

Talking Points for July 31st EPA Public Hearing on ELG/Toxic Water Rule Compliance Delay

Note: In addition to following these talking points, speakers should also give a brief overview of why this rule matters to you, your organization, your members, and/or your community. Mention any work you have done on the ELG rule in the past and any specific examples of how power plant water pollution has impacted water resources in your community.

Top-line message/Ask: I strongly oppose EPA's proposal to delay compliance deadlines for the Steam Electric Effluent Limitations and Guidelines, which became final in November 2015 and went into effect at the very beginning of 2016. EPA should immediately reinstate all compliance deadlines for the 2015 ELG rule. EPA should also notify state permitting authorities and power plant utilities that the ELG rule is in effect and must be implemented according to the compliance deadlines outlined in the 2015 rule, which already allow utilities plenty of time to come into compliance.

Prior to being finalized in 2015 these standards had not been updated since 1982, despite the fact that coal-burning power plants and other steam electric power plants are THE largest toxic water polluters in the country, responsible for approximately 30% of all toxic pollution dumped into surface waters by industries regulated under the Clean Water Act. The 1982 rules didn't place any limits on toxic pollutants in power plant discharges. Delaying the new toxic water pollution protections sets us back three and a half decades.

Power plant wastewater contains dozens of toxic metals, including arsenic, mercury, selenium, and lead, as well as nutrients and other harmful chemicals. This pollution has contaminated sources of drinking water and made it unsafe to eat fish from many of our nation's rivers and lakes.

Once implemented, the ELG rule would prevent more than a billion pounds of pollutants from being dumped into our nation's rivers, lakes, and bays every year. It would also reduce water withdrawals by 57 billion gallons every year. Indefinitely delaying the ELG compliance deadlines also delays the tremendous benefits of these pollution limits, which EPA conservatively estimated would add to about a half billion dollars every year in improved human health, economic and recreational opportunities, and ecological conditions.

EPA lacks authority under both the Clean Water Act and the Administrative Procedures Act to postpone these compliance deadlines. As a federal administrative agency EPA only has the authority granted by Congress through statutes.

The Clean Water Act also prohibits compliance dates beyond three years following the issuance of new ELG standards. The intent of the Clean Water Act is to require more stringent discharge limits on pollutants over time to reflect advances in pollution control technologies. Indefinitely delaying compliance standards that have already been issued clearly contradicts this intent.

EPA's proposal to delay compliance deadlines is based solely on costs the power plant industry will allegedly incur in order to comply with these new standards, and completely ignores the public health, environmental, and economic benefits of reducing water pollution from power plants.

In reality, the vast majority of power plants will incur zero costs to comply with the 2015 ELG rule. In fact, EPA estimated that overall only about 12 percent of all power plants and 28 percent of coal or petroleum coke burning plants will incur any costs and that for all but a handful of plants those costs will amount to less than 1 percent of the company's revenue. It is unreasonable for EPA to delay compliance deadlines for the few remaining power plants that are still using outdated technology while continuing to put public health and the environment at risk because of their uncontrolled pollution.

EPA did not provide the public adequate time to comment on its proposal and refused to extend the comment period, even though that meant comments were due two days after a major national holiday. EPA is on a fast-track to finalize this proposal in August and appears more interested in catering to industry's request to halt the ELG rule without giving full consideration to the concerns of communities most impacted by this toxic pollution.

For all the reasons I've discussed today, EPA should immediately withdraw its proposal to delay compliance deadlines for the 2015 ELG rule.