



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia  
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

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: 33-01B Requirements for the Management of Coal Combustion Residuals  
CITE STATUTORY AUTHORITY: W. Va. Code §§ 22-15-5 and 22-15-10

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) SB279

Section §64-3-1(e) Passed On 2/11/2022 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

March 1, 2022

This rule shall terminate and have no further force or effect from the following date:

**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 December 14, 2020, excluding 40 CFR 257.50(e), 40 CFR 257.90(g), and 40 CFR 257.95(h)(2), and including 40 CFR 257.3-1, 257.3-2, and 257.3-3, 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 §§ 22-15-5 and 22-15-10.

1.3. Filing Date. -- March 01, 2022.

1.4. Effective Date. -- March 01, 2022.

**§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.