



Daily News

EPA Agrees To Rule Deadline For New Limits On Power Plant Discharges

Posted: November 9, 2010

EPA has agreed to a legal deadline to establish effluent limit guidelines (ELG) for coal-fired power plants in a settlement agreement with environmentalists who had threatened to sue over the 1982 standards, providing activists with a legally enforceable agreement to force EPA to finalize the rule regardless of the outcome of the next presidential election.

In a Nov. 8 consent decree, EPA agreed to propose the power plant ELGs by July 23, 2012, and finalize the guidelines by Jan. 31, 2014. The consent decree was filed the same day the environmental organizations filed a lawsuit in U.S. District Court for the District of Columbia.

Sierra Club and Defenders of Wildlife last year told EPA they planned to file a lawsuit over the power plant ELG, which has not been updated since 1982, alleging that EPA was ignoring its non-discretionary duty under the Clean Water Act (CWA) to review the guidelines at least every five years. The ELG will cover discharges of toxic metals, such as mercury, arsenic and cadmium, from coal ash storage ponds and pollution controls at power plants.

Issuance of the rule is a top priority for environmentalists, who have sought to use the new ELG to quickly limit toxic releases from coal ash disposal sites as activists struggle to force EPA to subject the sites to stringent Resource Conservation and Recovery Act (RCRA) hazardous waste rules. But activists say they do not believe CWA limits alone are sufficient because they will not address transport, handling and storage requirements that can be regulated under RCRA's hazardous waste provisions.

The agreement does not appear to advance EPA's existing schedule to propose the ELG – an agency official previously told Inside EPA that Administrator Lisa Jackson was pushing for the proposal to be released prior to 2012. But it does provide environmentalists with a legally enforceable agreement to force EPA to finalize the new rules in case of a change in administration following the next presidential election.

Even before EPA proposes a new ELG for the power plants, the agency has also launched an effort to closely scrutinize state-issued CWA discharge permits for power as an interim measure to address environmentalists' longstanding concerns that the permits need to be strengthened. In a letter to environmental groups last summer, EPA wastewater chief James Hanlon committed the agency to reviewing at least 35 National Pollutant Discharge Elimination System permits for power plants before the end of 2012 – when EPA has now agreed to propose new ELGs for the sector.

An EPA spokesman did not immediately respond to a request to clarify whether Jackson still hoped to have the ELG proposed prior to 2012.

Proposal of the ELG is expected to come close on the heels of EPA's finalization of its national emissions standards for hazardous air pollutants rule for power plants, which would establish maximum available control technology standards to treat mercury and other toxics emissions.

Industry compliance with that rule likely will mean higher toxic concentrations in wastewater from scrubbers power plants use to remove pollutants from their smokestacks, and environmentalists say finalizing the ELG will ensure that pollutants are not simply transferred from the air to the water. "If you put controls to strip the air of these metals that's going into our water and that's not a good result," one environmentalist says, praising EPA's emphasis on multi-media pollution controls.

Until the ELG is finalized, environmentalists say they will pressure states to include strict site-specific limits in power plants permits and push EPA to take enforcement action to address their concerns. "Until EPA finalizes new standards, it's crucial that state agencies do their part to keep toxics out of our water," Earthjustice attorney Abigail Dillen said in a news

release. "We hope and trust that EPA will be cracking down on permits that allow power plants to dump mercury, arsenic, selenium into drinking water and fishing streams."

Industry sources have previously raised concerns over EPA's proposal to establish a power plant ELG, arguing that analytical challenges hamper the ability to obtain an accurate picture of discharge constituents. They have urged EPA to consider a variety of factors, including energy reliability and economic impacts, before setting technology standards for the sector.

Related News: [Energy](#) [Litigation](#) [Water](#)

2344500

Inside EPA	Air	Daily News	About Us
Clean Air Report	Water	Documents	Terms and Conditions
Water Policy Report	Waste	Insider	Privacy Policy
Superfund Report	Energy		Home Page
Inside Cal/EPA	Climate Change		
Risk Policy Report	On Capitol Hill	SPECIAL REPORTS	
Defense Environment Alert	Budget	Presidential Contenders 2012	
Environmental Policy Alert	Litigation	Outlook 2011	
	Toxics		

Economical site license packages are available to fit any size organization, from a few people at one location to company wide access. For more information on how you can get greater access to InsideEPA.com for your office, contact Online Customer Service at 703-416-8505 or iepa@iwpnews.com.

© 2000-2011. Inside Washington Publishers | [Contact Us](#)