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EPA Proposes New Effluent Limitations for Power Plants

By **Bill Cobb**, **Mike Nasi**, and **Jacob Arechiga**

On April 19, 2013, the U.S. Environmental Protection Agency (EPA) released its proposed rule establishing Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category. Although broadly applicable to wastewater discharges from all nuclear and fossil-fuel fired power plants, significant burdens arise for coal-fired units due to aspects of the rule relating coal combustion residuals (CCRs). The rule proposal is still in prepublication form and will be officially published in the *Federal Register* in the next few weeks. The public will then have 60 days to comment on the proposal. EPA is under a consent decree to finalize the rule by May 22, 2014.

Restrictions Imposed by the Rule

The current rule proposal actually includes eight regulatory alternatives, of which, EPA has identified four preferred alternatives for existing sources and one preferred alternative for new sources. EPA is requesting comment on these alternatives.

The proposal is designed to address discharges containing mercury, arsenic, selenium, and other constituents coming from various waste streams, and depending on the regulatory option ultimately selected by EPA, the final rule will include revision or establishment of Best Available Technology Economically Achievable (BAT) standards, New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES) and Pretreatment Standards for New Sources (PSNS). Potentially regulated wastewater streams include those from air pollution control technologies, transport water, coal ash surface impoundments, and other sources. EPA has excluded power plants that generate less than 50 megawatts of power from many of the rule proposal's limitations.

As part of the rule, EPA is considering best management practices for surface impoundments that receive, store, dispose of, or are otherwise used to manage coal combustion residuals. EPA is also seeking comment on how to align this rule proposal with the yet-to-be-finalized CCR rule, since certain restrictions may overlap.

Limitations proposed in the rule for existing units will be phased in between 2017 to 2022.

EPA's Predicted Costs and Benefits of the Rule

Depending on the regulatory option ultimately finalized, EPA estimates that the rule will reduce discharges of pollutants by 470 million to 2.62 billion pounds annually and reduce water use by 50 billion to 103 billion gallons per year. EPA estimates that the annualized costs of the rule will range from approximately \$185 million to \$954 million, while annualized monetary benefits will range from approximately \$139 million to \$483 million¹. EPA estimates that fewer than half of coal-fired power plants will incur

costs under the proposed rule.

Going Forward

EPA is under a tight timeline to finalize these effluent limitations by the May 22, 2014 consent decree deadline, and only days after the proposal was released, the Court of Appeals for the D.C. Circuit upheld these timelines against legal challenge.

The consent decree establishing the rule proposal date (April 19, 2013) and finalization date (May 22, 2014) was entered into between EPA and the Defenders of Wildlife and Sierra Club in late 2010. It was filed with the U.S. District Court for the District of Columbia as part of a complaint by the environmental groups against EPA for failing to propose effluent guidelines. Energy companies were not part of this consent decree, so within days of the consent decree being filed with the District Court, the Utility Water Act Group (UWAG), an association of energy companies and trade organizations, attempted to intervene in order to participate in the rulemaking development. UWAG's intervention was rejected by the District Court in March 2012 on the basis that UWAG did not have standing, and the District Court affirmed the consent decree. UWAG appealed, but on April 23, 2013, the Court of Appeals for the D.C. Circuit upheld the District Court's ruling.

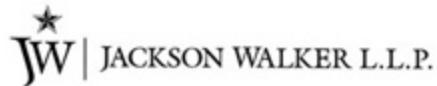
¹ All costs and benefits are at a 3 percent discount rate.

For additional information on the rule proposal, including a copy of the prepublication version of rule proposal, please [click here](#).

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