**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.