



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 257

[EPA-HQ-OLEM-2025-0221; FRL-12768-02-OLEM]

### Wyoming: Approval of State Coal Combustion Residuals Permit Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Availability of final decision.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is approving the Wyoming partial coal combustion residuals (CCR) permit program under the Resource Conservation and Recovery Act (RCRA). After reviewing the CCR permit program application submitted by the Wyoming Department of Environmental Quality (WDEQ), EPA has determined that Wyoming's partial CCR permit program meets the standard for approval under RCRA. Wyoming's partial CCR permit program will operate in lieu of the Federal CCR program, with the exception of the specific provisions noted below.

**DATES:** This action is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OLEM-2025-0221. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

**FOR FURTHER INFORMATION CONTACT:** Michelle Lloyd, Office of Resource Conservation and Recovery, Waste Identification, Notice, and Generators, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304T, Washington, DC 20460; telephone number: (202) 566-0560; e-mail address: [lloyd.michelle@epa.gov](mailto:lloyd.michelle@epa.gov). For more

information on this document please visit <https://www.epa.gov/coal-combustion-residuals>.

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### **List of Acronyms**

CCR coal combustion residuals  
CCRMU coal combustion residuals management unit  
CFR Code of Federal Regulations  
EPA Environmental Protection Agency  
MSWLF municipal solid waste landfill  
OLEM Office of Land and Emergency Management  
RCRA Resource Conservation and Recovery Act  
SHWD Solid and Hazardous Waste Division  
STAG State and Tribal Assistance Grant  
SWR Solid Waste Regulations  
USWAG Utility Solid Waste Activities Group  
WDEQ Wyoming Department of Environmental Quality  
WIIN Water Infrastructure Improvements for the Nation  
W.S. Wyoming Statute  
WY APA Wyoming Administrative Procedures Act

### **I. General Information**

*A. Summary of Final Action*

EPA is taking final action to approve of Wyoming's partial CCR permit program because the Agency finds that the State's partial program requires each CCR unit in the State to achieve compliance with the minimum requirements in the Federal CCR regulations or with alternative requirements that EPA has determined to be at least as protective as the requirements of the Federal CCR regulations in 40 CFR part 257, subpart D, for the reasons set forth in the Proposed Approval (90 FR 42347, September 2, 2025) and this final action. See 42 U.S.C. 6945(d)(1)(B).

### *B. Background*

CCR are generated from the combustion of coal, including solid fuels classified as anthracite, bituminous coal, subbituminous coal, and lignite, for the purpose of generating steam to power a generator to produce electricity or electricity and other thermal energy by electric utilities and independent power producers. CCR include fly ash, bottom ash, boiler slag, and flue gas desulfurization materials. CCR can be sent offsite for disposal or beneficial use or disposed of in on-site landfills or surface impoundments.

On April 17, 2015, EPA published a final rule creating 40 CFR part 257, subpart D, which established a comprehensive set of minimum Federal requirements for the disposal of CCR in landfills and surface impoundments (80 FR 21302). The rule created a self-implementing program that regulates the location, design, operating criteria, and groundwater monitoring and corrective action for CCR units, as well as the closure and post-closure care of CCR units. It also requires recordkeeping and notifications for CCR units. EPA has since amended 40 CFR part 257, subpart D on August 5, 2016 (81 FR 51802), July 30, 2018 (83 FR 36435), August 28, 2020 (85 FR 53516), November 12, 2020 (85 FR 72506), May 8, 2024 (89 FR 38950), and November 8, 2024 (89 FR 88650). More information on these rules is provided in the Technical Support Document in the docket for this document.

### *C. Statutory Authority*

EPA is issuing this final action pursuant to RCRA sections 4005(d) and 7004(b)(1). See 42 U.S.C. 6945(d) and 6974(b)(1). As amended by section 2301 of the 2016 WIIN Act, RCRA

section 4005(d) instructs EPA to establish a Federal permit program similar to those under RCRA subtitle C and other environmental statutes and authorizes States to develop their own CCR permitting programs that go into effect in lieu of the Federal permit program upon approval by EPA. See 42 U.S.C. 6945(d).

Under RCRA section 4005(d)(1)(A), 42 U.S.C. 6945(d)(1)(A), States seeking approval of a State CCR program must submit to the Administrator “in such form as the Administrator may establish, evidence of a permit program or other system of prior approval and conditions under state law for regulation by the State of coal combustion residuals units that are located in the state.” The statute provides that EPA shall approve a State CCR permit program if the Administrator determines that the State program will require each CCR unit located in the State to achieve compliance with either: (1) The Federal CCR requirements at 40 CFR part 257, subpart D; or (2) Other State criteria that the Administrator, after consultation with the State, determines to be “at least as protective as” the Federal requirements. 42 U.S.C. 6945(d)(1)(B). The Administrator must make a final determination, after providing for public notice and an opportunity for public comment, within 180 days of receiving a State’s complete submittal of the information specified in RCRA section 4005(d)(1)(A). 42 U.S.C. 6945(d)(1)(B). EPA may approve a State CCR permit program in whole or in part. *Id.* Once approved, the State permit program operates in lieu of the Federal requirements. 42 U.S.C. 6945(d)(1)(A). In a State with a partial program, only the State requirements that have been approved by EPA operate in lieu of the Federal requirements, and facilities remain responsible for compliance with all remaining Federal requirements in 40 CFR part 257.

As noted above, the Federal CCR regulations are self-implementing, meaning that CCR landfills and surface impoundments must comply with the terms of the regulations prior to obtaining a Federal permit or a permit issued by an approved State. Noncompliance with the Federal CCR regulations can be the subject of an enforcement action brought directly against the facility. Once a final CCR permit is issued by an approved State or pursuant to a Federal CCR

permit program, however, the terms of the permit apply in lieu of the terms of the Federal CCR regulations and/or requirements in an approved State program, and RCRA section 4005(d)(3) provides a permit shield against direct enforcement of the applicable Federal or State CCR regulations (meaning the permit's terms become the enforceable requirements for the permittee).<sup>1</sup>

RCRA section 7004(b), which applies to all RCRA programs, directs that “public participation in the development, revision, implementation, and enforcement of any ... program under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” 42 U.S.C. 6974(b)(1). Accordingly, EPA considers permitting requirements, requirements for compliance monitoring authority, requirements for enforcement authority, and requirements for intervention in civil enforcement proceedings in evaluating State CCR permit program applications.

Once a State CCR permit program is approved, the Administrator must review the approved program no less frequently than every 12 years, no later than three years after a revision to an applicable section of 40 CFR part 257, subpart D, and no later than one year after any unauthorized significant release from a CCR unit located in the State. EPA also must review an approved State CCR permit program at the request of another State alleging that the soil, groundwater, or surface water of the requesting State is or is likely to be adversely affected by a release from a CCR unit in the approved State. See 42 U.S.C. 6945(d)(1)(D)(i)(I) through (IV).

In a State with an approved State CCR permit program, EPA may commence administrative or judicial enforcement actions under RCRA section 3008, 42 U.S.C. 6928, if the State requests assistance or if EPA determines that an EPA enforcement action is likely to be necessary to ensure that a CCR unit is operating in accordance with the criteria of the State's permit program. 42 U.S.C. 6945(d)(4). EPA can enforce any Federal requirements that remain in

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<sup>1</sup> USEPA 2017. Coal Combustion Residuals State Permit Program Guidance Document; Interim Final. Office of Land and Emergency Management, Washington, DC 20460. August. (providing that the 180-day deadline does not start until EPA determines the application is complete).

effect (i.e., those for which there is no corresponding approved State provision). EPA may also exercise its inspection and information gathering authorities under RCRA section 3007 in a State with an approved program. 42 U.S.C. 6927.

## **II. The Wyoming Application**

EPA began working with WDEQ in September 2019 as the State developed its application for the State's partial CCR permit program.<sup>2</sup> As it has with other States, EPA discussed with WDEQ the process for EPA to review and approve the State's partial CCR permit program, WDEQ's anticipated timeline for submitting a partial CCR permit program application to EPA, and WDEQ's regulations for issuing permits. On February 6, 2023, WDEQ submitted its partial CCR permit program application to EPA Region 8 requesting approval of the State's partial CCR permit program.

EPA reviewed WDEQ's submission and, on March 27, 2023, sent a letter acknowledging receipt of the application and clarifying the statutory 180-day review period for a final determination of adequacy.<sup>3</sup> After reviewing the application in more detail, on December 5, 2023, EPA sent a letter stating that the formal review period had not yet begun; discussing further information that would strengthen the application; and discussing the State interpretation of the regulatory performance standards.<sup>4</sup> On January 29, 2024, WDEQ sent a letter to EPA asserting that EPA's review period had expired, discussing the State's interpretation of the scope of EPA's review of the State partial CCR permit program application, and responding to EPA's questions from the December 2023 letter.<sup>5</sup> After further discussions between EPA and WDEQ, on May 16, 2025, EPA sent to WDEQ additional clarification questions to supplement its

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<sup>2</sup> A summary of the meetings with, and emails shared between, EPA and WDEQ is included in the Technical Support Document. Records of these interactions are included in the docket for this action.

<sup>3</sup> USEPA 2023a. Letter from Carolyn Hoskinson, Director, EPA Office of Resource Conservation and Recovery, to Mr. Todd Parfitt, Director, Wyoming Department of Environmental Quality. March.

<sup>4</sup> USEPA 2023b. Letter from Barry Breen, Principal Deputy Assistant Administrator for the EPA Office of Land and Emergency Management to Mr. Todd Parfitt, Director, Wyoming Department of Environmental Quality. December.

<sup>5</sup> WDEQ 2024. Letter from Todd Parfitt, Director, Wyoming Department of Environmental Quality to Barry Breen, Principal Deputy Assistant Administrator for the EPA Office of Land and Emergency Management. RE: EPA's Comments on State of Wyoming – Coal Combustion Residuals Permit Program Application EPA. January.

application. On June 20, 2025, WDEQ responded to EPA's questions.<sup>6</sup> On September 2, 2025, EPA proposed to approve the Wyoming partial CCR permit program (Proposed Action).

### **III. EPA Analysis of the Wyoming Application-Basis for Approval**

RCRA section 4005(d) requires EPA to evaluate two components of a State CCR permitting program to determine whether it meets the standard for approval: the program itself, and the technical criteria that will be included in each permit issued under the State program. This section discusses EPA's review of both requirements under RCRA section 4005(d) and the criteria EPA uses to conduct this review.

First, EPA must evaluate the permit program itself (or other system of prior approval and conditions). See 42 U.S.C. 6945(d)(1)(A) through (B). RCRA section 4005(d)(1)(A) directs the State to provide evidence of a State permit program's compliance with RCRA requirements in such form as determined by the Administrator. In turn, RCRA section 4005(d)(1)(B) directs EPA to approve the State program based upon a determination that the program "requires each coal combustion residuals unit located in the state to achieve compliance with the applicable [Federal or State] criteria." In other words, the statute directs EPA to determine that the State has sufficient authority to require compliance at all CCR units located within the State. See also 42 U.S.C. 6945(d)(1)(D)(ii)(I). To make this determination, EPA evaluates the State's authority to issue permits and impose conditions in those permits, as well as the State's authority to conduct compliance monitoring and enforcement.

During this review of the State permit program, EPA also determines whether the program contains procedures consistent with the public participation directive in RCRA section 7004(b). RCRA section 7004(b), which applies to all RCRA programs, directs that "public participation in the development, revision, implementation, and enforcement of any ... program under this chapter shall be provided for, encouraged, and assisted by the Administrator and the

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<sup>6</sup> WDEQ 2025. Letter from Todd Parfitt, Director, Wyoming Department of Environmental Quality to Rick Buhl, Director, Land, Chemicals, And Redevelopment Division, US Environmental Protection Agency - Region 8. RE: EPA's May 16, 2025, Questions on Wyoming's CCR Permit Program Application. June.

States.” 42 U.S.C. 6974(b)(1). To make this determination, EPA evaluates the State’s public participation procedures for issuing permits and for intervention in civil enforcement proceedings.

Although 40 CFR part 239 applies to the approval of State Municipal Solid Waste Landfill (MSWLF) programs under RCRA section 4005(c)(1) rather than EPA’s evaluation of CCR permit programs under RCRA section 4005(d), the specific criteria outlined in that regulation provide a helpful framework to examine the relevant aspects of a State’s CCR permit program. States are familiar with these criteria because all States have MSWLF programs that have been approved pursuant to these regulations, and the regulations are generally regarded as protective and appropriate.

Consequently, EPA relied on the four categories of criteria outlined in 40 CFR part 239 as guidelines to evaluate the Wyoming partial CCR permit program: permitting requirements, requirements for compliance monitoring authority, requirements for enforcement authority, and requirements for intervention in civil enforcement proceedings.

Second, EPA must evaluate the technical criteria that will be included in each permit issued under the State CCR permit program to determine whether they are the same as the Federal criteria, or to the extent they differ, whether the modified criteria are “at least as protective as” the Federal requirements. See 42 U.S.C. 6945(d)(1)(B). Only if both components meet the statutory requirements may EPA approve the program. See 42 U.S.C. 6945(d)(1). EPA makes this determination by comparing the State’s technical criteria to the corresponding Federal criteria and, where necessary, evaluating whether different State criteria are at least as protective as the Federal criteria.

Upon careful review, and as discussed in more detail below, EPA determined that Wyoming’s partial CCR permit program includes all the elements of an adequate State CCR permit program. It also contains all the technical criteria in 40 CFR part 257, subpart D, except for the provisions specifically discussed below that Wyoming has not included in its partial CCR

permit program. Consequently, EPA is approving the majority of Wyoming's partial CCR permit program application. However, the State's CCR permit program does not encompass the full scope of Federal CCR requirements as presently constituted, and the provisions of the Federal CCR regulations that are not part of Wyoming's approved partial CCR permit program will remain directly applicable to affected CCR units. 42 U.S.C. 6945(d)(1)(B).

EPA's full analysis of the Wyoming partial CCR permit program, and how the Wyoming regulations differ from the Federal requirements, can be found in the Technical Support Document. EPA determined that the Wyoming partial CCR permit program application was complete and notified Wyoming of its determination by letter.<sup>7</sup>

#### *A. Adequacy of the Wyoming Permit Program*

Section 4005(d)(1)(A) of RCRA, 42 U.S.C. 6945(d)(1)(A), requires a State seeking State CCR permit program approval to submit to EPA, "in such form as the Administrator may establish, evidence of a permit program or other system of prior approval and conditions under State law for regulation by the State of coal combustion residuals units that are located in the State." Although the statute directs EPA to establish the form of such evidence, the statute does not require EPA to promulgate regulations governing the process or standard for determining the adequacy of such State programs. EPA, therefore, developed the Coal Combustion Residuals State Permit Program Guidance Document; Interim Final (82 FR 38685, August 15, 2017) (the "Guidance Document"). The Guidance Document provides recommendations on a process and standards that States may choose to use to apply for EPA approval of its CCR permit programs, based on the standards in RCRA section 4005(d), existing regulations at 40 CFR part 239, and the Agency's experience in reviewing and approving State programs.

EPA evaluated the Wyoming partial CCR permit program using the process and statutory and regulatory standards discussed in Units II.C. and IV.A. of this preamble. EPA's findings are

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<sup>7</sup> The Wyoming application, EPA's completeness determination letter, and the Technical Support Document are available in the docket supporting this action.

summarized below and provided in more detail in the Technical Support Document located in the docket supporting this final determination.

## 1. Guidelines for Permitting

In EPA's judgment, an adequate State CCR permit program must ensure that: (1) Existing and new facilities are permitted or otherwise approved and in compliance with either 40 CFR part 257 or other State criteria; (2) The State has the authority to collect all information necessary to issue permits that are adequate to ensure compliance with relevant 40 CFR part 257, subpart D requirements; and (3) The State has the authority to impose requirements for CCR units adequate to ensure compliance with either 40 CFR part 257, subpart D, or such other State criteria that have been determined and approved by the Administrator to be at least as protective as 40 CFR part 257, subpart D.

The permitting process in Wyoming involves three entities: (1) WDEQ; (2) The Solid and Hazardous Waste Division (SHWD) within WDEQ; and (3) The Environmental Quality Council (Council), an independent body whose members are appointed by the Governor. For a more detailed description, read section 5.0 of the Narrative Statement.

### a. Permit Required

All owners and operators of existing and new CCR facilities in Wyoming are required to comply with State CCR regulations found at Wyoming Administrative Rules, Environmental Quality, Solid Waste Rules (SWR) chapter 18, and to obtain a permit in accordance with Wyoming Statutes (W.S.) section 35-11-502 and SWR chapters 1 and 18. Wyoming law requires every person who treats or transports solid waste or operates a solid waste management unit or facility, including CCR units, to have a valid permit issued by WDEQ. W.S. section 35-11-502(a); SWR chapter 1, section 1(c), chapter 18, section 4(a). Permit application requirements can be found in SWR chapter 1, section 2, and chapter 18, section 4(d).

## b. Permitting Authority

WDEQ has the authority to collect all information necessary to issue permits that are adequate to ensure compliance with SWR chapter 18, W.S. section 35-11-109. In addition, SWR chapter 18, section 4(d) specifies the information that applicants for a solid waste permit, including a CCR unit permit, are required to submit to show compliance with the SWR.

## c. Permit Requirements and Permitting Process

Existing CCR landfills must submit a permit renewal application no later than 12 months prior to the expiration date of the facility's existing solid waste permit. SWR chapter 18, section 4(d). Existing CCR surface impoundments must submit a new permit application within 12 months of the effective date of the State rule. Owners and operators of existing CCR landfills and surface impoundments that intend to cease disposal of all waste before obtaining a permit through the post-closure care period shall submit a closure permit application within 12 months prior to the expiration date of the facility's existing permit or the date the facility anticipates to cease disposal of CCR, whichever comes first. An alternate schedule to submit a new application, renewal application or closure permit application may be approved by the SHWD for good cause. SWR chapter 18, section 4(b).

Applications for renewal permits and closure permits are subject to the application procedures set forth in W.S. section 35-11-502 and SWR chapter 1, section 2(a), (b), and (c) and must follow the procedures and provisions of SWR chapter 1, section 2(d) and (e) respectively. CCR permits may be transferred from one operator to a new operator with written approval from WDEQ SHWD's Solid Waste Permitting and Corrective Action (SWPCA) Program Director (Director) in accordance with SWR chapter 1, section 3(d).

The permit duration for new or existing CCR surface impoundments and CCR landfills renewal permits will be for the operating life of the facility through post-closure, and closure permits will be issued for a period that includes the time required to complete closure activities and a minimum 30-year post-closure term. SWR chapter 18, section 4(c).

Within sixty days after a permit application has been submitted, WDEQ must notify the applicant whether or not the application is complete. W.S. section 35-11-502(e). Once WDEQ determines that an application is complete, WDEQ issues a letter of completeness and initiates a technical review of the permit application. At that time, the applicant must conduct a public notice and initiate a 30-day public comment period for the complete application, as described below. W.S. section 35-11-502(g), (h); SWR chapter 18, section 4. WDEQ must complete the technical review of the application within 90 days. During technical review of the application, WDEQ considers public comments submitted during the public comment period for the complete application. SWR chapter 18, section 2(c)(i)(C). Within WDEQ, the SHWD manages and implements the Wyoming CCR permit program. The SHWD may opt to conduct a public hearing on the application. SWR chapter 18 section 2(c)(i)(D).

Once the SHWD completes technical review of the application, it may make one of three determinations: (1) The permit application is technically inadequate; (2) The permit application is technically adequate, and a proposed permit is suitable for publication; or (3) The permit application is denied. WDEQ may modify, suspend, revoke, or deny a permit if: (1) Permit issuance would not meet the provisions of the Wyoming Environmental Quality Act, W.S. section 35-11-101 *et seq.* (the Act) or regulations; (2) The applicant fails to submit the required information; (3) The facility has a history of noncompliance; (4) The applicant indicates the facility would not comply with provisions of the regulations or misrepresents actual site conditions; (5) The applicant fails to employ a qualified solid waste manager; or (6) The applicant, or any partners, executive officers, or corporate directors has been found liable of violating environmental quality laws or criminal racketeering laws or regulations which constitute evidence that the applicant cannot be relied upon to conduct the operations described in the permit application in compliance with the Act or regulations. SWR chapter 1, section 4.

Provisions for amending permits for solid waste handling facilities are in SWR chapter 18, section 4(f). SWR chapter 18, section 3(c) specifies those changes to a permit that qualify as

major amendments and which are minor amendments. Major amendments to permits may be requested by the Permittee and are reviewed and processed by the SHWD in accordance with the procedures for new or renewal permits described above. Minor amendments to permits may be completed through written notice and approval by the SHWD within 60 days. SWR chapter 18, section 3(c). A written notice of a minor amendment to a permit can be determined to be deficient, approved, or denied. Permittees can provide additional information to the SHWD in response to any deficiency notice.

EPA determined that the Wyoming approach to CCR permit applications and approvals is adequate, and that this aspect of the Wyoming partial CCR permit program meets the standard for program approval.

## 2. Guidelines for Public Participation

Based on RCRA section 7004, 42 U.S.C. 6974, it is EPA's judgment that an adequate State CCR permit program will ensure that: (1) Documents for permit determinations are made available for public review and comment; (2) Final determinations on permit applications are made known to the public; and (3) Public comments on permit determinations are considered and significant comments are responded to in the permit record. EPA's review of Wyoming's partial CCR permit program indicates that the State has adopted public participation procedures that allow interested parties to talk openly and frankly about permit issues and search for mutually agreeable solutions to differences in views. An overview of Wyoming's public participation provisions is provided below.

### a. Public Notice

The State program provides public notice in several ways and at several different stages of the permitting process, which taken together ensure that documents for permit determinations are subject to public review and comment. WDEQ requires State CCR permit applicants to provide notice to the public. Once WDEQ determines that an application is complete, WDEQ issues a letter of completeness and initiates a technical review of the permit application. At this

time, the applicant must conduct a public notice and initiate a 30-day public comment period for the complete application. W.S. section 35-11-502(g), (h); SWR chapter 18, section 4. The public notice must provide specific information about the facility, including its proposed size and location; the types of waste to be managed; methods that will be used to manage the waste; and the operating life of the unit. WDEQ must complete technical review of the application within 90 days. During technical review of the application, WDEQ considers public comments submitted during the public comment period for the complete application. SWR chapter 18, section 2(c)(i)(C). The SHWD may opt to conduct a public hearing on the application. SWR chapter 18 section 2(c)(i)(D). Permit renewals are subject to the same public notice and comment requirements as new permit applications and are therefore subject to two 30-day public comment periods with options to hold a public hearing for each.

#### b. Public Comment Period

All applicants for solid waste permits that submit a new, renewal, closure or major amendment permit application are required to complete two public comment periods during the permitting process. The first public comment period occurs after the SHWD deems the permit application complete, and the second occurs when the SHWD deems the permit application technically adequate and issues a proposed permit in accordance with W.S. section 35-11-502, SWR chapter 1, section 2(c), and SWR chapter 18 section 4(f). Public notice for the complete application and for the proposed permit must contain information about the permit application including the applicant; the proposed facility location and size; the waste types intended for management; the method of waste management; and the operating life of the unit. Public notices must also contain information on how to obtain special assistance or alternate formats of a notice for individuals with disabilities and inform the reader to visit WDEQ's website for a Spanish translation.

The applicant is required to publish each written notice once a week for two consecutive weeks in a newspaper of general circulation within the county where the applicant plans to locate

the facility or where an existing facility is currently located, for each public comment period. W.S. section 35-11-502 (g through k) and SWR chapter 18 section 2. Each public comment period begins on the first day of the notice publication and continues until 30 days after the second publication. The applicant is required to give written notice of the permit application to landowners with property located within one-half mile of the site, the mayor of each city or town within 50 miles of the site, the Local County Commission, any solid waste district located in the county, and the Solid Waste Permitting and Corrective Action Program Interested Parties Mailing List (hard copy). The written notice is also posted to WDEQ's Public Notice website.

Permit applications and review documents are available for public review at any WDEQ office and can be sent digitally upon request. Specific information on how to request access to permit documents is found in Wyoming's partial CCR permit program narrative Section 7.0 Public Participation (page 14), Appendix G Public Notice Templates, SWR chapter 1 section 2(c), and W.S. section 35-11-502. Additionally, the public can contact the WDEQ and request to be added to a listserv or mailing list (Interested Parties Mailing List). Written comments on permit applications are accepted by mail, fax, and through WDEQ's digital comment portal. If a commenter has technical difficulties with the digital comment portal, the portal website has instructions for obtaining assistance.

Public comments received by WDEQ during the first public comment period for the complete application are considered by WDEQ in drafting a proposed permit. If substantial written comments, including objections to a proposed permit, are filed during the public comment period for the proposed permit, a public hearing must be held by the Council within 20 days after the end of the public comment period. W.S. section 35-11-502(k). The Director must render a decision on the proposed permit within 30 days after completion of the public comment period if no hearing is requested. If a hearing is held, the Director must issue or deny the permit no later than 15 days from receipt of any findings of fact and decision of the Council. W.S. section 35-11-502(k) and (m).

All comments received must be considered and WDEQ must provide a response to each commenter prior to making a final permit determination. In addition to providing responses to individual commenters, WDEQ must make “any records, reports or information obtained” under the Wyoming Environmental Quality Act or obtained under “the rules, regulations and standards promulgated” under the Act “are available to the public.”<sup>8</sup> W.S. section 35-11-1101(a). Members of the public can also submit record requests using the WDEQ website. Members of the public can also request to view documents at any of WDEQ's offices.

Final permit determinations must be added to the owner or operator’s CCR website within five days of the owner or operator’s receipt of the determination. SWR chapter 18, section 11(c)(i). Documents produced and distributed as part of the permitting process, including public comments, must be maintained by WDEQ as public records in accordance with Wyoming Public Records Act, W.S. 16-4-201, and must be made available to the public accordingly.

#### c. Challenges to Permit Decisions

In accordance with W.S. section 35-11-502(k), any interested person has the right to file written objections to a proposed permit with the Director within 30 days after the last publication of the written notice given for the proposed permit. If substantial written objections are filed, the Wyoming Environmental Council (Council) must hold a public hearing within 20 days after the final date for filing objections. *Id.* To notify the public of a pending hearing, the Council must publish written notice of the time, date, and location of the public hearing in a newspaper of general circulation in the county where the facility would be located once a week for two consecutive weeks immediately prior to the hearing. The public hearing is conducted as a contested case under the Wyoming Administrative Procedure Act (WY APA). W.S. 16-3-107 *et seq.* Judicial review can be obtained pursuant to the WY APA. W.S. 16-3-114.

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<sup>8</sup> Information that would divulge trade secrets can remain confidential. W.S. section 35-11-1001(a). Emission and pollution data must be available to the public. *Id.*

If a public hearing is held, the Council must issue findings of fact and a decision on the proposed permit within 30 days afterward. WDEQ must issue or deny the permit within 15 days after receiving findings of fact and decision of the Council. W.S. section 35-11-502(m).

W.S. section 35-11-1001 provides that any aggrieved party under the Act may obtain judicial review by filing a petition for review within 30 days after entry of the order or other final action complained of pursuant to the provisions of the WY APA. In addition, any interested person has the right to file written objections to a proposed permit with the Director within 30 days after the last publication of the public notice for the public comment period for the permit. If substantial written objections are filed, the Council must hold a public hearing. W.S. section 35-11-112 charges the Council to act as the hearing examiner for WDEQ in any case contesting the grant, denial, suspension, revocation or renewal of any permit required by the Act. The hearing must be conducted as a contested case in accordance with the WY APA, W.S. sections 16-3-101 *et seq.*

The WY APA provides that any person aggrieved or adversely affected in fact by a final decision of an agency in a contested case, or by any other agency action or inaction, is entitled to judicial review. W.S. section 16-3-114.

EPA has determined that the Wyoming approach to public participation requirements provides adequate opportunities for public participation in the permitting process sufficient to meet the standard for program approval. The provisions described above meet the three criteria listed at the beginning of this section by providing several means by which documents for draft and final permit determinations are made available for public review and comment, as well as ensuring that public comments on permit determinations are considered and significant comments are responded to in the permit record.

### 3. Guidelines for Compliance Monitoring Authority

An adequate permit program must provide the State with the authority to gather information about compliance, perform inspections, and ensure that the information it gathers is

suitable for enforcement. WDEQ has authority under W.S. section 35-11-109 to obtain any necessary documents and to conduct monitoring and testing to determine if an owner or operator of a CCR unit is in compliance with the permit and applicable regulations.

The Director or designated officers, employees, or representatives of WDEQ are also granted the authority under W.S. section 35-11-109 to conduct inspections of facilities, to inspect and copy any records, and to inspect any monitoring equipment or method of operation required to be maintained pursuant to the Act. Further, the application for a CCR unit includes an access agreement authorizing WDEQ to enter an operator's premises where a regulated facility or activity is located or conducted, or where records are kept, to perform inspections and to collect data for the purposes of ensuring compliance or as otherwise authorized by the appropriate rules and regulations of WDEQ. No permit may be issued unless the owner/operator of the facility provides the written authorization. SWR chapter 1, section 1(g).

In addition, the information that WDEQ collects or obtains during inspections, compliance monitoring, and enforcement, allows the State to verify the accuracy of information submitted by owners or operators of CCR units; verify the adequacy of methods (including sampling) used by owners or operators in developing that information; and produce evidence admissible in an enforcement proceeding. W.S. section 35-11-109.

Accordingly, EPA has determined that provisions in Wyoming's partial CCR permit program provide the State with the authority to gather information about compliance, perform inspections, and ensure that the information it gathers is suitable for enforcement. Further, W.S. section 35-11-109 provides WDEQ authority to obtain any necessary documents and to conduct monitoring and testing to determine if an owner or operator of a CCR unit is in compliance with the permit and applicable regulations. These provisions meet EPA's guidelines for compliance monitoring authority, and this aspect of the Wyoming partial CCR permit program meets the standard for program approval.

#### 4. Guidelines for Enforcement Authority

An adequate State CCR permit program must provide the State with adequate enforcement authority to administer its State CCR permit program, including the authority to: (1) Restrain any person from engaging in activity which may damage human health or the environment, (2) Sue to enjoin prohibited activity, and (3) Sue to recover civil penalties for prohibited activity.

WDEQ has the authority to initiate an investigation when WDEQ has cause to believe that a violation is being committed or if a written complaint is filed with WDEQ. W.S. section 35-11-701(a). Under W.S. section 35-11-701(c), if a violation exists, WDEQ may endeavor to eliminate the source or cause of the violation. WDEQ must serve the alleged violator with a notice specifying the alleged violation and the facts alleged and may require the alleged violator to cease and desist. W.S. section 35-11-701(c)(1).

In addition, if the Director has evidence that any pollution source presents an immediate and substantial danger to human or environmental health or safety, the Director may, through the Wyoming Attorney General, institute a civil action for immediate injunctive relief to halt any activity causing the danger. W.S. section 35-11-115(a). Further, W.S. section 35-11-109(a)(i) grants WDEQ wide-ranging authority to perform acts necessary to enforce the provisions of the Act and any rules, regulations, orders, or permits established or issued thereunder, and W.S. section 35-11-109(a)(vii) grants the Director wide latitude to prepare and present enforcement cases before the Council for violations of the Act or regulations promulgated under the Act. When compliance with the Act or the regulations applicable to CCR units, SWR chapter 18, is not achieved, WDEQ is authorized under the Act to engage in voluntary stipulated settlement or to initiate a civil enforcement action in Wyoming District Court. W.S. section 35-11-904.

Finally, under W.S. section 35-11-901(a), the Director can bring an administrative action for the assessment of civil penalties in Wyoming District Court against any person who violates, or any director, officer or agent of a corporate permittee who willfully and knowingly authorizes, orders or carries out the violation of any provision of the Act, or any rule, regulation, standard, or

permit adopted thereunder or who violates any determination or order of the Council pursuant to the Act or any rule, regulation, standard, permit, license, or variance. Such violations are subject to a penalty not to exceed \$10,000.00 for each violation for each day during which a violation continues; a temporary or permanent injunction; or both a penalty and an injunction. W.S. section 35-11-901(a).

Accordingly, EPA has determined that these provisions meet EPA's guidelines for enforcement authority, and this aspect of the Wyoming partial CCR permit program meets the standard for program approval.

#### 5. Intervention in Civil Enforcement Proceedings

Based on RCRA section 7004, an adequate CCR State permit program must provide an opportunity for citizen intervention in civil enforcement proceedings. Specifically, the State must either: (1) Provide for citizen intervention as a matter of right; or (2) Have in place a process to: (a) Provide notice and opportunity for public involvement in civil enforcement actions, (b) Investigate and provide responses to citizen complaints about violations, and (c) Not oppose citizen intervention when permissive intervention is allowed by statute, rule, or regulation.

“[A]ny person having an interest which is or may be adversely affected ... may commence a civil action on his own behalf to compel compliance” with the Act. W.S. 35-11-904(a)(i). A plaintiff must notify WDEQ and the alleged violator at least 60 days before filing suit, unless the violation complained of constitutes an imminent threat to the plaintiff's health, safety, or legal interest. W.S. 35-11-904(c)(i). Further, any person may intervene as a matter of right when WDEQ, through the attorney general, has commenced a civil action to require compliance with the provisions of the Act, or any rule, regulation, order or permit issued pursuant to the Act. W.S. section 35-11-904(c)(ii). Additionally, WDEQ has the authority under W.S. 35-11-701(a) to investigate citizen complaints concerning violations.

Inasmuch as the State explicitly provides for citizen intervention in civil enforcement proceedings as a matter of right, as well as its other provisions for citizens to be involved in

enforcement, EPA has determined that this aspect of the Wyoming partial CCR permit program meets the standard for program approval.

### *B. Adequacy of Technical Criteria*

EPA conducted an analysis of the Wyoming partial CCR permit program application, including a thorough analysis of Wyoming statutory authorities for the CCR program, as well as its regulations at Solid Waste Rules chapter 18: Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments. As noted above, Wyoming has requested approval of a partial CCR permit program.

#### 1. Wyoming CCR Units and Resources

WDEQ has identified 19 disposal units that are currently or have been used for disposal of CCR wastes (3 landfills and 16 surface impoundments) at 4 facilities in Wyoming.<sup>9</sup> WDEQ has demonstrated that it has the personnel to administer a permit program that is at least as protective as the Federal requirements.<sup>10</sup> The WDEQ SHWD is the lead program for permitting, compliance, and enforcement of CCR units. The WDEQ CCR Program is funded through the State budget process. The WDEQ budget is approved by the Wyoming State Legislature as identified in the Wyoming State Budget. In addition, WDEQ applied for EPA State and Tribal Assistance Grants (STAG) funding for Fiscal Years 2021 through 2023. In total, WDEQ has received \$571,396 in funding to develop its CCR permit program. If EPA receives future appropriations, WDEQ can continue to apply for funds for implementation of its CCR permit program. EPA determined that the WDEQ staffing and funding are adequate for WDEQ to administer the partial CCR permit program.

#### 2. Wyoming CCR Regulations

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<sup>9</sup> For more information on the specific facilities covered by the Wyoming CCR Permit Program, see page 7 (PDF page 10) of the Narrative, which is included in the docket for this action.

<sup>10</sup> The discussion on State personnel is included on page 8 (PDF page 11) of the Narrative, which is included in the docket for this action, and is described further in the Technical Support Document.

EPA determined that the portions of the Wyoming partial CCR permit program that were submitted for approval meet the standard for approval under RCRA section 4005(d)(1)(B)(i), 42 U.S.C. 6945(d)(1)(B)(i). To make this preliminary determination, EPA compared the technical requirements in the Wyoming CCR regulations at SWR chapter 18 to the Federal CCR regulations at 40 CFR part 257 to determine whether they differed from the Federal requirements, and if so, whether those differences met the standard in RCRA sections 4005(d)(1)(B)(ii) and (C), 42 U.S.C. 6945(d)(1)(B)(ii) and (C).

WDEQ previously regulated CCR in landfills under the SWR starting in 1990. Under the Wyoming Water Quality Rules promulgated in 1975, Wyoming began regulating CCR surface impoundments. WDEQ incorporated by reference the Federal CCR regulations, promulgated through December 14, 2020, with the addition of those portions of the Act (appendix A of the application) and SWR (appendix B of the application) that were more stringent. This includes additional definitions, general facility information, design and operating criteria, groundwater monitoring, and requirements for co-disposing of other waste streams, which are described further in section V. of the TSD. WDEQ amended the regulations to adopt EPA amendments through December 14, 2020, and chapter 18 became effective on August 19, 2022.

### 3. Wyoming Partial Program

WDEQ is seeking approval of its partial CCR permit program pursuant to RCRA section 4005(d). Wyoming's CCR regulations reflect 40 CFR part 257, subpart D, as amended through December 14, 2020; however, the Federal CCR regulations have changed since then as a result of litigation and the Legacy CCR surface impoundments and CCR management units final rule (89 FR 38985, May 8, 2024) (the 2024 Legacy Rule). WDEQ submitted its application in 2023 and the State has not adopted regulations reflecting the 2024 changes. Therefore, WDEQ has not sought approval of any State regulations that would operate in lieu of these amendments.

In the Proposed Approval, EPA included a list of four requirements of the Federal CCR regulations for which Wyoming is not seeking approval and explained that the Federal CCR

regulations will continue to apply directly to each regulated CCR unit in Wyoming (90 FR 42354, September 2, 2025). After reviewing the comments received on the Proposed Approval concerning changes to the 2024 Legacy Rule and upon further consideration, EPA recognizes that additional provisions are similarly situated and should also be carved out. For the same reasons discussed in the Proposed Approval and response to comments document, EPA is approving only those aspects of Wyoming's CCR program that were submitted for approval.

In the 2024 Legacy Rule, EPA amended certain terms and provisions that apply to all CCR units. It is EPA's understanding that WDEQ interprets the provisions in SWR chapter 18 the same as EPA interprets these in 40 CFR part 257, subpart D. Therefore, EPA is approving the State's version of these requirements:

1. Throughout 40 CFR part 257, subpart D, the regulations were amended by removing the phrase "Web site" and adding in its place the word "website" wherever it appears.
2. 40 CFR 257.50(c); this amendment revises the scope of applicability to specify that it includes inactive CCR surface impoundments at utilities or power producers regardless of how electricity is currently being produced at the facility.
3. 40 CFR 257.51; this section was reserved, as the effective date of 40 CFR part 257, subpart D, October 19, 2015, has passed.
4. 40 CFR 257.52; this amendment clarifies that all CCR units are subject to the requirement to comply with all other Federal, State, Tribal, or local laws or other requirements. In addition, all CCR units continue to be subject to §§ 257.3-1, 257.3-2, and 257.3-3.
5. "Active facility or active electric utilities or independent power producers"; this amendment to 40 CFR 257.53 clarifies that the relevant operational date for any active facility or active electric utilities or independent power producers is on or after October 19, 2015.

6. “CCR landfill or landfill”; this amendment to 40 CFR 257.53 clarifies that a CCR landfill means an area of land or an excavation that “contains”, rather than “receives”, CCR, and meets the other criteria of the definition.
7. “CCR surface impoundment or impoundment”; this amendment to 40 CFR 257.53 deleted the words “which is”.
8. “CCR unit”; this amendment to 40 CFR 257.53 clarifies that this term includes legacy CCR surface impoundments and CCRMU.
9. “Contains both CCR and liquids”; this additional definition in 40 CFR 257.53 is consistent with the term’s plain meaning and dictionary definitions as this term used in the closure performance standard in § 257.102(d)(2)(i) for CCR surface impoundments.
10. “Inactive CCR surface impoundment”, this amendment to 40 CFR 257.53 clarifies that this term is applicable to such CCR surface impoundments “located at an active facility.”
11. “Infiltration”; this additional definition in 40 CFR 257.53 is consistent with the term’s plain meaning and dictionary definitions to assist in the application of closure performance standards for CCR units.
12. “Liquids”; this additional definition in 40 CFR 257.53 is consistent with the term’s plain meaning and dictionary definitions to assist in the applicability for CCR surface impoundments and the application of closure performance standards for CCR units.
13. “State director”; this amendment to 40 CFR 257.53 clarifies that the State director is the chief administrative officer of the lead State agency responsible for implementing the State program regulating disposal in all CCR units.
14. “Technically feasible or feasible”; this amendment to 40 CFR 257.53 clarifies that certain requirements of 40 CFR part 257, subpart D refer only to feasible rather than

technically feasible. The amendment ensures that these terms are interpreted in the same way.

15. “Technically infeasible or infeasible”; this amendment to 40 CFR 257.53 clarifies that certain requirements of 40 CFR part 257, subpart D refer only to infeasible rather than technically infeasible. The amendment ensures that these terms are interpreted in the same way.

16. 40 CFR 257.61(a); this amendment updates a reference to 40 CFR 230.41(a), as the previously referenced provision has since been amended.

17. 40 CFR 257.80(a); this amendment clarifies that all CCR units are subject to the fugitive dust requirements.

18. 40 CFR 257.90(a); this amendment clarifies that all CCR units are subject to the groundwater monitoring and corrective action requirements. In addition, it corrects a typographical error.

19. 40 CFR 257.100(a)(1); this amendment clarifies that inactive CCR surface impoundments, regardless of how the facility produces electricity through non-fuels, are subject to the same compliance deadlines applicable to existing CCR surface impoundments, subject to certain requirements.

20. 40 CFR 257.104(a); this amendment clarifies that all owners or operators of CCR units that are subject to § 257.102 are subject to the post-closure care requirements, except for those owners and operators of a CCR unit that elect to close the CCR unit by removing CCR.

The following list identifies amendments to the requirements in 40 CFR part 257, subpart D that were not included in Wyoming’s application. These provisions will continue to apply directly to, and remain federally enforceable for, each CCR unit in Wyoming. Meaning, the

requirements in SWR chapter 18 that do not meet the standard for approval as of the date of the Proposed Approval, as enumerated below, are not being approved:

1. 40 CFR 257.73(a)(4), 257.73(d)(1)(iv), 257.74(a)(4), and 257.74(d)(1)(iv) for vegetative cover for slope stability; 2. 40 CFR 257.90(g) for suspension of groundwater monitoring;

2. 40 CFR 257.95(h)(2) for groundwater protection standards for constituents in appendix IV having no Maximum Contaminant Levels;

3. EPA amended certain provisions of the Federal CCR regulations in the 2024 Legacy Rule that apply to all CCR units and are more prescriptive than the requirements in the 2015 CCR Rule. WDEQ did not adopt these amendments and did not seek approval of these provisions. Thus, the following Federal provisions will be applicable to CCR units in Wyoming:

a. “Operator”; this amendment to 40 CFR 257.53 specifies the definition of operator to include certain other person(s) including those responsible for disposal or otherwise actively engaged in the solid waste management of CCR and person(s) responsible for directing or overseeing groundwater monitoring, closure or post-closure activities at a CCR unit.

b. “Owner”; this amendment to 40 CFR 257.53 broadened the definition of owner to include person(s) who own a facility, whether in full or in part.

c. 40 CFR 257.80(b)(6); this amendment specifies that the owner or operator must amend the written fugitive dust control plan no later than 30 days whenever there are certain changes in condition.

d. 40 CFR 257.102(c)(2); this amendment specifies the criteria for complete removal and decontamination activities during the active life and post-closure care period of a CCR unit.

e. 40 CFR 257.102(d)(2); this amendment specifies that the closure performance standards for drainage and stabilization of a unit when leaving CCR in place apply to all CCR units, including CCR management units (CCRMU) and CCR landfills, where free liquids remain in the unit.

f. 40 CFR 257.102(f)(2)(ii)(C) and(D); these amendments specify that CCR landfills that intersect with groundwater are eligible for the closure time extensions available to CCR surface impoundments, subject to certain requirements.

g. 40 CFR 257.104(a)(2), (c)(1) and (3); these amendments specify that an owner or operator closing a CCR unit pursuant to the closure by removal and decontamination standards during the active life and post-closure care period, 40 CFR 257.102(c)(2), must complete groundwater corrective action.

h. 40 CFR 257.104(g); this amendment specifies that a deed notation, required pursuant to 40 CFR 257.102(i), may be removed after the owner or operator demonstrates that groundwater monitoring concentrations no longer exceed any protection standard (i.e., the unit must be in detection monitoring) and certain notifications of completion of post-closure care are completed.

i. 40 CFR 257.105(a); this amendment specifies that each file in the operating record must indicate the date the file was placed in the record.

j. 40 CFR 257.105(e); (f)(1) through (14); (f)(19); (g); (h)(1) through (4); (h)(10) through (11); (h)(13) through (14); (i)(4) through (20); these amendments extend the retention times for certain documents maintained in the operating record.

k. 40 CFR 257.107(b); this amendment specifies that owners and operators using one website to meet the requirements of multiple environmental rules must delineate the postings for each regulatory program under a separate heading on the combined website.

l. 40 CFR 257.107(e); (f)(1) through (4); (f)(6) through (13); (f)(18); (g); (h)(1) through (3); (h)(8); (h)(10) through (11); (i)(4) through (20); these amendments extend the retention times for certain documents maintained on the facility's CCR website.

4. In the 2024 Legacy Rule, EPA added requirements for legacy CCR surface impoundments. WDEQ did not adopt these amendments. Thus, any legacy CCR surface impoundments in Wyoming will remain subject to the following Federal CCR regulations:

a. 40 CFR 257.50(e); this amended provision specifies that 40 CFR part 257, subpart D applies to electric utilities or independent power producers that ceased producing electricity prior to October 19, 2015 and have a legacy CCR surface impoundment onsite.

b. "Inactive facility or inactive electric utility or independent power producer"; this added definition to 40 CFR 257.53 specifies the facility where legacy CCR surface impoundments are located.

c. "Legacy CCR surface impoundment"; this added definition to 40 CFR 257.53 specifies a new type of CCR unit that meets certain criteria.

d. 40 CFR 257.100(a)(2); EPA amended 40 CFR 257.100(a) to add paragraph (2), which specifies that legacy CCR surface impoundments are subject to all of the requirements applicable to existing CCR surface impoundments, except for the requirements in 40 CFR 257.60 through 257.64 and 257.71.

e. 40 CFR 257.100(f) through (j); these additional provisions include reporting and technical requirements for legacy CCR surface impoundments.

f. 40 CFR 257.101(e); this added provision specifies the deadlines when owners or operators of legacy CCR surface impoundments must initiate closure.

g. 40 CFR 257.101(g); this added provision specifies requirements for deferral to permitting for closures conducted under substantially equivalent regulatory authority.

h. 40 CFR 257.105(k), 257.106(k), and 257.107(k); these added provisions specify recordkeeping, notification, and CCR website posting requirements for legacy CCR surface impoundments.

5. In the 2024 Legacy Rule, EPA also added requirements for CCR management units. WDEQ did not adopt these provisions. Thus, any CCR management units in Wyoming will remain subject to the following Federal CCR regulations:

a. 40 CFR 257.50(d); this amended provision specifies the scope of CCRMU requirements.

b. “CCR management unit”; this additional definition in 40 CFR 257.53 is for a new type of CCR unit.

c. “Closed prior to October 19, 2015”; this additional definition in 40 CFR 257.53 specifies the applicability of CCR landfills or surface impoundments that completed closure of the unit in accordance with State law prior to October 19, 2015.

d. “Critical infrastructure”; this additional definition in 40 CFR 257.53 specifies infrastructure, large buildings, or other structures vital to the success or continuation of current site operations or activities for the public welfare. Under the Federal CCR regulations, CCRMU located under critical infrastructure have the option to defer certain requirements to permitting.

e. “Inactive CCR landfill”; this additional definition in 40 CFR 257.53 is for a new type of CCR unit related to CCRMU.

f. “Regulated CCR unit”; this additional definition in 40 CFR 257.53 is a conforming change, which means any new CCR landfill, existing CCR landfill,

new CCR surface impoundment, existing CCR surface impoundment, inactive CCR surface impoundment, or legacy CCR surface impoundment. This term specifies that CCRMU are not considered regulated CCR units.

g. 40 CFR 257.75; this additional section includes requirements for identifying CCRMU.

h. 40 CFR 257.90(b)(3); this additional provision specifies a deadline for the owners and operators of CCRMU to comply with certain groundwater monitoring requirements.

i. 40 CFR 257.90(e); EPA amended one sentence in this provision to add an annual groundwater monitoring and corrective action report deadline for CCRMU. WDEQ has not adopted this amendment, *see* SWR chapter 18, section 9(a). Therefore, the majority of this provision, as adopted by WDEQ based on the December 14, 2020 version of 40 CFR 257.90(e), is approved for WDEQ to administer, but the added deadline for CCRMU will remain the applicable criteria for CCRMU in Wyoming and any CCRMU in Wyoming will remain subject to the Federal CCR regulations.

j. 40 CFR 257.95(b); this amended provision adds a deadline for CCRMU to sample and analyze the groundwater for all constituents in 40 CFR part 257, appendix IV.

k. 40 CFR 257.101(f); this additional provision specifies the deadlines when CCRMU must initiate closure.

l. 40 CFR 257.101(g) and (h); these include additional requirements for deferral to permitting for closures conducted under substantially equivalent regulatory authority and under critical infrastructure.

m. 40 CFR 257.102(b)(2)(iii) and (v); these amended provisions renumber paragraph (b)(2)(iii) to (iv) and add new paragraphs (b)(2)(iii) and (v). The added provisions are only applicable to CCRMU.

n. 40 CFR 257.102(f)(1)(iii); this additional provision specifies when CCR management units must complete closure activities.

o. 40 CFR 257.102(f)(2)(ii)(E) and (F); these additional provisions specify when CCR management units may extend the complete closure activities.

p. 40 CFR 257.104(d)(2)(iii); these amended provisions renumber paragraph (d)(2)(iii) to (iv) and add a new paragraph (d)(2)(iii). This added provision is only applicable to CCRMU.

q. 40 CFR 257.105(f)(25) and (26), 40 CFR 257.106(f)(24) and (25), 40 CFR 257.107(f)(24) and (25); these include additional recordkeeping, notification, and CCR website posting provisions for CCRMU.

EPA has determined that the Wyoming CCR regulations contain all of the technical elements of the Federal CCR regulations, including requirements for location restrictions, design and operating criteria, groundwater monitoring and corrective action, closure requirements and post-closure care, recordkeeping, notification, and CCR website posting requirements. The Wyoming partial CCR permit program also contains State-specific language, references, definitions, and requirements that differ from the Federal CCR regulations, but which EPA has determined to be “at least as protective as” the Federal criteria. These State-specific requirements are also discussed further in sections III.1. and V. of the Technical Support Document.

The effect of approving a partial State CCR permit program is that, except for the provisions for which EPA has not granted approval, the Wyoming partial CCR permit program will operate in lieu of the Federal CCR regulations. For the State provisions that are not approved upon finalization, the corresponding Federal requirements will continue to apply

directly to facilities, and therefore facilities must comply with both the Federal requirements and the State requirements. RCRA section 4005(d)(3).

#### **IV. Wyoming CCR Permits**

In accordance with the Wyoming SWR, chapter 18, section 4(a), all CCR units must be permitted in accordance with chapter 18. WDEQ has not issued any SWR chapter 18 CCR permits in the State. In accordance with the SWR, chapter 18, section 4(b), existing CCR landfills and surface impoundments must submit an operating or closure permit application under chapter 18 under certain timeframes unless an alternate schedule is approved by the SHWD for good cause. New CCR units must obtain a permit under chapter 18 prior to construction.

Since WDEQ has not issued permits under the chapter 18 regulations, no Wyoming permits are part of the permit program record under review. In accordance with RCRA sections 4005(d)(3)(A) and 4005(d)(6), in the absence of a permit issued under an approved State program, the owner or operator of a CCR unit must continue to comply with the Federal CCR regulations until a permit from an approved State is issued. 42 U.S.C. 6945(d)(3), (d)(6). Any permits issued after approval will be subject to program review provisions required by RCRA sections 4005(d)(1)(D)(i) and 4005(d)(1)(D)(ii). 42 U.S.C. 6945(d)(1)(D)(i), (ii).

#### **V. EPA Responses to Major Comments on the Proposed Determination**

EPA announced its proposal to approve, in part, the Wyoming CCR permit program, and a 60-day public comment period on September 2, 2025 (90 FR 42347). EPA also held a public hearing on October 30, 2025. The public hearing provided interested persons the opportunity to present information, views, or arguments concerning EPA's proposal. Oral comments received during the public hearing are documented in the transcript of the hearing, which, along with the written comments received during the public comment period, is included in the docket for this Action.

EPA received 24 written public comments and seven comments from the public hearing during the comment period. The major comments received by EPA focused on three primary

topics: 1) Groundwater Monitoring Concerns, 2) Public Participation, and 3) Wyoming CCR Permits. EPA's responses to individual comments are provided in the Response to Comments document included in the docket for this Action.

#### *A. Groundwater Monitoring Concerns*

*Comment summary:* Some comments raise concerns about groundwater contamination that could be attributed to CCR facilities. Some commenters described the human health and environmental impacts of certain constituents present in groundwater and surface water. Commenters were concerned about closure of CCR units with waste in place, especially if the CCR unit is unlined, near a water body, or if there is groundwater contamination from the CCR unit detected from the groundwater monitoring and corrective action program. Critics argue that Wyoming's program does not meet the "at least as protective" standard as required by RCRA section 4005(d).

*Comment response:* WDEQ adopted CCR regulations in SWR Chapter 18 which, in general, are identical or analogous to the Federal requirements of 40 CFR part 257, subpart D, including groundwater monitoring requirements that adopted 40 CFR 257.90 through 257.98 by reference. EPA is not making any determinations regarding the compliance status of individual facilities or CCR units based on the public comment process for this final Action. However, some commenters raised concerns about compliance issues in the broader context of program approval and questioned whether WDEQ has the ability and inclination to fully implement an approved program. As discussed above, Wyoming has legal authority to monitor permittees' compliance and to enforce the partial CCR permit program. Further, EPA expects to work with States during implementation of approved CCR permit programs.

The Wyoming partial CCR permit program will require each CCR unit located in the State to achieve compliance with the regulations that are part of their approved program as well as the Federal CCR requirements that were mentioned above that are not being approved as part of the Wyoming partial CCR permit program.

## *B. Public Participation*

*Comment summary:* Commenters stated that WDEQ does not offer adequate public participation opportunities in the Wyoming partial CCR permit program during the permit comment period. Those commenters indicated that the program does not require that all relevant materials in the permitting decision-making process be made publicly available, does not require adequate public notice, and does not provide adequate opportunity for public meetings or hearings. Commenters also mention difficulty accessing draft permits during the permit program proposal comment period, noting that accessing documents was extremely time consuming, untimely, and, for many, prohibitively expensive, and were concerned about major permit modifications lacking definition and taking place without public input.

Other commenters stated that the State's program will provide strong opportunities for public participation throughout the permitting process. These commenters mentioned that owners and operators of CCR units seeking new or major amendments to a CCR permit must complete two public comment periods and public notice of new and amended permits must be published in a local newspaper once a week for two consecutive weeks, posted online and sent to specified landowners, local officials, county commissions, solid waste districts and the interested parties list. Commenters noted that this process ensures that interested parties have knowledge of and a meaningful chance to comment on all new CCR permits and significant modifications to existing permits. Commenters also noted that the State requires that all public comments must be responded to by WDEQ prior to final permit issuance and that Wyoming guarantees a public hearing if objections are raised during the comment period.

*Comment response:* EPA disagrees that WDEQ does not offer adequate public participation opportunities and document access during the permitting process. Under W.S. section 35-11-1101, any records, reports, or information obtained under the Wyoming Environmental Quality Act or the rules, regulations, and standards promulgated under the Act are available to the public. W.S. section 35-11-502(g) and (j) and Wyoming SWR Chapter 1,

section 2(c)(i) and (ii) require public notice of a permit application being submitted once complete, and the proposal of a draft permit, respectively. All permitting notices are required to be posted in local newspapers and on the WDEQ's website, allowing for public access. Permit applications and review documents are also available for public review at any WDEQ office and can be sent digitally upon request in accordance with Department policy. A public hearing may also be requested if substantial written objections are filed within the comment period for the draft permit in accordance with W.S. section 35-11-502(j). While one commenter noted that documents were not as easy to obtain as they had hoped, the documents were obtainable.

EPA also disagrees that changes to the Wyoming regulations concerning major or minor amendments to CCR permits need to be made. Minor amendments to CCR permits are assumed to be those amendments to permits that are not considered Major amendments. "Major amendment" is defined SWR chapter 18, section 3(c) and are evaluated for completeness and compliance with the SWR chapter 18 standards in accordance with SWR chapter 1, section 3. Major amendments to CCR permits are processed in accordance with SWR chapter 18, section 4(f)(ii)(B). Further details are available in EPA's response to comment document, available in this docket. Additionally, Wyoming has yet to issue any CCR permits under chapter 18 and any existing Wyoming permits have been issued under different requirements and regulations. Commenters will have adequate time to provide public input when Wyoming does issue permits under the partial CCR permit program.

Based on the information provided above and additional details in the response to comments document in this docket, EPA concludes that WDEQ's public participation provisions are sufficient.

### *C. Wyoming CCR Permits*

*Comment summary:* Commenters argue that Wyoming's partial CCR program does not meet the "at least as protective as" standard as required by RCRA section 4005(d). Commenters contend that Wyoming's program does not require the WDEQ Administrator to determine

whether a permit application achieves compliance with the Federal requirements or equally protective State requirements. Commenters also argue that Wyoming's regulations allowing WDEQ to grant lifetime operating permits is inconsistent with the WIIN Act and is unlawful and impermissible. Other commenters stated that the adequacy of Wyoming's partial CCR permit program and WDEQ's Application for approval of its partial program does demonstrate that WDEQ has full authority to administer and enforce the provisions of the State's CCR permit program for which it is requesting approval.

*Comment response:* EPA disagrees with the statement that the partial program does not meet the "at least as protective as" standard and the criticisms of Wyoming's permitting process, requirements for completeness, and duration of its operating permits. W.S. section 35-11-502 and SWR chapter 18 dictate that the permit applications are thoroughly evaluated for compliance with the SWR chapter 18 standards in a two-step process consisting of a completeness review first, followed by a technical adequacy review. If the permit application is determined to not be technically adequate by the Department, the applicant is notified of the deficiencies and additional information, or different information that must be provided, or the permit application is denied. See W.S. section 35-11-502(h). EPA also disagrees with the assertion that it is unlawful or impermissible for a permit in Wyoming issued under SWR chapter 18, section 4(c)(i) to be issued for the active life of the unit, including the post closure care period, as permits for life are not prohibited by RCRA or the 40 CFR part 257 regulations. Furthermore, permits for the life of a CCR unit remain subject to periodic review by both Wyoming and EPA. See, e.g., RCRA section 4005(d)(1)(D)(i). Additionally, Wyoming has yet to issue any CCR permits under chapter 18 and any existing Wyoming permits have been issued under different requirements and regulations and therefore, EPA cannot examine implementation of the CCR permit program because it has yet to be implemented.

EPA has reviewed Wyoming's partial CCR Permit Program Application and has determined that its permitting process is adequate and meets the statutory and regulatory requirements for approval as required by RCRA section 4005(d).

## **VI. Approval of the Wyoming Partial CCR Permit Program**

The Wyoming partial CCR permit program, as described in its Application and Units II and III, is approved. Because this is a partial program approval, only the State requirements that have been approved will operate in lieu of the analogous Federal requirements. RCRA section 4005(d)(3). Accordingly, owners and operators of CCR units in Wyoming will remain responsible for compliance with all applicable requirements in 40 CFR part 257 for which Wyoming did not seek approval that are listed in Unit III.B of this document. Id. EPA will implement these provisions under the Federal CCR program, unless and until Wyoming submits a revised CCR permit program application and receives approval for these provisions. Permit provisions that are not part of an approved State program remain subject to the Federal CCR regulations, and there is no shield for noncompliance with applicable requirements in 40 CFR part 257. RCRA 4005(d)(3). For CCR units in the State, the Federal CCR regulations will remain in effect until WDEQ issues permits for them under its approved partial CCR permit program after providing the public opportunity to comment on the entire permit consistent with the process required for new permits.

RCRA section 4005(d)(1)(D) specifies that EPA will review a State CCR permit program:

- From time to time, as the Administrator determines necessary, but not less frequently than once every 12 years;
- Not later than three years after the date on which the Administrator revises the applicable criteria for CCR units under part 257 of title 40, CFR (or successor regulations promulgated pursuant to RCRA sections 1008(a)(3) and 4004(a));

- Not later than one year after the date of a significant release (as defined by the Administrator), that was not authorized at the time the release occurred, from a CCR unit located in the State; and
- On request of any other State that asserts that the soil, groundwater, or surface water of the State is or is likely to be adversely affected by a release or potential release from a CCR unit located in the State for which the program was approved.

RCRA section 4005(d)(4)(B) also provides that in a State with an approved CCR permitting program, the Administrator may commence an administrative or judicial enforcement action under RCRA section 3008 if:

- The State requests that the Administrator provide assistance in the performance of an enforcement action; or
- After consideration of any other administrative or judicial enforcement action involving the CCR unit, the Administrator determines that an enforcement action is likely to be necessary to ensure that the CCR unit is operating in accordance with the criteria established under the State's permit program.

## **VII. Final Action**

In accordance with 42 U.S.C. 6945(d), EPA is approving the Wyoming partial CCR permit program.

**Lee Zeldin,**  
*Administrator.*

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