



ENVIRONMENTAL UPDATE

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EPA Issues Effluent Guidelines Program Plan

On December 28, 2009, EPA published in the Federal Register its preliminary 2010 effluent guidelines Program Plan, which outlines the status of the Agency's ongoing review of its effluent guidelines and its plan for additional studies of and potential modifications to the guidelines. 74 Fed. Reg. 68599. Of particular interest, the Plan emphasizes actions affecting discharges from four industrial categories: Steam Electric Power Generating facilities, hospitals and other healthcare facilities disposing of unused pharmaceuticals, coalbed methane extraction activities, and ore mining and dressing activities. EPA is accepting comments on its preliminary plan through February 26, 2010.

Steam Electric Power Generating Facilities

Over the last several years, EPA has been conducting a detailed review of the Steam Electric Power Generating category, which is limited to those facilities primarily engaged in the generation of electricity for distribution and sale. Having completed this study, EPA has now decided to proceed with a rulemaking to revise the existing effluent guidelines. A copy of EPA's detailed study can be found at <http://www.epa.gov/waterscience/guide/steam/finalreport.pdf>. EPA's focus is on four particular issues that have arisen since the last update of the guidelines for this category in 1982:

1. The current pollutant characteristics of power plant wastewater.
2. The treatment technologies for wastewater generated by air pollution control equipment, in particular because of the increased use of wet scrubbers at coal-fired generating units.
3. Practices to manage or eliminated discharges of fly ash and bottom ash wastewater.
4. Methods for eliminating discharges to surface waters through recycling and reuse of power plant wastewater.

EPA is particularly focused on metals in power plant wastewater, coal pile runoff, metal cleaning wastes, coal washing and leachate from landfills and wastewater impoundments. These are issues on which parties may comment. Before revising the

guidelines, EPA is engaging in additional data collection (first announced in October 2009). No schedule for the rulemaking has been announced.

Hospitals and Other Healthcare Facilities/Disposal of Unused Pharmaceuticals

As with the Steam Electric Power Generating category, EPA has been studying the management and discharge of unused pharmaceutical management by the healthcare industry, primarily hospitals and other healthcare facilities. EPA's interest in this subcategory arose from studies showing discernable concentrations of pharmaceutical compounds in surface waters. EPA's focus has been on hospitals and long-term care facilities, because it believes these facilities were the most significant sources of unused drugs, often flushing them down the toilet or drain.

In 2009, EPA was prepared to issue a detailed questionnaire to the industry to expand its study. In the face of industry objections, however, EPA has now concluded that the survey is unnecessary and intends to continue with its informal meetings with the industry to develop a compilation of best practices to manage unused pharmaceuticals. In the notice, EPA has solicited information about the methods, practices and technologies, as well as their costs, for managing unused pharmaceuticals at health care facilities. EPA did not yet announce an intention to revise the pretreatment standards for this category of facilities.

Coalbed Methane Extraction

With the growth in natural gas extraction from coalbeds, EPA began a study of the industry in 2006. After an initial data collection effort early in 2009, EPA is now engaged in a more comprehensive study, including distributing detailed questionnaires to entities engaged in the extraction of methane from coalbeds. Based on this study, EPA intends to decide whether to revise existing effluent guidelines for this category.

EPA's focus is on produced water generated in the extraction of coalbed methane. The December 28 notice identifies information EPA is seeking from commenters, including:

- The constituents in and toxicity of produced water;
- Methods and technologies used to treat or control produced water discharges;
- Treatment technology costs; and
- Economic information about the coalbed methane industry.

Ore Mining and Dressing

In the notice, EPA states that it lacks sufficient information about the ore mining and dressing industry to determine whether it needs to revise the effluent guidelines for the category. EPA thus seeks additional information about discharges and treatment and control technologies for this category and will likely distribute surveys to gather this information. This provides an additional opportunity for comment.

If you have any questions regarding this update, please contact the lawyers listed below or the Sidley lawyer with whom you usually work.

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