



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 257

[EPA–HQ–OLEM–2020–0463; FRL–10021–05–OLEM]

Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Reconsideration of Beneficial Use Criteria and Piles; Notification of Data Availability; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of data availability; request for comment; reopening of comment period.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is reopening the comment period on the notice of data availability for its reconsideration of the beneficial use criteria and provisions for piles of coal combustion residuals (CCR). The original notice of data availability was published on December 22, 2020 with a 60-day public comment period closing February 22, 2021. With this notice, EPA is reopening the public comment period for an additional 60 days, from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] to [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OLEM-2020-0463. Follow the detailed instructions provided under **ADDRESSES** in the *Federal Register* document of December 22, 2020 (85 FR 83478). 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: Rita Chow, Office of Resource Conservation and Recovery, Resource Conservation and Sustainability Division, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, MC: 5306P, Washington, DC 20460; telephone number: (703) 308-6158; email address: chow.rita@epa.gov. For more information on this action please visit <https://www.epa.gov/coalash>.

SUPPLEMENTARY INFORMATION:

In the April 17, 2015 Disposal of Coal Combustion Residuals from Electric Utilities final rule, EPA established national criteria for CCR landfills and surface impoundments. The final rule also established a beneficial use definition to distinguish legitimate beneficial use from disposal and provided requirements for the management of piles of CCR. These specific provisions of the 2015 rule were remanded back to EPA on August 21, 2018, by the U.S. Court of Appeals for the District of Columbia Circuit. To help reconsider these remanded provisions most recently, on December 22, 2020, EPA published a Notice of Data Availability (NODA). See 85 FR 83478. In the NODA, EPA provided public notice of the new information and data the Agency obtained since these provisions were remanded. The new information and data were included in the NODA's docket at EPA-HQ-OLEM-2020-0463. In the NODA, EPA sought public comment on whether these new information and data should inform the Agency's reconsideration of the remanded provisions. Furthermore, EPA solicited additional information and data from the public that may further help inform the Agency's reconsideration of the remanded provisions.

The comment period ended on February 22, 2021. On February 15, 2021, Earthjustice formally requested an additional 60 days to review the NODA and the information in the docket for the NODA; consider the Agency's request for information; and, develop and submit comments. Earthjustice's request has been included in the NODA's docket. In its request, Earthjustice stated that the large volume of documents in the docket requiring review, the scope of additional information being requested by EPA, and the timeline conflict with the development of submissions for the Legacy Impoundment advance notice of proposed rulemaking (85 FR 65015 October 14, 2020), which closed on February 12, 2021, impeded development of comprehensive responses to the NODA request. Earthjustice stated that additional time will result in the Agency receiving more robust data and information submissions from Earthjustice and other environmental organizations. Following this request from Earthjustice, EPA has decided to reopen the comment period for 60 days, from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

List of Subjects in 40 CFR Part 257

Environmental protection, Coal combustion products, Coal combustion residuals, Coal combustion waste, Beneficial use, Disposal, Hazardous waste, Landfill, Surface impoundment.

Dated: March 9, 2021

Carolyn Hoskinson,
Director,
Office of Resource Conservation and Recovery.

[FR Doc. 2021-05246 Filed: 3/11/2021 8:45 am; Publication Date: 3/12/2021]