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**50 DEN A-7****Water Pollution****States Will Have Discretion to Determine Technologies for Cooling Water Intakes**

By Amena H. Saiyid

March 13 — State permitting agencies will have the discretion to determine which best technology available they should require power plants and factories to install in their cooling water intake structures to minimize harm to fish and other aquatic life, according to an Environmental Protection Agency official.

"You will make the determination about best technology available based on the information you have at that point in time," Marcus Zobrist, chief of the Industrial Branch within EPA's Water Permits Division, told state water officials March 10, the final day of the mid-year meeting of the Association of Clean Water Agencies.

Moreover, Zobrist told state officials that they will have to make the best technology available determination based on the information they have with an eye to July 14, 2018, the date when all final cooling water intake rule requirements take effect (RIN 2040-AE95).

That is because the EPA has given the more than 1,000 power plants and factories until that date to comply, even though the rule took effect Oct. 14, 2014 (79 Fed. Reg. 48,300; (158 DEN A-2, 8/15/14)

He was responding to Allen Brockenbrough, permit manager for the Virginia Pollutant Discharge Elimination System program for the Virginia Department of Environmental Quality, who asked about the interim information that state and federal permitting authorities would be expected to seek from applicants..

**Best Available Technology Requirement**

The final rule under Section 316(b) of the Clean Water Act requires National Pollutant Discharge Elimination System permits setting the best technology available for power plants and industrial and manufacturing units that withdraw at least 2 million gallons per day of cooling water and use at least 25 percent of that intake for cooling purposes.

This category of technology must consider cost and account for the age of the equipment and facilities, the process employed, engineering aspects associated with a particular technology, process changes and other environmental impacts, including energy requirements.

On or after July 14, 2018, 1,065 existing facilities, including 544 factories and 521 power plants that seek NPDES permits for cooling water intake systems, must comply with all requirements, including studies of impacts on endangered species, responding to requests from the U.S. Fish and Wildlife Service and NOAA Fisheries and cost-benefit analysis of technologies, among others.

**States Set Permit Requirements**

In the interim, Zobrist told the state officials that it's up to them on how robustly they write the permits that come up for renewal.

Zobrist acknowledged that a huge amount of information will be collected by the state agencies as a result of this rule. He said state officials will have to sift through and "really understand" this data and make some important decisions that will get scrutinized by the public.

"As permit authorities, we have a big challenge ahead of us, and we can do it and do it efficiently," Zobrist said. He said the rule has laid out a process that allows state officials to phase in the requirements over time.

Also Zobrist said that implementing this rule would entail a huge learning curve not just for the state and federal agencies but also for the FWS and NOAA Fisheries, known collectively as the Services.

That is because the 46 states that have been delegated authority to issue NPDES permits aren't only required to share draft permit applications for cooling water intake structures with the Services. The states also can't publish or propose the permits until the federal reviews to ensure compliance with the Endangered Species Act are completed.(106 DEN A-12, 6/3/14)

**Holding the Line on Data**

Peter Goodman, water division director for the Kentucky Department of Environmental Protection, said at the meeting that the commonwealth would require applicants who seek KPDES permits prior to July 18, 2018, to

collect all the studies and assessments the rule seeks and to submit such information when the permit comes up for renewal five years later.

Goodman said the commonwealth decided on this process after consulting on the best way forward with representatives of power utilities, including Louisville Gas & Electric Co. and Kentucky Utilities Co., which is part of PPL Corp. (NYSE: PPL).

According to Goodman, Kentucky has 20 facilities that would come under this rule. Of that total, 17 facilities have permits that are up for renewal.

He said some power plants are in the process of shutting down, while others are in the process of moving from burning coal to gas as a fuel that, in turn, would dictate the volume and flow of cooling water through the systems.

Goodman said he wasn't sure if the process Kentucky has decided to follow would be approved by the Services, "but this is what we have decided to do."

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