



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Sam Graves
Chairman

Rick Larsen
Ranking Member

Jack Ruddy, Staff Director

Katherine W. Dedrick, Democratic Staff Director

May 12, 2023

The Honorable Radhika Fox
Assistant Administrator
Office of Water
United States Environmental Protection Agency
4101M
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Request for 60-Day Extension of Comment Deadline for Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category; Proposed rule; Docket ID No. EPA-HQ-OW-2009-0819.

Dear Assistant Administrator Fox:

On March 29, 2023, the United States Environmental Protection Agency (EPA) published a proposed rule in the Federal Register titled “Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generated Point Source Category.”¹ The proposed rule only provides for a 60-day public comment period, ending on May 30, 2023.² We are concerned this is an insufficient timeline and that a longer comment period is necessary to adequately address the complexity and technicality of the rule, its broader implications, and the multitude of questions EPA posed in it. Therefore, we request that the comment period be extended for at least an additional 60 days.

Broadly, the proposed rule would revise the technology-based effluent limitations guidelines and standards for the steam electric power generating point source category under the *Clean Water Act (CWA)*.³ As currently drafted, the proposed rule may have a major effect on the

¹ Supplemental Effluent Limitations Guidelines and Standards: Steam Electric Power Generating Point Source Category, 88 Fed. Reg. 18,824 (Mar. 29, 2023), *available at* <https://www.govinfo.gov/content/pkg/FR-2023-03-29/pdf/2023-04984.pdf> [Hereinafter Supplemental Effluent Limitations Guidelines and Standards].

² *Id.*

³ *Id.*

operations of affected steam electric power plants and cause significant economic impacts for affected plants as well as the customers that rely on them. Accordingly, there is a substantial amount of material to review to fully understand EPA's proposal, which will require significant technical and economic analyses. To ensure engagement in this process, it is evident that the proposed rule will require more than the original 60 days to review; due to not only the 80-page rule, but the hundreds of supporting and technical documents accompanying the rule.⁴

Moreover, EPA solicits comments in over 150 instances in the preamble to the proposed rule, covering numerous topics associated with unique Steam Electric Power Generating units across the United States.⁵ A comment period extension is imperative to appropriately address EPA's comment solicitations and outstanding concerns. These include properly vetting the Chinese data and membrane filtration technology used to craft the proposed zero-discharge limit for flue gas desulfurization in the rule.⁶ Given the concerns raised in the 2020 Electric Steam Reconsideration Rule, EPA should explain how and why its views on Chinese power plant data have changed.⁷

We are also concerned about the economic impact of the rule, especially the potential rate increases for not-for-profit electric cooperatives and their customers, specifically in low-income areas.⁸ Additionally, we are interested in how the proposed rule interacts with other significant ongoing EPA rulemakings.⁹ The cumulative effect of EPA's proposed regulations threaten to strain the ability of producers to provide safe and reliable power and lead to a significant amount of generation retirements.¹⁰

⁴ *Id.*

⁵ *Id.*

⁶ See e.g. Memorandum, from Sara Bossenbroek & Danielle Lewis, Eastern Research Group, to the Steam Electric Rulemaking Record, EPA, (Feb. 16, 2018) (describing the notes from the Oct. 19, 2017, EPA meeting with Oasis Water to discuss the wastewater treatment systems offered by the company), *available at* <https://www.regulations.gov/document/EPA-HQ-OW-2009-0819-7334>; Memorandum from Sara Bossenbroek & Tara Stout, Eastern Research Group to the Steam Electric Rulemaking Record, EPA, (June 24, 2020) (describing the notes from the Apr. 8, 2020, meeting with DuPont to discuss zero liquid discharge and minimal liquid discharge membrane systems), *available at* <https://www.regulations.gov/document/EPA-HQ-OW-2009-0819-8887>; Memorandum from EPA to the Steam Electric Record, EPA, (Nov. 14, 2022) (describing the notes from the Oct. 29, 2021, and Dec. 8, 2021, calls with DuPont to learn about treatment capabilities), *available at* <https://www.regulations.gov/document/EPA-HQ-OW-2009-0819-9378>.

⁷ Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), *available at* <https://www.govinfo.gov/content/pkg/FR-2020-10-13/pdf/2020-19542.pdf>.

⁸ Supplemental Effluent Limitations Guidelines and Standards, *supra* note 1, 88 Fed. Reg. 18,863.

⁹ See e.g. Notice, from EPA Admin. Michael Regan, EPA, New Source Performance Standards for Greenhouse Gas Emissions from New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule (to be pub. in Fed. Reg. at Docket No. EPA-HQ-OAR-2023-0072), (May 8, 2023), *available at* <https://subscriber.politicopro.com/f/?id=00000188-086d-d883-a79c-5e7dd97f0000&source=email>.

¹⁰ See Jean Chemnick, *How EPA power plant rules could (almost) make coal disappear*, E&E NEWS, Apr. 28, 2023, *available at* <https://subscriber.politicopro.com/article/eenews/2023/04/28/how-epa-power-plant-rules-could-almost-make-coal-disappear-00094314>; see also PJM INTERCONNECTION LLC, ENERGY TRANSITION IN PJM: RESOURCE RETIREMENTS, REPLACEMENTS, AND RISK (2023), *available at* <https://www.pjm.com/-/media/library/reports-notices/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx>.

Assistant Administrator Fox
May 12, 2023
Page 3 of 3

For these reasons, we encourage EPA to extend the comment period for at least an additional 60-days. This will allow the public and the regulated industry additional time to assess and analyze the potential implications of the proposed rule and provide more thorough comments.

Thank you for your prompt attention to this important matter. If you have any questions, please contact Ryan Hambleton, Majority Staff Director, Subcommittee on Water Resources and Environment, at (202) 225-9446.

Sincerely,



Sam Graves
Chairman
Committee on Transportation
and Infrastructure



David Rouzer
Chairman
Subcommittee on Water Resources
and Environment

CC: The Honorable Rick Larsen, Ranking Member
Committee on Transportation and Infrastructure

The Honorable Grace Napolitano, Ranking Member
Subcommittee on Water Resources and Environment