent power producers, regardless of the fuel currently used at the facility to produce electricity.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No increase or decrease of costs or revenues is expected.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 33
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WASTE MANAGEMENT

SERIES 1B
REQUIREMENTS FOR THE MANAGEMENT OF COAL COMBUSTION RESIDUALS

§33-1B-1. General.

1.1. Scope. -- This Legislative Rule adopts 40 CFR Part 257 Subpart D, Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments, by reference. This subpart applies to owners and operators of new and existing landfills and surface impoundments, including any lateral expansions of such units that dispose or otherwise engage in solid waste management of CCR generated from the combustion of coal at electric utilities and independent power producers. Unless otherwise provided in this subpart, these requirements also apply to disposal units located off-site of the electric utility or independent power producer. This subpart also applies to any practice that does not meet the definition of a beneficial use of CCR.

Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in Subpart D of 40 CFR Part 257, promulgated as of October 4, 2016, wherein they exclusively relate to standards for the disposal of coal combustion residuals in landfills and surface impoundments, are hereby incorporated as part of the West Virginia Solid Waste Management Regulations, 33CSR1, *et seq.*

1.2. Authority. -- W. Va. Code §§ 22-5-15 and 22-15-10.

1.3. Filing Date. --

1.4. Effective Date. --

§33-1B-2. Definitions.

2.1. Except as otherwise provided, all material definitions, reference materials, and other ancillaries that are part of incorporated sections of 40 CFR Part 257 are also hereby incorporated as part of the West Virginia Solid Waste Management Regulations.

2.2. In all locations in this series, where text from 40 CFR Part 257 is incorporated by reference, the following additions, modifications, and exceptions shall amend the incorporated text for the purpose of its incorporation into this chapter. The following terms, where they appear in the Code of Federal Regulations shall, for the purpose of this chapter, have the following meanings or interpretations:

2.2.a. "Secretary" shall supplant the "State Director" wherever it appears.

2.2.b. "Qualified professional engineer" or "engineer" means a "professional engineer" certified to practice in the State of West Virginia.

2.3. Definitions in 40 CFR 257.53 are incorporated by reference into this part and are applicable to CCR landfills and CCR surface impoundments.