

401 KAR 46:110. Standards for the disposal of coal combustion residuals (CCR) in CCR units.

RELATES TO: KRS 224.1, 224.10, 224.50, 224.70, 224.99, 16 U.S.C. 1531, 33 U.S.C. 1251, 42 U.S.C. 82, 40 C.F.R. 257.50-257.106

STATUTORY AUTHORITY: KRS 224.10-100, 224.50-760, 151.250

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) authorizes the cabinet to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. KRS 224.50-760(1)(d) authorizes the cabinet to promulgate administrative regulations for the management of special wastes. This administrative regulation establishes the requirements for the disposal of CCR in CCR units.

Section 1. Scope and Applicability.

(1) Except as provided in this section, the purpose, scope, and applicability of 401 KAR Chapter 46 to CCR units and the beneficial use of CCR shall be as established in 40 C.F.R. 257.50 through 257.52.

(2) 401 KAR Chapter 46 shall not apply to a special waste surface impoundment subject to 401 KAR Chapter 45 containing special waste and liquids at a facility that ceased producing electricity prior to October 19, 2015.

Section 2. Location Restrictions. The location restrictions for a CCR unit shall be as established in 40 C.F.R. 257.60 through 257.64.

Section 3. Design Criteria. The design criteria for a CCR unit shall be as established in 40 C.F.R. 257.70 through 257.72.

Section 4. Structural Integrity Criteria.

(1) The structural integrity criteria shall be as established in 401 KAR 4:070, Sections 2 and 3.

(2) The citation to 40 C.F.R. 257.73 within 40 C.F.R. 257.50 through 257.106 shall be replaced with 401 KAR 4:070, Section 2.

(3) The citation to 40 C.F.R. 257.74 within 40 C.F.R. 257.50 through 257.106 shall be replaced with 401 KAR 4:070, Section 3.

Section 5. Operating Criteria. The operating criteria for a CCR unit shall be as established in 40 C.F.R. 257.80, 257.81, and 257.84.

Section 6. Hydrologic and Hydraulic Capacity Requirements for CCR Surface Impoundments.

(1) The hydrologic and hydraulic capacity requirements for CCR surface impoundments shall be as established in 401 KAR 4:070, Section 4.

(2) The citation to 40 C.F.R. 257.82 within 40 C.F.R. 257.50 through 257.106 shall be replaced with 401 KAR 4:070, Section 4.

Section 7. Inspection Requirements for CCR Surface Impoundments.

(1) The inspection requirements for CCR surface impoundments shall be as established in 401 KAR 4:070, Section 5.

(2) The citation to 40 C.F.R. 257.83 within 40 C.F.R. 257.50 through 257.106 shall be replaced with 401 KAR 4:070, Section 5.

Section 8. Groundwater Monitoring and Corrective Action. The groundwater monitoring and corrective action requirements for a CCR unit shall be as established in 40 C.F.R. 257.90 through 257.98.

Section 9. Closure and Post-closure Care. The closure and post-closure care requirements for a CCR unit shall be as established in 40 C.F.R. 257.100 through 257.104.

Section 10. Recordkeeping and Notification. Except for 40 C.F.R. 257.107, including cross-references to 40 C.F.R. 257.107 within 40 C.F.R. 257.50 through 257.106, the recordkeeping and notification requirements for an owner or operator of a CCR unit shall be as established in 40 C.F.R. 257.105 and 257.106.

(401 KAR 046:110. 43 Ky.R. 852; eff. 5-5-2017; Crt eff. 9-5-2018; Crt eff. 8-29-2025.)