



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA-HQ-OLEM-2020-0107; FRL-10015-46-OLEM; 10018-00-OLEM]

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Legacy CCR Surface Impoundments; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is extending the comment period on the advance notice of proposed rulemaking for legacy coal combustion residuals (CCR) surface impoundments. The original advance notice of proposed rulemaking was published on October 14, 2020, and the public comment period was originally scheduled to end on December 14, 2020. With this document, EPA is extending the public comment period an additional 60 days, through February 12, 2021.

DATES: The comment period for the proposed rule published October 14, 2020 at 85 FR 65015 is extended. The EPA must receive comments on or before February 12, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OLEM-2020-0107. Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of October 14, 2020 (85 FR 65015). Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the

current status, please visit us online at <https://www.epa.gov/dockets>. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Michelle Long, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5304P, Washington, DC 20460; telephone number: (703) 347-8953; email address: long.michelle@epa.gov. For more information on this rulemaking please visit <https://www.epa.gov/coalash>.

SUPPLEMENTARY INFORMATION:

On April 17, 2015, EPA promulgated national minimum criteria for existing and new CCR landfills and existing and new CCR surface impoundments at 40 CFR part 257, subpart D. On August 21, 2018, the U.S. Court of Appeals for the District of Columbia Circuit issued its opinion in the case of *Utility Solid Waste Activities Group (USWAG), et al. v. EPA*, 901 F.3d 414 (D.C. Cir. 2018), which vacated and remanded the provision that exempted inactive impoundments at inactive facilities from the CCR regulations. As a first step to implement this part of the court decision, EPA is seeking comments in an advance notice of proposed rulemaking (ANPRM) and data on inactive surface impoundments at inactive facilities to assist in the development of future regulations for these CCR units.

The original notice for the legacy CCR surface impoundment ANPRM was published on October 14, 2020, and the comment period was scheduled to end on December 14, 2020. See 85 FR 65015. Since publication of the notice, on November 6, 2020, USWAG requested an additional 60 days to review the ANPRM, develop and submit comments. This request is available in the docket at EPA-HQ-OLEM-2020-0107. USWAG said given the complexity of the information being requested in the ANPRM, and the fact that USWAG members are currently focused on the development of submissions for the Part A (85 FR 53516, August 28, 2020) and Part B (85 FR 72506, October 14, 2020), an extension will result in the Agency receiving a more comprehensive data submission from USWAG. After receiving the request

from USWAG, EPA has decided to extend the comment period to address the concerns that were raised. The comment period is extended until February 12, 2021.

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