

SCS TECHNICAL BULLETIN

FINAL CCR RULE AMENDMENTS TO THE NATIONAL MINIMUM CRITERIA (PHASE 1, PART 1)

July 30, 2018

The Environmental Protection Agency (EPA) released the Phase 1, Part 1 update to the Final Coal Combustion Residual (CCR) Rule, which was originally made final on April 17, 2015. These amendments address the updates to the Final CCR Rule that the EPA proposed on March 15, 2018. Phase 1, Part 1 was published in the [Federal Register](#) on July 30, 2018; the amendments are effective thirty days after publication, or on August 29, 2018.

The Phase 1, Part 1 Final CCR rule updates include the following:

Extending the Deadline for Closure or Retrofit of CCR Units to October 31, 2020, under two conditions:

1. An existing CCR surface impoundment that cannot certify compliance with the location restriction requirements in 40 C.F.R. §257.60 for placement above the uppermost aquifer by the October 17, 2018, deadline.
2. An existing unlined CCR surface impoundment with constituent concentrations in groundwater that exceed the groundwater protection standard (GWPS) as described in 40 C.F.R. §257.101(a)(1).

Prior to these amendments, the CCR Rule required CCR unit owners/operators to stop placing CCR and non-CCR waste in the unit and proceed with closure or retrofit, if unlined,

within 6 months of making a relevant determination that the CCR unit most close.

As long as other location restrictions are satisfied, the update extends the 6-month deadline to October 31, 2020, for CCR units without the separation from the uppermost aquifer required in the rule. In the case of existing unlined CCR surface impoundments, the deadline for closure or retrofit is extended to the current 6 months or October 31, 2020, whichever is later.

As stated by the EPA, the additional time allowed for waste placement and closure will provide better alignment between the CCR Rule and the Effluent Limitation Guidelines and Standards Rule for the Steam Electric Power Generating Point Source Category (ELG rule). The ELG rule is scheduled to be finalized in December 2019.

The new extensions for closure are outlined in 40 C.F.R. §257.101 (a-d). The other conditions identified in 40 C.F.R. §257.101 (a-d) that call for unit closure still apply without extension.

Risk-based GWPS for Constituents with Unspecified Maximum Contaminant Levels (MCLs) can now be applied to Assessment Groundwater Monitoring for specific Appendix IV constituents. Without this update, the CCR Rule required Assessment Monitoring evaluations to include background-calculated standards for Appendix IV constituents when an MCL is not available. The table below

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provides the risk-based GWPS (units are µg/L) provided in Update 1, Phase 1:

| Cobalt | Lead | Lithium | Molybdenum |
|--------|------|---------|------------|
| 6 | 15 | 40 | 100 |

µg/L = micrograms per liter

Updates are noted in 40 C.F.R. §257.95(g)(3)(iii) through §257.95(h)2.

Suspending Groundwater Monitoring Based on “No Constituent Migration” from CCR Unit. The original CCR Rule offered no exceptions to the groundwater monitoring and corrective action requirements in 40 C.F.R. §257.90-98. All sites were required to have monitoring wells installed and to perform groundwater monitoring. The update provides an option to suspend groundwater monitoring if a demonstration shows that no constituent concentrations are migrating from the CCR surface impoundment or landfill. That demonstration must be certified by a Professional Engineer (PE) and include the following:

1. Site-specific information affecting contaminate fate and transport processes:
 - a) Aquifer characteristics
 - b) Waste characteristics
 - c) Climate conditions
 - d) Leachate characteristics
 - e) Engineered controls
2. Contaminant fate and transport estimates that maximize contaminant migration and consider human and environmental impacts.

These rule updates are present in 40 C.F.R. §257.90 (g).

Allowing State Participating Directors or EPA to Issue Certifications of Compliance with the CCR Rule in lieu of a PE certification. Before the July 30, 2018 update, the owner, through a qualified PE, had to certify all technical demonstrations and/or compliance certifications. The passing of the [WIIN Act](#), on December 16, 2016, gives states or EPA the ability to perform oversight of CCR units under an approved permit program. The update

defines when a State Participating Director can certify technical demonstrations and compliance with rule requirements in lieu of a qualified PE through a CCR permit program.

The definitions section, §257.53, of the CCR Rule was updated to reflect the following definitions: “participating state,” “an approved state,” and “Participating State Director.” Throughout the regulatory text, these updates define certification options for technical demonstrations and compliance certifications, except regarding regulations relating to structural stability. Structural stability will still require certification of a licensed PE.

Other Topics Still under Review Include Revisions to other aspects of the CCR regulations and to the ELG rule. The EPA anticipates it will complete its ELG rule making by December 2019 and publish the rule in January 2020. EPA believes this will give utilities enough time to meet the requirements of both the CCR and ELG Rules.

The updates can be found at the [regulations.gov](http://www.regulations.gov) site under docket number [EPA-HQ-OLEM-2017-0286](https://www.epa.gov/dockets/cercla-docket-olem-2017-0286).

Contact your SCS Engineers representative for help understanding and implementing these latest updates, or for any questions and support you need managing your compliance with the CCR Rule.

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