

April 8, 2013

President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Re: Steam Electric Power Generating Category Effluent Limitation Guidelines

Dear President Obama:

Coal power plants are, by far, the largest water polluters in the United States. The wastewater discharge rules governing these plants are more than thirty years out of date and allow millions of pounds of dangerous toxics to pollute America's waterways. Because the nation urgently needs to address this ongoing environmental crisis, we urge you to direct the Office of Management and Budget (OMB) to release the Environmental Protection Agency's (EPA) update to these rules, its proposed "Steam Electric Power Generating Category Effluent Limitation Guidelines," in time for a court-ordered deadline on April 19, 2013.

These rules are urgently needed because coal power plants are the source of nearly three quarters of toxic water pollution,ⁱ including significant amounts of arsenic, cadmium, mercury, and selenium, all of which are harmful to humans and aquatic life.ⁱⁱ Much of this pollution comes from water contaminated with coal ash and waste from smokestack scrubbers, and the problem will continue to become more acute as Clean Air Act rules require more scrubber and other emissions control installations. Without prompt action, pollution will continue to be transferred from the air to our streams, lakes, and rivers. Shockingly, in the absence of a federal rule, nearly 80% of discharge permits for coal-fired power plants now allow unlimited discharges of these toxics.ⁱⁱⁱ

American waterways cannot continue to absorb this uncontrolled pollution. EPA reports that "[t]he total amount of toxic pollutants currently being released in wastewater discharges from coal-fired power plants is estimated to be significant and raises concerns regarding the long-term impacts to aquatic organisms, wildlife, and human health that are exposed to these pollutants."^{iv} Numerous studies have shown that coal plant water pollution is linked to fish kills, deformed wildlife, and toxics lurking in rivers and reservoirs, problems that worsen with every passing year.^v

Cost-effective technologies are available to treat this pollution, but have not been required by the states in the absence of a federal rule. Dry handling of coal ash can

completely eliminate ash-contaminated discharges, and is already in use at a significant number of coal power plants.^{vi} Likewise, combined biological and chemical treatment can remove dangerous metals from scrubber sludge, and is also already in use, while even more plants use measures that recycle or evaporate all scrubber-contaminated waste.^{vii} In addition, coal fired power plants are installing mechanical evaporation systems that can successfully achieve zero liquid discharge as the Clean Water Act requires. These available and cost-effective controls would only marginally increase the cost of operating billion-dollar coal power plants, but would greatly improve water quality and quality of life for downstream communities.^{viii} The many families who depend upon fishing to help put food on the table, along with millions of recreational anglers, are among those who urgently need these protections.^{ix}

The proposal EPA sent to OMB in January is the product of years of work. EPA began a comprehensive study of the industry's water pollution and treatment options in 2005, and released a 233-page final report in 2009, which it has been building upon as the rulemaking moves forward.^x The rulemaking itself has been in progress since 2009 and was meant to be completed by 2012. EPA has since extended the deadline for its proposal three times, but this long process is now at an end. The final deadline to issue this proposed rule is April 19, 2013.^{xi}

Despite this lengthy process, we understand that some industry groups are now calling for yet more delay in closed meetings at OMB, insisting that EPA weaken the standards at the eleventh hour, based on data that have not been released to the public.^{xii} After years of work, and decades of illegal and dangerous pollution, there is no place for this last minute covert attack. EPA must be allowed to propose a strong and timely rule for *public* review. Industry will be free to raise any concerns then, when the millions of citizens who will benefit from strong standards will be free to respond.

Thank you for your help in protecting America's water from this dangerous pollution. We look forward to seeing a strong proposed rule issue on April 19.

Sincerely,

National organizations

Michael Brune
Executive Director
Sierra Club

Robert Wendelgass
President and CEO
Clean Water Action

Trip Van Noppen
President
Earthjustice

Kevin Knobloch
President
Union of Concerned Scientists

Frances Beinecke
President
Natural Resources Defense Council

Eric Schaeffer
Executive Director
Environmental Integrity Project

Marc Yaggi
Alliance's Exec. Dir.
Waterkeeper Alliance

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Catawba Riverkeeper Foundation

Hope Taylor
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Suncoast Waterkeeper

Hartwell Carson
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Apalachicola Riverkeeper

Paul Orr
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Pat Banks
Riverkeeper
Kentucky Riverkeeper

Cheryl Nenn
Riverkeeper
Milwaukee Riverkeeper

Casi Callaway
Executive Director & Baykeeper
Mobile Baykeeper

Michael Helfrich
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Frank Chitwood
Riverkeeper
Coosa Riverkeeper

David Whiteside
Executive Director & Riverkeeper
Tennessee Riverkeeper

Russ Maddox, Director of Advocacy
Resurrection Bay Conservation Alliance
Seward, AK

William Lewis
Citizens for Environmental Inquiry, Inc.
Presque Isle MI

Paul Kysel, President
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Town of Pines, IN

Curt Havens, President
Little Blue Regional Action Group
(LBRAG)
Chester WV and Greene Township, PA

Cathy Lodge
Residents Against the Power Plant (RAPP)
Bulger PA

Patricia Schuba, President
Labadie Environmental Organization
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Earl Hatley
Riverkeeper
Grand Riverkeeper (Oklahoma)

ⁱ EPA, *Technical Support Document for the 2010 Effluent Guidelines Program Plan* (2010) at 5-1, Tables C1 & C2.

ⁱⁱ See *id.* See also EPA, *Steam Electric Power Generating Point Source Category: Final Detailed Study Report* (EPA 821-R-09-008) (Oct. 2009), available at <http://www.epa.gov/waterscience/guide/steam/finalreport.pdf> (hereinafter “*Final Detailed Study Report*”)

ⁱⁱⁱ Only 96 of 416 coal plant Clean Water Act permits in EPA’s Enforcement and Compliance History Online database contained at least one limit for arsenic, boron, cadmium, mercury, or selenium. See EPA, *Enforcement & Compliance History Online (ECHO)*, <http://www.epa-echo.gov/echo/>.

^{iv} *Final Detailed Study Report* at 6-1.

^v See, e.g., Christopher Rowe *et al.*, *Ecotoxicological Implications of Aquatic Disposal of Coal Combustion Residues in the United States: A Review*, 80 *Env. Monitoring and Assessment* 207 (2002) at 215,231-236; Laura Ruhl, Avner Vengosh *et al.*, *The Impact of Coal Combustion Residue Effluent on Water Resources: A North Carolina Example* 46 *Environ. Sci. Technol.* 12,226 (2012).

^{vi} See, e.g., *Final Detailed Study Report* at 5-3 – 5-5 (listing 63 coal plants using dry handling for fly ash and 13 using it for bottom ash).

^{vii} See, e.g., *id.* at 4-43 – 4-45 (listing 3 plants using advanced treatment for scrubber wastes and 33 using zero discharge systems)

^{viii} See EPA, *Steam Electric Power Generating Effluent Guidelines Rulemaking Supplemental Information Package #2 for Federalism and Unfunded Mandates Reform Act (UMRA) Consultation* (Oct. 18, 2011) at Table 2 (documenting annualized costs for a typical plant in the millions of dollars), available at: http://water.epa.gov/scitech/wastetech/guide/steam-electric/upload/Steam-Electric-ELG_UMRA-Federalism-Consultation-_Supplemental-Info-Package-2_Oct-18-2011.pdf.

^x See generally National Environmental Justice Advisory Committee, *Fish Consumption and Environmental Justice* (2002) (explaining that many lower income families and people of color are particularly dependent on fishing to support their food supply).

^x See generally *Final Detailed Study Report*.

^{xi} See Modified Consent Decree, *Defenders of Wildlife v. EPA* (Case No. 1:10-CV-01915), available at: http://water.epa.gov/scitech/wastetech/guide/steam-electric/upload/consentdecree_extension.pdf.

^{xii} See Bridget DiCosmo, *InsideEPA, Industry Pushes Back On ‘Zero Discharge’ Option For Power Plant ELG* (Apr. 1, 2013).