Washington, DC,'' § 165.508(a)(6), specify the location for this security zone as an area that includes all navigable waters described in paragraphs (a)(1) through (a)(3), which includes areas designated as Zones 1, 2, and 3.

- Security Zone 1, paragraph (a)(1); all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by the Francis Scott Key (US–29) Bridge, at mile 113, and bounded to the south by a line drawn from the Virginia shoreline at Ronald Reagan Washington National Airport, at 38°51′21.3″ N, 077°02′00.0″ W, eastward across the Potomac River to the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, including the waters of the Boundary Channel, Pentagon Lagoon, Georgetown Channel Tidal Basin, and Roaches Run.
- Security Zone 2, paragraph (a)(2); all navigable waters of the Anacostia River, from shoreline to shoreline, bounded to the north by the John Philip Sousa (Pennsylvania Avenue) Bridge, at mile 2.9, and bounded to the south by a line drawn from the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, southward across the Anacostia River to the District of Columbia shoreline at Giesboro Point at position 38°50′52.4″ N, 077°01′10.9″ W, including the waters of the Washington Channel.
- Security Zone 3 paragraph (a)(3); all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn from the Virginia shoreline at Ronald Reagan Washington National Airport, at 38°51′21.3″ N, 077°02′00.0″ W, eastward across the Potomac River to the District of Columbia shoreline at Hains Point at position 38°51′24.3″ N, 077°01′19.8″ W, thence southward across the Anacostia River to the District of Columbia shoreline at Giesboro Point at position 38°50′52.4″ N, 077°01′10.9″ W, and bounded to the south by the Woodrow Wilson Memorial (I–95/I–495) Bridge, at mile 103.8.

During the enforcement period, as specified in § 165.508(b), entry into or remaining in these zones is prohibited unless authorized by the Coast Guard Captain of the Port Maryland-National Capital Region. Public vessels and vessels already at berth at the time the security zone is implemented do not have to depart the security zone. All vessels underway within the security zone should plan to have departed the regulated area by the time the enforcement period begins. To seek permission to transit the zone, the Captain of the Port Maryland-National Capital Region can be contacted at telephone number (410) 576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Coast Guard vessels enforcing this security zone can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation. If the Captain of the Port or his designated on-scene patrol personnel determines the security zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to suspend enforcement and grant general permission to enter the security zone.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, and marine information broadcasts.

Dated: February 5, 2026.

Patrick C. Burkett,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2026–02594 Filed 2–9–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA–HQ–OLEM–2020–0107; FRL–7814.2–05–0LEM]

RIN 2050–AH36

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; CCR Management Unit Deadline Extension Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 8, 2024, the Environmental Protection Agency established regulatory requirements, including compliance deadlines, for legacy coal combustion residuals surface impoundments and coal combustion residual management units under the Resource Conservation and Recovery Act. This action extends the existing deadlines for owners and operators of active coal combustion residual facilities or inactive coal combustion residual facilities with a legacy coal combustion residual surface impoundment to comply with the facility evaluation requirements for identifying coal combustion residual management units. This action also extends the existing deadline for owners and operators of coal combustion residual management units to comply with the groundwater monitoring provisions and the remaining provisions for coal combustion residual management units. Finally, EPA is taking final action on several rule amendments that were proposed on January 16, 2025, to correct errors and clarify the coal combustion residual regulations.

DATES: This final rule is effective February 9, 2026.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2020–0107. 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 (CBI) 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. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Behan, Office of Resource Conservation and Recovery; Waste Identification, Notice, and Generators Division; Environmental Protection Agency; 1200 Pennsylvania Avenue NW; Mail Code: 5304T; Washington, DC 20460; telephone number: (202) 566–0531; email address: *behan.frank@epa.gov;* or Taylor Holt, Office of Resource Conservation and Recovery; Waste Identification, Notice, and Generators Division; Environmental Protection Agency; 1200 Pennsylvania Avenue NW, Mail Code: 5304T; Washington, DC 20460; telephone number: (202) 566–1439; email address: *holt.taylor@epa.gov.* For more information on this rulemaking please visit *https://www.epa.gov/coal-combustion-residuals.*

SUPPLEMENTARY INFORMATION:

Table of Contents

List of Acronyms

APA Administrative Procedure Act
CERCLA Comprehensive Environmental Response, Compensation, and Liability Act
CBI Confidential Business Information
CCR coal combustion residuals
CCRMU coal combustion residuals management unit
CFR Code of Federal Regulations
CRA Congressional Review Act
D.C. Circuit United States Court of Appeals for the District of Columbia Circuit
EPA Environmental Protection Agency
FER Facility Evaluation Report
FR Federal Register
GWMCA groundwater monitoring and corrective action
ICR Information Collection Request
NAICS North American Industry Classification System
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
P.E. Professional Engineer
PHI Proprietary Business Information
PRA Paperwork Reduction Act
RCRA Resource Conservation and Recovery Act
RIA Regulatory Impact Assessment
RFA Regulatory Flexibility Act
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code
USWAG Utility Solid Waste Activities Group
WIIN Water Infrastructure Improvements for the Nation

I. Executive Summary

A. Purpose of the Regulatory Action

The Environmental Protection Agency (EPA or the Agency) is promulgating this final rule to revise certain regulatory deadlines and make other amendments that apply to owners and operators of coal combustion residual (CCR) units, particularly to owners and operators of CCR management units (CCRMU). In 2015, EPA established requirements for the disposal of CCR as solid waste under Subtitle D of the Resource Conservation and Recovery Act of 1976 (RCRA) in landfills and surface impoundments (2015 CCR Rule) [80 FR 21302; April 17, 2015]. This 2015 CCR Rule applied to CCR units at active electric utilities and independent power producers but exempted from regulation similar units at inactive electric utilities and independent power producers. In 2024, the Agency published the Legacy CCR Surface Impoundments Final Rule (Legacy Final Rule) which amended the regulations and established requirements for inactive surface impoundments at inactive electric utilities and independent power producers (legacy surface impoundments) [89 FR 38950; May 8, 2024]. The Legacy Final Rule also established requirements to address the risks from the direct placement of CCR on the land that was exempt from regulation under the 2015 CCR Rule. This included inactive CCR landfills, as well as CCR surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule (*i.e.,* October 19, 2015). CCRMU can be located at both active and inactive electric utilities and independent power producers. The Legacy Final Rule referred to these newly regulated units as CCR management units.

After publication of the Legacy Final Rule, several issues were raised to EPA by members of the public including industry, non-governmental organizations, and state regulatory agencies. The Agency also identified several errors in the regulatory text of the Legacy Final Rule. In response, EPA issued two separate sets of direct final and proposed rules. The first set of actions published on January 16, 2025 [90 FR 4635 and 90 FR 4707], and the second set of actions on July 22, 2025 [90 FR 34358 and 90 FR 34409]. This current final rule takes final action on a subset of the issues raised in both of these sets of actions. Additional background information on the two proposals can be found in Unit III. of this preamble.

B. Summary of Final Rule

EPA is taking final action on the July 22, 2025 proposed rule [90 FR 34409] to provide additional time for owners and operators of active CCR facilities or inactive CCR facilities with a legacy CCR surface impoundment to complete the Facility Evaluation Report (FER) Part 1 and FER Part 2. This rule also provides owners and operators of CCRMU additional time to comply with the groundwater monitoring requirements and also extends deadlines for other CCRMU requirements for which completion of the FER Part 2 is a prerequisite.

Table 1 summarizes the new compliance deadlines for CCRMU (''New final rule deadlines''), as discussed in Unit IV. of this preamble. The existing deadlines that are being revised by this action (''Legacy final rule deadlines'') are also shown for comparison.

TABLE 1—COMPARISON OF COMPLIANCE DEADLINES FOR CCRMU UNDER THE LEGACY FINAL RULE AND THIS FINAL RULE

40 CFR part 257, subpart D requirement	Description of requirement to be completed	Legacy final rule deadlines	New final rule deadlines
Internet Posting § 257.107	Establish CCR website	February 9, 2026	February 9, 2027.
Facility Evaluation § 257.75 ...	Complete the Facility Evaluation Report Part 1	February 9, 2026	February 9, 2027.

TABLE 1—COMPARISON OF COMPLIANCE DEADLINES FOR CCRMU UNDER THE LEGACY FINAL RULE AND THIS FINAL RULE—Continued

40 CFR part 257, subpart D requirement	Description of requirement to be completed	Legacy final rule deadlines	New final rule deadlines
Facility Evaluation § 257.75 ...	Complete the Facility Evaluation Report Part 2	February 8, 2027	February 8, 2028.
GWMCA § 257.91	Install the groundwater monitoring system	May 8, 2028	February 10, 2031.
GWMCA § 257.93	Develop the groundwater sampling and analysis program	May 8, 2028	February 10, 2031.
GWMCA §§ 257.90–257.95 ...	Initiate detection monitoring and assessment monitoring. Begin evaluating groundwater monitoring data for SSIs over background levels and SSLs over groundwater protection standards.	May 8, 2028	February 10, 2031.
GWMCA § 257.90(e)	Complete the initial annual GWMCA report	January 31, 2029	January 31, 2032.
Closure § 257.102	Prepare written closure plan	November 8, 2028	August 11, 2031.
Post-Closure Care § 257.104	Prepare written post-closure care plan	November 8, 2028	August 11, 2031.
Closure and Post-Closure Care § 257.101.	Initiate closure	May 8, 2029	February 9, 2032.

EPA is also taking final action on some of the rule amendments that were proposed on January 16, 2025 [90 FR 4707] to correct errors and clarify the CCR regulations. These changes include fixing incorrect regulatory text citations and clarifying and adding provisions in the regulatory text to match what is clearly described in the preamble. EPA is still evaluating the remainder of the amendments proposed on January 16, 2025. Once EPA determines whether to finalize the remaining proposals, EPA will take final action in a subsequent **Federal Register** document. Given the number of corrections and revisions discussed in the direct final rule, table 2 provides the disposition of each issue and identifies those issues that are addressed in this final rule.

TABLE 2—DISPOSITION OF ISSUES COVERED IN THE WITHDRAWN JULY 16, 2025 DIRECT FINAL RULE

Unit of preamble in direct final rule	Title of revision	Is EPA taking final action in this final rule?
IV.A	Revisions to § 257.50(d) (Scope and Purpose)	No.
IV.B	Revisions to § 257.53 (Definitions)	No.
IV.C.1., 2., and 4	Revisions to § 257.75 (Requirements for CCRMUs)	No.
IV.C.3	Revisions to § 257.75 (Requirements for CCRMUs)	Yes.
IV.D	Revisions to § 257.80 (Fugitive Dust Requirements)	No.
IV.E	Revisions to § 257.90 (Groundwater Monitoring and Corrective Action Applicability).	No.
IV.F	Revisions to § 257.95 (Assessment Monitoring Program)	No.
IV.G.1., 4., and 9	Revisions to § 257.100 (Inactive CCR Surface Impoundments and Legacy CCR Surface Impoundments).	No.
IV.G.2., 3., 5., 6., 7., and 8	Revisions to § 257.100 (Inactive CCR Surface Impoundments and Legacy CCR Surface Impoundments).	Yes.
IV.H.1. and 2	Revisions to § 257.102 (Criteria for Conducting the Closure or Retrofit of CCR Units).	Yes.

C. Incremental Costs and Benefits

EPA establishes the requirements under RCRA sections 1008(a)(3) and 4004(a) [42 U.S.C. 6907(a)(3) and 6944(a)] without taking cost into account. [*Utility Solid Waste Activities Group, et al.* v. *EPA* (*USWAG*) 901 F.3d 414, 448–49 (D.C. Cir. 2018)]. The following cost estimates are presented in the Regulatory Impact Analysis (RIA) and summarized in this preamble for compliance with E.O. 12866 and consistent with OMB Circular A–4.

The RIA estimates that the annualized net cost savings (*i.e.,* cost savings minus disbenefits) of this final rule will be approximately $7.3–7.5 million per year when discounting at 3%. The RIA also estimates that the annualized net cost savings of this action will be approximately $24.0–27.0 million per year when discounting at 7%. Further information on the economic effects of this rule can be found in Unit VII. of this preamble.

II. General Information

A. Does this action apply to me?

This rule may be of interest to electric utilities and independent power producers that fall within the North American Industry Classification System (NAICS) code 221112. The reference to NAICS code 221112 is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This discussion lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not described here could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in § 257.50 of title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

EPA is amending the regulations governing the disposal of CCR in CCR management units, which are codified at 40 CFR part 257, subpart D. CCR management units are ''any area of land on which any noncontainerized accumulation of CCR is received, is placed, or is otherwise managed, that is not a regulated CCR unit . . .'' [40 CFR

257.53]. Specifically, EPA is extending the deadlines for owners and operators of active CCR facilities or inactive CCR facilities with a legacy CCR surface impoundment to complete the FER Part 1 and FER Part 2. This rule also provides owners and operators of CCRMU additional time to comply with the groundwater monitoring requirements, as well as extending deadlines for other CCRMU requirements for which completion of the FER Part 2 is a prerequisite (*i.e.,* the deadlines to complete closures, post-closure care plans, and CCRMU closure initiation).

EPA is also taking final action to correct errors and clarify the CCR regulations. These changes include fixing incorrect regulatory text citations, clarifying and adding provisions in the regulatory text to match what is clearly described in the preamble of the Legacy Final Rule, and improving rule implementation by adding a new section consolidating compliance deadlines for CCRMU.

C. What is the Agency's authority for taking this action?

EPA is publishing this rule under the authority of sections 1008(a)(3), 2002(a), 4004, and 4005(a), (d) of the Solid Waste Disposal Act of 1965, as amended by RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 and the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, 42 U.S.C. 6907(a), 6912(a), 6944, 6945(a), and (d).

D. What are the incremental costs and benefits of this action?

EPA establishes the requirements under RCRA sections 1008(a)(3) and 4004(a) [42 U.S.C. 6907(a)(3) and 6944(a)] without taking cost into account. [*Utility Solid Waste Activities Group, et al.* v. *EPA* (*USWAG*) 901 F.3d 414, 448–49 (D.C. Cir. 2018)]. The following cost estimates are presented in the Regulatory Economic Assessment (REA) and summarized in this preamble for compliance with OMB Circular A–4 and E.O. 12866. The requirements in this rule do not rely on these cost estimates.

The RIA estimates that the annualized cost savings of this action will be approximately $8.1–$9.5 million per year when discounting at 3%. The RIA estimates that the annualized cost savings of this action will be approximately $25.0–$30.0 million per year when discounting at 7%. The RIA estimates that the annualized reduction in benefits of this action will be approximately $0.8–$2.0 million per year when discounting at 3%. The RIA estimates that the annualized reduction in benefits of this action will be approximately $1.3–$3.3 million per year when discounting at 7%. Overall, the RIA estimates that the net annualized cost savings of this action will be $7.3–$7.5 million per year when discounting at 3%, and $24–$27 million when discounting at 7%. Further information on the economic effects of this action can be found in Unit VII. of this preamble.

III. Background

A. Legacy CCR Surface Impoundment and CCR Management Unit Rule (May 2024)

On May 8, 2024, EPA published the Legacy Final Rule regulating inactive surface impoundments at inactive facilities (legacy CCR surface impoundments or legacy impoundments) under 40 CFR part 257, subpart D [89 FR 38950]. In addition, the Legacy Final Rule established requirements to address the risks from the direct placement of CCR on the land that was exempt from regulation under the 2015 CCR Rule. This included inactive CCR landfills, as well as CCR surface impoundments and landfills that closed prior to the effective date of the 2015 CCR Rule; the final rule refers to these newly regulated units as CCRMU. The Legacy Final Rule added definitions for legacy CCR surface impoundments and CCRMUs, among other terms. It also established the regulatory requirements applicable to legacy CCR surface impoundments and CCRMUs, which largely consist of requiring compliance with certain existing CCR regulations, along with tailored compliance deadlines.

Owners or operators of an active facility or a facility with a legacy CCR surface impoundment are required to conduct a facility evaluation to identify and delineate any CCRMU at the facility and document the findings in two reports: FER Part 1 and FER Part 2 [§ 257.75(b)]. The FER Part 1 documents the thorough review of readily and reasonably available records regarding where CCR was either routinely and systematically placed on land or where facility activities otherwise resulted in measurable accumulations of CCR on land. The FER Part 2 documents the conclusions of a physical evaluation of the facility to address any data and information gaps identified in FER Part 1. Together, the FER Parts 1 and 2 give a complete picture of the historic use, placement, and the status of CCR at the facility, ultimately identifying any CCRMU of 1 ton or greater onsite. In addition, owners or operators of CCRMU must comply with the existing requirements in 40 CFR part 257, subpart D for groundwater monitoring, corrective action (where necessary), and in certain cases, closure and post-closure care requirements.

B. Legacy Final Rule Corrections Rules (January 2025)

On January 16, 2025, EPA published a direct final rule [90 FR 4635] and a parallel notice of proposed rulemaking [90 FR 4707] to correct errors and clarify several provisions published in the Legacy Final Rule. Due to the receipt of adverse comment, EPA withdrew the direct final rule on March 20, 2025 [90 FR 13084]. In this **Federal Register** document the Agency refers to this withdrawn action as the ''withdrawn corrections direct final rule.'' Because the withdrawn corrections direct final rule did not become effective, the Agency is proceeding with a final rule for certain issues based on the proposed rule. See table 2 in Unit I.B. of this **Federal Register** document for a summary of the issues being resolved in this final rule.

As explained in the January 16, 2025 actions, EPA proposed to correct several typographical errors in the regulatory text, correct regulatory text that does not conform to the Agency's stated positions in the Legacy Final Rule preamble, and revise regulatory provisions that, as drafted, have the potential to be ambiguous or confusing. In total the January 16, 2025 actions covered revisions to the following sections of 40 CFR part 257, subpart D: §§ 257.50 (scope and purpose), 257.53 (definitions), 257.75 (requirements for CCRMU), 257.80 (fugitive dust requirements), 257.90 (groundwater monitoring and corrective action applicability), 257.95 (assessment monitoring program), 257.100 (inactive and legacy CCR surface impoundments), and 257.102 (closure of CCR units).

C. CCR Management Unit Deadline Extension Rule (July 2025)

On July 22, 2025, EPA published a direct final rule [90 FR 34358] with a parallel notice of proposed rulemaking [90 FR 34409] that would create an additional option for certain owners and operators to comply with the FER Part 1 requirements and extend compliance deadlines for the remaining CCRMU provisions. On September 4, 2025, EPA withdrew the direct final rule [90 FR 42708] due to the receipt of adverse comment and is proceeding with a final rule based on the proposed rule. EPA refers to this direct final rule as the ''withdrawn direct final rule'' in the preamble to this final rule. In response

to comments, EPA reopened the comment period for the notice of proposed rulemaking and announced an online public hearing which was held on September 12, 2025 [90 FR 42711]. A transcript of the public hearing is available in the rulemaking docket.[1]

Specifically, EPA proposed to (1) establish an additional option to allow the two parts of the FER to be prepared concurrently so long as both reports are submitted no later than the current FER Part 2 deadline; (2) extend the deadline to prepare both FER Part 1 and Part 2 by 12 months; (3) extend the deadline for owners or operators of CCRMU to have designed and installed the groundwater monitoring system, developed the groundwater sampling and analysis plan, collected eight independent samples, and initiated detection and assessment monitoring; and (4) make conforming changes to the remaining CCRMU compliance deadlines to include: (a) the deadline to establish a public CCR website; (b) the deadlines to prepare the closure and post-closure care plans; and (c) the deadline to initiate closure of the CCRMU. [90 FR 34361–34264; July 22, 2025 and 90 FR 34409; July 22, 2025]

IV. Extension of Deadlines for CCR Management Units

The Legacy Final Rule established a two-step process with associated compliance deadlines for owners and operators of active facilities with a currently regulated unit or inactive facilities with a legacy CCR surface impoundment. These owners and operators are required to conduct facility evaluations to confirm whether any CCRMU greater than 1 ton exist on-site and then if so, to delineate the lateral and vertical extent of the CCRMU. Facility evaluations are documented through a FER Part 1 and FER Part 2. Facilities with one or more CCRMU are also subject to requirements and compliance deadlines for groundwater monitoring, corrective action, closure, post-closure care, recordkeeping, notification, and internet posting.

In this action, EPA is extending the deadlines for owners and operators of CCR management units to prepare each part of the FERs by one year. In addition, the Agency is providing additional time for owners and operators of CCR management units to comply with the groundwater monitoring provisions. Complying with the groundwater monitoring provisions requires facilities to complete several actions, including installing the groundwater monitoring system, developing the groundwater sampling and analysis program, initiating the detection and assessment monitoring programs to include obtaining a minimum of eight independent samples for each monitoring well (*e.g.,* quarterly sampling), and begin evaluating the groundwater monitoring data. In this action, EPA is providing a total of 36 months to complete these groundwater monitoring activities, this time period starts from the deadline for the FER Part 2. Finally, as a consequence of revising the deadline to complete the groundwater monitoring requirement, the Agency is extending the deadlines for several successor provisions including those for preparing the first annual groundwater monitoring and corrective action report, preparing the closure and post-closure care plans, and initiating closure of the CCR management unit. Table 1 in Unit I.B. of this preamble presents the new deadlines for these requirements. The rationale for these revisions is discussed below.

A. Pending Litigation Over the Legacy Final Rule and Clarifications Regarding the Proposal

1. Request for Extensions in Response Resultant to Pending Litigation Over the Legacy Final Rule

Several commenters supported extending the CCRMU deadlines due to the pending litigation [*i.e., City Utilities of Springfield* v. *EPA,* Case No. 24–1200 (D.C. Cir.)] and EPA's broader reconsideration of the Legacy Final Rule. The comments received are discussed in Units IV.B., IV.C., and IV.D. of this preamble. In summary, these commenters stated that an extension is appropriate given the current abeyance in the litigation and EPA's stated intent to reconsider the Legacy Final Rule requiring a new round of notice-and-comment rulemakings.

EPA disagrees that either the pending litigation or EPA's reconsideration of the Legacy Final Rule provides a basis for extending the FER Part 1 and FER Part 2 deadlines. [See, *e.g., Air Alliance Houston* v. *EPA,* 906 F. 3d 1049 (D.C. Cir. 2018)]. However, for other reasons discussed in Units IV.B., IV.C., and IV.D. of this preamble, the Agency is extending the CCRMU deadlines.

2. Clarifications Regarding the Proposal

Several commenters claimed that the proposed rule for this action was unclear whether the Agency intended to propose extensions identical to those in the withdrawn direct final rule or whether it intended to extend each deadline by 12 months as provided in table 1 of the proposed rule [90 FR 34411].

In the proposed rule, the Agency not only proposed the same deadline extensions discussed in the direct final rule but also sought comment on an additional alternative that would extend the deadlines to prepare both FER Part 1 and Part 2 by 12 months. Therefore, the Agency has considered all relevant comments received in both the withdrawn direct final rule and the proposed rule. See Units IV.B., IV.C., and IV.D. of this preamble for further responses to comment.

B. Revisions to the Compliance Deadlines for the Facility Evaluation Report Parts 1 and 2

As currently codified in 40 CFR part 257, subpart D, owners and operators of active and inactive facilities with one or more regulated CCR unit(s) are required to conduct a facility evaluation to confirm whether any CCRMU of 1 ton or greater exist on-site and if so, delineate the lateral and vertical extent of the unit(s). The Legacy Final Rule adopted a two-part facility evaluation process with two separate professional engineer (P.E.)-certified reports and compliance dates. The FER Part 1 includes the results of the available information collection and evaluation and has a compliance deadline of February 9, 2026 (*i.e.,* 15 months from the effective date of the Legacy Final Rule). The FER Part 2 addresses data and information gaps through a physical evaluation of the facility and has a compliance deadline of February 8, 2027 (*i.e.,* 12 months from the deadline for the FER Part 1). Together, the FER Part 1 and Part 2 give a complete picture of the historic use, placement, and the status of CCR at each facility, ultimately identifying and delineating the lateral and vertical extents of any CCRMU onsite.

1. Legacy Proposed Rule

In the Legacy Proposed Rule [88 FR 32020–32023; May 18, 2023], EPA proposed to require owners or operators of active or inactive facilities with one or more regulated CCR unit(s) to conduct a facility evaluation to confirm whether any CCRMU exist on-site and if so, delineate the lateral and vertical extent of the unit(s). EPA proposed that facilities prepare one report, to be completed in two consecutive steps, with a single deadline. As proposed, the first step would consist of a thorough review of available records in combination with a physical facility inspection and any necessary field work to fill any data gaps from the review of available records. The second step of the

facility evaluation would be to generate a professional engineer-certified FER to document the findings of the facility evaluation. The proposed compliance deadline for the completion of the FER was no later than three months after the effective date of the final rule. The following paragraph summarizes the comments received during this rulemaking that are pertinent to this final rule.

Many commenters disagreed with EPA's proposal of a two-step process documented in a single report. Commenters stated that the FER process should not be documented in a single report and that these requirements should more closely follow the investigative process developed under the RCRA and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) programs. The commenters on the legacy proposed rule suggested that separating the information collection requirements from the physical evaluation requirements would provide a more thorough evaluation of the existing available information to better inform the physical evaluation to fill data gaps and properly identify CCRMU. [89 FR 39054; May 8, 2024] They instead suggested EPA split the information collection requirements from the physical evaluation requirements, stating the separation would provide a more thorough evaluation of existing available information to better inform the physical evaluation to fill data gaps and properly identify CCRMU. Commenters also stated that the proposed FER deadline was infeasible and did not allow sufficient time to gather the required information and conduct a physical inspection. Most commenters cited concerns regarding the accessibility of historic information or data, difficulty locating off-site record storage, the possible extensive volume of information, the possible iterative nature of field work and sampling, the impact of seasonal disruptions to field work, the lack of qualified field personnel and the timing to acquire their services through contracts. Multiple commenters also suggested allowing significantly more time to complete individual aspects of the FER requirements.

2. Legacy Final Rule

In responses to these comments, the Legacy Final Rule adopted a two-part facility evaluation process with two separate P.E.-certified reports and compliance deadlines [89 FR 39054–39059; May 8, 2024]. The FER Part 1 includes the results of the available information collection and evaluation and has a compliance deadline of February 9, 2026. The FER Part 2 addresses data and information gaps through a physical evaluation of the facility and has a compliance deadline of February 8, 2027. Together, the FER Part 1 and Part 2 will give a complete picture of the historic use, placement, and the status of CCR at each facility, ultimately identifying and delineating the lateral and vertical extents of any CCRMU onsite.

When determining the final compliance deadlines for the FERs, EPA relied heavily on the information provided by commenters citing the shortages and backlogs of qualified contractors, increased strain on those contractors related to the number of CCR units complying with the CCR rule simultaneously, difficulty accessing and reviewing historical documentation, potential seasonal disruptions, and time needed to perform quality control and quality assurance. After considering the information provided by the commenters, EPA extended the compliance dates and separated the FER into two parts with separate deadlines to prepare the reports. Specifically, the final rule required FER 1 to be completed by February 9, 2026 (*i.e.,* 15 months from the effective date), and FER 2 to be completed by February 8, 2027 (*i.e.,* 12 months from the deadline of the FER Part 1and 27 months from the effective date).

3. Direct Final Rule (Now Withdrawn) and Parallel Proposal Rule

After the Legacy Final Rule went into effect on November 8, 2024, some members of the regulated community informed the Agency that they were facing challenges that would impact their ability to comply with specific compliance deadlines for CCRMU. The information that EPA received from the regulated community is available in the rulemaking docket and summarized below. The information provided by facilities includes that several companies are having difficulties preparing the FER Part 1 report by the current deadline because of difficulty in obtaining, accessing, and reviewing the historic documentation. The feedback provided to EPA includes that:

- It is taking facilities longer than expected to process voluminous historical records and information. One company with multiple facilities explained that it has records stored in various locations in different states, including off-site warehouses, filing cabinets at office and plant locations, and electronic records stored on various servers or in a file database system. This company indicated that it has located over a quarter million boxes of records stored at ten off-site warehouses, as well as over 5.8 million electronic records. Another company described locating nearly 600 boxes and 30 file cabinets of documents resulting in approximately 30,000 pages and nearly 4 gigabytes of information in need of review and assessment. Other facilities have stated that they have collected tens of thousands or hundreds of thousands of documents thus far. Companies have reported that searching through these records is time consuming because of the sheer volume of information that must be reviewed. Additionally, narrowing the search is often complicated because the description of the contents of the boxes are vague or not detailed.
- Identifying relevant records maintained in electronic formats has presented challenges. These companies reported that in many cases electronic records do not contain many useful attributes on which to search so it has been difficult to identify what documents may provide useful information. One company described the difficulty of identifying relevant files that have been digitized and preserved on a hard drive for a facility that operated for 40 years. Another company stated that operating systems hosting documents have changed over time (*e.g.,* software systems for document management and storage), as well as some information being stored on out-of-date electronic filing systems. Moreover, some companies have found that subsequent conversions to newer operating systems were not seamless, thus creating issues in retrieving data. Finally, a company discussed the challenges with accessing and reviewing microfiche information, specifically that the process of digitizing microfiche information is time consuming.
- Multiple companies have found that many of the historical engineering and construction documents and drawings stored in boxes at offsite warehouses are in poor condition. These companies reported that documents are torn or otherwise damaged, making them illegible or difficult to use. Older drawings or documents that have been scanned and saved electronically have poor resolution or are faint and difficult to read. These companies have stated that document condition and completeness has slowed the review process.
- Several commenters discussed that there is not sufficient time provided in the current FER Part 1 deadline for facilities owned and operated by affiliate companies to collaborate. These

companies further stated that such coordination is time-consuming, but necessary to ensure uniformity across different companies and facilities.

- Several companies are using contractors to complete the facility evaluation process, including the drafting of the report documenting compliance with part 1 of the facility evaluation requirements (*i.e.,* FER Part 1). These companies have identified shortages and backlogs in qualified contractors resulting from the simultaneous demand for contractors.

To address these challenges, EPA published the now withdrawn direct final rule [90 FR 34358; July 22, 2025 and 90 FR 42708; September 4, 2025] with a parallel proposed rule [90 FR 34409]. The direct final rule would have allowed facilities to complete the FER Part 1 by the FER Part 2 deadline but would not have extended the FER 2 deadline. The withdrawn direct final rule offered this option because, in reviewing the information submitted by these facilities, EPA noted that many of the specific difficulties presented to the Agency primarily related to the information gathering tasks required under FER Part 1. In addition, some companies suggested that one way to address these concerns was to provide companies with additional flexibility to complete the FER Part 1 by the FER Part 2 deadline. This suggestion was also consistent with the Agency's original proposal for the Legacy Rule, which as stated above commenters generally did not support at that time.

In the withdrawn direct final rule [90 FR 34358; July 22, 2025], EPA concluded that the information that had been provided by the companies did not provide sufficient support for a direct final rule extending the FER Part 2 deadlines because many of the specific difficulties presented to the Agency primarily related to the information gathering tasks required under FER Part 1. This conclusion was made despite that EPA stated in the withdrawn direct final rule that the activities involved in achieving compliance with the FER Parts 2 (*e.g.,* coordinating with local, state, and federal authorities; collecting samples; conducting field work; receiving lab results) are susceptible to factors outside of a facility's control (*e.g.,* extreme weather events, shortages of qualified contractors) and warrant greater flexibility [90 FR 34362; July 22, 2025], that (2) the FER Part 1 is the work plan is required to conduct the FER Part 2 facility evaluation work [90 FR 39054; May 8, 2024], and (3) that merging the deadlines would remove the transparency intended in the Legacy Rule by allowing the public the opportunity to see the work plan for the FER Part 2 prior to the completion of the FER Part 2 work [90 FR 39054; May 8, 2024].

In the parallel proposal published on July 22, 2025 [90 FR 34410], EPA also sought comment on an alternative proposal to resolve the challenges discussed above. Specifically, the EPA sought comment on whether to extend each of the FER compliance deadlines by 12 months, even though the Agency stated that the regulated community had not substantiated the need to extend the FER Part 2 deadline in addition to the FER Part 1 deadline. This alternative proposal coupled a 12-month extension with the option to allow the two parts of the FER to be prepared concurrently. This alternative proposal would have allowed facilities to either (1) complete the FER Part 1 by February 8, 2027 and the FER Part 2 by February 8, 2028 or (2) complete FER Parts 1 and 2 by February 8, 2028. Under this alternative proposal, the requirement to prepare a report documenting compliance with part 1 of the facility evaluation (*i.e.,* FER Part 1) would remain. As discussed above in this section, this alternative proposal was based on feedback EPA received that some owners and operators found the FER Parts 1 and 2 compliance deadlines infeasible and that an extension of 12 months for both FER Part 1 and Part 2 was necessary to provide sufficient time for data and information collection, review, field work, and completion of the reports given the challenges mentioned above.

4. Summary of Comments Received and Rationale for Final Rule

The Agency received many comments on the contemplated changes to the FER deadlines discussed in the withdrawn direct final rule and parallel proposed rule [90 FR 34358 and 34409; July 22, 2025]. This Unit of the preamble contains EPA's summary of the comments.

The Agency received many comments in response to the withdrawn direct final rule and parallel proposed rule [90 FR 34358 and 34409; July 22, 2025] which stated that there is a need for at least a 12-month extension for each of the FERs. The comments supporting the 12-month extensions generally stated that facility owners and operators have been diligently undertaking the necessary facility evaluations to identify CCRMUs at their regulated sites but are unable to meet the deadlines for the preparation of the FER Parts 1 and 2. These commenters provided the following information to support the need for the extensions: assertions that approximately half of the regulated facilities are unable to complete the FER process in accordance with the current timeframes due to voluminous records that need to be reviewed, contractor shortages and backlogs of qualified contractors, coordination concerns regarding contractors working at facilities, coordination issues pertaining to affiliate companies working to ensure uniformity across the different companies and facilities, and inadequate time to delineate CCRMU with uncertain boundaries. One commenter stated that CCRMUs are unlike the CCR units regulated under the original 2015 regulations, because for the most part those units had well-defined and discrete boundaries, while CCRMU can be areas of historic placement that lack clear delineation and thus the amount of work is greatly increased for these units. One commenter supported the extensions stating that the extensions are proactive steps to ensure that CCRs are being managed properly by recognizing the operational challenges that utilities are facing, but further stated that these extensions should not turn into a loophole of continued delays and requested firm and enforceable deadlines. Similarly, another commenter supported the extensions stating that the control of CCR needs to be more serious, and people need to be more attentive to it, therefore it is very important to have the time to do proper safety protocols and regulations. Some commenters stated that the extensions will have no adverse environmental effects and others positioned that the extensions are necessary to protect the environment and human health. Another supporting commenter stated that the proposed extensions do not in any way jeopardize human health and the environment and requested common sense revisions that better balance protecting human health and the environment with American industry.

Some commenters specifically supported the extension of FER Part 2, in addition to the extension to FER Part 1. These commenters supported the position that the FER Part 1 and Part 2 cannot be completed concurrently and were designed to be consecutive steps. These commenters further stated that FER Part 1 is intended to inform the FER Part 2, that FER Part 2 is intended to address any gaps identified in the FER Part 1 process, and that the FER Part 1 report must include a work plan for the FER Part 2 process. These commenters concurred with EPA's position in the Legacy Final Rule, that it is appropriate to provide 12 months

following the FER Part 1 for the FER Part 2 process.

Some of the commenters provided information to demonstrate that there are numerous factors outside of a facility's control that can impact its ability to comply with the requirements by the existing deadlines. These reasons include that: facilities need time to install equipment or infrastructure to conduct sampling (*e.g.,* drilling boreholes, laboratory delays); there may be delays from significant weather events which could create unsafe conditions or otherwise make borehole locations temporarily inaccessible; time is needed to have qualified personnel to carry out necessary fieldwork; time is needed to account for permitting or approval requirements to include federal seasonal restrictions for endangered species as well as state and local requirements for permits and formal approvals; and facilities may have issues accessing CCRMUs if confined in multiple areas by streams, public roads, railroad rights-of-way, and adjacent properties not owned by the regulated facilities. Some commenters stated that the FER Part 2 also includes complex and time-intensive tasks which are susceptible to the same contractor and weather delays as the FER Part 1. These commenters discussed that to complete the FER Part 2 the regulated entities must conduct a comprehensive on-site inspection of the entire property, and that while it may be a straightforward process for some facilities, other facilities have complicating factors such as size (*e.g.,* some facilities span several hundred acres), site complexity (*e.g.,* undeveloped lands and natural features that limit access (*i.e.,* wetlands, steep slopes, densely vegetated areas)), and the number of regulated units requiring evaluation. These commenters provided their opinion that without the corresponding extension to the FER Part 2, the flexibility intended by the FER Part 1 extension would be significantly undermined. One commenter also stated that identification and delineation of the CCRMUs is not necessarily a ''one-and-done'' exercise, providing that field investigations verify information data gaps which then may need additional follow-up sampling and investigations that are also susceptible to delays affiliated with weather and permitting.

But numerous other commenters broadly opposed the extensions and many of these commenters provided reasons for their opposition. Some opposing commenters requested that the compliance dates be shortened to end CCR accumulation in unlined surface impoundments. Some of these commenters opposing the extensions stated that 91% of power plants that have coal ash pits are contaminating groundwater and some of these commenters provided reference to the supporting industry data. Similarly, many of these commenters cited concerns about delays in the process endangering or continuing to contaminate sources of drinking water for numerous communities throughout the country. Some of these commenters were also concerned about impacts to ecosystems, the environment, surface waters, and recreational uses. Some commenters expressed concern about specific facilities affecting or potentially affecting their communities and stated that CCRMUs have contaminated or may contaminate drinking water in exceedance of the federal drinking water standards or surface waters in a way that would otherwise affect human health and/or the environment. Other opposing commenters expressed concerns with the costs of cleaning up contamination, improving drinking water, and medical care that will be incurred by extending the deadlines. Similarly, another commenter opposed the extensions for economic reasons, stating that the fossil fuel damages exceed the gross domestic product of the country. Many commenters expressed specific concerns about metals and other toxic coal ash constituents leaching into groundwater and surface water effecting human health and the environment. Some of these commenters referred to EPA risk assessments for these constituents. Many opposing commenters discussed that EPA had already extended deadlines in the Legacy Final Rule and feel that industry has been given enough time. Some commenters requested that EPA dismiss comments made by the regulated industry. Several opposing commenters pointed to the units regulated under the 2015 CCR Rule and the 100% compliance rate to install groundwater monitoring systems, perform the initial rounds of assessment monitoring, and issue their reports on time as evidence that extensions are not needed for CCRMUs. One of these commenters disputed claims made by industry that they need more time to complete the FERs and stated that the EPA's Proposed rule docket entries for these comments fail to provide evidence of the existence, scope, or impact of the alleged shortage of contractors; that the deadlines should not be extended because even if large companies have more documents, they also have more resources; and disputes that a $1.14M estimate for the sampling events at one facility is unsubstantiated, further pointing out that RCRA sections 1008(a)(3) and 4004(a) [42 U.S.C. 6907(a)(3) and 6944(a)] prohibit EPA from taking costs into account. Many of the opposing commenters expressed concern that the toxins in coal ash are harming human health and negatively impacting communities and workers. One of these commenters stated that communities near coal plants will likely be harmed by the proposed rule, since it delays investigation, closure and cleanup of these areas of toxic waste.

The Agency has considered the comments and information provided and is convinced that the existing deadline for the FER Part 1 report does not provide sufficient time for facilities to comply because of difficulty in obtaining, accessing, and reviewing historical documentation. EPA's existing deadline assumed that owners and operators could evaluate that historical documentation by the deadline of February 9, 2026. However, it is evident that EPA underestimated the timeline to complete these tasks, particularly considering that many of these power plants have operated for decades requiring these owners and operators to identify and evaluate voluminous historical records. The Agency agrees with commenters that these provisions are more complicated than the original 2015 regulation's provisions, because most of the existing CCR units which complied with the 2015 regulations had well-defined and discrete boundaries. By contrast CCRMU are generally areas of historic placement and more work is sometimes necessary for identification and delineation.

A thorough evaluation of the historical records, such as engineering drawings or other construction-related information of the CCRMU as part of the FER Part 1 process is an important step informing subsequent tasks including the facility inspection as part of the FER Part 2 and installation of the groundwater monitoring system. Providing the necessary time to review and assess available historical records will better inform the physical facility inspection and any necessary field work as part of the FER Part 2. Furthermore, as EPA acknowledged in the Legacy Final Rule, proper site characterization is critical to designing the groundwater monitoring system for the CCRMU [89 FR 39064; May 8, 2024]. While EPA anticipates that some facilities will have adequate information for site characterization, many of these facilities, especially inactive facilities, may need to conduct more extensive site reconnaissance and field work to

obtain the necessary information due to the widespread use of noncontainerized CCR across facilities. Providing the necessary time to properly conduct the FER Part 1 will better ensure that all available relevant records are identified. EPA further recognizes that groundwater monitoring systems that are designed based on inadequate data are more likely to be unable to properly monitor groundwater quality coming from the unit and therefore not protective of human health and the environment.

The Agency further agrees that the FER Part 1 and Part 2 were designed to be consecutive steps. Since the FER Part 2 is intended to address any gaps identified during the FER Part 1 process and that the FER Part 1 report must include a workplan to guide the FER Part 2 process, the Agency is reaffirming its position taken in the Legacy Final Rule that it is appropriate to provide 12 months following completion of the FER Part 1 for the FER Part 2 process. EPA discussed in the withdrawn direct final rule that FER Part 2 activities (*e.g.,* coordinating with local, state, and federal authorities; collecting samples; conducting field work; and receiving lab results) are susceptible to factors outside of a facility's control (*e.g.,* extreme weather, contractor shortages, and permitting or approval delays) and need additional flexibility to be completed by their deadlines [90 FR 34361]. The FER Part 2 requires that the owners and operators conduct a physical evaluation of their facilities, including where necessary field sampling [§ 257.75(d)(1)]. More specifically, the owners and operators are required to conduct the following activities which may require field work: (1) § 257.75(d)(1)(iv) requires a description of the physical and engineering properties of the foundation and abutment materials on which each CCRMU was constructed. This may require that facilities conduct field sampling events. (2) § 257.75(d)(1)(vi) requires evidence of structural instability of each CCRMU. This may require that facilities conduct structural integrity testing. (3) § 257.75(d)(1)(viii) requires the size of each CCR management unit, including the general lateral and vertical dimensions and an estimate of the volume of CCR contained within the unit. This may require field sampling and resampling to fully verify. (4) § 257.75(d)(1)(viii) requires identification of the types of CCR in each CCRMU. This may require field sampling of each CCRMU to verify constituents.

Since the FER Part 2 requires varying levels of field work in multiple climates, the Agency agrees that owners and operators of facilities may encounter factors outside of their control during the FER Part 2 process that could jeopardize their ability to meet the compliance deadline. These include that: facilities need time to install equipment or infrastructure to conduct sampling (*e.g.,* drilling boreholes, laboratory delays); there may be delays from significant weather events which could create unsafe conditions or otherwise make borehole locations temporarily inaccessible; time is needed to have qualified personnel to carry out necessary fieldwork; time is needed to account for permitting or approval requirements to include federal seasonal restrictions for endangered species as well as state and local requirements for permits and formal approvals; facilities may have issues accessing CCRMUs when confined in multiple areas by streams, public roads, railroad rights-of-way, and adjacent properties not owned by the regulated facilities; and there may be other site specific factors such as size (*e.g.,* some facilities span several hundred acres), site complexity (*e.g.,* undeveloped lands and natural features that limit access (*i.e.,* wetlands, steep slopes, densely vegetated areas), and the number of regulated units requiring evaluation. The Agency agrees with commenters who stated that industry did not fully substantiate the shortage of contractors. However, the Agency believes that some facilities may be experiencing staffing difficulties and finds that the other factors discussed in this paragraph may warrant additional time to ensure protection of human health and the environment. The Agency anticipates that some of the more complex facilities will need more time to fully delineate the lateral and vertical extent of the CCRMUs. EPA must ensure that the facilities nationwide can achieve regulatory compliance and finds that these factors warrant additional time to achieve compliance. And since at this time CCRMU requirements are not within a tailored site-specific permit program, the EPA finds that these extensions are required to provide adequate time for all facilities to meet the requirements. EPA acknowledges that the FER Part 2 requires field work that may require facilities to obtain federal, state, and local permits; install equipment or infrastructure to conduct sampling; procure the appropriate expertise; and various other region- and season-specific items that may jeopardize the ability to comply by the existing deadline. The Agency did not appreciate that these factors which are outside of the facilities control would inhibit compliance with the FER Part 2 deadline when it published the now withdrawn direct final rule [90 FR 34358] and the accompanying proposed rule [90 FR 34409; July 22, 2025].

Further, the Agency agrees with the commenters that expressed the importance of adequate time to properly manage the CCRMUs, as well as the numerous commenters who are concerned about impacts from CCRMUs to human health and the environment. The Agency appreciates the concerns submitted by commenters who are troubled by the potential negative impacts that these extensions may have on communities, groundwater, surface water, human health, and the environment. These extensions are necessary to limit human exposure of any metals and toxins in the coal ash. As EPA explained above, providing the necessary time to conduct each step of the facility evaluation process will ensure the proper delineation of each CCRMU, which in turn will better support the design and installation of a groundwater monitoring network protective of human health and the environment. The Agency believes that providing these extensions protects the American public. EPA will continue to evaluate the CCRMU regulatory framework to ensure that chemicals and other exposures from CCRMU comply with RCRA.

The Agency disagrees with commenters advocating to take cost into account as a factor when establishing these deadlines because EPA establishes the requirements under RCRA sections 1008(a)(3) and 4004(a) [42 U.S.C. 6907(a)(3) and 6944(a)] without taking cost into account. [*USWAG,* 901 F.3d at 448–49]

In this final rule, EPA is extending the deadlines for owners and operators of CCRMU to prepare each part of the FER by one year. The Agency finds this extension is supported by the information submitted by the commenters as discussed above and finds that this one-year extension for both the FER Part 1 and Part 2 is sufficient based on the representations by the majority of commenters from the regulated community that a 12-month extension will address their concerns. Accordingly, the revised deadline to complete FER Part 1 is February 9, 2027, and the deadline for FER Part 2 is February 8, 2028. The revised deadlines to complete FER Part 1 and FER Part 2 are codified in § 257.75(c)(1) and (d)(1), respectively.

5. Option To Allow the Two Parts of the FER To Be Prepared Concurrently

As discussed above, in both the July 22, 2025 direct final rule (now withdrawn) and the parallel proposed rule [90 FR 34358 and 34409], EPA offered a regulatory option under which a facility could prepare both FER Part 1 and Part 2 by February 8, 2027 (*i.e.,* the existing deadline for FER Part 2). This option of a single deadline for FER Part 1 and Part 2 (as opposed to two separate deadlines) allowed flexibility to complete tasks, such as reviewing historical documentation and conducting field work to confirm the presence of CCRMU. EPA explained that this option would address many of the specific difficulties presented to the Agency, which primarily related to the information gathering tasks required under FER Part 1. EPA also reasoned that the activities involved in achieving compliance with the facility evaluation requirements (FER Parts 1 and 2) (*e.g.,* coordinating with local, state, and federal authorities; collecting samples; conducting field work; receiving lab results) are susceptible to factors outside a facility's control (*e.g.,* extreme weather events, shortages of qualified contractors, and permitting or approval delays), and therefore warrant greater flexibility. Additionally, required activities can be restricted depending on the time of year and the location of the facility (*e.g.,* due to seasonality, protected species, site clearing restrictions). Because all the CCRMU requirements build upon the FER, EPA must ensure that facilities nationwide can achieve regulatory compliance by the deadline. EPA believed that utilizing a single deadline for the facility evaluation requirements would allow facilities to make reasonable accommodations for facility-specific challenges in a way that the current sequential deadlines do not.

Under both the withdrawn direct final rule and the proposed rule, compliance with the existing provisions (that require completion of the FER Parts 1 and 2 by separate deadlines) would have remained as an option because most commenters on the legacy proposed rule had raised concern with a two-step process documented in a single report, and suggested that EPA split the information collection requirements from the physical evaluation requirements to provide a more thorough evaluation of existing available information to better inform the physical evaluation to fill data gaps and properly identify CCRMU. EPA believed that establishing an alternative compliance option would address concerns and provide facilities with flexibility to account for their individual circumstances.

The Agency received a couple comments opposing the additional regulatory option to allow concurrent submission of the FER Part 1 by the FER Part 2 deadline. One commenter provided that further delays to reporting for coal ash dumps and landfills will inevitably slow cleanup, and communities will be exposed to years more toxic ash pollution. Another commenter specifically opposed the option, cited the sequential nature of the FERs, and recommended that the Agency extend the FER Part 1 and Part 2 deadlines each by 12 months. This commenter stated that simply collapsing the FER Part 1 and Part 2 deadlines would not provide any actual relief because the FER Part 2 must build directly on the findings of the FER Part 1. This commenter further discussed that the regulatory text and structure confirm that two reports are intended and provided the example that FER Part 1 identifies and narrows the areas of a facility that an owner and operator must investigate during the second part of the FER Process. Both opposing commenters stated concern that merging of the FER deadlines will remove the transparency that was intended by the separate compliance dates and allowed the public the opportunity to see the work plan (*i.e.,* the FER Part 1 report).

Conversely, other commenters generally supported the proposed rule and therefore the additional regulatory option which would allow concurrent submission of the FER Parts 1 and 2. The Agency received several comments that specifically support the concurrent submission of the FER Part 1 with FER Part 2; however, many of these commenters further explained that there is a need for an extension to FER Part 2 because the FERs are sequential and cannot be completed concurrently. The commenters who specifically supported the option for concurrent submission of the FERs provided the following justifications: that eliminating the separate phase 1 and phase 2 and requiring a combination report just makes sense because a single report would be more concise and will not delay the cleanup schedule; that affected facilities would appreciate the flexibility to choose a combined compliance deadline that can account for budget cycles, delays bid specifications, and the ability provide qualified contractors and equipment; and that it can hardly be viewed as controversial since it would still require the FER Part 2 to be completed within the timeline established in the Legacy Final Rule. The commenters who requested extensions for FER Part 2 based on the sequential nature of the FERs stated that the FER Part 1 and Part 2 cannot be completed concurrently and were designed to be consecutive steps. These commenters further stated that FER Part 1 is intended to inform FER Part 2, that FER Part 2 is intended to address any gaps identified in the FER Part 1 process, and that the FER Part 1 report must include a work plan for the FER part 2 process. Many of these commenters concurred with the EPA's position in the Legacy Final Rule, that it is appropriate to provide 12 months following the FER Part 1 for the FER Part 2 process.

The Agency has considered the information provided by these commenters and agrees that the FER Part 1 and Part 2 are sequential steps, that the option for concurrent FERs does not provide relief for the FER Part 2 deadline, that allowing concurrent submission of the FER Part 1 by the FER Part 2 deadline will delay reporting (*i.e.,* the internet posting of the FER Part 1 as required per § 257.107), and that it is appropriate to provide 12 months to complete the FER Part 2 after completion of the FER Part 1. Therefore, the final rule does not allow concurrent submission of the FER Parts 1 and 2. As discuss in the previous paragraph, the Agency found that many of the commenters who supported the option for concurrent submission of the FERs often also provided evidence that was contrary to the option while stating the need for additional time for the FER Part 2 report. Further, the Agency disagrees with the suggestion that there should only be a single FER report required or that there should be a single deadline for the FER Part 1 and the FER Part 2 because it is contrary to many comments received in response to the legacy proposed rule and this proposed rulemaking which state that the activities required to the complete the reports are sequential, that the FER Part 1 report is necessary to inform the FER Part 2 process, and that the process should more closely follow the investigative process developed under the RCRA and CERCLA processes. The Agency finds that the majority of comments received in this rulemaking affirm the determinations in the Legacy Final Rule [89 FR 390540], that the two-step approach to facility evaluation will reduce the need for rework and the overall burden for both facility owners or operators and contractors who may be hired to complete this work. As EPA stated in the Legacy Final Rule, facilities must conduct a physical site inspection

of the entire facility as part of the FER Part 2 [89 FR 39057]. This physical site inspection must consist of a visual inspection of the entire facility to look for evidence that CCR is currently being managed on the land to include addressing all data gaps identified as part of the FER Part 1. Additionally, EPA again concludes that this approach increases transparency by allowing the public the opportunity to see the work plan developed by the owner or operator. If the Agency had proceeded with finalizing the single deadline for the submission of both FER Part 1 and 2, the public may not have seen the FER Part 2 work plan until after the FER Part 2 work was already completed. Therefore, the Agency is not proceeding with the additional option to allow the two parts of the FER to be prepared concurrently.

6. Summary of Deadlines for FER Part 1 and Part 2

In summary, EPA is extending the deadlines for owners and operators of CCRMU to prepare FER Part 1 and FER Part 2 by one year. Table 3 shows the new deadlines to complete these activities.

TABLE 3—COMPARISON OF COMPLIANCE DEADLINES FOR CCRMU UNDER THE LEGACY FINAL RULE AND THIS FINAL RULE

40 CFR part 257, subpart D requirement	Description of requirement to be completed	Legacy final rule deadlines	New final rule deadlines
Facility Evaluation § 257.75(c)(1) ...	Complete the Facility Evaluation Report Part 1.	February 9, 2026	February 9, 2027.
Facility Evaluation § 257.75(d)(1) ..	Complete the Facility Evaluation Report Part 2.	February 8, 2027	February 8, 2028.

C. Revisions to the Deadlines for the Design and Installation of the Groundwater Monitoring System, Development of the Groundwater Sampling and Analysis Program, and the Initiation of the Combined Detection and Assessment Monitoring Programs

The Legacy Final Rule established a new requirement in § 257.90(b)(3) for owners or operators of CCRMU to install a groundwater monitoring system, develop a groundwater sampling and analysis program to include selection of the statistical procedures to be used for evaluating groundwater monitoring data, collect eight independent samples, and initiate detection and assessment monitoring no later than May 8, 2028. This existing deadline of May 8, 2028 is 42 months from the effective date of the Legacy Final Rule (November 8, 2024 to May 8, 2028) and is 15 months after the existing deadline for owners and operators to complete FER Part 2 (February 8, 2027 to May 8, 2028) [89 FR 39061–69; May 8, 2024]. EPA explained in the Legacy Final Rule that the May 8, 2028 deadline took into account several considerations, including: the potential size of the CCRMU universe; seasonality; required local and state approvals to clear vegetation or drill wells; need to coordinate with local or state regulatory authorities; the national labor shortage and contractor and laboratory backlogs; and the impact of overlapping compliance deadlines. Overall, EPA found the information provided regarding the infeasibility of the groundwater monitoring compliance deadlines in the proposed Legacy Rule convincing, therefore promulgated the existing deadline of May 8, 2028, for facilities to comply with the groundwater monitoring requirements of § 257.90(b)(3).

On July 22, 2025, EPA issued a direct final rule along with a parallel proposed rule to revise the groundwater monitoring compliance deadlines [90 FR 34358 and 34409, and 90 FR 42708; September 4, 2025]. The direct final rule was subsequently withdrawn on September 4, 2025 [90 FR 42708] due to the receipt of adverse comment. EPA refers to this direct final rule as the ''withdrawn direct final rule'' in the preamble to this final rule. The withdrawn direct final rule and proposed rule are further discussed below followed by a summary of the public comments received in response to these actions.

1. Withdrawn Direct Final Rule

EPA explained in the withdrawn direct final rule that since publication of the Legacy Final Rule, members of the regulated community raised concerns that the existing deadline is infeasible for many owners or operators of CCRMU [90 FR 34363; July 22, 2025]. These entities stated that the compliance timeframes in the Legacy Final Rule incorrectly assume that the FER process can proceed concurrently with the first tasks required to comply with the groundwater monitoring requirements. They contend that the first tasks to comply with the groundwater monitoring requirements (*i.e.,* the design and installation of the groundwater monitoring system) cannot begin until all CCRMU onsite are identified and delineated, which in many cases will be ongoing through late 2026. One organization specifically pointed out that it is impossible to design a groundwater monitoring system that accurately represents the groundwater passing the CCRMU's waste boundary and the quality of background groundwater, as required in § 257.91, before the unit is fully delineated thru the facility evaluation process. Furthermore, the CCR regulations allow for the use of multiunit groundwater monitoring systems, which requires a complete knowledge of all CCR units onsite prior to design of a multiunit system.

These parties also stated that they use third parties to complete tasks required to comply with the groundwater monitoring provisions, including the design and installation of the groundwater monitoring network and the collection and analysis of samples. These companies identified shortages and backlogs in qualified contractors and laboratories resulting from the increased demand on these resources and existing backlogs and labor shortages as discussed in the Legacy Final Rule. One organization suggested EPA provide 30 months to complete the groundwater monitoring requirements from the existing deadline to complete the FER Part 2, because this would allow as much time as was granted under the 2015 CCR Rule (*i.e.,* 24 months),[2] plus an additional six months to account for contractor backlogs.

EPA further explained that it reviewed the information provided and was convinced that because owners or operators will be delineating CCRMU late into 2026 (*i.e.,* late into the FER process), the existing deadline does not provide sufficient time for facilities both (1) to design and install a groundwater monitoring system capable of meeting the standards at § 257.91 and (2) to collect and analyze the eight

independent samples for each background and downgradient well, as required by§ 257.94(b). EPA acknowledged in the Legacy Final Rule that the deadline for the groundwater monitoring requirements must account for the amount of time owners or operators need to locate CCRMU as part of the FER [89 FR 39063]. Based on the amount of time typically needed to design and install a groundwater monitoring system and to collect and analyze the eight independent samples, and the information provided by commenters regarding the timeframe in which CCRMU will be delineated, EPA concluded in the withdrawn direct final rule that the existing CCRMU groundwater compliance deadline (*i.e.,* May 8, 2028) does not provide a sufficient amount of time to come into compliance. Nor do the existing deadlines adequately account for delays related to the shortage of qualified contractors. Therefore, EPA calculated that an extension of 15 months of the Legacy Final Rule deadline would provide sufficient time for owners or operators to comply with the groundwater monitoring requirements [90 FR 34363–64]. This 15-month extension would have provided owners or operators of regulated CCRMU up to a total of 30 months from the completion of the FER Part 2 to comply with the groundwater monitoring requirements. EPA stated in the withdrawn direct final rule that 30 months is six months longer than was provided under the 2015 CCR Rule to mitigate impacts mentioned by commenters regarding the current labor shortages and backlogs experienced by third-parties necessary to accomplish tasks involved in complying with the groundwater monitoring requirements.

2. Parallel Proposed Rule

As discussed previously, the July 22, 2025 parallel proposed rule solicited comment on extending the deadline to prepare both FER Part 1 and Part 2 by 12 months [90 FR 34411]. The Agency further stated that if EPA extends the FER Parts 1 and 2 deadlines, EPA would make conforming changes to the remaining CCRMU compliance deadlines because the FER serves as the prerequisite for all other CCRMU deadlines, including the groundwater monitoring deadlines. Specifically, EPA would extend the deadlines to comply with the existing groundwater monitoring requirements (and the remaining CCRMU deadlines) by 12 months to match the FER Parts 1 and 2 extensions. *Id.* This comment solicitation also included a table comparing compliance deadlines that showed the compliance deadlines under this 12-month extension. With respect to the groundwater monitoring requirements under the comment solicitation, the table showed a compliance deadline of May 8, 2029 [90 FR 34411, table 1], which was calculated as a 12-month extension from May 8, 2028 (existing deadline under § 257.90(b)(3)).

3. Summary of Comments Received and Rationale for Final Rule

The Agency received many comments on the contemplated changes to the groundwater monitoring requirement deadlines discussed in the withdrawn direct final rule and parallel proposed rule. This Unit of the preamble contains EPA's summary of the comments.

EPA received many comments broadly opposing the extensions to the groundwater provisions. Some commenters stated specific opposition to extending the deadlines for CCRMU groundwater monitoring. These commenters raised concerns with human health to include cancer, heart damage, lung disease, birth defects, and potential premature death. These commenters stated that the proposed extensions increase the risk that drinking water sources will be polluted by hazardous contaminants like mercury and arsenic and stated that without robust regulations communities will lack access to information to protect themselves from the toxins. Some of these commenters further expressed concern that the proposed extensions would result in lost economic benefits achieved by the Legacy Final Rule, and adverse effects on property values if the CCR contaminated land is not remediated and redeveloped. Other commenters opposed the groundwater extensions stating that the Legacy Final Rule already delays the groundwater report to provide more than four years and since the 2015 CCR rule only provided 2 years for the same work, then the existing deadlines are entirely feasible. One commenter stated that delays to groundwater monitoring and the corrective actions contingent upon it would have serious consequences and that a one- or two-year delay will mean one- or two-years' worth of contaminants escaping into the environment and increasing exposure, risks, and clean-up costs. This commenter disputes industry's comments and states that the extensions are arbitrary, capricious, and unsupported by evidence.

Some commenters specifically expressed support for the proposed rule's 12-month extension. However, many of the commenters stated that proposed rule's 12-month extension for the groundwater monitoring provisions would not provide adequate time to design and install the groundwater monitoring system, collect eight independent samples, and conduct statistical analysis. Some commenters noted that the groundwater deadline in the proposed rule provides the same amount of time from the completion of FER Part 2 as does the Legacy Final Rule, thus would not be an extension at all. Many commenters supported the extension in the withdrawn direct final rule, which provided a 15-month extension to allow owners and operators a total of 30 months from the completion of the FER Part 2 to comply with the groundwater monitoring provisions. Many of these commenters stated that a 12-month extension does not provide the amount of time between the completion of FER Part 2 and the groundwater monitoring deadlines that EPA stated was necessary in the withdrawn direct final rule. One of these commenters stated that 30 months is a more feasible timeline and that the current timeline does not allow the completion of the groundwater monitoring tasks in a technically and scientifically reliable and accurate manner. Some commenters stated that companies will find it infeasible or face logistical and financial challenges to meet the groundwater monitoring deadlines by the existing deadline of May 8, 2028. Commenters provided logistical challenges including that one facility identified 39 areas that need to be evaluated as potential CCRMUs, estimating that approximately one-third of these will be CCRMUs, which would double the number of regulated CCR units managed by this company. Another company estimated costs up to $1.14M per site for background sampling, based on nine sampling events for all CCRMUs. These commenters posit that it is necessary to extend the deadlines due to the burdensome work and financial obligations required to comply with the CCRMU regulations. Some of these commenters stated that 30 months is the minimum amount of time necessary to install groundwater monitoring networks and complete initial sampling and noted that providing only a 12-month extension will require companies to begin installing the networks before the identification and delineation work has been completed and documented. Many commenters pointed to the sequential nature of the CCRMU provisions and noted that FER Part 2 is intended to serve as a prerequisite for

the groundwater monitoring requirements, so the groundwater monitoring deadlines need to be based on the FER Part 2 deadline. Some commenters stated that EPA should not assume that the groundwater sampling can start before the completion of FER Part 2, because FER Part 2 results are needed before groundwater monitoring systems can be designed and installed, then once the system is installed a minimum of 24 months is necessary to collect and analyze eight independent groundwater samples, and then the 3 months provided by the current regulations to conduct the statistical analyses is still needed.

Some of the commenters who stated that the proposed rule's 12-month extension for the groundwater monitoring provisions provides an inadequate amount of time also stated that the 15-month extension in the withdrawn direct final rule would be inadequate. Some commenters supported a deadline of 35-months from the completion of the FER Part 2 to comply with the groundwater monitoring requirements. These commenters stated that this 35-month period is consistent with EPA's intent in the withdrawn direct final rule to provide facilities 6 months longer than the Legacy Final Rule to mitigate impacts associated with contractor shortages and noted that the proposed rule does not implement the intent provided in the withdrawn direct final rule. One of these commenters stated the FERs should be completed to delineate the CCRMUs before installing wells and completing the eight required independent sampling events. These commenters stated that 35 months would provide owners and operators with 8 months to conduct groundwater modeling and complete preliminary activities (*i.e.,* establish flow pathways, design the monitoring system, develop workplans for monitoring well installation and locations, contract well drillers, obtain necessary permits and approvals, and prepare for detection monitoring), a minimum of 24 months to collect the eight required samples, and 3 months to analyze the data. These commenters stated that the groundwater monitoring requirements are highly susceptible to unpredictable delays caused by the facility's control to include weather events, permitting and approval requirements, construction restrictions, and contractor shortages and backlogs. One of these commenters provided that shorter deadlines will force facilities to collect samples on an abbreviated timeline, thereby skewing statistical results. Additionally, one of these commenters further requested an additional 18-month extension to the groundwater monitoring provisions due to the impending changes to the CCRMU regulations over the next 12–14 months to ensure that facilities have adequate time after the revisions to assess the revisions and conduct the compliance activities under the new requirements. Another commenter specifically requested that 36 months from the deadline for completing the FER Part 2 process be provided to allow for contractor shortages, seasonal challenges, and potential rule changes. This commenter additionally requested that another 12-month extension be provided to help review of the CCR Legacy Rule changes and potentially avoid issuing additional extensions.

After considering the comments received, EPA finds that the existing deadline for the groundwater monitoring requirements (*i.e.,* May 8, 2028), as well as the deadlines discussed in the withdrawn direct final rule (*i.e.,* August 8, 2029) and its parallel proposed rule (*i.e.,* May 8, 2029), are not feasible for owners and operators of CCRMU. EPA is persuaded that these deadlines do not provide sufficient time for facilities to both (1) design and install a groundwater monitoring system capable of meeting the standards at § 257.91 and (2) collect and analyze the eight independent samples for each background and downgradient well, as required by § 257.94(b), for the reasons discussed below.

First, the Agency agrees with commenters that it is not appropriate to establish the deadline for the groundwater monitoring requirements based on the assumption that the design and installation of the groundwater monitoring system can be initiated prior to the full lateral and vertical delineation of the CCRMU is complete under the FER Part 2 provisions. EPA acknowledged in the Legacy Final Rule that the deadline for the groundwater monitoring requirements must account for the amount of time owners and operators need to locate CCRMU as part of the FER [89 FR 39063]. Furthermore, as the Agency stated in the Legacy Final Rule, proper site characterization is the foundation for designing a groundwater monitoring system [89 FR 39064]. To complete the installation of the groundwater monitoring system the regulations require that the owner or operator of a CCRMU ensure that the monitoring system consists of a sufficient number of wells both upgradient and downgradient of the CCR unit, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer that accurately represent the quality of background groundwater and groundwater passing the downgradient waste boundary of the CCR unit, and monitoring of all potential contaminant pathways. 40 CFR 257.91(a)(1) through (2). The number and placement of the monitoring wells is critical to proper characterization of the groundwater. Thus, the specific number, spacing, and depth of the monitoring wells must be determined based on site-specific information, including but not limited to the thorough characterization of aquifer thickness, groundwater flow rate, groundwater flow direction throughout seasonal and temporal fluctuations, the unit's geological setting, and the unit's hydrogeological setting. Therefore, the owner or operator of a CCRMU must know the full lateral and vertical delineation of the CCRMU before an appropriate groundwater monitoring system can be designed and installed.

This final rule establishes February 10, 2031 as the deadline for owners and operators of CCRMU to comply with the groundwater monitoring requirements. See revised § 257.90(b)(3). This new deadline is 33 months later than the existing deadline of May 8, 2028, and provides owners and operators a total of 36 months after the FER Part 2 is completed to comply with the groundwater monitoring requirements. As explained below, EPA is basing this revised deadline on the same task duration provided to existing CCR units under the 2015 CCR Rule to complete the groundwater monitoring requirements (*i.e.,* 30 months) plus 6 months to mitigate the impacts regarding the current labor shortages and backlogs discussed in the withdrawn direct final rule.

To determine the compliance deadline for the groundwater monitoring requirements, the final rule is mostly adopting the approach discussed in the withdrawn final rule with some changes. The important change is that the final rule deadline acknowledges that the design and installation of the groundwater monitoring system cannot be initiated prior to the full delineation of the CCRMU is complete under FER Part 2 provisions.

The withdrawn direct final rule proposed to extend the existing deadline to comply with the groundwater monitoring requirements by 15 months [90 FR 34363]. The Agency explained that this 15-month extension would allow owners and operators of CCRMU a total of 30

months from the completion of the FER Part 2 to comply with the groundwater monitoring requirements. *Id.* EPA further explained that this is ''six months longer than was provided under the 2015 CCR Rule to mitigate impacts mentioned by commenters regarding the current labor shortages and backlogs experienced by third-parties necessary to accomplish tasks involved in complying with the groundwater monitoring requirements.'' *Id.*

The 2015 CCR Rule required existing CCR units to install the groundwater monitoring system, develop their groundwater sampling and analysis procedures, develop background levels for appendix III and appendix IV constituents, and begin detection monitoring (§ 257.90 through § 257.94) within 24 months of the effective date of that rule [80 FR 21398]. However, the duration EPA alloted to complete these groundwater monitoring actions was actually 30 months, not 24 months. This is because in 2015, EPA assumed that facilities would be able to start installing the groundwater monitoring systems on the rule's publication date, rather than its effective date, which was 6 months after publication. EPA made this clear in the rule's preamble, stating that the ''groundwater monitoring regulations require that the owner or operator of existing CCR units must comply with § 257.90–§ 257.94 within 30 months of the date of publication of the rule. Essentially, that means that by the end of 30 months, the owner or operator must (1) install the groundwater monitoring system; (2) document the sampling and analysis procedures; (3) establish which statistical tests will be used to determine exceedances; (4) sample all wells to have a minimum of 8 samples for all appendix III and IV parameters; and (5) determine if there is a statistically significant exceedance of any appendix III parameter, which would trigger assessment monitoring.'' [80 FR 21408]

Unlike the compliance deadline for groundwater monitoring requirements for existing CCR units, the owners and operators of CCRMU must complete the FER Part 2 actions (*e.g.,* finish delineating the lateral and vertical extent of the CCRMU) before installing groundwater monitoring wells at the CCRMU. That is, the clock for completing the groundwater monitoring requirements for CCRMU cannot start before the deadline to complete the FER Part 2. By accounting for the total time needed to complete the groundwater monitoring requirements (*i.e.,* 30 months; without considering any additional time alloted to mitigate labor shortages and backlogs discussed immediately below), EPA is ensuring that the facilities nationwide are reasonably able to achieve regulatory compliance with the new compliance deadline.

As mentioned earlier, EPA intended to provide an additional 6 months beyond the 30 months provided in 2015 to mitigate impacts from labor shortages and backlogs experienced by third-parties necessary to accomplish tasks supporting the groundwater monitoring requirements. The Agency continues to believe this time is needed to address identified shortages and backlogs in qualified contractors and laboratories resulting from the increased demand on these resources.

The revised deadline in this final rule addresses commenters' concerns that the proposed deadlines would require the design and installation of the groundwater monitoring system to begin prior to the deadline to complete FER Part 2. These new deadlines will provide sufficient time to ensure that the background samples are statistically independent and that compliance with the groundwater monitoring requirements is technically feasible. Furthermore, this approach recognizes the importance of proper site characterization as the foundation for designing a groundwater monitoring system and acknowledges that sufficient historical documentation for site characterization may not be available for some CCRMU. In these situations, owners and operators of CCRMU may need to conduct more extensive site reconnaissance and field work to obtain the necessary information to design the groundwater monitoring system. Lastly, EPA recognizes that groundwater monitoring systems designed using inadequate data would be unable to properly monitor groundwater quality coming from the unit and therefore would not be protective of human health and the environment.

EPA disagrees with commenters that requested further extensions of the compliance deadline until after EPA finalizes any additional revisions to the CCRMU regulations to allow facilities to assess the revisions and conduct their compliance activities under any new requirements. Some of these commenters went on to state that extending the deadline to comply with groundwater monitoring requirements is further justified because companies are facing burdensome work and financial obligations in order to comply with the existing CCRMU regulations. First, EPA disagrees that a potential future regulatory revision by itself is a valid basis to extend existing regulatory deadlines for reasons discussed in Unit IV.A.1. of this preamble [*Air Alliance Houston* v. *EPA,* 906 F. 3d 1049 (D.C. Cir. 2018)]. Second, the Agency disagrees with commenters advocating to take cost into account as a factor when establishing these deadlines because EPA establishes the requirements under RCRA sections 1008(a)(3) and 4004(a) [42 U.S.C. 6907(a)(3) and 6944(a)] without taking cost into account. [*USWAG,* 901 F.3d at 448–49]

In summary, EPA is extending the deadline for owners and operators of CCRMU to comply with the groundwater monitoring requirements by 33 months to no later than February 10, 2031. See revised §§ 257.90(b)(3) and 257.95(b)(l)(ii). This new deadline is based on the Agency's assessment of the time required to complete the groundwater monitoring requirements and to provide time for unforeseen and facility-specific delay, accounting for delays such as procuring qualified personnel on contractors, seasonal and regional weather, and permitting and approval needs. Therefore, because EPA is convinced by information from the commenters that facilities would be unable to conduct all the steps necessary to design and install a groundwater monitoring system capable of meeting the standards in § 257.91 by the existing deadline, EPA has extended the deadline to no later than February 10, 2031.

D. Conforming Revisions to Other CCR Management Unit Compliance Deadlines

The FERs serve as the prerequisite for all other CCRMU requirements as explained in the Legacy Final Rule [89 FR 39060; May 8, 2024] and the now withdrawn direct final rule [90 FR 34363; July 22, 2025]. EPA also stated in these same actions that the deadline for owners and operators to establish the publicly accessible CCR website is tethered to the FER Part 1 deadline because the FER Part 1 is the first document that needs to be posted to a facility's CCR website. Similarly, the Agency explained that installing the groundwater monitoring system, developing the sampling and analysis program, and initiating the detection and assessment monitoring programs is also a prerequisite for completing the initial annual groundwater monitoring report, preparing the written closure and post-closure care plans, and initiating closure of the CCRMU.

In the now withdrawn direct final rule, EPA explained that conforming changes would be made to the remaining CCRMU compliance

deadlines based on any finalized changes to the deadlines for the FER Parts 1 and 2 and the groundwater monitoring system requirements. For example, the Agency put forward an additional option in the withdrawn direct final rule for the FER Part 1 to be completed along with the FER Part 2 [90 FR 34364]. EPA therefore discussed providing owners and operators the option to establish the public CCR website by no later than either February 9, 2026 (the existing FER Part 1 deadline) or February 8, 2027, to correspond to when the owner or operator would complete the FER Part 1 under the additional option. *Id.* Regarding the deadline to complete the initial groundwater monitoring and corrective action report, EPA would have extended the deadline to complete this report to no later than January 31 of the following calendar year, January 31, 2030, because the Agency was considering extending the groundwater monitoring compliance deadlines by 15 months to August 8, 2029. *Id.* Finally, regarding the deadline to complete the written closure and post-closure care plans and the deadline to initiate closure of the CCRMU, in the withdrawn direct final rule, EPA sought to extend the deadline to prepare these plans and to initiate CCRMU closure by 15 months to February 8, 2030 and August 8, 2030, because the deadline of the predecessor activity (*i.e.,* the groundwater monitoring compliance deadline) would have been extended by 15 months. *Id.* As EPA explained, these plans and actions should be informed by available groundwater monitoring data.

Summary of Comments Received and Rationale for Final Rule

The Agency received many comments on the contemplated changes for the conforming revisions to other CCRMU compliance deadlines discussed in the withdrawn direct final rule and parallel proposed rule. This Unit of the preamble contains EPA's summary of the comments.

The Agency received numerous comments which generally opposed the extensions, and therefore also oppose these extensions. No comments that specifically opposed the conforming extensions were received.

Conversely, the Agency received many comments which generally supported the extensions and therefore also support the conforming revisions to the other CCRMU compliance deadlines. Some commenters specifically supported these extensions by simply stating that they are necessary and that the current deadlines do not provide sufficient time for companies to come into compliance. Other commenters provided a rationale based on the sequential nature of the CCRMU provisions, stating that groundwater monitoring requirements are prerequisites for the remaining CCRMU requirements to include the requirements to prepare the initial and subsequent annual groundwater monitoring and corrective action reports, prepare written closure and post-closure plans, and initiate closure of any CCRMUs. Similarly, other commenters supported the extension stating that the requirements should be predicated on the completion of the FER process. And other commenters requested that these extensions be based on the withdrawn direct final rule, stating that the timeline in the proposed rule does not provide sufficient time to complete the groundwater monitoring provisions and discussing the sequential nature of the provisions. Some of these commenters provided that the deadline for the initial groundwater monitoring and corrective action report should be extended to no later than January 31 of the year following the completion of the groundwater monitoring requirements; the deadlines for the closure and post-closure plans should be six months from the completion of the groundwater monitoring requirements; and the deadlines to initiate closure and implement closure activities should similarly be extended. Some commenters expressed support for these conforming extensions, due to the uncertainties associated with potential upcoming changes to the Legacy Final Rule. One of these stated that because of the Legacy Final Rule revisions the EPA should provide an additional 12-months on top of the proposed extensions to help with review of the Legacy Final Rule changes and potentially avoid issuing additional extensions, this commenter also stated that this will provide time for education and operational flexibility. Similarly, another commenter requested an additional 18-month extension to these provisions due to the impending changes to the CCRMU regulations over the next 12 to 14 months to ensure that facilities have adequate time after the revisions to assess the revisions and conduct the compliance activities under the new requirements. Some commenters stated that the conforming extensions should be based on the final extended groundwater provisions deadline, which should be based on the deadline for the FER Part 2.

The Agency agrees that conforming extensions are necessary. In this final rule, EPA is extending the deadlines for owners and operators of a CCRMU to establish a CCR website, complete the initial annual groundwater monitoring and corrective action report, complete the initial written closure and post-closure care plans, and initiate closure of the CCRMU, as discussed below.

EPA is extending the deadline for owners and operators of CCRMU to establish a public CCR website by 12 months to February 9, 2027 from February 9, 2026. This deadline matches the revised deadline to complete the FER Part 1, which, as discussed in Unit IV.B. of this preamble, is also being extended by 12 months to February 9, 2027. Tying the deadline to establish the CCR website to the completion of the FER Part 1 is appropriate because the FER Part 1 is the first reporting requirement for CCRMU. This is also consistent with the rationale discussed in the withdrawn direct final rule [90 FR 34364]. See the revised § 257.75(c)(4).

This final rule also extends the deadline to complete the initial annual groundwater monitoring and corrective action report to no later than January 31, 2032 from January 31, 2029. This revised deadline is established based on the first January 31 following the year that the prerequisite groundwater monitoring requirements are completed, which include the design and installation of the groundwater monitoring system, development of the groundwater sampling and analysis program, and the initiation of the combined detection and assessment monitoring programs. As discussed in Unit IV.C. of this preamble, the new compliance deadline for the prerequisite groundwater monitoring requirements is February 10, 2031. Because the prerequisite groundwater monitoring requirements will be completed in 2031, the new deadline to complete the initial annual groundwater monitoring and corrective action report is January 31, 2032. This approach to establishing the deadline to complete initial annual groundwater monitoring and corrective action report is based on EPA's preference to have the annual report cover an entire calendar year versus portions of two calendar years. This is also consistent with the rationale discussed in the withdrawn direct final rule [90 FR 34364]. See revised § 257.90(e).

Finally, this final rule extends the deadlines to complete the written closure and post-closure care plans by 33 months to August 11, 2031 from November 8, 2028. Similarly, the Agency is also extending the deadline to initiate closure of the CCRMU by the

same 33 months to February 9, 2032 from May 8, 2029. EPA is extending these deadlines so that preparation of the plans and subsequent initiation of closure can be informed by the groundwater monitoring data and information. As explained in Unit IV.C. of this preamble, the new compliance deadline for the groundwater monitoring requirements under § 257.90(b)(3) is February 10, 2031, which equates to a 33-month extension of the existing compliance deadline of May 8, 2028. Because the groundwater monitoring compliance deadlines have been extended by 33 months, EPA is extending the deadline to complete the written closure and post-closure care plans and the deadline to initiate closure by the same 33-month period to August 11, 2031 and February 9, 2032, respectively. This approach to establishing the extension duration is consistent with the rationale discussed in the withdrawn direct final rule [90 FR 34364]. See revised §§ 257.l0l(f)(l), 257.102(b)(2)(iii), and 257.104(d)(2)(iii).

V. Corrections and Clarifications Proposed on January 16, 2025

On January 16, 2025, EPA published a direct final rule [90 FR 4635] and a parallel notice of proposed rulemaking [90 FR 4707] to correct errors and clarify several provisions published in the Legacy Final Rule. During the 60-day public comment period for these actions, EPA received eleven public comment submissions. The Agency subsequently withdrew the direct final rule on March 20, 2025 [90 FR 13084] due to the receipt of adverse comment. In this **Federal Register** document the Agency refers to this withdrawn action as the ''withdrawn corrections direct final rule.''

As explained in the January 16, 2025 actions, EPA proposed to correct several typographical errors in the regulatory text, correct regulatory text that does not conform to the Agency's stated positions in the Legacy Final Rule preamble, and revise regulatory provisions that as drafted have the potential to be ambiguous or confusing. In total, the January 16, 2025 actions covered revisions to the following sections of 40 CFR part 257, subpart D: §§ 257.50 (scope and purpose), 257.53 (definitions), 257.75 (requirements for CCRMU), 257.80 (fugitive dust requirements), 257.90 (groundwater monitoring and corrective action applicability), 257.95 (assessment monitoring program), 257.100 (inactive and legacy CCR surface impoundments), and 257.102 (closure of CCR units).

Because the withdrawn corrections direct final rule did not become effective, the Agency is proceeding with this final rule for a subset of issues based on the proposed rule of January 16, 2025 [90 FR 4707]. EPA is primarily focusing on making corrections to provisions that apply to legacy CCR surface impoundments. In general, the Agency is not taking final action in this final rule on CCRMU-specific corrections due to EPA's ongoing review of the CCRMU requirements in the Legacy Final Rule. Specifically, EPA is taking final action on the following amendments that were discussed in the withdrawn corrections direct final rule:

- Correcting a typographical error in § 257.75(d)(1);
- Revising several paragraphs in § 257.100(f), (g), and (h); and
- Correcting errors in § 257.102(e) and (f).

EPA is not taking final action in this final rule on the remaining issues raised in the withdrawn corrections direct final rule. The Agency may do so in a separate final rule and will respond to significant comments in that separate action. See table 2 in Unit I.B. of this **Federal Register** document for a summary of the issues being resolved in this final rule.

A. Correcting Typographical Errors in § 257.75(d)(1)

EPA proposed to correct an error in the first sentence of § 257.75(d)(1) that included an incorrect cross-reference (*i.e.,* the reference to paragraph (d)(1)(xiii) included an incorrect third paragraph designation). See Unit IV.C.3. of the withdrawn corrections direct final rule's preamble [90 FR 4639]. EPA did not receive any comments opposing these revisions. This final rule corrects this part of the first sentence of paragraph § 257.75(d)(1) to read: ''information specified in paragraphs (d)(1)(i) through (xiv) of this section . . .''

In addition, § 257.75(d)(1) also includes several references to the FER Part 2; however, the text included in the Legacy Final Rule is uncapitalized. This final rule capitalizes these terms to read ''Facility Evaluation Report Part 2'' to be consistent with other uses of the term.

Given EPA's ongoing review of the CCRMU requirements finalized in the Legacy Final Rule, the Agency is generally not taking final action at this time on CCRMU-specific issues included in the withdrawn corrections direct final rule [90 FR 4635; January 16, 2025]. However, EPA is finalizing the corrections to § 257.75(d)(1) described in the preceding paragraphs in this final rule because the Agency is already revising this paragraph to extend the deadline for facilities to complete the FER Part 2 as described in Unit IV.B. of this preamble.

B. Correcting Errors in § 257.100(f)

1. Correcting the Facility Evaluation Report Requirements for Facilities With a Legacy CCR Surface Impoundment in § 257.100(f)(1)(iii)

Section 257.100(f)(1) requires owners and operators of legacy CCR surface impoundments to prepare an applicability report by the effective date of the Legacy Final Rule. These provisions also established procedures to provide owners and operators with additional time to complete the legacy impoundment applicability report should the owner or operator elect to conduct a field investigation to assess the impoundment for the presence or absence of free liquids [§ 257.100(f)(1)(iii)]. For facilities that elect to conduct a field investigation, the regulations include provisions to extend deadlines for subsequent requirements. As explained in the proposal, the Legacy Final Rule failed to extend the deadline for all subsequent requirements (*e.g.,* the facility evaluation report requirements for facilities with a legacy impoundment), and therefore EPA proposed to apply the extension to the mistakenly omitted requirements. See Unit IV.G.2. of the withdrawn corrections direct final rule's preamble [90 FR 4640].

EPA received no comments opposing this rule revision and therefore is finalizing this amendment. This final rule revises the third sentence of § 257.100(f)(1)(iii)(A) by replacing the phrase ''the compliance timeframes for the requirements specified under paragraphs (f)(2) through (5) of this section are adjusted'' with the phrase ''the compliance timeframes for all other applicable requirements under this subpart are adjusted.''

2. Revising § 257.100(f)(1)(iii)(A)(*3*)

EPA proposed to correct a typographical error in the introductory text of § 257.100(f)(1)(iii)(A)(*3*) that omitted the word ''all.'' See Unit IV.G.3. of the withdrawn corrections direct final rule's preamble [90 FR 4640]. EPA received no comments opposing this revision and therefore is finalizing it. This final rule corrects the error so that the regulatory text now reads: ''The details of a written field investigation work plan, including all of the following:''

3. Revising § 257.100(f)(4)(iv)

EPA proposed to correct a typographical error in § 257.100(f)(4)(iv), which specifies when

the first annual groundwater monitoring and corrective action report is due for legacy CCR surface impoundments. As explained in Unit IV.G.5. of the withdrawn corrections direct final rule's preamble [90 FR 4640], EPA realized that this deadline was one year too soon. EPA received no comments opposing this rule revision and therefore is finalizing it. This final rule revises the deadline for owners and operators of legacy impoundments to prepare the initial groundwater monitoring and corrective action report from January 31, 2027 to January 31, 2028.

C. Correcting Errors in § 257.100(g)

1. Revising § 257.100(g)

EPA proposed to revise the certification of closure by removal provision in § 257.100(g) by adding a sentence that exempts owners and operators of legacy CCR surface impoundments that complete the certification from any further requirements under 40 CFR part 257, subpart D. EPA explained in Unit IV.G.6. of the withdrawn corrections direct final rule's preamble [90 FR 4640–41] that the Legacy Final Rule preamble clearly stated that these impoundments are not subject to any further requirements. EPA received no comments opposing this rule revision and therefore is finalizing it. This final rule corrects the error by adding the following sentence to § 257.100(g): ''If the owner or operator meets all the requirements of this paragraph (g), no further requirements under this subpart apply.''

2. Revising § 257.100(g)(6)(vii)

EPA proposed to correct a typographical error in § 257.100(g)(6)(vii) that mistakenly references ''paragraph (g)(3) of this section,'' rather than paragraph (g)(6). See Unit IV.G.7. of the withdrawn corrections direct final rule's preamble [90 FR 4641]. EPA received no comments opposing this revision and therefore is finalizing it. This action finalizes this change to § 257.100(g)(6)(vii) by replacing the reference to ''paragraph (g)(3)'' with ''paragraph (g)(6).''

D. Clarifying § 257.100(h)

EPA proposed to simplify § 257.100(h) by replacing a cross-reference to a compliance date with the actual compliance date found in this paragraph. See Unit IV.G.8. of the withdrawn corrections direct final rule's preamble [90 FR 4641]. EPA received no comments opposing this revision and therefore is finalizing it. This action finalizes this change to § 257.100(h) by replacing the phrase ''the date listed in paragraph (f)(1)(i) of this section'' with ''November 8, 2024.''

E. Correcting Errors in § 257.102

1. Revising § 257.102(e)(4)

EPA proposed to amend the regulations to 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 § 257.102(e). See Unit IV.H.1. of the withdrawn corrections direct final rule's preamble [90 FR 4641]. EPA received no comments opposing this revision and therefore is finalizing it. This final rule amends § 257.100(e)(4) by adding new paragraphs (e)(4)(vi) and (vii).

2. Revising § 257.102(f)(1)(ii)

EPA proposed to amend the closure provisions to include legacy CCR surface impoundments to the list of CCR units that are provided five years to complete closure to correct a regulatory text drafting error in the Legacy Final Rule. See Unit IV.H.2. of the withdrawn corrections direct final rule's preamble [90 FR 4641]. EPA received no comments opposing this revision and therefore is amending § 257.102(f)(1)(ii) to add legacy CCR surface impoundments to the list of CCR units provided five years to complete closure.

VI. Rationale for Effective Date

EPA is making this rule effective immediately as ''a substantive rule which grants or recognizes an exemption or relieves a restriction'' under the Administrative Procedure Act (APA) section 553(d)(1) [5 U.S.C. 553(d)(1)]. This action relieves restrictions by revising certain of the 2024 rule's compliance deadlines.

Section 559 of the APA provides that section 553(d) applies in the absence of a specific statutory provision establishing an effective date [5 U.S.C. 553(d) and 559]. EPA has determined there is no specific provision of RCRA addressing the effective date of regulations that would apply here, and thus the APA's effective date applies.

EPA has previously interpreted section 4004(c) of RCRA [42 U.S.C. 6944(c)] to generally establish a six -month effective date for rules issued under subtitle D [80 FR 37988, 37990; July 2, 2015]. After further consideration, EPA interprets section 4004(c) to establish an effective date solely for the regulations that were required to be promulgated under subsection (a). Section 4004(c) is silent as to subsequent revisions to those regulations.

Section 4004(c) states that the prohibition in subsection (b) shall take effect six months after promulgation of regulations under subsection (a). Subsection (a), in turn provides that ''[n]ot later than one year after October 21, 1976 . . . [EPA] shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this chapter.'' As noted, section 4004(c) is silent as to revisions to those regulations.

In response to Congress's mandate in section 4004(a), EPA promulgated regulations on September 13, 1979 [44 FR 53438]. EPA interprets section 4004(c) to establish an effective date applicable only to that action, and not to future regulations the Agency might issue under this section. In the absence of a specific statutory provision establishing an effective date for this rule, APA section 553(d) applies.

There is no indication in RCRA or its legislative history that Congress intended for the Agency to have less discretion under RCRA subtitle D than it would have under the APA to establish a suitable effective date for subsequent rules issued under section 4004(c). Consistent with EPA's interpretation of the express language of section 4004, EPA interprets statements in the legislative history, explaining that section 4004(c) provides that the effective date is to be 6 months after the date of promulgation of regulations, as referring to the initial set of regulations required by Congress to be promulgated not later than 1 year after October 21, 1976. These statements do not mandate a 6-month effective date for every regulatory action that EPA takes under this section. This rule contains specific, targeted revisions to rules issued in 2015 and 2024, and the legislative history regarding section 4004 speaks only to the initial 1976 mandated regulations.

This reading allows the Agency to establish an effective date appropriate for the nature of the regulation promulgated, which is what EPA believes Congress intended. EPA further considers that making this rule effective immediately as ''a substantive rule which grants or recognizes an exemption or relieves a restriction'' under APA section 553 is reasonable in this circumstance. This action relieves restrictions by revising the 2024 rule's 2026 and subsequent compliance deadlines.

VII. The Projected Economic Impact of This Action

EPA estimated the costs and benefits of this final rule in a Regulatory Impact Analysis (RIA), which is available in the docket for this action.

A. Affected Universe

The Universe of facilities and units affected by this final rule consists of two categories. The first is composed of facilities with CCRMU. The RIA identifies 183 CCRMU at 95 facilities. The second category is composed of CCRMU at ''other active facilities,'' (OAFUs in the Legacy CCR final rule). The RIA identifies 15 CCRMU at six OAFUs. Most of these facilities correspond to NAICS code 221112.

B. Baseline Costs

The baseline costs of this action consist of all reporting and recordkeeping costs mandated by the Legacy final rule for facilities with CCRMUs. The RIA for the Legacy final rule estimated these costs to be an annualized $1.73 million when discounting at 3% and an annualized $3.68 million when discounting at 7%.

C. Costs and Benefits of This Final Rule

The RIA estimates that the annualized cost savings of this action will be approximately $8.1–$9.5 million per year when discounting at 3%. The RIA estimates that the annualized cost savings of this action will be approximately $25.0–$30.0 million per year when discounting at 7%. The RIA estimates that the annualized reduction in benefits of this action will be approximately $0.8–$2.0 million per year when discounting at 3%. The RIA estimates that the annualized reduction in benefits of this action will be approximately $1.3–$3.3 million per year when discounting at 7%. Overall, the RIA estimates that the net annualized cost savings of this action will be $7.3–$7.5 million per year when discounting at 3%, and $24–$27 million when discounting at 7%.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action as defined under section 3(f)(1) of Executive Order 12866. Accordingly, it was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, ''Regulatory Impact Analysis: Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; CCR Management Unit Deadline Extension Rule,'' is available in the docket and is briefly summarized in Unit VII. of this preamble.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. Details on the estimated cost savings of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. An ICR covering the information collection activities contained in the existing Legacy Final Rule has been submitted for OMBs approval under the temporary OMB control number 2050–0231.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. EPA estimates that 175 small entities operate in NAICS 221112 and that of these five may incur costs in excess of one and three percent of annual revenues under the 2024 Legacy/CCRMU final rule. This rule relieves burden by establishing an additional option for owners or operators of CCRMU to comply with the FER Part 1 requirements and extending the deadline for owners and operators of CCRMU to comply with groundwater monitoring requirements. This delay affords all entities, including small entities, more time to comply, and reduces compliance costs by pushing them into the future. EPA estimates that the overall annualized cost savings of this rule will range from approximately $8.1–$9.5 million per year when discounting at 3% to approximately $25.0–$30.0 million per year when discounting at 7%. EPA expects that small entities will realize a portion of this savings in proportion to the number of CCRMU located at facilities owned and operated by small entities. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or Tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. The rule relieves burden by establishing an additional option for owners or operators of CCRMU to comply with the FER Part 1 requirements and extending the deadline for owners and operators of CCRMU to comply with groundwater monitoring requirements. This rule does not impose any additional requirements. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

In the 2024 Legacy/CCRMU Final Rule RIA, EPA conducted a geographic analysis of the location of facilities containing Legacy CCR SIs and

CCRMUs in relation to children under the age of 5. That analysis found that the population within one mile of plants in the universe of Legacy CCR SIs and CCRMUs did not include an increased higher-than-average proportion of children under age 5 compared with the national proportion of children under age 5. The final rule reduces benefits to populations living near CCRMU (and OAFU) sites as it allows compliance activities to begin later. Therefore, the final rule may result in incremental health risk to children (and other populations) equal to the exposure risks of delay in compliance activity implementation at facilities with CCRMUs and OAFUs. However, as these facilities are located near populations with proportions of children roughly consistent with the national average, the effects specific to children are not anticipated to be disproportionate.

However, EPA's *Policy on Children's Health* applies to this action. Information on how the Policy was applied is available under ''Children's Environmental Health'' in the Supplementary Information section of this preamble.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. Further, the Agency has concluded that this action is not likely to have any adverse energy effects because the rule simply extends deadlines for owners and operators of active CCR units or inactive facilities (not generating electricity) with a legacy CCR surface impoundment.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action meets the criteria set forth in 5 U.S.C. 804(2).

Endnotes

1. Public Hearing Transcript: Docket ID No. EPA–HQ–OLEM–2020–0107–1367.

2. The 24-month period is the duration between the effective date of the 2015 CCR Rule (October 19, 2015) and the deadline for existing CCR surface impoundments to comply with the groundwater monitoring requirements of § 257.90(b)(1) (October 17, 2017).

List of Subjects in 40 CFR Part 257

Environmental protection, Coal, Hazardous waste, Reporting and recordkeeping requirements, Waste treatment and disposal.

Lee Zeldin,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 257—CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES

■ 1. The authority citation for part 257 continues to read as follows:

Authority: 42 U.S.C. 6907(a)(3), 6912(a)(1), 6927, 6944, 6945(a) and (d); 33 U.S.C. 1345(d) and (e).

■ 2. Amend § 257.75 by revising paragraphs (c)(1) introductory text, (c)(4), (d)(1) introductory text, and (d)(1)(xii) to read as follows:

§ 257.75 Requirements for identifying CCR management units.

* * * * *

(c) * * *

(1) No later than Tuesday, February 9, 2027, the owner or operator of an active facility or a facility with a legacy CCR surface impoundment must prepare a Facility Evaluation Report Part 1, which shall contain, to the extent reasonably and readily available, the information specified in paragraphs (c)(1)(i) through (xiv) of this section. The owner or operator has prepared the Facility Evaluation Report Part 1 when the report has been placed in the facility's operating record as required by § 257.105(f)(25).

* * * * *

(4) No later than Tuesday, February 9, 2027, the owner or operator must notify the Agency of the establishment of a CCR website using the procedures in § 257.107(a) via the ''contact us'' form on EPA's CCR website.

* * * * *

(d) * * *

(1) No later than Tuesday, February 8, 2028, the owner or operator of an active facility or a facility with a legacy CCR surface impoundment must prepare a Facility Evaluation Report Part 2, which shall contain, to the extent not provided in the Facility Evaluation Report Part 1 under paragraph (c) of this section, the information specified in paragraphs (d)(1)(i) through (xiv) of this section obtained from a physical evaluation of the facility, including where necessary field sampling. The owner or operator has prepared the Facility Evaluation Report Part 2 when the report has been placed in the facility's operating record as required by § 257.105(f)(26).

* * * * *

(xii) Any additional supporting information used to identify and evaluate CCR management units at the facility, including but not limited to any construction diagrams, engineering drawings, permit documents, wastestream flow diagrams, aerial photographs, satellite images, historical facility maps, any field or analytical data, groundwater monitoring data or reports, inspection reports, and other documents used to identify and assess CCR management units at the facility. Additionally, as necessary and timely, any updates to the Part 1 data gap remedy plan must be added to the record during the Facility Evaluation Report Part 2 timeframe.

* * * * *

■ 3. Amend § 257.90 by revising paragraphs (b)(3) introductory text and (e) introductory text to read as follows:

§ 257.90 Applicability.

* * * * *

(b) * * *

(3) *CCR management units.* No later than Monday, February 10, 2031, the owner or operator of the CCR management unit must be in compliance with the following groundwater monitoring requirements:

* * * * *

(e) *Annual groundwater monitoring and corrective action report.* For existing CCR landfills and existing CCR surface impoundments, no later than January 31, 2018, and annually thereafter, the owner or operator must prepare an annual groundwater monitoring and corrective action report. For new CCR landfills, new CCR surface impoundments, and all lateral expansions of CCR units, the owner or operator must prepare the initial annual groundwater monitoring and corrective action report no later than January 31 of the year following the calendar year a groundwater monitoring system has been established for such CCR unit as required by this subpart, and annually thereafter. For CCR management units, the owner or operator must prepare the initial annual groundwater monitoring and corrective action report no later than January 31, 2032, and annually thereafter. For the preceding calendar year, the annual report must document the status of the groundwater monitoring and corrective action program for the CCR unit, summarize

key actions completed, describe any problems encountered, discuss actions to resolve the problems, and project key activities for the upcoming year. For purposes of this section, the owner or operator has prepared the annual report when the report is placed in the facility's operating record as required by § 257.105(h)(1). At a minimum, the annual groundwater monitoring and corrective action report must contain the following information, to the extent available:

* * * * *

■ 4. Amend § 257.95 by revising paragraph (b)(1)(ii) to read as follows:

§ 257.95 Assessment monitoring program.

* * * * *

(b) * * *

(1) * * *

(ii) The owner or operator of a CCR management unit must sample and analyze the groundwater for all constituents listed in appendix IV to this part no later than Monday, February 10, 2031.

* * * * *

■ 5. Amend § 257.100 by revising paragraphs (f)(1)(iii)(A) introductory text, (f)(1)(iii)(A)(*3*) introductory text, (f)(4)(iv), (g) introductory text, (g)(6)(vii), and (h) introductory text to read as follows:

§ 257.100 Inactive CCR surface impoundments and Legacy CCR surface impoundments.

* * * * *

(f) * * *

(1) * * *

(iii) * * *

(A) Notwithstanding the deadline to complete the applicability report under paragraph (f)(1)(i) of this section, an owner or operator may secure additional time to complete the report for the sole reason of determining through a field investigation whether the unit contains both CCR and liquids. The amount of additional time that can be secured is limited as specified in paragraph (f)(1)(iii)(B) of this section. For owners and operators following the procedures of this paragraph (f)(1)(iii), the compliance timeframes for all other applicable requirements under this subpart are adjusted by the length of the extension(s) justified under this paragraph (f)(1)(iii). To qualify for additional time, the owner or operator must prepare an applicability extension report consisting of the following:

* * * * *

(*3*) The details of a written field investigation work plan, including all of the following:

* * * * *

(4) * * *

(iv) No later than January 31, 2028, prepare the initial groundwater monitoring and corrective action report as set forth in § 257.90(e).

* * * * *

(g) For owners and operators of legacy CCR surface impoundments that completed closure of the CCR unit by removal of waste prior to Friday, November 8, 2024, no later than Friday, November 8, 2024, complete a closure certification that includes the information in paragraphs (g)(1) through (g)(6) of this section. If the owner or operator meets all the requirements of this paragraph (g), no further requirements under this subpart apply.

* * * * *

(6) * * *

(vii) The last groundwater monitoring sample used to document that the standard in paragraph (g)(3) of this section has been met must have been collected no earlier than one year prior to the initiation of closure.

(h) If the owner or operator of a legacy CCR surface impoundment is unable to complete the closure by removal certification by November 8, 2024, they may elect to conduct groundwater monitoring in accordance with §§ 257.90 through 257.95 to demonstrate there are no exceedances of the groundwater protection standards. If the owner or operator meets all the requirements of paragraph (h)(1) of this section, no further requirements under this subpart apply. If the owner or operator does not meet the requirements of paragraph (h)(1) of this section by Monday, May 8, 2028 or if one or more constituents in appendix IV to this part are detected at statistically significant levels above the groundwater protection standard established under § 257.95(h), they must proceed in accordance with paragraph (h)(2) of this section.

* * * * *

■ 6. Amend § 257.101 by revising paragraph (f)(1) to read as follows:

§ 257.101 Closure or retrofit of CCR units.

* * * * *

(f) * * *

(1) No later than Monday, February 9, 2032, an owner or operator of a CCR management unit must initiate the closure of the CCR management unit in accordance with the requirements of § 257.102.

* * * * *

■ 7. Amend § 257.102 by:

■ a. Revising paragraphs (b)(2)(iii), (e)(4)(iv) and (v);

■ b. Adding paragraphs (e)(4)(vi) and (vii); and

■ c. Revising paragraph (f)(1)(ii).

The revisions and additions read as follows:

§ 257.102 Criteria for conducting the closure or retrofit of CCR units and closure of CCR management units.

* * * * *

(b) * * *

(2) * * *

(iii) *CCR management units.* Except as provided for in paragraph (b)(2)(v) of this section, no later than Monday, August 11, 2031, the owner or operator of the CCR management unit must prepare an initial written closure plan consistent with the requirements specified in paragraph (b)(1) of this section.

* * * * *

(e) * * *

(4) * * *

(iv) An owner or operator of a new CCR surface impoundment closing the CCR unit as required by § 257.101(c);

(v) An owner or operator of an existing CCR landfill closing the CCR unit as required by § 257.101(d);

(vi) An owner or operator of a legacy CCR surface impoundment closing the CCR unit as required by § 257.101(e); or

(vii) An owner or operator of a CCR management unit closing the CCR unit as required by § 257.101(f).

(f) * * *

(1) * * *

(ii) For existing and new CCR surface impoundments, any lateral expansion of a CCR surface impoundment, and legacy CCR surface impoundments, within five years of commencing closure activities.

* * * * *

■ 8. Amend § 257.104 by revising paragraph (d)(2)(iii) to read as follows:

§ 257.104 Post-closure care requirements.

* * * * *

(d) * * *

(2) * * *

(iii) *CCR management units.* No later than Monday, August 11, 2031, the owner or operator of a CCR management unit must prepare an initial written post-closure care plan as set forth in paragraph (d)(1) of this section.

* * * * *

[FR Doc. 2026–02599 Filed 2–6–26; 4:15 pm]

BILLING CODE 6560–50–P