

## Memorandum

TO: Water Quality Subcommittee  
Coal Policy Task Force

FROM: Tawny Bridgeford, General Counsel & Senior Vice President,  
Regulatory Affairs

DATE: August 20, 2025

SUBJECT: EPA Reveals Additional Details on Power Plant ELG  
Reconsideration

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The U.S. Environmental Protection Agency (EPA) recently filed a [motion](#) in the U.S. Court of Appeals for the Eighth Circuit litigation challenging the [2024 steam electric power generating effluent limitation guidelines](#) (2024 ELG Rule) that reveals additional details on the agency's approach to reconsidering this Clean Water Act regulatory cornerstone of the Biden administration's power plant strategy. *Southwestern Electric Power Co. v. EPA*, No. 24-2123 (8th Cir. filed Aug. 11, 2025). EPA requested that the court continue to hold the consolidated cases in abeyance until 30 days after completion of a rulemaking "to extend certain compliance deadlines in the challenged rule, and allow for transition between compliance alternatives." EPA states that "it would be most reasonable to tie the abeyance period to the date-extension rulemaking," after which the parties can decide whether to continue to hold the case in abeyance or propose a plan for resolving the cases. For the near term, EPA is planning two reconsideration rulemakings on this important matter.

On the same day as the court filing, EPA sent to the Office of Management and Budget (OMB) for interagency review the first proposed rule titled "Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category - Initial Notification Date Extension." According to EPA's filing with the court, including a declaration filed by EPA's acting Assistant Administrator for the Office of Water Peggy Browne, this proposed rule will have the following three components:

- **Extending Compliance Deadlines:** The proposed rule will "extend the compliance deadlines for the zero-discharge effluent limitations and pretreatment standards in the 2024 [ELG] Rule."
- **Extending the Notice of Planned Participation Deadline for the 2034 Retirement Compliance Subcategory:** EPA plans to extend the

Dec. 31, 2025, date for facilities to notify the EPA of their intention to opt into a retirement compliance subcategory created in EPA's 2024 ELG Rule that allows power plants to comply with the less stringent limits in the 2020 ELG Rule in exchange for permanent cessation of coal combustion by Dec. 31, 2034. This proposal will be accompanied by a direct final rule that does the same thing. According to EPA, if the agency receives no adverse comments on the direct final rule, "the deadline may become effective sooner than the other extensions included in the first rulemaking." EPA will also propose to "allow for transition between compliance alternatives." Notably, EPA's 2024 ELG Rule also kept the 2020 ELG Rule's retirement compliance subcategory that allows coal plants to comply with less stringent discharge limits if they agreed to permanently cease coal combustion by 2028. An estimated 31 coal plants have one or more units committed to retire by 2028 because of the 2020 ELG Rule.

- **Requesting Information on Zero-Discharge Technologies:** EPA will solicit additional information on zero-discharge technologies, recognizing that regulated parties have raised concerns about the availability and cost of these technologies. Specifically, EPA is looking for "any new pilot or bench test data, performance data, and cost estimates bearing on whether such standards are consistent with relevant statutory factors." EPA will consider this information as it plans a separate reconsideration rulemaking on the zero-discharge limitations and standards in the 2024 ELG Rule.

EPA expects to issue this first proposed rule "shortly" - although OMB's interagency review can take up to 90 days unless expedited by the administration - and a final rule "by the end of this year."

Additionally, EPA intends to initiate a second rulemaking to potentially revise: (1) "requirements for discharges of unmanaged combustion residual leachate;" and (2) "the challenged rule's zero discharge limitations and standards." This rulemaking will occur after the first rulemaking is finalized.

The National Mining Association continues to monitor these developments. We are also coordinating with interested member companies and allied trade associations on our advocacy plan, particularly related to the retirement subcategories in the 2020 and 2024 ELG Rules. Please contact me at [tbridgeford@nma.org](mailto:tbridgeford@nma.org) if you have any feedback or questions on this matter.

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