



National Tribal Air Association's Fact Sheet on EPA's Proposed Revised Supplemental Finding and Results of the Residual Risk and Technology Review

What are the proposed changes to the Supplemental Cost Finding and Results of Residual Risk and Technology Review?

EPA is proposing a revision to Supplemental Cost Finding for the Mercury and Air Toxics Standards (MATS) and the Clean Air Act (CAA) required Risk and Technology Review (RTR).¹ The MATS rule was enacted in 2012 and was the first federal standard to require coal- and oil-fired power plants to reduce mercury and other toxic air pollutants like arsenic, lead, and cadmium below thresholds through installation of technology-based emission controls.² In June 2015, the U.S. Supreme Court in *Michigan v. EPA* 576 US __ (2015) held that CAA section 112(n)(1)(A) requires EPA to consider compliance costs before regulating hazardous air pollutants (HAPs) from coal- and oil-fired electric utility steam generating units (EGUs). In 2016, the EPA issued a Supplemental Cost Finding that after taking account of the cost of compliance with the MATS rule, there was no basis for altering the determination that regulation of HAPs emitted by power plants was appropriate and necessary.³

While the MATS standards would remain in place, this proposal re-examines the consideration of health benefits in the cost-benefit analysis performed for the regulation in the 2016 Supplemental Finding. The proposed rule revises the Supplemental Finding, including 1) rescinding the “appropriate and necessary” finding for EPA to regulate HAPs emissions from coal- and oil-fired power plants because the cost of the regulation outweighs the quantified HAP benefits, 2) proposing the results of RTR they conducted for MATS, and requesting comments on whether EPA has the authority to remove EGUs from the list of sources listed and rescind (or to rescind without delisting) the MATS rule as well as establishing a subcategory for emissions of acid gas HAP from existing EGUs firing eastern bituminous coal refuse.

What Does this Mean for Tribes and Air Quality/Air Management?

Mercury is a neurotoxin that can damage the nervous and cardiovascular systems, particularly harmful to young children and pregnant women. Coal-fired plants are the highest emitters of mercury in the US and accounted for 50% of mercury emissions in 2015.⁴ Additionally, EGUs emit a number of highly toxic substances including carcinogens, corrosives, arsenic, nickel, and lead. In the 2016 Supplement Cost Finding, the calculated cost to the industry for implementing

¹ See <https://www.epa.gov/mats/regulatory-actions-final-mercury-and-air-toxics-standards-mats-power-plants>

² National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial Institutional, and Small Industrial Commercial-Institutional Steam Generating Units. EPA-HQ-OAR-2009-0234

³ Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units. EPA-HA-OAR-2009-0234

⁴ See <https://www.epa.gov/mercury>

these pollution controls was US\$7.4 - \$9.6 billion annually and the savings from co-benefits was estimated at US\$37 - \$90 billion annually.³ The previous cost-benefit analysis accounted for reductions in heart and lung problems due to cutting emissions of other HAPs which is indirectly caused by reducing mercury.³ However, the new proposal limits health benefits to cutting mercury emissions to US\$4 - \$6 million annually, excluding the co-benefits. The MATS are already fully implemented, the power sector has made changes to meet the MATS requirements, and some plants have permanently shut down operations. In 2018, a study analyzed regional benefits from air quality improvements due to many Clean Air Act rules for coal-fired power plants, including the MATS.⁵ The study found these rules are extremely effective in emissions reductions across the midwestern, southern, and eastern portion of the US, and if policy decisions weakened the MATS rule for power plants, these regions would see increased concentrations of air pollution.⁵ By changing how benefits are calculated, this proposal would undercut the justification for mercury standards and potentially set precedent that could undermine other rules, resulting in detrimental health consequences and ecosystem impacts. Tribal communities face disproportionate health and environmental impacts from EGU emissions through cultural and subsistence activities.

Where Can I Find More Information and Submit Comments?

You can read the complete [Federal Register notice](#) here, and access EPA's various links on the Proposal [here](#).

EPA scheduled its public hearing on this proposal. The hearing will be held on Monday, March 18, 2019, from 8:00 a.m. – 6:00 p.m. (local time) in EPA WJC East Building, 1201 Constitution Avenue, NW, Room 1153, Washington, District of Columbia. Pre-registration to speak at the public hearing is open through 4:00 pm (ET) March 14, 2019. For more information or to register for the hearing, please visit this [link](#).

EPA has also extended the comment period on this proposed rule to **April 17, 2019**. Comments should be identified by Docket ID No. EPA-HQ-OAR-2018-0794 and may be submitted by one of the following methods.

- **Online:** Go to <https://www.regulations.gov/> and follow the instructions for submitting comments to EPA-HQ-OAR-2018-0794.
- **Email:** Comments may be sent to a-and-r-Docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2018-0794 in the subject line of the message.
- **Mail:** Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA-HQ- OAR-2018-0794, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- **Fax:** Fax your comments to: (202) 566-9744. Attention Docket ID No. EPA-HQ- OAR-2018-0794.

NTAA will be preparing a Policy Response Kit for Tribes to use in submitting comments that will be posted on [NTAA's website](#). Any questions, please contact NTAA at 928-523-0526.

⁵ Thomson, Vivian E.; Huelsman, Kelsey; Ong, Dominique. Coal-fired power plant regulatory rollback in the United States: Implications for local and regional public health, Energy Policy, Volume 123, 2018, Pages 558-568, ISSN 0301-4215, <https://doi.org/10.1016/j.enpol.2018.09.022>.