

PROPOSED REVISED SUPPLEMENTAL COST FINDING FOR MATS

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Background

- CAA lays out a multi-step process for regulating Hazardous Air Pollutants (HAP) emissions from power plants.
- The process includes looking at whether it is “appropriate and necessary” to regulate coal- and oil-fired power plants for HAPs and taking an action to “list” EGUs for HAP regulation under section 112(n)(1)(a) of the CAA and setting HAP emission standards.
- In December 2000, EPA determined it was “appropriate and necessary” to regulate coal- and oil-fired EGUs under CAA section 112(d) and added such units to the CAA section 112(c) List of Categories of Major and Area Sources.

Background

- In 2012, EPA reaffirmed its 2000 finding and finalized Mercury & Toxics Standards (MATS), which regulates HAP from coal- and oil-fired EGUs.
- In 2015, in *Michigan v. EPA*, the Supreme Court ruled that the Agency erred when it determined cost did not have to be considered when making the A&N Finding. The D.C. Circuit Court remanded MATS and asked EPA to consider the cost of MATS relative to the finding.
- In 2016, EPA subsequently concluded that the consideration of cost did not change its conclusion that it was appropriate and necessary to regulate HAP emissions from coal- and oil-fired EGUs (2016 Supplemental Finding). This was again challenged in court and is in abeyance.
- **February 7, 2019** – EPA published a proposal to revise the 2016 supplemental cost finding for the MATS and to present a CAA required Risk and Technology Review (RTR).



Summary of Proposal

- EPA determined that it is not “appropriate and necessary” to regulate Hazardous Air Pollutants (HAP) emissions from power plants under Section 112 of the Clean Air Act.
- However, current emission standards for the MATS rule (published in 2012) would remain in place as EPA is not proposing to remove coal- and oil-fired power plants from the list of sources that are regulated under Section 112 of the Act.
- EPA’s determination is based on the finding that the costs of such regulation grossly outweigh the quantified HAP benefits.
- EPA proposed its 2016 Supplemental Finding erred in its consideration of the cost and therefore used a different approach in this proposal.

Summary of Proposal

- In addition, EPA proposed that its earlier reliance on PM_{2.5} co-benefits was flawed. EPA now finds that the a cost-benefit analysis should focus only on the direct reduction of HAP.
- EPA proposed that even though there are unquantified HAP benefits and significant monetized PM co-benefits associated with MATS, the identification of these benefits is not sufficient, in light of the gross imbalance of monetized costs and HAP benefits, to support a finding that it is appropriate and necessary to regulate EGUs under CAA section 112 (n)(1)(a).

Summary – Risk & Technology Reviews

- **Residual Risk Review:** The CAA requires EPA to assess the risk remaining after the promulgation of final HAP standards. EPA has determined that the residual risks due to emissions of HAPs from the coal- and oil-fired EGUs source category are acceptable and that the current standards provide an ample margin of safety to protect public health.
- **Technology Review:** The CAA also requires EPA to assess, review and revise HAP standards, as necessary, taking into account developments in practices, processes and control technologies. EPA did not identify any new developments in HAP emission controls to achieve additional cost-effective reductions.
- EPA proposed that no revisions to MATS are warranted based on the results of the above reviews.

Comments on Proposal & Public Hearing

- Comments on the proposal should be identified by Docket ID No. EPA-HQ-OAR-2018-0794, and may be submitted by one of the following methods on or before April 8, 2019:
 - Online: Go to <https://www.regulations.gov> and follow the online instructions for submitting comments to Docket ID No. 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
 - Fax: Fax your comments to: (202) 566-9744. Attention Docket ID No. EPA-HQOAR-2018-0794
 - 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
 - Hand/Courier Delivery: EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue, NW, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2018-0794
- Public Hearing – EPA will hold at least one public hearing, the details of which have not yet been announced.