

Advocacy Petitions EPA for Reconsideration of Effluent Limitations Guidelines and Standards for Steam Electric Power Plants

On April 5, 2017, the Office of Advocacy (Advocacy) submitted to the U.S. Environmental Protection Agency (EPA) a petition to reconsider the Steam Electric Power Plant Effluent Limitations Guidelines (ELG), which were finalized on September 30, 2015.¹ The regulation imposes technology-based standards on power plants operating as utilities to control wastewater under the Clean Water Act (CWA). Advocacy supports reopening the rulemaking for reconsideration as it would provide an opportunity for regulatory relief for small entities, particularly small independently owned utilities, small rural electric cooperative owned utilities, and small municipal owned utilities. Advocacy provides specific recommendations for regulatory alternatives. Executive Orders 13771 and 13777 require agencies to eliminate unnecessary regulations and reduce costs on regulated entities.² This rule is an ideal candidate for modification and should be placed on high priority for review under these Executive Orders.

A complete copy of Advocacy's letter to EPA may be accessed at <https://www.sba.gov/advocacy/04-05-2017-effluent-limitations-guidelines-and-standards-steam-electric-power-generating>

- On September 30, 2015, EPA issued a final rule revising its *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*. Prior to this rule, EPA had not updated the guidelines since 1982.
- Advocacy filed a public comment letter in response to the proposed rule on September 19, 2013 that urged EPA to re-evaluate its certification that the rule would not have a significant economic impact on a substantial number of small entities. Advocacy's letter also recommended that EPA conduct a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel. In addition, Advocacy encouraged EPA to adopt regulatory alternatives that would have minimized the burden on small entities while still achieving EPA's statutory objectives. EPA did not incorporate these recommendations in the final rule.
- In this petition, Advocacy strongly recommends that EPA consider regulatory options that exclude all plants with de minimis amounts of pollution, especially those owned by small entities. Specifically, controls for two wastewater streams, namely bottom ash wastewater and flue gas desulfurization (FGD or scrubber) wastewater, should be evaluated for modification. In the case of bottom ash, EPA is requiring a no-discharge standard to be applied to all units above 50 megawatts (MW). In the case of FGD, EPA requires the application of both chemical precipitation and biological treatment to all units above 50 MW. Both of these standards will be extremely costly and warrant greater flexibility; EPA estimates costs of \$292

¹ 78 Fed. Reg. 67,838 (November 3, 2015).

² 82 Fed. Reg. 9339 (February 3, 2017); 82 Fed. Reg. 12285 (March 1, 2017).

million annually for the bottom ash regulation nationwide and \$195 million annually for the FGD regulation nationwide.³

- EPA should also provide greater transparency in its pollutant loadings and cost estimates, and correct its overestimation of pollution removals.

For more information, visit Advocacy's website at www.sba.gov/advocacy, or contact Assistant Chief Counsel Kevin Bromberg by email at kevin.bromberg@sba.gov or by phone at 202-205-6964.

³ See Table 2-1, Memorandum entitled, "Compliance Costs, Loadings Reductions, and Cost-effectiveness by Wastestream Control Technologies," Isabelle Morin, Abt Associates, dated September 25, 2015.