

**SYNOPSIS OF
PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
SOLID WASTE MANAGEMENT,
CHAPTER 391-3-4**

Rule 391-3-4.10 “Coal Combustion Residuals” is being amended.

Purpose: The purpose of this amendment is to add references to the Federal CCR Regulations which were revised by the U.S. Environmental Protection Agency, delete references to sections of the Federal CCR Regulations that have been removed, and clarify deed and permit requirements.

Main Features: Adding references for the Federal CCR Regulations that were revised and published in the Federal Register on July 30, 2018 and August 2020. The major Federal Regulation revisions included updates to the groundwater protection standards for four CCR constituents, change of classification of clay-lined surface impoundments from lined to unlined, and establishment of a revised date by which unlined CCR units that failed the aquifer location must cease receiving waste and initiate closure or retrofit. Delete references to 40 CFR 257.100(b) since it was removed in the Federal Regulations (section is now “reserved”). Also, clarified requirement that complete permit applications must be submitted within two years of effective date of this Rule for existing and inactive CCR Units and that deed notices are not needed for CCR units that are closed by removal.

STATEMENT OF RATIONALE
Proposed Amendments to the Rules for Solid Waste Management

The primary reason for the proposed amendments to Chapter 391-3-4 of the Solid Waste Rules is to add references to the Federal CCR Regulations that were revised in July 2018 and August 2020. This will allow the State Rule to be consistent with and as stringent the Federal Regulations. The revisions proposed for adoption by reference include:

- Allowing state director in state with an approved CCR Permit Program:
 - to suspend groundwater monitoring requirements if there is evidence that there is no potential for migration of hazardous constituents to the uppermost aquifer during the active life of the unit and post-closure care; and
 - Issue technical certifications in lieu of the current requirement to have professional engineers issue certifications.
- Establishing groundwater protection standards for four CCR constituents in Appendix IV without Maximum Contaminant Levels in place of background levels (Cobalt, Lead, Lithium, and Molybdenum).
- Changing the classification of compacted-soil lined or “clay-lined” surface impoundments from “lined” to “unlined”.
- Finalizing a new deadline of April 11, 2021 for CCR units to cease receipt of waste and initiate closure because the unit is either an unlined or “clay-lined” CCR surface impoundment or failed the aquifer location standard.
- Granting facilities additional time to develop alternative capacity to manage their waste streams (CCR and non-CCR), to cease receipt of waste, and initiate closure of their CCR surface impoundments.
- Adding requirement for an executive summary to the annual groundwater monitoring and corrective action reports.
- Amending requirements to the publicly accessible CCR internet sites.

In addition to adding the references, the following revisions are proposed:

- Clarifying that the requirement to submit a confirmation that a notation of the CCR Unit has been recorded on the property deed does not apply to CCR units closed by removal.
- Clarifying that only owners and operators of existing and inactive CCR units submit a permit application within 2 years from the effective date of the CCR Rule.

The proposed changes in the Rules will only affect electric utilities and independent power producers and will not add any new costs for facilities. Also, the proposed changes are not expected to increase the workload for EPD.