



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Effluent Limitations Guidelines/Clean Water Act: U.S. Environmental Protection Agency Postpones Compliance Dates for Steam Electric Power Generating Facilities

09/15/2017

The United States Environmental Protection Agency (“EPA”) released a prepublication version of a final rule to be published in the Federal Register that postpones certain compliance dates for Clean Water Act effluent limitations and standards for the steam electric power generating point source category.

EPA states it is planning on undertaking a rulemaking to potentially revise best available technology economically achievable effluent limitations and pretreatment standards for existing sources.

The referenced standards were previously published on November 3, 2015.

Section 301(b) of the Clean Water Act authorizes EPA to promulgate national categorical standards or limits to restrict discharges of specific pollutants on an industry-by-industry basis. These effluent limits are incorporated into a point source discharger’s National Pollution Discharge and Elimination System permits as a baseline minimum requirement.

Clean Water Act effluent limits are derived from research regarding pollution control technology used in the industry. The analysis will include the degree of reduction of the pollutant that can be achieved through the use of various levels of technology. The applicable standard is dictated by the kind of pollutant discharged (i.e., toxic, conventional, or non-conventional) and whether a new or existing point source is involved.

Industrial categories are often further divided into subcategories. The effluent limits/conditions for the subcategories will be tailored to the performance capabilities of the wastewater treatment or control technologies used by the subcategory.

EPA’s development of categorical effluent limits is an ongoing process. The agency continues to promulgate categorical standards for facilities that have not been addressed. Existing categorical standards are also assessed to determine if revisions are warranted. The motivation for a change to an existing standard will often be the need to incorporate evolving technological developments.

EPA notes it is postponing what it describes as “the earliest compliance dates for the new, more stringent, BAT effluent limitations and PSES for flue gas desulfurization (“FGD”) wastewater and bottom ash transport water in the 2015 Rule for a period of two years.” The agency further states it does not

currently intend to conduct a rulemaking that would potentially revise what it describes as “the new, more stringent BAT effluent limitations and pretreatment standards in the 2015 Rule for fly ash transport water, flue gas mercury control wastewater, and gasification wastewater, or any of the other requirements in the 2015 Rule.” As a result, it is not changing the compliance dates for the BAT limits and PSES for these waste streams.

[A link to the prepublication version of the this Final Rule can be found here.](#)