

May 27, 2023

The Honorable Administrator Michael S. Regan, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Submitted via [www.regulations.gov](http://www.regulations.gov)

**RE: Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category (EPA Docket ID #EPA-HQ-OW-2009-0819)**

Dear Administrator Regan,

The undersigned 93 organizations, on behalf of our millions of members and supporters across the country, appreciate the opportunity to provide these comments to the U.S. Environmental Protection Agency (EPA) on its proposed *Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*.

**Our organizations urge EPA to finalize the strongest possible wastewater treatment standards for steam electric power plants, as required by the Clean Water Act. We also urge EPA to finalize the proposed rule as quickly as possible and to require compliance with the new standards within three years.** To achieve the Clean Water Act's national goal of eliminating water pollution, facilities are required to use the most modern and effective pollution control technologies to treat wastewater, known as best available technology or BAT, before discharging into "Waters of the United States."

Steam electric power plants, mostly coal fired plants, are one of the largest direct dischargers of toxic pollutants to our nation's waterways. Coal plants have been dumping millions of pounds of toxic metals, nutrients, chlorides, bromide, and other pollutants into our nation's waters every year for decades. Even trace amounts of many of these pollutants can harm aquatic life and damage ecosystems, and some of these pollutants persist in the environment for years.

Coal plant wastewater discharges have made it unsafe to swim or fish in rivers and lakes across the country, which has been especially harmful to communities that depend on subsistence fishing. This toxic pollution has also contaminated drinking water sources, since coal plants often discharge upstream of drinking water intakes, creating costly treatment challenges for drinking water systems. And for decades,

communities of color and low-income communities have been disproportionately exposed to water and air pollution coming from these coal plants.

**Our organizations strongly support EPA's proposal to require "zero discharge" of bottom ash wastewater and flue gas desulfurization (FGD) wastewater.** We urge EPA to finalize its proposal to require coal-fired power plants to upgrade their wastewater treatment technology to achieve zero discharge of pollutants from bottom ash transport wastewater and flue gas desulfurization (FGD) scrubber sludge, which are two of the largest toxic wastewater streams coming from these plants.

Requiring zero discharge of these two wastewater streams would eliminate most of the bromide, iodine, and other halogen discharges coming from these plants. Halogens like bromide are a challenge for drinking water utilities and pose a significant public health risk because their presence in treated drinking water can lead to the formation of disinfection byproducts such as trihalomethanes, which are linked to bladder cancer. For many disinfection byproducts, there is no known safe level in drinking water, so it is critical they be minimized as much as possible.

**Our organizations urge EPA to strengthen the proposed wastewater treatment standards for leachate.** EPA's proposal to require coal plants to only use chemical precipitation to treat their leachate wastewater is weak and insufficient. Chemical precipitation is effective at removing heavy metals like mercury and arsenic, but leachate wastewater also contains other harmful pollutants such as nutrients, chlorides, and bromide that are not effectively removed using this treatment method. In particular, chemical precipitation does not effectively remove dissolved pollutants, which are the vast majority of pollutants found in leachate. EPA must require zero discharge for leachate wastewater, because leachate is similar to FGD wastewater, is just as capable of being treated, and therefore the technology to eliminate leachate discharges is available and achievable to the same extent as it is for FGD wastewater. In fact, membrane filtration and other technologies capable of achieving zero discharge are much more cost-effective than chemical precipitation, because they can effectively remove all of the harmful pollutants found in leachate wastewater, not just some of them.

**Our organizations urge EPA to strengthen the proposed standards for legacy wastewater.** EPA's proposal not to set a nationwide technology standard for legacy wastewater and to instead rely on permitting authorities to use their best professional judgment (BPJ) to set standards on a case by case basis, is severely deficient. Legacy wastewater contains the same toxic pollutants found in bottom ash wastewater and FGD wastewater, as well as fly ash transport water and all other coal plant wastewater streams. Like leachate, legacy wastewater is similar to FGD wastewater and just as

capable of being treated with zero-discharge technologies, as demonstrated by evidence in the record that at least one plant already uses a zero-discharge system to treat its legacy wastewater. EPA must establish a nationwide zero-discharge standard for legacy wastewater and require compliance as soon as possible instead of relying on permitting authorities' discretion, which risks resulting in the continued use of ineffective and outdated surface impoundments to "treat" legacy wastewater. That outcome would be unlawful under the Fifth Circuit's 2019 decision in *Southwestern Electric Power Co. v. U.S. Environmental Protection Agency*, and would enable power plants to dump substantial amounts of toxic pollution in our waterways that could be avoided.

**Our organizations urge EPA to shorten the compliance schedule for this rule.** EPA's proposal to delay compliance until December 2029 is not supported by the record. The Clean Water Act requires facilities to comply with new wastewater treatment standards within three years, and technologies to meet the standards are available to be installed within that time frame. EPA must accelerate the rule compliance schedule to ensure coal plants adopt these new standards as quickly as possible, and no later than three years from the date the rule is finalized.

The coal plant industry has been getting a free pass for over 40 years and it is long past time these power plants treat all of their wastewater using modern and effective pollution control technologies, as required by the Clean Water Act. Requiring power plants to use these proven technologies would eliminate hundreds of millions of pounds of pollutants from entering U.S. waters every year, and provide over 1.5 billion dollars per year in tremendous public health and environmental benefits. It will also provide some long overdue relief to the communities that have been most impacted by this toxic pollution and aligns with the Biden administration's commitment to advance environmental justice. Our organizations urge EPA to finalize the strongest possible wastewater treatment standards for coal plants as swiftly as possible.

Sincerely,

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