

scheduled for September 8, 2010, is cancelled.

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ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Parts 257, 261, 264, 265, 268,
271, and 302**

[EPA-HQ-RCRA-2009-0640; FRL-9191-5]

RIN-2050-AE81

Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals From Electric Utilities

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule: corrections,
extension of the comment period, and
additional public hearings.

SUMMARY: On June 21, 2010, EPA proposed to regulate the disposal of coal combustion residuals generated from the combustion of coal at electric utilities and by independent power producers. This action makes several administrative corrections in the preamble to the proposed rule, which were discovered after the proposal was published in the **Federal Register**. In addition, EPA is providing notice that additional support documents are available for public inspection in the rulemaking docket.

This action also extends the deadline for submitting written comments on the proposed rule to November 19, 2010. This extension provides an additional 60 days for the public to provide written comments. EPA received numerous requests for an extension of the comment period and this notice is the Agency's response to those persons who requested an extension of the comment period.

Also, in response to significant public interest in the proposed rule, the Agency recently announced on its Web site that it will conduct two additional public hearings on the proposed rule, one in Pittsburgh, Pennsylvania, and the other in Louisville, Kentucky, and an additional Webinar. Additional information on these announcements is included in this notice.

DATES: Comments on the proposed rule must be received on or before November 19, 2010.

ADDRESSES: Submit your comments on the proposed rule, identified by Docket ID No. EPA-HQ-RCRA-2009-0640, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* Comments may be sent by electronic mail (e-mail) to rcra-docket@epa.gov, Attention Docket ID No. EPA-HQ-RCRA-2009-0640. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

- *Fax:* Comments may be faxed to 202-566-0272; Attention Docket ID No. EPA-HQ-RCRA-2009-0640.

- *Mail:* Send your comments to the Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals From Electric Utilities Docket, Attention Docket ID No., EPA-HQ-RCRA-2009-0640, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* Deliver two copies of your comments to the Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals From Electric Utilities Docket, Attention Docket ID No., EPA-HQ-RCRA-2009-0640, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA-2009-0640. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an

"anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Hazardous and Solid Waste Management System; Identification and Listing of Special Wastes; Disposal of Coal Combustion Residuals From Electric Utilities Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566-0270. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744.

FOR FURTHER INFORMATION CONTACT: For questions on the June 21, 2010, proposed rule or today's notice, contact Alexander Livnat, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Mailcode 5304P, Washington, DC 20460; telephone number: (703) 308-7251; e-mail address: livnat.alexander@epa.gov, or Steve Souders, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Mailcode 5304P, Washington, DC 20460; telephone number: (703) 308-8431; e-mail address: souders.steve@epa.gov. If you have questions concerning the public hearings or the Webinars, please contact Bonnie Robinson, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Mailcode 5304P, Washington, DC 20460; telephone number (703) 308-8429; e-mail address: robinson.bonnie@epa.gov, or Elaine Eby, Office of Resource Conservation and Recovery, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Mailcode 5304P, Washington, DC 20460; telephone number (703) 308-8449; e-mail address eby.elaine@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background on the Proposed Rule

On June 21, 2010, EPA co-proposed two options for regulating the disposal of coal combustion residuals (CCRs),

commonly known as coal ash, generated from the combustion of coal at electric utilities and by independent power producers (75 FR 35128). Under the first proposal, EPA would reverse its August 1993 and May 2000 Bevill Regulatory Determinations regarding CCRs and list these residuals as special wastes subject to regulation under subtitle C of the Resource Conservation and Recovery Act (RCRA), when they are destined for disposal in landfills and surface impoundments. Under the second proposal, EPA would leave the Bevill Regulatory Determinations in place and regulate the disposal of such materials under subtitle D of RCRA by issuing national minimum criteria. Under both alternatives, EPA proposed not to change the May 2000 Regulatory Determination for beneficially used CCRs, which are currently exempt from the hazardous waste regulations under Section 3001(b)(3)(A) of RCRA.

To assist the reader in reviewing the proposed rule and the corrections

published today, EPA has made available an unofficial version of the entire corrected proposal on its Web site, which can be accessed at <http://www.epa.gov/coalashrule>.

B. Corrections to the Proposed Rule

The proposed rule as published in the **Federal Register** on June 21, 2010, contained a number of inadvertent administrative errors in: (1) The **ADDRESSES** section; (2) a table summarizing EPA's estimates of regulatory costs and benefits; (3) the discussion of EPA's risk assessment; and (4) a footnote. Accordingly, the June 21, 2010 publication of the proposed rule is corrected as follows:

1. On page 35128, second column, sixth paragraph, in the first sentence, "Mailcode: 5305T," is corrected to read "Mailcode: 28221T,".

2. On page 35134, Table 1 is replaced with the following table.

TABLE 1—SUMMARY TABLE COMPARISON OF REGULATORY BENEFITS TO COSTS—RANGING OVER ALL THREE BENEFICIAL USE SCENARIOS

[\$Millions @ 2009 \$ prices and @ 7% discount rate over 50-year future period-of-analysis 2012 to 2061]

	Subtitle C "special waste"	Subtitle D	Subtitle "D prime"
A. Present Values			
1. Regulatory Costs	\$20,349	\$8,095	\$3,259.
2. Regulatory Benefits	(\$230,817) to \$102,191	\$1,168 to \$41,761	\$593 to \$17,501.
3. Net Benefits (2-1)	(\$251,166) to \$81,842	(\$6,927) to \$33,666	(\$2,666) to \$14,242.
4. Benefit/Cost Ratio (2/1)	(11.343) to 5.022	0.144 to 5.159	0.182 to 5.370.
B. Average Annualized Equivalent Values *			
1. Regulatory Costs	\$1,474	\$587	\$236.
2. Regulatory Benefits	(\$16,725) to \$7,405	\$85 to \$3,026	\$43 to \$1,268.
3. Net Benefits (2-1)	(\$18,199) to \$5,930	(\$502) to \$2,439	(\$193) to \$1,032.
4. Benefit/Cost Ratio (2/1)	(11.343) to 5.022	0.144 to 5.159	0.182 to 5.370.

* **Note:** Average annualized equivalent values calculated by multiplying 50-year present values by a 50-year 7% discount rate "capital recovery factor" of 0.07246.

3. On page 35144, second column, third paragraph, the first sentence which reads "EPA submitted the revised draft risk assessment report, together with public comments on the report in response to the 2007 NODA, to a peer review panel. EPA completed the risk assessment, taking into account peer review comments, in a final report titled "Human and Ecological Risk Assessment of Coal Combustion Wastes," (September 2009)." is corrected to read "EPA submitted the revised draft risk assessment report, together with public comments on the report in response to the 2007 NODA, to a peer review panel. EPA completed the risk assessment, taking into account peer review comments, in a final report titled "Human and Ecological Risk

Assessment of Coal Combustion Wastes," (April 2010)."

4. On page 35170, in the first column, the first full sentence which reads "A detailed discussion of the modeling and risks from this pathway can be found in U.S. EPA 2009a (available in the docket for this proposal)." is corrected to read "A detailed discussion of the modeling and risks from this pathway can be found in U.S. EPA 2010a (available in the docket for this proposal)."

5. On page 35170, in the first column, third paragraph, the third sentence which reads "For CCRs co-managed with coal refuse, thallium is estimated at two times the reference dose in unlined landfills at the 90th percentile, but did not exceed the reference dose at the 0th percentile for any liner type." is

corrected to read "For CCRs co-managed with coal refuse, thallium is estimated at two times the reference dose in unlined landfills at the 90th percentile, but did not exceed the reference dose at the 50th percentile for any liner type."

6. On page 35170, in the second column, at the end of the first paragraph, the sentence "Of the contaminated groundwater plumes that are estimated to reach the receptor wells from composite-lined units, the median time to peak well concentration as not estimated to sour in the 10,000 year time period that was modeled.¹⁰¹" is corrected to read "Of the contaminated groundwater plumes that are estimated to reach the receptor wells from composite-lined units, the median time to peak well concentrations was not

estimated to occur in the 10,000 year time period that was modeled.¹⁰¹

7. On page 35220, first column, footnote 165 which reads “U.S. EPA. Regulatory Impact Analysis for EPA’s Proposed Regulation of Coal Combustion Wastes Generated by the Electric Utility Industry, 2009. Office of Resource Conservation and Recovery.” is corrected to read “U.S. EPA. Regulatory Impact Analysis for EPA’s Proposed Regulation of Coal Combustion Wastes Generated by the Electric Utility Industry, April 2010. Office of Resource Conservation and Recovery.”

C. Notice That Additional Support Documents Have been Placed in the Docket

This document also notifies the public that EPA has included additional support documents in the proposed rule docket. Documents that were referenced in the proposed rule, and were previously found only on EPA’s Coal Combustion Products Partnership (C2P2) Web site have been moved to the docket for this rulemaking. Similarly, EPA has included in the docket a notice that describes a file transfer protocol (FTP) site where the public can download the full scale risk modeling input and output files used in the document entitled, “Draft Human and Ecological Risk Assessment of Coal Combustion Wastes,” April, 2010. EPA also has added the executable files for the models used in the risk assessment in the same FTP site. As part of the proposed rule, EPA had stated that these materials would be available upon request; in the interest of ensuring the greatest degree of public access, EPA

has subsequently decided to place them in the rulemaking docket.

EPA therefore recommends that the public consult the docket to access all of EPA’s record support documents. The docket provides the date on which the material was added, so newly added materials will be easily identifiable.

D. Two Additional Public Hearings

On July 15, 2010 (75 FR 41121), EPA announced in the **Federal Register** its intent to conduct five public hearings across the United States to allow the public an opportunity to present data, views or arguments concerning the proposed rule. These public hearings are scheduled to take place in Arlington, Virginia; Denver, Colorado; Dallas, Texas; Charlotte, North Carolina; and Chicago, Illinois. Given the significant public interest in this rule and to further public participation opportunities, on August 6, 2010, EPA announced on its website that it would hold two additional public hearings, one in Pittsburgh, Pennsylvania, on September 21, 2010, and the other in Louisville, Kentucky, on September 28, 2010. These public hearings will be conducted in the same manner as the public hearings announced in the July 15, 2010, **Federal Register** notice. Details on the Pittsburgh and Louisville public hearings can be found on EPA’s Web site at: <http://www.epa.gov/epawaste/nonhaz/industrial/special/fossil/ccr-rule/ccr-hearing.htm>. If you have any questions, please contact either Bonnie Robinson or Elaine Eby at the addresses given above under **FOR FURTHER INFORMATION CONTACT**.

E. Additional Webinar

EPA previously announced that the Agency will be hosting two Webinars; one on August 5, 2010, and a second on August 12, 2010. On August 6, 2010, EPA announced on its Web site that we would conduct an additional Webinar. As soon as the scope and format of the third Webinar is determined, EPA will post such information on the Web site: <http://www.epa.gov/osw/nonhaz/industrial/special/fossil/ccr-rule/ccr-webinar.htm>. EPA will post the transcript from the Webinars on its Web site and will put into the rulemaking record the questions that we receive during the Webinars. However, the Webinars are designed to assist the public in understanding the proposal and are not designed to take public comment on the proposal. For example, many of the questions that were submitted appear to have been made in response to statements made as part of the presentation, and may not be entirely clear without that context. Consequently, although EPA will treat the questions submitted during the Webinar as part of the rulemaking record, (and will respond accordingly), EPA encourages those who submitted questions as part of the Webinar, and who wish to submit comments on the proposal, to consider whether they wish to supplement or clarify those questions, and to follow the procedures for submitting comments set out in this notice and in our June 21 proposal.

Dated: August 12, 2010.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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