The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Airbus SAS: Docket No. FAA–2026–3879; Project Identifier MCAI–2025–01452–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0193, dated September 8, 2025 (EASA AD 2025–0193), having an extended service goal (ESG) in the airworthiness limitations section of the instructions for continued airworthiness.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a fatigue test that identified cracks in the area of the fastener holes at the forward and aft upper corner of the bulk cargo door at section 16 and 17. The FAA is issuing this AD to address cracks in the forward and aft upper corner of the bulk cargo door, which, if not addressed, could affect the structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0193.

(h) Exceptions to EASA AD 2025–0193

(1) Where EASA AD 2025–0193 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the definition of the ''affected area'' in EASA AD 2025–0193 specifies ''as defined in the SB'', this AD requires replacing that text with ''as specified in Airbus Service Bulletin A320–53–1303, dated March 7, 2025''.

(3) Where paragraph (2) of EASA AD 2025–0193 specifies ''if any crack is detected, before next flight, contact Airbus for approved repair instructions and, within the compliance time specified therein accomplish those instructions accordingly'', this AD requires replacing that text with ''if any crack is detected, the crack must be repaired before further flight using a method approved by the Manager, AIR–520, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature''.

(4) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0193.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Camille Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 817–222–5149; email *Camille.L.Seay@faa.gov*.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0193, dated September 8, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Issued on April 29, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–08594 Filed 5–1–26; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA–HQ–OLEM–2025–3325; FRL–12983–01–OLEM]

Virginia: Approval of State Coal Combustion Residuals Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for comments.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to approve Virginia's Coal Combustion Residuals (CCR) partial permit program under the Resource Conservation and Recovery Act (RCRA). After reviewing the CCR permit program application submitted by the Virginia Department of Environmental Quality (VADEQ), EPA has preliminarily determined that Virginia's partial CCR permit program meets the standard for approval under RCRA. If approved, Virginia's CCR permit program will operate in lieu of the Federal CCR program, with the exception of the specific provisions noted below. EPA is seeking comment on this proposal during a 60-day public comment period and will be holding a hybrid public hearing on EPA's preliminary approval

of Virginia's partial CCR permit program.

DATES: *Comments due.* Comments must be received on or before July 6, 2026. *Public hearing:* EPA will hold a hybrid public hearing on June 24, 2026. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2025–3325, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management (OLEM) Docket, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.
- *Hand Delivery or Courier* (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michelle Lloyd, Office of Resource Conservation and Recovery, Waste Identification Notice and Generators Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Mail Code: 5304T, Washington, DC 20460; telephone number: (202) 566–0560; email address: *lloyd.michelle@epa.gov.* For more information on this document please visit *https://www.epa.gov/coal-combustion-residuals.*

SUPPLEMENTARY INFORMATION:

Table of Contents

List of Acronyms

CBI Confidential Business Information
CCR Coal Combustion Residuals
CFR Code of Federal Regulations
DCR Virginia's Department of Conservation and Recreation
EPA Environmental Protection Agency
MSWLF Municipal Solid Waste Landfill
FR Federal Register
NOI Notice of Intent
PEEP Permitting Enhancement and Evaluation Platform
RCRA Resource Conservation and Recovery Act
TSD Technical Support Document
VAC Virginia Administrative Code
VADEQ Virginia Department of Environmental Quality
VPDES Virginia Pollutant Discharge Elimination System
VSWMR Virginia Solid Waste Management Regulations
VWMA Virginia Waste Management Act
USWAG Utility Solid Waste Activities Group
WIIN Water Infrastructure Improvements for the Nation

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2025–3325, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion on all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

B. Participation in Hybrid Public Hearing

EPA will begin pre-registering speakers for the hybrid public hearing upon publication of this document in the **Federal Register**. To register to speak at the hearing, please use the online registration form available on EPA's CCR website (*https://www.epa.gov/coal-combustion-residuals/us-state-virginia-coal-combustion-residuals-permit-program*) or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to register to speak at the hearing. Both in-person and virtual hearing attendees are requested to pre-register at the link provided above. The last day to pre-register to speak at the hearing will be June 22, 2026.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk. EPA will make every effort to accommodate all speakers who arrive and register, although preferences on speaking times may not be able to be fulfilled.

Each commenter will have five (5) minutes to provide oral testimony. EPA encourages commenters to provide EPA with a copy of their oral testimony electronically by emailing it to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. EPA also recommends submitting the text of your oral comments as written comments to the rulemaking docket. If EPA is anticipating a high attendance, the time allotment per testimony may be shortened to no shorter than three (3) minutes per person to accommodate all those wishing to provide testimony and who have pre-registered. While EPA will make every effort to accommodate all speakers who do not pre-register, opportunities to speak may be limited based upon the number of pre-registered speakers. Therefore, EPA strongly encourages anyone wishing to speak to pre-register. Participation in the public hearing does not preclude any entity or individual from submitting a written comment.

EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing are posted online at EPA's CCR website at *https://www.epa.gov/coal-combustion-residuals/us-state-virginia-coal-combustion-residuals-permit-program.* While EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of an interpreter or special accommodations such as audio description, please pre-register for the hearing with the person listed in the **FOR FURTHER INFORMATION CONTACT** section and describe your needs by June 10, 2026. EPA may not be able to arrange accommodations without advance notice.

II. General Information

A. Overview of Proposed Action

On April 17, 2015, EPA published a final rule, creating 40 CFR part 257, subpart D,[1] which establishes a comprehensive set of minimum Federal requirements for the disposal of CCR in landfills and surface impoundments (80 FR 21302) (''Federal CCR regulations''). Section 2301 of the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act amended RCRA section 4005 to create a new subsection (d) that requires EPA to establish a Federal CCR permitting program. See 42 U.S.C. 6945(d).

As amended, RCRA section 4005(d) also allows States to seek approval for a State CCR permit program that will operate in lieu of a Federal CCR permit program in the State. The statute provides that within 180 days after a State submits a complete application to the Administrator for approval, EPA shall approve the State permit program if the Administrator determines that the State program requires each CCR unit located in the State to achieve compliance with either the Federal requirements or other State requirements that EPA determines, after consultation with the State, are at least as protective as those included in the Federal CCR regulations. See, 42 U.S.C. 6945(d)(1)(B).

On June 6, 2025, and revised on March 4, 2026, VADEQ submitted its CCR permit program application to EPA Region 3 requesting approval of the Commonwealth's partial CCR permit program.[2] EPA is proposing to approve the Virginia partial CCR permit program pursuant to RCRA section 4005(d)(1)(B). 42 U.S.C. 6945(d)(1)(B). The fact that Virginia is seeking approval of a partial program does not mean it must subsequently apply for full program approval. However, Virginia could apply for revised partial program approval or full program approval at some point in the future if it chooses to do so. If approved, the Virginia CCR permit program would operate in lieu of the Federal CCR program (codified at 40 CFR part 257, subpart D), with the exception of the provisions specifically identified below for which the Commonwealth is not seeking approval and for which the corresponding provisions of the Federal CCR program would remain in effect. However, even for the approved provisions, EPA would retain its inspection and enforcement authorities under RCRA sections 3007 and 3008, 42 U.S.C. 6927 and 6928, consistent with EPA's ongoing oversight authority under RCRA. See 42 U.S.C. 6945(d)(4)(B).

EPA has also engaged Federally recognized Tribes within the Commonwealth of Virginia in consultation and coordination regarding the proposed approval of VADEQ's partial CCR permit program. EPA has established opportunities for an informational session and consultation. Consultation opportunity letters were sent to the seven Federally recognized Tribes within Virginia on October 8, 2025. The Monacan Indian Nation and the Rappahannock Tribe requested consultation. An opening consultation meeting was held on December 1, 2025. Subsequently, the Monacan Indian Nation and Rappahannock Tribe submitted comments and questions via email. Those comments and questions were responded to in January and February 2026. The Rappahannock Tribe notified EPA Region 3 on January 26, 2026, they no longer wish to pursue consultation on this action. On March 18, 2026, the Monacan Indian Nation responded to Region 3 that they have no further comments or questions regarding the action. Tribal consultation has been and will continue to be conducted in accordance with the EPA policy on Consultation and Coordination with Indian Tribes (*https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf*). Pertinent documentation of the consultation will be provided in the docket for this action.

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, commonly known as coal ash, 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), November 8, 2024 (89 FR 88650), and February 10, 2026 (91 FR 5806). 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 proposed 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 its 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

[1] Unless otherwise specified, all references to part 257 and part 239 in this document are to title 40 of the Code of Federal Regulations (CFR).

[2] VADEQ 2026. Application For CCR Permit Program Approval Virginia Department of Environmental Quality. March.

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).[3] 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).

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 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.

III. The Virginia Application

EPA began working with VADEQ in 2019 as the Commonwealth developed its application for Virginia's partial CCR permit program. EPA discussed with VADEQ the process for EPA to review and approve a State's CCR permit program, VADEQ's anticipated timeline for submitting a CCR permit program application to EPA, and VADEQ's regulations for issuing permits. In 2016, 2017, and 2025, the Commonwealth incorporated by reference 40 CFR part 257, subpart D promulgated through December 14, 2020. See Virginia Register Volume 32, Issue 9, eff. January 27, 2016; amended, Virginia Register Volume 33, Issue 16, eff. May 3, 2017; Volume 41, Issue 9, eff. January 15, 2025.

On June 6, 2025, VADEQ submitted its CCR permit program application to EPA Region 3 requesting approval of Virginia's partial CCR permit program. On September 25, 2025, EPA sent questions to VADEQ to supplement the application. On March 4, 2026, VADEQ submitted an updated application to EPA Region 3.[4]

IV. EPA Analysis of the Virginia Application

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

[3] USEPA 2017. Coal Combustion Residuals State Permit Program Guidance Document; Interim Final, August 2017, 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).

[4] The revised Narrative Description, dated March 2026, shall be substituted for the original Narrative Description, dated June 2025, as well as the 40 CFR 257 Checklist, the Commonwealth of Virginia Attorney General certification, and copies of the Virginia Statutes, Regulations, and Guidance. All other documents submitted as part of the original June 6, 2025 application remain unchanged and are available in the docket for this action.

Administrator and the 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 Virginia 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 has preliminarily determined that State'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 Virginia has not included in its partial permit program. Consequently, EPA is proposing to approve the majority of Virginia's partial CCR permit program application. 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 State's approved 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 Virginia CCR permit program, and how the Virginia regulations differ from the Federal requirements, can be found in the Technical Support Document. EPA determined that the Virginia CCR permit program application was complete and notified Virginia of its determination by letter.[5]

A. Adequacy of the Virginia 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 Virginia 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 summarized below and provided in more detail in the Technical Support Document located in the docket supporting this proposed determination.

1. Guidelines for Permitting

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 Virginia is undertaken by VADEQ's Land Protection and Revitalization Division, including staff from each of VADEQ's six regional offices. Coordinators within the Central Office Land Protection and Revitalization Division—Office of Financial Responsibility and Waste Programs assist the regional office staff with consistency in permitting and compliance efforts. For a more detailed description of staff resources, see section IV of the Narrative Statement.

a. Permit Required

Section 10.1–1408.1A of the Virginia Waste Management Act (VWMA) and 9VAC20–81–40 of the Virginia Solid Waste Management Regulations (VSWMR) both require that no person shall operate any sanitary landfill or other facility for the disposal, treatment, or storage of solid waste without a permit from the Director of VADEQ. Applications for solid waste permits include three parts: the Notice of Intent (NOI), Part A application, and Part B application. Under 9VAC20–81–170.C of the VSWMR, permitted facilities remain subject to a permit through and until completion of post-closure care requirements.

b. Permitting Authority

Section 10.1–1456 of the Code of Virginia authorizes the Director of VADEQ, or their designee, the right to conduct inspections ''to determine whether the provisions of any law administered by the Board, Director or Department, any regulations of the Board, any order of the Board or Director or any conditions in a permit, license or certificate issued by the Board or Director are being complied with.'' VADEQ, under the Land Protection and Revitalization Division, is the lead agency for the permitting and oversight for the CCR permit program. VADEQ also, under the Water Permitting Division, is responsible for issuing Virginia Pollutant Discharge Elimination System (VPDES) permits that include calculated permit limits to ensure that discharges comply with water quality standards. As noted in section IV of VADEQ's CCR Permit Program Narrative Description (Narrative Description), Virginia's

[5] The Virginia application, EPA's completeness determination letter, and the Technical Support Document are available in the docket supporting this action.

Department of Conservation and Recreation (DCR) Dam Safety Program is responsible for oversight of impounding structures associated with surface impoundments.

c. Permit Requirements and Permitting Process

Virginia adopted 40 CFR part 257, subpart D by reference (9VAC20–81–800) and established permitting procedures for CCR landfills and CCR surface impoundments (9VAC20–81–450). Applications for solid waste permits include three parts: the NOI, Part A application, and Part B application. The NOI initiates the permit application and consists of documents centered on local government approvals. The Part A application, often submitted with the NOI, includes an assessment of site suitability of the proposed facility. This application also includes a Part A permit application letter which defines the physical boundaries (waste management boundary, maximum and minimum design elevations, and total disposal capacity) acceptable for waste management activities determined after taking into consideration all siting requirements. The Part B application includes the proposed design, operation, monitoring, closure, and postclosure care plans for the proposed facility. The resulting permit sets limits on site design, wastes accepted, recordkeeping and reporting, financial assurance, and incorporates any necessary schedules of compliance. The permit issuance grants approval to build the disposal facility; however, a Certificate to Operate is required to begin accepting waste. The permit is issued for the life of the facility (through termination of postclosure care) and must be modified over time to remain current and/or to adjust for modifications to design, operation, monitoring, closure, and postclosure care.

EPA has preliminarily determined that the Virginia approach to CCR permit applications and approvals is adequate, and that this aspect of the Virginia 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 Virginia's CCR permit program indicates that the Commonwealth 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 Virginia's public participation provisions is provided below.

a. Public Notice and Participation in the CCR Permit Application Process

Applications for new CCR permits are treated as a new solid waste permit, in accordance with 9VAC20–81–450 E. If the application is found to be technically adequate and in full compliance with the VSWMR, a draft permit is developed. The draft permit is available for public review at the local VADEQ regional office, and it is VADEQ practice to place a digital or hard copy of the application in a local library as well. Announcement of the availability of the draft permit, public comment period, and date, time, and location of a public hearing are made in a public notice published in a local newspaper and posted on VADEQ's website and the Virginia Regulatory Town Hall website. The regulation requires that the public comment period last at least 45 days, with the public hearing scheduled at least 30 days following the public notice and the public comment period extending at least 15 days after the public hearing.

Following the close of the public comment period, VADEQ reviews all comments (verbal and written); makes a decision to issue a permit, to deny a permit, or to modify the draft permit (9VAC20–81–450 E 7); and prepares a response to comments. The response to comments document is sent to the applicant and all persons who provided comments during the comment period. In accordance with 9VAC20–81–450 E 8, the response to comments document is sent out when the final permit decision is issued.

For new permits covering existing and inactive CCR surface impoundments, VADEQ requires solid waste permits under 9VAC20–81–810 B and D. These follow the full public participation procedures for new solid waste permits stated above, including public notice, a public comment period, and a public hearing. Due to public interest in these draft permit actions, VADEQ maintains a Coal Ash Solid Waste Permit Actions web page with links to facility-specific web pages that provide brief summaries, application submittals, VADEQ correspondence, and the draft permit; after a final decision, the final permit and a response to comments are posted.

For major permit modifications, when the Director proposes to approve a modification, VADEQ uses the same permit issuance procedures as for new permits pursuant to 9VAC20–81–600 F 3 d and 9VAC20–81–450 E, but a public hearing is not required for every major modification. If the modification would expand a facility or increase capacity, the process follows the same public participation procedures as outlined above for new solid waste permits. For other major modifications, at least a 30-day public comment period is required; when there is significant public interest, VADEQ may hold a public hearing and extend the comment period to 45 days under 9VAC20–81–450 E 4 and E 5.

Existing CCR landfills already permitted as industrial landfills were required to modify their permits to incorporate CCR rule requirements under 9VAC20–81–810 A. These were processed as major modifications without mandatory hearings in accordance with 9VAC20–81–450 E 4, reflecting that the landfills were already operating under the VSWMR and the CCR provisions were self-implementing. VADEQ supported public participation by maintaining a web page for each power station with summaries, submitted applications, VADEQ correspondence, draft permits, public comment information, and, after decisions, final permits and responses to comments; these web pages continue to provide summary information about the website and solid waste permit status. To facilitate permitting transparency (effective September 2023), the public, applicants, and their consultants can obtain information about the critical steps and schedules for VADEQ solid waste permitting actions through the Permitting Enhancement and Evaluation Platform (PEEP) and monitor permitting across multiple State agencies on permit status and timelines via the Virginia Permit Transparency (VPT) website.

b. Challenges to Permit Decisions

Final permit decisions are subject to appeal in accordance with the Administrative Process Act, Chapter 40 of the Code of Virginia (§ 2.2–4000 through § 2.2–4033). A major modification to a CCR unit permit is subject to appeal through the same process described above.

EPA has preliminarily determined that the Virginia 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 information it gathers is suitable for enforcement. Section 10.1–1456 of the Code of Virginia authorizes the Director of VADEQ, or his designee, the right to conduct inspections ''to determine whether the provisions of any law administered by the Board, Director or Department, any regulations of the Board, any order of the Board or Director or any conditions in a permit, license or certificate issued by the Board or Director are being complied with.''

The State has authorities and guidelines for inspections, analysis and monitoring, which allow the State to: (1) Verify the accuracy of information submitted by owners or operators of the CCR unit; (2) Verify the adequacy of methods (including sampling) used by owners or operators in developing that information; (3) Produce evidence admissible in an enforcement proceeding; and (4) Receive and ensure proper consideration of information submitted by the public. Compliance with permit conditions and associated documents will be assessed by VADEQ inspectors and permitting staff. Virginia's laws and regulations, both § 10.1–1409 B 4 of the Code of Virginia and 9VAC20–81–600, authorize the Director to amend permits to meet applicable regulatory requirements. Both permits issued and regulations promulgated by the Board are enforceable under Virginia State law (§ 10.1–1455 C of the Code of Virginia).

It is VADEQ regional staff's practice to inspect these facilities at least once each year. VADEQ has maintained a summary Coal Ash Solid Waste Permit Actions web page. 9VAC20–81–10 *et seq.* This page contains links to CCR facility-specific web pages for CCR sites with current permitting actions, with each page containing a brief facility summary, application submittals, VADEQ correspondence, the draft permit, and, following a final permit decision, the final permit and response to comments.

Accordingly, EPA has preliminarily determined that these compliance monitoring authorities are adequate, and that this aspect of the Virginia 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. Administrative and judicial enforcement capabilities to ensure compliance, including enforcement of orders and permit conditions and imposition of penalties, are provided by § 10.1–1455 of the Code of Virginia. Section 10.1–1402 of the Code of Virginia authorizes and directs the Board to adopt solid waste management regulations and standards necessary to protect public health and environment and issue permits and orders.

Based on the foregoing, EPA has preliminarily determined that the enforcement authority aspect of the Virginia 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.

Public participation in the compliance evaluation and enforcement programs is encouraged by VADEQ under 9VAC20–81–70 of the VSWMR. It is the department's practice to: (1) Investigate all citizen complaints and provide written responses to all signed, written complaints from citizens, concerning matters within the Virginia Waste Management Board's purview; (2) Not oppose intervention by any citizen in a suit brought before a court by the department as a result of the enforcement action; and (3) Provide notice on the department's internet website; and provide at least 30 days of public comment on proposed settlements of civil enforcement actions except where the settlement requires some immediate action. Where a public comment period is not held prior to the settlement of an enforcement action, public notice will still be provided following the settlement. 9VAC20–81–70. EPA has preliminarily determined that these authorities provide for an adequate level of citizen involvement in the enforcement process, and that this aspect of the Virginia CCR permit program meets the standard for program approval.

B. Adequacy of Technical Criteria

EPA conducted an analysis of the Virginia CCR Permit Program Application, including a thorough analysis of Virginia statutory authorities at § 10.1–1402 of the Code of Virginia for the CCR program, as well as its regulations at 9VAC20–81–10 *et seq.* As noted, Virginia requested approval of its partial CCR permit program.

1. Virginia CCR Units and Resources

VADEQ has identified 25 disposal units that are currently or have been used for disposal of CCR wastes (7 landfills and 18 surface impoundments) at 8 facilities in Virginia.[6] The VADEQ demonstrated that it has the personnel to administer a permit program that is at least as protective as the Federal requirements.[7] VADEQ indicates that the Virginia program is funded by Virginia general funds appropriated to VADEQ. In addition, VADEQ applied for EPA's State and Tribal Assistance Grants (STAG) funding for Fiscal Years 2023 through 2025. In total, VADEQ has received $571,396.00 in funding to develop its CCR permit program. If EPA receives future appropriations, if approved, VADEQ will be eligible to receive funds for implementation of its CCR permit program. EPA has preliminarily determined that the VADEQ staffing and funding are adequate for VADEQ to administer the CCR permit program, with or without additional Federal grant funds.

2. Virginia CCR Regulations

EPA has preliminarily determined that the portions of the Virginia CCR permit program that were submitted for approval meet the standard for approval

[6] For more information on the specific facilities covered by the Virginia CCR Permit Program, see pages 8–9 of the Narrative Description, which is included in the docket for this action.

[7] The discussion on State personnel is included in sections II, IV, and VI of the Narrative Description, which is included in the docket for this action, and is described further in the Technical Support Document.

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 Virginia CCR regulations at 9VAC20–81–800 *et seq.* 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).

Prior to incorporation of the Federal CCR regulations, the VSWMR regulated CCR landfills as industrial landfills. Under the VSWMR, industrial landfills are required to have solid waste permits and conform to siting, design/construction, operation, monitoring, closure, and postclosure care requirements specific to industrial landfills. Following incorporation, CCR landfills are designated as a subset of industrial landfills under the VSWMR and the landfills will be subject to both existing requirements for industrial landfills and newly incorporated requirements for CCR landfills. CCR surface impoundments were previously regulated under the State Water Control Law and allowed closure of impoundments in accordance with water pollution control regulations.

Virginia incorporated 40 CFR part 257, subpart D into the VSWMR by reference effective January 27, 2016 (9VAC20–81–800). Virginia also incorporated amendments to 40 CFR part 257, subpart D as a result of the 2016 direct final rule (81 FR 51802, August 5, 2016) into the VSWMR by reference, effective May 3, 2017. Since 2016, EPA has made additional amendments to the 2015 CCR rule. Virginia incorporated all amendments of 40 CFR part 257, subpart D promulgated through December 14, 2020, into the VSWMR by reference, effective January 15, 2025.

The regulatory incorporation does not incorporate the Participating State Director approval option; reserves 40 CFR 257.50(e); does not incorporate the vacated six-inch vegetative height requirement in 40 CFR 257.73 and 257.74; and does not incorporate 40 CFR 257.90(g). The only changes to the CCR rule language that Virginia changed as part of incorporation were to note that the term ''Director'' shall supplant the ''State Director'' wherever it appears and that ''qualified professional engineer'' or ''engineer'' means a ''professional engineer'' certified to practice in the Commonwealth of Virginia as defined in 9VAC20–81–10.

3. Virginia Partial Program

VADEQ is seeking approval of its partial CCR permit program pursuant to RCRA section 4005(d). Virginia'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), and the CCR Management Unit Deadline Extension Rule (91 FR 5806, February 10, 2026). VADEQ has not adopted regulations reflecting the 2024 or 2026 changes. Therefore, VADEQ has not sought approval of any State regulations that would operate in lieu of these amendments. EPA is approving only those aspects of Virginia'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 VADEQ interprets the provisions in 9VAC20–81–800 the same as EPA interprets these in 40 CFR part 257, subpart D. Therefore, EPA is approving the State's version of the following requirements:

1. Throughout 40 CFR part 257, subpart D, the regulations were amended by removing the phrase ''website'' 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 40 CFR 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 40 CFR 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 40 CFR 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 Virginia's application. First, these provisions will continue to apply directly to, and remain Federally enforceable for, each CCR unit in Virginia. Meaning, the requirements in 9VAC20–81–800 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;

3. 40 CFR 257.95(h)(2) for groundwater protection standards for constituents in Appendix IV having no Maximum Contaminant Levels. VADEQ sought approval for this provision, but it was challenged and is under reconsideration by the Agency; therefore, EPA is not able to approve this provision;

Second, 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. VADEQ 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 Virginia:

1. ''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.

2. ''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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

Third, in the 2024 Legacy Rule, EPA added requirements for legacy CCR surface impoundments and amended certain requirements in the 2026 CCR Management Unit Deadline Extension Rule. VADEQ did not adopt these amendments. Thus, any legacy CCR surface impoundments in Virginia will remain subject to the following Federal CCR regulations:

1. 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.

2. ''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.

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

4. 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.

5. 40 CFR 257.100(f) through (j); these additional provisions include reporting and technical requirements for legacy CCR surface impoundments.

6. 40 CFR 257.101(e); this added provision specifies the deadlines when owners or operators of legacy CCR surface impoundments must initiate closure.

7. 40 CFR 257.101(g); this added provision specifies requirements for deferral to permitting for closures conducted under substantially equivalent regulatory authority.

8. 40 CFR 257.102(e)(4)(vi) and (vii); these amended provisions clarify that legacy CCR surface impoundments and CCRMU are not eligible for the idling provisions under the criteria for conducting closure or retrofit of CCR units in 40 CFR 257.102(e).

9. 40 CFR 257.102(f)(1)(ii); this amended the closure provisions to include legacy CCR surface impoundments to the list of CCR units that are provided five years to complete closure.

10. 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.

Fourth, in the 2024 Legacy Rule, EPA also added requirements for CCR management units and amended certain requirements in the 2026 CCR Management Unit Deadline Extension Rule. VADEQ did not adopt these provisions. Thus, any CCR management units in Virginia will remain subject to the following Federal CCR regulations:

1. 40 CFR 257.50(d); this amended provision specifies the scope of CCRMU requirements.

2. ''CCR management unit''; this additional definition in 40 CFR 257.53 is for a new type of CCR unit.

3. ''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.

4. ''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.

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

6. ''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.

7. 40 CFR 257.75; this additional section includes requirements for identifying CCRMU.

8. 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.

9. 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. VADEQ has not adopted this amendment, *see* 9VAC20–81–800. Therefore, the majority of this provision, as adopted by VADEQ based on the December 14, 2020 version of 40 CFR 257.90(e), is approved for VADEQ to administer, but the added deadline for CCRMU will remain the applicable criteria for CCRMU in Virginia and any CCRMU in Virginia will remain subject to the Federal CCR regulations.

10. 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.

11. 40 CFR 257.101(f); this additional provision specifies the deadlines when CCRMU must initiate closure.

12. 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.

13. 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.

14. 40 CFR 257.102(f)(1)(iii); this additional provision specifies when CCR management units must complete closure activities.

15. 40 CFR 257.102(f)(2)(ii)(E) and (F); these additional provisions specify when CCR management units may extend the complete closure activities.

16. 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.

17. 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 Virginia 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 Virginia 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 Virginia 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 that are applicable to the facilities. RCRA section 4005(d)(3).

V. Virginia's Permits Issued Under the Commonwealth CCR Regulations

Pursuant to Virginia's CCR regulations, the owner or operator of existing CCR landfills and impoundments will comply with 40 CFR part 257, subpart D. VSWMR 9VAC20–81–810. This section required that owners and operators of all CCR units submit permit applications to VADEQ by October 17, 2017. All owners and operators of CCR units within the Commonwealth applied for a modified permit. Subsequently, VADEQ issued permits to the owners and/or operators of all CCR units in the Commonwealth.

1. Virginia's Permits Issued Under the Commonwealth CCR Regulations Are Not Part of the Permit Program Evidence Under Review

On June 6, 2025, VADEQ submitted its partial CCR permit program application and requested approval of Virginia's partial CCR permit program. On September 25, 2025, EPA sent comments to VADEQ and requested that VADEQ ''Please prepare, in writing, a statement indicating if Virginia DEQ would like EPA to review any previously issued or pending CCR landfill or CCR surface impoundment permits to ensure the permits align with the Federal requirements. EPA can review the existing permits as part of this program review or can review them as part of a future program review. See 42 U.S.C. 6945(d)(1)(A), and (d)(1)(B).''

On March 4, 2026, VADEQ submitted a revised partial CCR permit program application that indicated to EPA that it does not seek to have its existing permits approved as part of its partial program. On page 7 of the Narrative Description, VADEQ stated that:

While DEQ has issued solid waste permits . . . at this time DEQ is only requesting EPA's review and partial approval of the CCR permitting program . . . and that EPA review DEQ issued permits as part of a future program review . . . Upon federal approval of Virginia's CCR permit program, DEQ will initiate a review of existing solid waste permits for CCR facilities and modify permits following the applicable procedures outlined herein.

VADEQ committed to review and modify these permits to ensure compliance with the Federally approved program, after EPA issues its final determination of adequacy. Therefore,

EPA has treated these existing permits as outside the program evidence submitted for EPA review and thus not relevant to the decision on the permit program. See 42 U.S.C. 6945(d)(1)(A), and (d)(1)(B). EPA is basing its proposed decision on information in the program application package, as outlined in EPA's 2017 Guidance Document,[8] submitted by VADEQ on June 6, 2025, and revised on March 4, 2026.

2. Status of Virginia's Previously-Issued Permits Issued Under the Commonwealth CCR Regulations

Because Virginia has chosen to exclude its previously-issued permits from the scope of its permit program application, those permits also would not become effective under RCRA as a consequence of an EPA final approval action. Thus, any permits issued prior to EPA's approval of the Virginia's partial program would not provide facilities with the Federal permit shield in RCRA sections 4005(d)(3) and (d)(6). 42 U.S.C. 6945(d)(3) and (d)(6). Instead, these permits only become a part of Virginia's approved program and give rise to the Federal permit shield after a major modification is completed ''in accordance with'' the approved program, including providing a public notice and comment period on the entirety of each CCR permit. 42 U.S.C. 6945(d)(6)(A). Similarly, RCRA section 4005(d)(3)(A) makes clear that in the absence of a permit ''under'' an approved State program, facilities would still need to comply with the Federal CCR regulations. EPA intends to review the modified permits in conjunction with the program review required by RCRA section 4005(d)(1)(D)(i) and 4005(d)(1)(D)(ii). 42 U.S.C. 6945(d)(1)(D)(i), (ii).

VI. Proposed Action

EPA has preliminarily determined that the Virginia partial CCR permit program meets the statutory standard for approval. Therefore, in accordance with 42 U.S.C. 6945(d), EPA is proposing to approve the Virginia partial CCR permit program.

Lee Zeldin,

Administrator.

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BILLING CODE 6560–50–P

[8] See Chapter 4—Permit Program Application Checklist.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2026–0299; FXES1111090FEDR–267–FF09E21000]

Endangered and Threatened Wildlife and Plants; 12-Month Not-Warranted Finding for the Temblor Legless Lizard

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Temblor legless lizard (*Anniella alexanderae*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). The Temblor legless lizard inhabits the eastern foothills of the Temblor and Diablo ranges of California, along with adjacent portions of the San Joaquin Valley floor. After a thorough review of the best available scientific and commercial information, we find that listing the Temblor legless lizard as an endangered or threatened species is not warranted at this time. However, we ask the public to submit to us at any time any new information relevant to the status of the Temblor legless lizard or its habitat.

DATES: The finding in this document was made on May 4, 2026.

DATES: A detailed description of the basis for this finding is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2026–0299. Supporting information used to prepare this finding is also available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office. Please submit any new information, materials, comments, or questions concerning this finding to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Kim Turner, Acting Field Supervisor, Sacramento Fish and Wildlife Office, 916–414–6606, *kim_s_turner@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding on whether or not a petitioned action is warranted within 12 months after receiving any petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) not warranted; (2) warranted; or (3) warranted but precluded by other listing activity. We must publish a notification of the 12-month finding in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines ''species'' as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.