

EPA Virtual Hearing on Rollback of Water Toxics (ELGs) Safeguards How-To Guide on Preparing Testimony or Comment

On **Thursday, December 19, 2019, from 1pm - 5pm EST**, the EPA is holding a “virtual” public hearing on its [proposed rollback](#) of critical protections against toxic water pollutants discharged by coal plants. Please read through this document for a few important tips and guidance pieces as you prepare your testimony.

The Trump administration’s [proposal](#) would weaken the Clean Water Act’s Effluent Limitation Guidelines (ELG) program, which authorizes EPA to set pollution limits for discharges from industrial sources, including coal plants. Prior to being [finalized in 2015](#) by President Obama’s EPA, the ELGs for coal plants had not been updated since 1982, despite the fact that coal plants are the largest toxic water polluters in the country, accounting for almost one-third of all toxic pollution dumped into U.S. surface waters. EPA’s own data show that water pollution from coal plants is full of pollutants like arsenic, mercury, selenium, lead, and other heavy metals that can be dangerous to the health of our kids and families, and wreak havoc on water resources even in small amounts.

Register to participate in the virtual hearing [HERE](#) through the EPA’s GoToWebinar website.

Contacts:

Dalal Aboulhosn

Sierra Club

dalal.aboulhosn@sierraclub.org

Jennifer Peters

Clean Water Action

jpeters@cleanwater.org

Reading and Viewing Materials:

- Coalition fact sheets [HERE](#) and [HERE](#)
- Earthjustice press release [HERE](#), Sierra Club press release [HERE](#), Clean Water Action press release [HERE](#), NRDC press release [HERE](#), SELC press release [HERE](#), EIP press release [HERE](#)
- Sierra Club AddUp public comment page [HERE](#) and video [HERE](#)

Tips for your Testimony:

- Time Limit is **5 Minutes**: all testimony will be limited to this timeframe
 - Remember this formula: 1 minute = 150 words / 5 minutes = 750 words

- Write your comments down. You can simply read your comments into the speaker on your computer or the phone.
- Make it personal:
 - Use your comments to add a personal voice to this national problem.
 - Express your personal concerns about how coal plant water pollution is threatening your community or talk about the health risks to you and your family/friends from water pollution.
 - Have you been personally affected by the impacts of water pollution from a coal plant?
 - Do you live near a coal plant that discharges pollution into the groundwater or a lake, river or stream? Does the pollution from the plant threaten aquatic life or wildlife? Does the pollution degrade your recreational enjoyment of the lake, river or stream?
 - Do you or a loved-one suffer from health issues?
 - Are you a public health professional who sees the impacts in your community?
- Include a few key facts:
 - **Don't worry about highly technical information. You do not need to be an expert to have opinions about the need to protect health and clean water.**
 - Below are sample talking points and fact sheets on the dangers of toxic water pollution from coal plants. Pick one or two facts to frame your personal comments.
 - Do tell EPA your particular concerns: about your community, about a particular water body, or about a particular coal plant dumping waste into the waters you rely for drinking water or use for recreation.
- Demand that EPA do its job:
 - EPA's duty is to protect your health and the environment from toxic waste.
 - EPA's duty is to guarantee safe water, clean air, and a healthy environment -- free from toxic waste.
 - EPA's duty is not to protect polluters and ignore the damage to our health and natural resources.
 - EPA must strengthen the 2015 ELGs, not weaken them!

Overview:

The EPA's proposed rule aims to weaken the protections set in 2015 that prohibited dumping of coal ash in the nation's waters and imposed stringent limits on toxic water pollutants in scrubber sludge that is discharged to our water supplies.

The 2015 rule represented a significant step towards cleaner water, and reflected years of work by EPA staff, informed by numerous technical and scientific studies, public hearings, and hundreds of thousands of comments demanding strong standards to combat toxic water contamination from coal plants. It also took significant legal action from public health and environmental groups to get EPA to develop and finalize the 2015 update.

The Trump EPA proposal would weaken the pollution limits established in 2015, and exempt certain plants entirely from those limits. It would also push back the compliance dates for the weakened standards. The rule also ignores a [court](#) order to strengthen limits on leachate -- another highly toxic wastewater discharged from coal plants.

The proposal is based on bogus science and relies upon hypothetical voluntary pollution reduction from coal plants. It's nothing more than a lifeline to an archaic industry responsible for the billions of pounds of pollution that contaminate our water and fuel climate change year after year.

Every proposed rollback that weakens the Clean Water Act is further proof that the Trump administration is putting the interests of polluters before the health and safety of the public. This toxic water proposal, and every effort to undermine bedrock clean water protections, will undoubtedly jeopardize our rivers, and streams and our communities.

Summary of the Proposed Rollback:

As noted above, power plants are the largest industrial discharger of toxic water pollution, yet prior to the 2015 ELG rule there were no federal limits on any toxic pollutants from this industry.

The ELG rule sets limits on discharges, requiring zero discharge of coal ash wastewater and requiring limits on toxic pollutants including arsenic and selenium in the wastewater from air pollution control devices called "scrubbers." The rule required that discharge permits incorporate the new requirements "as soon as possible beginning November 1, 2018" and "no later than December 31, 2023."

However, in September 2017, then-EPA Administrator, Scott Pruitt finalized a rule postponing the earliest compliance dates for the ELG rule from 2018 to November 2020. This postponement created loads of uncertainty for state agencies that have to issue new Clean Water Act permits, as many plants have already received permits and taken steps that incorporate the rule's pollution-reducing requirements and deadlines.

Now, the Trump EPA is proposing to weaken these protections. The proposed rule would:

- Allow coal plants to discharge millions of gallons of coal ash wastewater daily, even though the technology to eliminate all ash discharges is widely used and affordable;
- Allow higher levels of arsenic and selenium in scrubber sludge discharge to lakes and rivers, and give plants up to 5 years to come into compliance; and
- Carve dozens of coal plants out from even these weakened standards.

Sample Testimony:

**** Note this is approximately 250 words or about 2 minutes without adding personalization)***

Introduction

Hello, my name is [your name] and I am from [your hometown and state]. Thank you for this opportunity to offer comment. I am a member of the [organization] and I am calling today to speak out in opposition to EPA's proposal to weaken the 2015 effluent limitation guidelines.

Instead of removing more critical toxic water protections for power plants, the Trump EPA must strengthen the rules and regulations that keep dangerous toxic substances out of our water.

[Tell your personal story, especially how close you live to a coal plant or water polluted by that coal plant, etc.]

This new proposal would allow coal plants to discharge millions of gallons of coal ash wastewater daily, even though the technology to eliminate all ash discharges is widely used and affordable. It would also allow higher levels of arsenic and selenium in scrubber sludge discharge to lakes and rivers, and give plants up to 5 years to come into compliance. Finally, the proposal would carve dozens of coal plants out from even these weakened standards.

[Use the general talking points and background below to craft the remainder of your testimony.]

Conclusion

Coal-burning power plants have had a free pass to pollute our water, and put the health of downstream and nearby communities at risk, for far too long.

The 2015 ELG Rule is currently protecting hundreds of American communities. Yet, President Trump and his EPA's attempt to weaken this rule is nothing more than a total giveaway to the industry and must be rejected. EPA must strengthen the rule, not weaken health and environmental protections for our water.

General Talking Points:

- In 2015 the Obama administration issued the first-ever national water pollution limits to finally control the amount of heavy metals, nutrients, and other pollutants power plants could discharge into our nation's rivers, lakes, and bays.
- If some of these standards had not been delayed by EPA in 2017 at the behest of industry, they would have prevented 1.4 billion pounds of pollution from being dumped in our water resources every year.
- The 2015 update was finalized with robust public support and scientific backing. During an earlier comment period, the majority of comments were in opposition to any delay or weakening of pollution limits on power plants to protect our water from their toxic waste.
- The Trump administration is now ignoring science and public safety because the power plant industry wants to put profits before public health.
- The Clean Water Act is supposed to require more stringent discharge limits on pollutants over time to reflect advances in pollution control technologies.
- The Trump administration proposal flies in the face of the Clean Water Act, and is one more in a string of attempts to weaken this most fundamental law.

Background and Helpful Information for Testimony:

Health & environmental impacts of this pollution

- Toxic heavy metals persist in the environment, are hard to clean up, and do not break down easily over time. Many are known to increase cancer risk, make fish unsafe to eat, and can inflict lasting brain damage on our children.
- Mercury is especially harmful because it concentrates up the food chain, ultimately collecting in our bodies and in the bodies of our children.
 - Coal plant water pollution has made it unsafe to eat fish from many rivers, lakes, and reservoirs across the country, especially for children and women of childbearing age.
 - In 2015 EPA estimated this pollution had made over 4,000 miles of rivers unsafe for use as a drinking water source or for fishing, and had made over 6,000 miles

of rivers unsafe for children to use for recreational fishing, primarily from high mercury levels.

- In 2015 EPA also estimated that roughly 30 million people have eaten fish contaminated by coal plants, including over 3 million young children exposed to lead every year and over 400,000 infants exposed to mercury in utero every year.
- Coal power plants have long imposed costs of its pollution on the rest of by using our nation's waters as its own private waste dump for decades. These dangerous, toxic discharges especially have serious consequences for communities that live nearby and depend on clean water for their livelihoods.
 - Communities that depend on subsistence fishing are especially vulnerable to this pollution.
 - Compared to the general population, minority and low-income communities are disproportionately impacted from eating contaminated fish, due to living in close proximity to power plants and more frequently consuming fish caught from nearby contaminated rivers and lakes.
- The facts and science have not changed. EPA's reckless action means that coal plants will continue to dump arsenic, lead, mercury, selenium, and other harmful chemicals into our nation's waters, putting drinking water sources at risk. Trump's EPA is prioritizing polluter interests over the protection of public health.
- The Trump administration's proposal to weaken these pollution limits is an assault on public health and the environment and will force drinking water utilities and their customers to continue to foot the bill for cleaning up arsenic, lead, mercury, selenium, nutrients, bromide and other chemicals that power plants dump into surface waters.
- The benefits of controlling coal-fired power plant pollution are huge. EPA conservatively estimated that the 2015 rule would add to about half a billion dollars every year in improved human health, economic and recreational opportunities, and ecological conditions. Cleaner water also creates many incalculable benefits.
- For decades, discharges of coal ash-contaminated water to reservoirs, lakes, rivers and streams have caused significant harm to fish and wildlife. The release of bioaccumulative toxins from coal ash, including arsenic, cadmium, chromium, lead, mercury, and selenium, has caused fish kills, deformities in fish and amphibians, and health hazards to people consuming contaminated fish.
- Selenium is a particularly dangerous contaminant because it is toxic to aquatic life at very low levels. In addition, selenium bioaccumulates in food chains and passes from parents to offspring in eggs, where it causes a variety of skeletal deformities and other abnormalities in the developing embryos. This can lead to massive reproductive failure and local extinction of species.

- At least three toxins common to coal ash, including arsenic, methyl mercury, and selenium, can result in biomagnification in aquatic organisms, thereby increasing the danger of ingestion by humans and other animals.

Propping up a dirty, dying industry

- Though many coal plants have already updated their pollution control technologies, a handful of plants still use outdated technologies. So the industry sued to weaken these vital safeguards and in 2017 EPA agreed to revise some of these pollution standards.
 - The 2015 rule would have prevented more than a billion pounds of pollutants from being dumped into our nation's rivers, lakes, and bays every year if industry hadn't sued to stop it, and the Trump administration didn't delay it and then propose to weaken it.
- It is unreasonable for EPA to weaken these pollution standards for the few remaining power plants that are still using outdated technology while continuing to put public health and the environment at risk because of their uncontrolled pollution.
- Despite what industry claims, the vast majority of power plants will incur zero costs to comply with the 2015 ELG rule.
 - In fact, in 2015 EPA estimated that overall only about 12 percent of all power plants and 28 percent of coal or petroleum coke burning plants will incur any costs and that for all but a handful of plants those costs will amount to less than 1 percent of the company's revenue.

Social Media Guidance:

- .@EPAAWheeler seems to care more about coal-plant industry profits than the health of our water or communities. #NoToxicWater (link to press release or press story)
- Don't let @realDonaldTrump make it easier for toxic coal plants to pollute our water. #NoToxicWater
- Every year #ToxicPowerPlants dump 2.2 billion pounds (!!!) of pollution into our rivers, lakes, and bays. Yet Trump's @EPA wants to make it even easier for these plants to poison our water.
- This will blow your mind: #ToxicPowerPlants dump 250K pounds of pollution into our water every hour! @EPAAWheeler wants to let this coal-fired power plants off the hook for that pollution. Don't let him (link to action)
- #ToxicPowerPlants have contaminated 23,000 miles of streams. Why would @EPA gut a rule to limit that pollution? Don't answer, we already know -- @EPAAWheeler puts polluters before public health and our kids.

- Arsenic. Lead. Mercury. Selenium. #ToxicPowerPlant waste contains all of these and Trump's @EPA wants to make it easier for coal-fired power plants to keep dumping their toxic waste into our lakes and rivers.
- Bottom-line: This latest attack on the Clean Water Act from @realDonaldTrump gives coal-fired power plants a free pass to continue to pollute our lakes, rivers, and drinking water. #NoToxicWater
- Coal plant wastewater has made it unsafe to eat fish from many of our nation's rivers and lakes. Instead of fixing this, @EPAWheeler is making it worse. #NoToxicWater