
40 C.F.R. § 257.103

Alternative closure requirements.

The owner or operator of a CCR landfill, CCR surface impoundment, or any lateral expansion of a CCR unit that is subject to closure pursuant to § 257.101(a), (b)(1), or (d) may nevertheless continue to receive the wastes specified in either paragraph (a), (b), (f)(1), or (f)(2) of this section in the unit provided the owner or operator meets all of the requirements contained in the respective paragraph.

(a) *CCR landfills—(1) No alternative CCR disposal capacity.* Notwithstanding the provisions of § 257.101(d), a CCR landfill may continue to receive CCR if the owner or operator of the CCR landfill certifies that the CCR must continue to be managed in that CCR landfill due to the absence of alternative disposal capacity both on and off-site of the facility. To qualify under this paragraph, the owner or operator of the CCR landfill must document that all of the following conditions have been met:

(i) No alternative disposal capacity is available on or off-site. An increase in costs or the inconvenience of existing capacity is not sufficient to support qualification under this section;

(ii) The owner or operator has made, and continues to make, efforts to obtain additional capacity. Qualification under this paragraph (a) lasts only as long as no alternative capacity is available. Once alternative capacity is identified, the owner or operator must arrange to use such capacity as soon as feasible;

(iii) The owner or operator must remain in compliance with all other requirements of this subpart, including the requirement to conduct any necessary corrective action; and

(iv) The owner or operator must prepare the annual progress report specified in paragraph (c) of this section documenting the continued lack of alternative capacity and the progress towards the development of alternative CCR disposal capacity.

(2) Once alternative capacity is available, the CCR landfill must cease receiving CCR and initiate closure following the timeframes in § 257.102(e).

(3) If no alternative capacity is identified within five years after the initial certification, the CCR landfill must cease receiving CCR and close in accordance with the timeframes in § 257.102(e) and (f).

(b) *CCR landfills—(1) Permanent cessation of a coal-fired boiler(s) by a date certain.* Notwithstanding the provisions of § 257.101(d), a CCR landfill may continue to receive CCR if the owner or operator certifies that the facility will cease operation of the coal-fired boilers within the timeframe specified in paragraph (b)(4) of this section, but in the interim period (prior to closure of the coal-fired boiler), the facility must continue to use the CCR landfill due to the absence of alternative disposal capacity both on and off-site of the facility. To qualify under this paragraph, the owner or operator of the CCR landfill must document that all of the following conditions have been met:

(i) No alternative disposal capacity is available on or off-site. An increase in costs or the inconvenience of

existing capacity is not sufficient to support qualification under this section.

(ii) The owner or operator must remain in compliance with all other requirements of this subpart, including the requirement to conduct any necessary corrective action; and

(iii) The owner or operator must prepare the annual progress report specified in paragraph (c) of this section documenting the continued lack of alternative capacity and the progress towards the closure of the coal-fired boiler.

(2)-(3) [Reserved]

(4) For a CCR landfill, the coal-fired boiler must cease operation, and the CCR landfill must complete closure no later than April 19, 2021.

(c) *Required notices and progress reports for CCR landfills.* An owner or operator of a CCR landfill that closes in accordance with paragraph (a) or (b) of this section must complete the notices and progress reports specified in paragraphs (c)(1) through (3) of this section.

(1) Within six months of becoming subject to closure pursuant to § 257.101(d), the owner or operator must prepare and place in the facility's operating record a notification of intent to comply with the alternative closure requirements of this section. The notification must describe why the CCR landfill qualifies for the alternative closure provisions under either paragraph (a) or (b) of this section, in addition to providing the documentation and certifications required by paragraph (a) or (b) of this section.

(2) The owner or operator must prepare the periodic progress reports required by paragraph (a)(1)(iv) or (b)(1)(iii) of this section, in addition to describing any problems encountered and a description of the actions taken to resolve the problems. The annual progress reports must be completed according to the following schedule:

(i) The first annual progress report must be prepared no later than 13 months after completing the notification of intent to comply with the alternative closure requirements required by paragraph (c)(1) of this section.

(ii) The second annual progress report must be prepared no later than 12 months after completing the first annual progress report. Subsequent annual progress reports must be prepared within 12 months of completing the previous annual progress report.

(iii) The owner or operator has completed the progress reports specified in this paragraph (c)(2) when the reports are placed in the facility's operating record as required by § 257.105(i)(11).

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