

**FOR FURTHER INFORMATION CONTACT:**

Lachala Kemp at (913) 551-7214, or by e-mail at [kemp.lachala@epa.gov](mailto:kemp.lachala@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comments on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: September 22, 2010.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2010-24920 Filed 10-20-10; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

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

**[EPA-HQ-RCRA-2009-0640; FRL-9216-3]**

**RIN 2050-AE81**

**Notice of Data Availability on Coal Combustion Residual Surface Impoundments**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability.

**SUMMARY:** This document announces the availability of new information and data posted in the docket for EPA's proposed rulemaking (75 FR 51434, August 20, 2010) on the Disposal of Coal Combustion Residuals from Electric Utilities. The Agency is seeking public comment on how, if at all, this additional information should affect the Agency's decisions as it develops a final

rule. The information has been posted on EPA's Web site, and is now currently available in the docket; it consists of responses to Information Collection Requests that EPA sent to electric utilities on their coal combustion residual surface impoundments as well as reports and materials related to the site assessments EPA has conducted on a subset of these impoundments.

**DATES:** Submit comments on or before November 19, 2010.

**ADDRESSES:** Submit your comments, 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](mailto: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 202-566-9744; 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>. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://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:** Jim Kohler, Office of Resource Conservation and Recovery (5304P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, telephone (703) 347-8953, e-mail address [kohler.james@epa.gov](mailto:kohler.james@epa.gov). For more information on this rulemaking, please visit <http://www.epa.gov/coalashrule>.

#### SUPPLEMENTARY INFORMATION:

#### I. What should I consider as I prepare my comments for EPA?

1. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

2. *Docket Copying Costs.* The first 100-copied pages are free. Thereafter, the charge for making copies of Docket materials is 15 cents per page.

#### II. How should I submit CBI to the agency?

Do not submit information that you consider to be CBI electronically through <http://www.regulations.gov> or by e-mail. Send or deliver information identified as CBI only to the following address: RCRA CBI Document Control Officer, Office of Resource Conservation and Recovery (5305P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-RCRA-2009-0640. You may claim information that

you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on a disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed, except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on a disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please contact: LaShan Haynes, Office of Resource Conservation and Recovery (5305P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, telephone (703) 605-0516, e-mail address [haynes.lashan@epa.gov](mailto:haynes.lashan@epa.gov).

#### III. Coal Combustion Residual Surface Impoundment Information

##### A. Background on Information Collection Request Responses

After the failure of the coal combustion residual (CCR) surface impoundment at the Tennessee Valley Authority's Kingston facility in December 2008, EPA undertook an effort to assess the structural integrity of the other CCR surface impoundments. This effort had three components: (1) An Information Collection Request (ICR#2020-0003) that was sent to facilities known to have surface impoundments or similar management units asking for specific information on the structural stability of those units; (2) on-site assessments of the structural integrity of these units; and (3) reports and recommendations for actions at the facility. EPA is still in the process of completing these assessments; however, EPA is placing the data that are currently available in the docket for the rulemaking, and is soliciting public comment on these data in connection with this rulemaking.

EPA sent Information Collection Requests in March, April and December of 2009 to electric utilities that have surface impoundments or similar management units that contain CCRs. All of the responses covering 228

facilities and 629 surface impoundments and similar management units are currently posted in the docket. (**Note:** These responses have been posted on EPA's Web site since they have been received by the Agency. Thus, these responses have already been publicly available.) The 228 facilities that responded to EPA's information collection request have 629 surface impoundments and similar management units; 200 units (32 percent) have been given a hazard potential rating using the U.S. Army Corps of Engineers National Inventory of Dams criteria. Of the 200 units that have been rated, 50 units (25 percent) are rated as having a High Hazard Potential; 71 units (36 percent) are rated as having a Significant Hazard Potential; 71 units (36 percent) are rated as having a Low Hazard Potential; and 8 units (4 percent) are rated as having a Less than Low Hazard Potential. 429 units (68 percent) have not received a hazard potential rating. The hazard potential ratings do not assess the stability of these units; rather, the ratings assess the potential for loss of life or environmental and economic damage. Units rated as having a High Potential Hazard are those where failure will probably cause loss of life.

Of the 629 surface impoundments and similar units covered in these responses, 443 (70 percent) were designed by a professional engineer. The units show considerable variation in height, with 80 units (13 percent) being reported as greater than 50 feet in height; 133 units (21 percent) being reported as greater than 25 feet, but less than 51 feet in height; 268 units (43 percent) being reported as greater than 6 feet, but less than 26 feet in height; 39 units (6 percent) being reported as greater than 0 feet, but less than 7 feet in height; and 105 units (17 percent) being reported as having no height.

A majority of the information contained in the company responses has been inserted into a database. All the fields and entries in this database have been extracted and posted in the docket as PDF and Microsoft Excel spreadsheets which enable users to easily search for aggregate or facility-specific information.

##### B. Background on CCR Impoundment Assessment Information

As part of EPA's ongoing national effort to assess the management of CCRs, EPA has assessed the structural integrity of many impoundments and similar management units containing CCRs at electric utilities. This effort is still ongoing; however, EPA is making available for comment those 53 assessment reports that have been

finalized. Most of the impoundments that have been assessed have a “high” or “significant” hazard potential rating. As mentioned above, the hazard potential rating is not related to the stability of these impoundments, but to the potential for harm should the impoundment fail. For example, a “significant” hazard potential rating means impoundment failure can cause economic loss, environmental damage, or damage to infrastructure.

The assessment reports being placed into the docket have been completed by contractors who are experts in the area of dam integrity, reflect the best professional judgment of the engineering firm, and are signed and stamped by a professional engineer who is licensed in the state in which the impoundment is located. The reports are based on a visual assessment of the site, interviews with site personnel, and the review of geotechnical reports and studies related to the design, construction and operation of these impoundments, if available. The engineering firms also reviewed past state/federal inspections of the impoundments. EPA’s contractors were not authorized to conduct any physical drilling, coring or sampling while on site; however, they did review studies which may have included such information. Also, the contractors were asked to rate the impoundments as “satisfactory,” “fair,” “poor,” or “unsatisfactory,” terms commonly used in the field of dam safety. Only impoundments rated as “unsatisfactory” pose immediate safety threats. None of the impoundments assessed so far have received an “unsatisfactory” rating. Impoundment ratings noted in the reports should be taken in the proper context, since a unit may be found to be structurally sound, while it may receive a “fair” or “poor” rating based on other factors such as lack of information. These condition ratings are different than the hazard potential ratings described above because they are related to the stability of the individual impoundment as assessed through a field inspection and available information on the impoundment.

Draft copies of these reports have been reviewed by the facilities and the states for factual accuracy and their comments on the draft reports have also been placed in the docket and posted to

EPA’s Web site. EPA continues to review the reports and the technical recommendations, and is working with the facilities to ensure that the recommendations are implemented.

EPA has provided a copy of the final report to each facility and has requested that the facility implement the recommendations in the reports and develop plans for taking action. The action plans that have been completed also have been placed in the docket along with the draft assessment reports, comments on the draft reports, and the final assessment reports. (**Note:** These reports and action plans have been posted on EPA’s Web site since they have been received by the Agency. Thus, these reports and action plans have already been publicly available.) Additional action plans will be posted to EPA’s Web site as they become available (but in the absence of further EPA action, will not be considered part of the rulemaking record). Should facilities fail to take sufficient measures, EPA will take additional action, if the circumstances warrant, and will be devoting special attention to those facilities receiving a “poor” or “unsatisfactory” rating.

Some companies have claimed that certain information they have provided to EPA related to their coal ash impoundments is CBI. While EPA reviews these claims, the information that is claimed as CBI is redacted (removed) from the coal ash reports. If these claims are accepted by EPA, the information will remain redacted. If EPA denies these claims, the information will be made publicly available and posted to EPA’s Web site.

#### C. Conclusion

The Agency solicits comments on this information, including the extent to which both the CCR surface impoundment information collection request responses and assessment materials on the structural integrity of these impoundments should be factored into EPA’s final rule on the Disposal of Coal Combustion Residuals from Electric Utilities.

Dated: October 13, 2010.

**Mathy Stanislaus,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 2010–26657 Filed 10–20–10; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA–HQ–SFUND–2010–0634, EPA–HQ–SFUND–2010–0636, EPA–HQ–SFUND–2010–0638, EPA–HQ–SFUND–2010–0639, EPA–HQ–SFUND–2010–0640, EPA–HQ–SFUND–2010–0641, EPA–HQ–SFUND–2010–0643, EPA–HQ–SFUND–2010–0645, EPA–HQ–SFUND–2010–0646, EPA–HQ–SFUND–2010–0647; FRL–9216–1]

RIN 2050–AD75

### National Priorities List, Proposed Rule No. 53

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“EPA” or “the Agency”) in determining which sites warrant further investigation. These further investigations will allow EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add nine sites to the General Superfund section of the NPL. This rule also withdraws one site from proposal to the General Superfund section of the NPL.

**DATES:** Comments regarding any of these proposed listings must be submitted (postmarked) on or before December 20, 2010.

**ADDRESSES:** Identify the appropriate Docket Number from the table below.

#### DOCKET IDENTIFICATION NUMBERS BY SITE:

| Site name                               | City/County, State | Docket ID No.          |
|-----------------------------------------|--------------------|------------------------|
| GBF, Inc., Dump .....                   | Antioch, CA .....  | EPA–HQ–SFUND–2010–0647 |
| Armstrong World Industries .....        | Macon, GA .....    | EPA–HQ–SFUND–2010–0640 |
| Dwyer Property Ground Water Plume ..... | Elkton, MD .....   | EPA–HQ–SFUND–2010–0639 |