6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2018-0794; FRL-6716.4-01-OAR]

RIN 2060-AW68

Repeal of Amendments to National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, the U.S. Environmental Protection Agency (EPA) is proposing to repeal specific amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coal- and Oil-Fired Electric Utility Steam Generating Units (EGUs), commonly referred to as the Mercury and Air Toxics Standards (MATS), that were promulgated on May 7, 2024. The amendments that the EPA is proposing to repeal include the revised filterable particulate matter (fPM) emission standard, which serves as a surrogate for non-mercury hazardous air pollutant (HAP) metals for existing coal-fired EGUs; the revised fPM emission standard compliance demonstration requirements; and the revised mercury (Hg) emission standard for lignite-fired EGUs.

DATES:

Comments. Comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments on the information collection provisions of the proposed rule under the Paperwork Reduction Act

(PRA) must be received by the Office of Management and Budget's Office of Information and Regulatory Affairs (OMB-OIRA) on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].** For specific instructions, please refer to the PRA information in the "Statutory and Executive Order Reviews" section of this preamble.

Public hearing: The EPA will hold a public hearing on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].** Please refer to the **SUPPLEMENTARY INFORMATION** section for information on registering for the public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2018-0794 by any of the following methods:

- *Federal eRulemaking Portal*: *https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email*: *a-and-r-docket@epa.gov*. Include Docket ID No. EPA-HQ-OAR-2018-0794 in the subject line of the message.
- *Mail*: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2018-0794, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery*: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.-4:30 p.m., Monday-Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/*, including any personal information provided. For detailed instructions on sending comments and

additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Sarah Benish, Sector Policies and Programs Division (D243-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5620; and email address: *benish.sarah@epa.gov*. Individuals who are deaf or hard of hearing, as well as individuals who have speech or communication disabilities may use a telecommunications relay service. To learn more about how to make an accessible telephone call to any of the telephone numbers shown in this document, please visit the webpage[1] for the relay service of the Federal Communications Commission, and a list of relay services is available on their directory page.[2]

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. The public hearing will be held via virtual platform on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 11:00 a.m. Eastern Time (ET) and will conclude at 7:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers.

The EPA will begin pre-registering speakers for the hearing no later than 1 business day following publication of this document in the *Federal Register*. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards* or contact the public hearing team at

[1] See *https://www.fcc.gov/trs*.
[2] See *https://www.fcc.gov/general/trs-state-and-territories*.

(888) 372-8699 or by email at *SPPDpublichearing@epa.gov*. The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers at: *https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards*.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA encourages commenters to submit a copy of their oral testimony as written comments electronically to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards*. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

If you require a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7**

CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The EPA may not be able to arrange accommodations without advance notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2018-0794.[3] All documents in the docket are listed in *https://www.regulations.gov/*. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Except for such material, publicly available docket materials are available electronically in Regulations.gov.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2018-0794. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov/* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed in the *Submitting CBI* section of this document.

The EPA may publish any comment received to its public docket. Multimedia

[3] As explained in a memorandum to the docket, the docket for this action includes the documents and information, in whatever form, in Docket ID Nos. EPA-HQ-OAR-2009-0234 (National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-fired Electric Utility Steam Generating Units), EPA-HQ-OAR-2002-0056 (National Emission Standards for Hazardous Air Pollutants for Utility Air Toxics; Clean Air Mercury Rule (CAMR)), and Legacy Docket ID No. A-92-55 (Electric Utility Hazardous Air Pollutant Emission Study). See memorandum titled *Incorporation by reference of Docket Number EPA-HQ-OAR-2009-0234, Docket Number EPA-HQ-OAR-2002-0056, and Docket Number A-92-55 into Docket Number EPA-HQ-OAR-2018-0794* (Docket ID Item No. EPA-HQ-OAR-2018-0794-0005).

submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets*.

Throughout this proposal, the EPA is soliciting comment on numerous aspects of the proposed rule. The EPA has indexed each comment solicitation with an identifier (*e.g.*, "Question 1, Question 2, . . .) to provide a consistent framework for effective and efficient provision of comments. Accordingly, we ask that commenters include the corresponding

identifier when providing comments relevant to that comment solicitation. We ask that commenters include the identifier in either a heading, or within the text of each comment (*e.g.*, ''In response to Question 1, . . .'') to make clear which comment solicitation is being addressed. We emphasize that we are not limiting comment to these identified areas and encourage provision of any other comments relevant to this proposal.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/*. Clearly mark the part or all the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the Docket ID No., mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in the *Instructions* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the Docket ID No. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.*, Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqps_cbi@epa.gov*, and as described above, should include clear CBI markings and note the Docket ID No. If assistance is needed with submitting large

electronic files that exceed the file size limit for email attachments, or if you do not have your own file sharing service, please email *oaqps_cbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2018-0794. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

Btu	British thermal units
CAA	Clean Air Act
CEMS	continuous emission monitoring system(s)
CFB	circulating fluidized bed
CPMS	continuous parametric monitoring system(s)
EAV	equivalent annualized values
EGU	electric utility steam generating unit
ESP	electrostatic precipitator
FF	fabric filter
FGD	flue gas desulfurization
fPM	filterable particulate matter
FR	Federal Register
GWh	gigawatt-hour
HAP	hazardous air pollutant(s)
HCl	hydrogen chloride
HF	hydrogen fluoride
Hg	mercury
HQ	hazard quotient
ICR	Information Collection Request
IGCC	integrated gasification combined cycle
lb	pounds
LEE	low emitting EGU
MATS	Mercury and Air Toxics Standards

MMBtu	million British thermal units of heat input
MW	megawatt
NAICS	North American Industry Classification System
NESHAP	national emission standards for hazardous air pollutants
OMB	Office of Management and Budget
PM	particulate matter
PM CEMS	particulate matter continuous emission monitoring system(s)
PV	present values
REL	reference exposure level
RFA	Regulatory Flexibility Act
RIA	Regulatory Impact Analysis
RIN	Regulatory Information Number
RTR	residual risk and technology review
SO_2	sulfur dioxide
SO_3	sulfur trioxide
TBtu	trillion British thermal units of heat input
UMRA	Unfunded Mandates Reform Act

Organization of this document. The information in this preamble is organized as follows:

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51

I. General Information

A. Executive Summary

On May 7, 2024, the EPA finalized amendments to the MATS Rule (89 FR 38508) (hereinafter "2024 Final Action"). On March 12, 2025, EPA Administrator Zeldin announced that the Agency would undertake 31 deregulatory actions to Power the Great American Comeback.[4] "Reconsideration of Mercury and Air Toxics Standards that improperly targeted coal-fired power plants (MATS)" was among the deregulatory actions that were announced.

In this action, the EPA is proposing to repeal the following amendments from the 2024 Final Action:

- The filterable particulate matter (fPM) emission standard for existing coal-fired electric utility steam generating units (EGUs), which the EPA revised from 0.030 pounds per million British thermal units (lb/MMBtu) to 0.010 lb/MMBtu;
- The compliance demonstration requirement for the fPM emission standard for all coal- and oil-fired EGUs, which the EPA revised from allowing EGU owners and operators to choose between use of quarterly stack testing, use of continuous parametric monitoring systems (CPMS), or use of PM continuous emission monitoring systems (CEMS) to only allowing use of PM CEMS; and
- The Hg emission standard for existing lignite-fired EGUs, which the EPA revised from 4.0 pounds per trillion British thermal units (lb/TBtu) to 1.2 lb/TBtu.

The EPA previously, in 2020, finalized the statutorily required residual risk and technology review (RTR) for MATS (hereinafter "2020 Final Action", 85 FR 31286, May 22,

[4] *https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history*.

2020). The amendments in the 2024 Final Action were the result of the EPA's review of the 2020 Final Action and were finalized under the Clean Air Act (CAA) section 112(d)(6) provisions governing technology reviews.

The EPA has reevaluated the 2024 Final Action and proposes to find that the revisions of the emissions standards that were finalized in the 2024 Final Action were not necessary as they impose large compliance costs or raise potential technical feasibility concerns. Specifically, the EPA proposes to find that the cost-effectiveness values associated with the revised fPM emission standard (*i.e.*, the cost per mass of fPM or non-Hg HAP metal(s) reduced, *e.g.*, $/ton) are higher than cost-effectiveness values that the EPA has previously found to not be cost effective in other technology reviews and related actions under CAA section 112. The EPA also proposes to find that a requirement to utilize PM CEMS for compliance demonstration is an unnecessary expense for coal- and oil-fired EGUs and that the owners and operators of such sources should maintain the option to utilize other monitoring methods to demonstrate compliance with the fPM emission standard. Finally, the EPA proposes to find that the Agency failed to demonstrate that the revised Hg emission standard for lignite-fired EGUs is achievable across the broad range of boiler types and varying compositions of the different lignite fuels. These proposed amendments are in accordance with Executive Order 14192, "Unleashing Prosperity Through Deregulation" (90 FR 9065, February 6, 2025), Executive Order 14154, "Unleashing American Energy" (90 FR 8353, January 29, 2025), and Executive Order 14261 "Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241" (90 FR 15517, April 14, 2025), among other recent Presidential actions.

The EPA estimates that this proposed action would result in total cost savings of $1 billion at a 3 percent discount rate and $770 million at a 7 percent discount rate over the 2028 to

2037 timeframe, with total annualized cost savings of $120 and $110 million per year, respectively (in 2024 dollars). More information about the estimated costs and benefits of the regulated pollutants of this proposed action can be found in section V.A of this preamble.

B. Does this action apply to me?

Regulated entities. The source category that is the subject of this action is coal- and oil-fired EGUs regulated by the NESHAP under 40 CFR part 63, subpart UUUUU, commonly known as MATS. The North American Industry Classification System (NAICS) codes for the coal- and oil-fired EGU source category are 221112, 221122, and 921150. This list of NAICS codes is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the proposed action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at: *https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards*. In accordance with 5 U.S.C. 553(b)(4), a brief summary of this rule may be found at *https://www.regulations.gov*, Docket ID No. EPA-HQ-OAR-2018-0794. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version and key technical documents at this same website.

A memorandum showing the rule edits that would be necessary to incorporate the changes to 40 CFR part 63, subpart UUUUU proposed in this action is available in the docket (Docket ID No. EPA-HQ-OAR-2018-0794). Following signature by the EPA Administrator, the EPA also will post a copy of this document to *https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards*.

II. Background

The EPA promulgated the NESHAP for Coal- and Oil-Fired EGUs, commonly referred to as the Mercury and Air Toxics Standards or MATS, on February 16, 2012 (2012 MATS Final Rule). The standards are codified at 40 CFR part 63, subpart UUUUU. Coal- and oil-fired EGUs are combustion units of more than 25 megawatts (MW) that serve a generator that produces electricity for sale and are located at both major and area sources of HAP emissions.[5] For coal-fired EGUs, the 2012 MATS Final Rule established standards to limit emissions of Hg, acid gas HAP (*e.g.*, hydrogen chloride (HCl), hydrogen fluoride (HF)), non-Hg HAP metals (*e.g.*, nickel, lead, chromium), and organic HAP (*e.g.*, formaldehyde, dioxin/furan). Emission standards for HCl serve as a surrogate for the acid gas HAP. For coal-fired EGUs with flue gas desulfurization (FGD), an alternate standard for sulfur dioxide (SO_2) may be used as a surrogate for acid gas HAP if SO_2 CEMS are installed and operational. Standards for fPM serve as a surrogate for the non-Hg HAP metals, with total and individual HAP metals standards provided as an alternative. Work practice standards were established to limit formation and emissions of organic HAP. For oil-fired EGUs, the 2012 MATS Final Rule established standards to limit emissions of HCl and HF, total HAP metals (*e.g.*, Hg, nickel, lead), and organic HAP (*e.g.*, formaldehyde,

[5] A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale is also an electric utility steam generating unit.

dioxin/furan). Standards for fPM also serve as a surrogate for total HAP metals, with standards for total and individual HAP metals provided as alternative equivalent standards. Work practice standards limit formation and emissions of organic HAP.

A. Summary of the 2020 Final Action

The 2020 Final Action included two separate elements. First, the 2020 Final Action included a finding that it is not "appropriate and necessary," pursuant to CAA section 112(n)(1)(A),[6] to regulate coal- and oil-fired EGUs under CAA section 112. Second, the EPA completed the residual risk and technology review (RTR) of MATS. As part of the RTR, and as required by CAA section 112(f)(2), the EPA conducted the residual risk review (2020 Residual Risk Review) of MATS, 8 years after promulgating the 2012 MATS Final Rule. The residual risk review requires the EPA to determine whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. Also, as part of the RTR, and pursuant to CAA section 112(d)(6), the EPA conducted a technology review (2020 Technology Review) of MATS in the 2020 Final Action. The 2020 Technology Review focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the source category that occurred since promulgation of the 2012 MATS Final Rule.

The 2020 Residual Risk Review results, along with our decisions regarding risk acceptability, ample margin of safety, and adverse environmental effects, were presented in the 2020 Final Action. The results of the risk assessment are provided briefly in table 1, and in more detail in the document titled *Residual Risk Assessment for the Coal- and Oil-Fired EGU Source*

[6] Note the "appropriate and necessary" finding pursuant to CAA section 112(n)(1)(A) is a separate statutory requirement from the EPA's obligation to review and revise standards "as necessary" in conducting a technology review pursuant to CAA section 112(d)(6).

Category in Support of the 2020 Risk and Technology Review Final Rule (risk document for the final rule), available in the docket (Document ID No. EPA-HQ-OAR-2018-0794-4553). The EPA found the residual risk due to emissions of air toxics to be acceptable from this source category and determined that the 2012 MATS Final Rule provided an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, in 2020, the EPA did not finalize any revisions to the 2012 MATS Final Rule based on our analyses conducted under CAA section 112(f)(2) in the 2020 Final Action.

Table 1—Coal- and Oil-Fired EGU Inhalation Risk Assessment Results in the 2020 Final Action (85 FR 31286, May 22, 2020)

Number of Facilities[1]	Maximum Individual Cancer Risk (in 1 million)[2]		Population at Increased Risk of Cancer ≥ 1-in-1 million		Annual Cancer Incidence (cases per year)		Maximum Chronic Noncancer TOSHI[3]		Maximum Screening Acute Noncancer HQ[4]
322	Based on . . .		Based on . . .		Based on . . .		Based on . . .		Based on Actual Emissions Level
	Actual Emissions Level	Allowable Emissions Level	Actual Emissions Level	Allowable Emissions Level	Actual Emissions Level	Allowable Emissions Level	Actual Emissions Level	Allowable Emissions Level	
	9	10	193,000	636,000	0.04	0.1	0.2	0.4	HQ_{REL} = 0.09 (arsenic)

[1] Number of facilities evaluated in the risk analysis. At the time of the risk analysis there were an estimated 323 facilities in the Coal- and Oil-Fired EGU source category; however, one facility is in Guam, which was beyond the geographic range of the model used to estimate risks. Therefore, the Guam facility was not modeled and the emissions for that facility were not included in the assessment.

[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

[3] Maximum target organ-specific hazard index (TOSHI). The target organ systems with the highest TOSHI for the source category are respiratory and immunological.

[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of hazard quotient (HQ) values. HQ values shown use the lowest available acute threshold value, which in most cases is the reference exposure level (REL). When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The 2020 Final Action also presented results of the 2020 Technology Review, which

focused on identifying and evaluating developments in practices, processes, and control technologies that occurred since promulgation of the 2012 MATS Final Rule. Control technologies typically used to minimize emissions of pollutants that have numeric emission limits under the 2012 MATS Final Rule include electrostatic precipitators (ESPs) and fabric filters (FFs) for control of fPM as a surrogate for non-Hg HAP metals; wet scrubbers, dry scrubbers, and dry sorbent injection for control of acid gases (SO_2, HCl, and HF); and activated carbon injection (ACI) and other Hg-specific technologies for control of Hg. In the 2020 Technology Review, the EPA did not identify any developments in practices, processes, or control technologies and, thus, did not finalize any changes to emission standards or other requirements in the 2020 Final Action. More information concerning that technology review is in the memorandum titled *Technology Review for the Coal- and Oil-Fired EGU Source Category*, available in the docket (Document ID No. EPA-HQ-OAR-2018-0794-0015).

B. Summary of the 2024 Review of the 2020 Final Action

Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" (86 FR 7037, January 25, 2021) instructed the EPA to review the 2020 Final Action and to consider publishing a notice of proposed rulemaking suspending, revising, or rescinding that action. The EPA reviewed the finding in the 2020 Final Action that it was not appropriate and necessary to regulate coal- and oil-fired EGUs under CAA section 112 and, on February 9, 2022, proposed to find that it is appropriate and necessary to regulate coal- and oil-fired EGUs under CAA section 112 (87 FR 7624). The EPA finalized the affirmative finding on March 6, 2023 (88 FR 13956).

On April 24, 2023, the EPA proposed the results of the review of the RTR from the 2020

Final Action (2023 Proposal).[7] This included a review of the 2020 residual risk assessment described in Docket ID No. EPA-HQ-OAR-2018-0794-0014. In the 2023 Proposal, the EPA determined that the results of the 2020 Residual Risk Review, as shown in table 1 of this preamble, which indicated low residual risk from the coal- and oil-fired EGU source category, were confirmed. Further, the EPA determined in the 2023 Proposal that the risk analysis conducted in 2020 was a rigorous and robust analytical review that was conducted using approaches and methodologies that were consistent with those that have been utilized in risk analyses and reviews that the EPA has conducted for other industrial sectors. For that reason, in the 2023 Proposal, the EPA did not reopen the 2020 Residual Risk Review and did not propose any changes to any emissions standards or other requirements in response to the CAA section 112(f)(2) risk review.

The EPA's 2023 review of the 2020 Technology Review included evaluating the technology review described in Docket ID No. EPA-HQ-OAR-2018-0794-0015 and focused on the identification of any developments in practices, processes, and control technologies that have occurred since the finalization of the 2012 MATS Final Rule and since publishing the 2020 Technology Review. Based on this review, the EPA concluded in the 2023 Proposal that revisions to certain standards were warranted. The EPA proposed three changes resulting from the review of the 2020 Technology Review. First, the EPA proposed to revise the existing coal-fired EGU fPM emissions standard, which is a surrogate for non-Hg HAP metals, from 0.030 lb/MMBtu to 0.010 lb/MMBtu and proposed corresponding reductions in the alternative emission standards for total and individual non-Hg HAP metals. Second, the EPA proposed to require that all coal- and oil-fired EGUs demonstrate compliance with the applicable fPM

[7] See 78 FR 24854, April 24, 2023.

emission standard by using PM CEMS. Third, the EPA proposed to revise the Hg emission standard for lignite-fired EGUs from 4.0 lb/TBtu to 1.2 lb/TBtu with an alternative output-based standard of 0.013 lb/gigawatt-hour (GWh). All those proposed changes were ultimately finalized in the 2024 Final Action.[8]

C. Summary of the Authority for this Action

Executive Order 14154, "Unleashing American Energy" (90 FR 8353, January 29, 2025), specified that it is the policy of the United States to "protect the United States's economic and national security and military preparedness by ensuring that an abundant supply of reliable energy is readily accessible in every State and territory of the Nation" and "to ensure that all regulatory requirements related to energy are grounded in clearly applicable law" (among others). The Executive Order directed the heads of all agencies to review all existing regulations to identify agency actions that impose an undue burden on the identification, development, or use of domestic energy resource, with particular attention to oil, natural gas, coal, hydropower, biofuels, critical mineral, and nuclear energy resources. Agencies were directed to suspend, revise, or rescind all agency actions identified as unduly burdensome. Executive Order 14154 also revoked Executive Order 13990.

On April 8, 2025, President Trump signed a Proclamation, "Regulatory Relief for Certain

[8] In the 2024 Final Action, the EPA also finalized the removal of the work practice standards of paragraph (2) of the definition of "startup" in 40 CFR 63.10042. See 89 FR 38550. The final rule requires that all EGUs use the work practice standards in paragraph (1) of the definition of "startup" in 40 CFR 63.10042, which was already being used by all but a handful of affected EGUs. The revision was not done as part of the CAA section 112(d)(6) technology review, but, rather, in part in response to *Chesapeake Climate Action Network v. EPA*, 952 F.3d 310 (D.C. Cir. 2020), where the D.C. Circuit remanded the alternative "startup" work practice standard in paragraph (2) to the EPA for reconsideration. The compliance deadline for the changes to the "startup" definition was January 2, 2025. The EPA is not reconsidering this aspect of the 2024 Final Action.

Stationary Sources to Promote American Energy" (90 FR 16777, April 21, 2025). This Proclamation exempted certain stationary sources, identified in Annex 1 of the Proclamation, from compliance with the 2024 Final Action. The President's exemption is for a period of 2 years beyond the 2024 Final Action's compliance date (*i.e.*, for the period beginning July 8, 2027, and concluding July 8, 2029). Sources identified in Annex 1 will remain subject to the 2012 MATS Final Rule during the 2-year extension period. A copy of the Presidential Proclamation and Annex 1 are available in the rulemaking docket.

In response to these and other recent Presidential Actions,[9] the EPA has undertaken a review of the 2024 Final Action. In this action, the EPA is proposing to reconsider and repeal amendments from the 2024 Final Action based on its review of the 2024 Final Action pursuant to the EPA's statutory authority under CAA section 112 and the EPA's authority to reconsider previous decisions taken under that authority to the extent permitted by law and supported by a reasoned explanation. *FDA v. Wages & White Lion Invs., L.L.C.*, 145 S. Ct. 898, 917 (2025); *FCC v. Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Auto Ins. Co.,* 463 U.S. 29, 42 (1983). The basis for the EPA's review of the 2024 Final Action and the results of that review are presented in the next section.

[9] Executive Order 14179, "Removing Barriers to American Leadership in Artificial Intelligence" (90 FR 8741, January 31, 2025); Executive Order 14192, "Unleashing Prosperity Through Deregulation" (90 FR 9065, February 6, 2025); Executive Order 14262, "Strengthening the Reliability and Security of the United States Electric Grid" (90 FR 15521, April 14, 2025); Executive Order 14261, "Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241" (90 FR 15517, April 14, 2025); Executive Order 14270, "Zero-based Regulatory Budgeting to Unleash American Energy" (90 FR 15643, April 15, 2025).

III. Basis for Proposed Repeal of the 2024 Final Action

A. Reevaluation of the 2024 Final Action

The EPA's ability to revisit existing regulations under CAA section 112 is well-grounded in law. Specifically, the EPA has authority to reconsider, repeal, or revise past decisions to the extent permitted by law so long as the Agency provides a reasoned explanation. *See, e.g.*, *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 42 ("[R]egulatory agencies do not establish rules of conduct to last forever [and] an agency must be given able latitude to adapt their rules and policies to . . . changing circumstances."); *see also Clean Water Action v. EPA*, 936 F.3d 308, 313 (5th Cir. 2019) ("EPA correctly surmised that, in addition to its statutory authority to revise rules… administrative agencies possess the inherent authority to revise previously-promulgated rules, so long as they follow the proper administrative requirements and provide a reasoned basis for the agency decision."). This is true when, as is the case here, an agency reviews a prior decision to reconsider a regulation after a change in administration. *Nat'l Ass'n of Home Builders v. EPA*, 682 F.3d 1032, 1038, 1043 (D.C. Cir. 2012) (explaining that an agency's "reevaluation of which policy would be better in light of the facts" is "well within" its discretion and that a change in administration is a "perfectly reasonable basis for an executive agency's reappraisal of the costs and benefits of its programs and regulations" (internal quotation marks omitted)). When permitted by the statutory scheme, "[a]gencies obviously have broad discretion to reconsider a regulation at any time." *Clean Air Council v. Pruitt*, 862 F.3d 1, 8–9 (D.C. Cir. 2017).

The EPA presents its proposed review of the amendments from the 2024 Final Action below. Section III.A.1 presents the EPA's proposed review of the fPM standard for coal-fired EGUs, and the proposed review of the fPM compliance demonstration requirements is provided in section III.A.2. Section III.A.3 presents the EPA's proposed review of the Hg standard for

lignite-fired EGUs. The EPA solicits comment on all aspects of these proposed reviews.

1. Filterable PM Emission Standard for Coal-Fired EGUs

In the 2024 Final Action, the EPA finalized a more stringent fPM emission standard, which serves as a surrogate for the non-Hg HAP metals. The fPM standard was lowered from 0.030 lb/MMBtu to 0.010 lb/MMBtu for all existing coal-fired EGUs. The 2024 Final Action also proportionally lowered the individual and total non-Hg HAP metal emission limits. Filterable PM was chosen as a surrogate for non-Hg HAP metals in the 2012 MATS Final Rule because non-Hg HAP metals are predominantly a component of the filterable fraction of total PM (which is composed of a filterable and condensable fraction) and control of fPM results in a co-reduction of non-Hg HAP metals.[10] Additionally, not all fuels emit the same type and amount of non-Hg HAP metals, but most generally emit fPM that includes some amount and combination of all the non-Hg HAP metals. Finally, using fPM as a surrogate eliminates the cost of performance testing to demonstrate compliance with numerous standards for individual non-Hg HAP metals (Docket ID No. EPA-HQ-OAR-2009-0234).

In the 2024 Final Action, the EPA found there were developments in practices, processes, and control technologies to reduce fPM emissions, that the costs to comply with the more stringent fPM standard based on these developments were reasonable, and that the revised standard appropriately balanced the EPA's obligation under CAA section 112 to achieve the maximum degree of emission reductions considering statutory factors. As in previous CAA section 112 rulemakings, the EPA considered costs in many ways, including cost effectiveness, the total capital costs of proposed measures, annual costs, and costs compared to total revenues. In addition, in the 2024 Final Action, the EPA found most existing coal-fired EGUs were

[10] Selenium may be present in the filterable or the condensable fraction as the acid gas, SeO_2.

reporting fPM levels that were well below the previous 0.030 lb/MMBtu emission limit[11] and that the fleet achieved these performance levels at lower costs than assumed during promulgation of the 2012 MATS Final Rule fPM emission limit.

In this action, the EPA is proposing to repeal lowering the fPM standard to 0.010 lb/MMBtu for coal-fired EGUs, as well as the proportional lowering of the total and individual non-Hg HAP metal limits because of the high costs of the revised standard, both in terms of cost effectiveness, a common metric the EPA considers in CAA section 112(d)(6) technology reviews, and total costs. As the EPA noted in the 2024 Final Action, the EPA considers costs in various ways, depending on the rule and affected sector. For example, the EPA has considered, in previous CAA section 112 rulemakings, cost effectiveness, the total capital costs of measures, annual costs, and the costs compared to total revenues (*e.g.*, cost-to-revenue ratios). As noted in the 2024 Final Action, the cost effectiveness of the revised fPM standard was significantly higher than the cost-effectiveness ratios the EPA has rejected in the past in technology reviews conducted under CAA section 112(d)(6) for other industries (89 FR 38533-34). The cost effectiveness of the revised fPM standard was also an order of magnitude higher than cost-effectiveness ratios that the EPA has accepted for fPM emissions in other industries in other CAA section 112(d)(6) reviews. The EPA now proposes to find that the costs for the power sector to achieve the revised standard are too high, such that the revised standard is not necessary under CAA section 112(d)(6).

In the 2024 Final Action, the EPA found the cost-effectiveness estimate for EGUs reporting average fPM rates above the final fPM emission limit of 0.010 lb/MMBtu was $10.5

[11] For instance, the median fPM rate of the 296 coal-fired EGUs assessed in the 2024 Final Action was 0.004 lb/MMBtu, or 60 percent below the revised fPM limit of 0.010 lb/MMBtu (89 FR 38522, May 7, 2024).

million per ton of non-Hg HAP metals and $34,500/ton of fPM.[12] In response to the 2023 Proposal, commenters provided examples of previous rulemakings where the EPA found controls to be not cost effective:

- In the Petroleum Refinery Sector technology review,[13] the EPA declined to revise the fPM emission limit for existing fluid catalytic cracking units after finding that it would cost $10 million per ton of total non-Hg HAP metals reduced, which the EPA found was not cost effective.
- In the Integrated Iron and Steel Manufacturing Facilities technology review,[14] the EPA declined to revise the non-Hg HAP metals limit after finding that upgrading all fume/flame suppressants at blast furnaces to baghouses would cost $7 million per ton of non-Hg HAP metals reduced, which the EPA determined was not cost effective.

The high value of the cost effectiveness of the revised fPM limit as compared to other NESHAP rulemakings is further illustrated by the significant costs to certain facilities, which carried cost-effectiveness values far exceeding the fleet average that the EPA estimated for the revised fPM standard. For example, the Colstrip Power Plant, a two-unit 1,500 MW subbituminous-fired power plant located in Colstrip, Montana, was the only facility unable to meet the lower fPM standard with existing controls based on the EPA's analysis. The EPA projected that each unit at the Colstrip facility would need to install a new FF to comply with the revised fPM standard. Based on the EPA's estimate, the units at this facility accounted for almost

[12] Cost-effectiveness values reported in 2019 dollars.
[13] Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards, 80 FR 75178, 75201 (December 1, 2015).
[14] National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Residual Risk and Technology Review, 85 FR 42074, 42088 (July 13, 2020).

half of the 2024 Final Action's total compliance costs, which the EPA estimated would result in a cost-effectiveness ratio exceeding $16 million per ton of non-Hg HAP metals removed at the Colstrip facility. By comparison, in the Taconite Iron Ore Processing technology review,[15] the EPA declined to revise the non-Hg HAP metals limit after finding that installing wet scrubbers would cost $16 million per ton of non-Hg HAP metals reduced, which the EPA concluded was not cost effective.

Upon reconsideration, the EPA is proposing to repeal the more stringent fPM standard and corresponding total and individual HAP metal standards that were promulgated in the 2024 Final Action because the cost effectiveness of the revised standard is inconsistent with the EPA's prior technology review determinations. The EPA recognized differences between the power sector and the other industries regulated in the above-mentioned technology reviews in the 2024 Final Action and determined that despite the high cost-effectiveness ratio, the revised standards were still cost reasonable for the industry. The EPA is now reconsidering that judgment and proposes to find that despite developments recognized in the 2024 Final Action, the costs for the power sector to achieve the revised standard are too high, such that the revised standard is not necessary under CAA section 112(d)(6). If finalized, the fPM and corresponding total and individual HAP metal emission standards would revert to the standards that were promulgated in the 2012 MATS Final Rule (*e.g.*, 0.030 lb/MMBtu for fPM). The EPA solicits comment on the rationale that the cost effectiveness of the revised fPM standard is inconsistent with the Agency's prior CAA section 112(d)(6) technology review determinations (Question #1). Additionally, the EPA requests comment if there are other cost-effective and achievable alternative standards

[15] National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review, 85 FR 45476, 45483 (July 28, 2020).

based on developments in practices, processes, and control technologies that we should consider instead of repealing the 0.010 lb/MMBtu fPM standard for existing coal-fired EGUs (Question #2).

2. Required Compliance Demonstration for the Filterable PM Emission Standard

The 2012 MATS Final Rule specified that EGU owners and operators could choose either quarterly stack testing, PM CPMS, or PM CEMS, to demonstrate compliance with the fPM emission standard. All three options were determined to be appropriate and sufficient for demonstrating compliance with the fPM emission standard. The EPA's review of MATS compliance reporting for the 2023 Proposal showed that the owners and operators of approximately one-third of coal-fired EGUs were using PM CEMS for compliance demonstration purposes (88 FR 24872). In the 2023 Proposal, the EPA stated that the costs for PM CEMS had decreased compared to the costs estimated in the 2012 MATS Final Rule. In addition, the revised fPM limit of 0.010 lb/MMBtu for coal-fired units would have required longer duration runs for EPA Method 5 stack testing and may have required the use of EPA Method 5I, which would have increased the costs for quarterly stack testing, making the stack testing costs commensurate with the reduced costs for PM CEMS (88 FR 24873). The EPA also argued in the 2023 Proposal and 2024 Final Action that PM CEMS provide increased transparency and access to emissions data, which was an unquantifiable benefit to operators of affected sources and to the public. In the 2024 Final Action, the EPA stated that information provided by public commenters indicated that the average annual cost for quarterly stack testing is about $12,000 less than the equivalent uniform annual cost for PM CEMS, but the benefits of emissions transparency and access to emissions data outweighed the cost difference between quarterly stack testing and PM CEMS (89 FR 38536–38537).

As discussed in section III.A.1, the EPA is proposing to repeal the more stringent fPM emission standard. If this change to the fPM standard is finalized, the EPA's conclusion in the 2023 Proposal and 2024 Final Action that the costs for PM CEMS are commensurate with the costs for stack testing would no longer apply because longer duration runs that increase stack testing costs would no longer be necessary. Pursuant to CAA section 112(d)(6), the EPA may consider cost in deciding whether to revise the requirements. Further, the EPA finds additional authority to allow multiple compliance demonstration options under CAA section 114(a)(1)(C), which allows that the EPA may require a facility that "may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this chapter" to "install, use, and maintain such monitoring equipment" on a "one-time, periodic or continuous basis."

The 2024 Final Action requirement to use PM CEMS to demonstrate compliance meant that up to two-thirds of EGU owners and operators would face higher compliance costs than they have previously incurred when allowed to use quarterly stack testing or PM CPMS. As shown in more detail in the regulatory impact analysis (RIA), the EPA estimates a cost savings of $2.8 million per year related to the proposed repeal of the PM CEMS requirement. While the EPA noted in the 2023 Proposal that the use of PM CEMS would allow for more efficient pollutant abatement and more transparency of EGU emissions, the EPA no longer believes that those advantages outweigh the increased cost of PM CEMS compared to the two other compliance options (*i.e.*, PM CPMS and quarterly stack testing) that were determined to be appropriate for demonstrating compliance with the fPM emission standard in the 2012 MATS Final Rule. The EPA noted in the 2024 Final Action that CEMS enable power plant operators to quickly identify and correct problems with air pollution control devices (89 FR 38536). However, there are other

ways that owners and operators can become aware of air pollution control malfunctions without employing PM CEMS. For example, operators at EGUs with an ESP can track opacity, secondary corona power, secondary voltage (*i.e.*, the voltage across the electrodes), and secondary current (*i.e.*, the current to the electrodes) to ensure proper functionality.[16] For EGUs with FFs, bag leak detection systems (BLDS) and parameters like pressure differential (*i.e.*, pressure drop), inlet temperature, temperature differential, exhaust gas flow rate, cleaning mechanism operation, and fan current can serve as reliable indicators.[17] As noted earlier and in the 2024 Final Action, a large majority of sources have reported measured compliance data showing fPM emissions that are well below the previous fPM standard of 0.030 lb/MMBtu, which further illustrates that the various options for demonstrating compliance with the fPM standards have been appropriate and effective. Additionally, all fPM compliance data can be accessed by the public via the EPA's Web Factor Information Retrieval System (WebFIRE),[18] which maintains the availability and transparency of fPM emissions. Therefore, the EPA proposes to repeal the requirement to use PM CEMS for demonstrating compliance with the fPM emission standard, as well as the adjusted QA criteria,[19] and to return to the previous requirement that allowed owners and operators to demonstrate compliance using either quarterly

[16] See *https://www.epa.gov/air-emissions-monitoring-knowledge-base/monitoring-control-technique-electrostatic-precipitators*.
[17] See *https://www.epa.gov/air-emissions-monitoring-knowledge-base/monitoring-control-technique-fabric-filters.*
[18] See *https://cfpub.epa.gov/webfire*.
[19] New PM CEMS installations must follow Performance Specification 11 (PS-11), which requires the development of a site-specific correlation curve to relate PM CEMS readings to the PM reference method values. Emission standards are used to determine the acceptable tolerance interval when correlating PM CEMS. In the 2024 Final Action, the EPA instructed the use of 0.015 lb/MMBtu, instead of the finalized more stringent limit of 0.010 lb/MMBtu, when developing PM CEMS correlations to ease difficulties correlating PM CEMS (89 FR 38535,May 7, 2024).

stack testing, PM CPMS, or PM CEMS. This provides greater flexibility to owners and operators and reduces the compliance burden, while still assuring compliance with the fPM emission standard. The EPA solicits comment on the rationale that higher costs for approximately two-thirds of EGU owners and operators, availability of other air pollution control performance indicators that can inform operators of malfunctions, and the adequacy of current compliance options support repealing the requirement that all coal- and oil-fired EGUs must use PM CEMS (Question #3).

The EPA also proposes to reinstate the low emitting EGU (LEE) program for fPM and non-Hg HAP metals, which reduces the stack testing frequency for sources that have demonstrated that their emissions are less than 50 percent of the corresponding emission limit for 3 consecutive years. Sources that had previously demonstrated that they qualify for LEE status would not have to re-demonstrate that qualification. In the 2024 Final Action, the EPA found that the optional LEE program was "superfluous" due to the PM CEMS requirement and the revised fPM emission standard (89 FR 38510, May 7, 2025). However, as the EPA is proposing to repeal these requirements, reinstating the LEE program for fPM and non-Hg HAP metals would further reduce the costs associated with stack testing for sources that opt-in, while still assuring compliance with the emission standard.[20] The EPA solicits comment on whether the LEE program for fPM and non-Hg metals should be reinstated (Question #4).

Finally, the EPA also proposes to retain the updated fPM measurement requirements of

[20] Note that the LEE provisions ensure emissions are minimized. For example, EGUs equipped with a main stack and a bypass stack or bypass duct configuration that allows the effluent to bypass any pollutant control device are not allowed to pursue the LEE option under 40 CFR 63.10000(c). Furthermore, under 40 CFR 63.10000(c)(1)(i)(D), EGUs claiming LEE status may bypass a control device during emergency periods for no more than 2 percent of the EGU's annual operating hours.

allowing either an increased minimum volume per run or the collection of a minimum mass per run.[21] As stated earlier in this preamble, a large majority of sources have reported measured compliance data showing fPM emissions well below the previous 0.030 lb/MMBtu fPM standard. It is important that a sufficient quantity of fPM be collected during these fPM test runs to allow for accurate measurement of emissions, especially when the testing is being conducted to correlate or certify a PM CEMS. The EPA believes that retaining the additional option of sample mass would reduce measurement uncertainty and may reduce test run durations and, therefore, reduce fPM testing costs. The EPA solicits comment on retaining the updated minimum volume per run or minimum mass per run requirements for fPM compliance demonstration for coal-fired and integrated gasification combined cycle (IGCC) EGUs (Question #5).

3. Hg Emission Standard for Lignite-Fired EGUs

In the 2012 MATS Final Rule, the EPA promulgated a beyond-the-floor standard for Hg for the subcategory of existing coal-fired units designed for "low rank" virgin coal (*i.e.*, lignite) based on the use of ACI for Hg control. (77 FR 9304, February 16, 2012). The EPA established a final Hg emission standard of 4.0 lb/TBtu for lignite-fired utility boilers and 1.2 lb/TBtu for utility boilers firing all other types of coal (including anthracitic coal, bituminous coal, subbituminous coal, and coal refuse).

The 2024 Final Action lowered the Hg standard for lignite-fired EGUs from 4.0 lb/TBtu to 1.2 lb/TBtu based on the EPA's determination that commercially available control

[21] For coal- and solid oil-fired EGUs, the 2024 Final Action required a minimum catch for fPM of 6.0 milligrams (mg) or a minimum sample volume of 4 dry standard cubic meters (dscm) per run. Requirements for IGCCs included a minimum catch for fPM of 3 mg or a minimum sample volume of 2 dscm. There were no changes to minimum catch and same volume requirements for oil-fired EGUs.

technologies and improved methods of operation would allow lignite-fired EGUs to meet a more stringent emission standard. The more stringent Hg emission standard brought the requirement for lignite-fired EGUs in line with the emission limitation requirements of EGUs firing all other types of coal. In the 2024 Final Action, the EPA reviewed coal composition information and concluded that the Hg content, the halogen content, and the alkalinity were similar between various lignite and subbituminous coals. In 2021, EGUs firing subbituminous coal emitted Hg at an average annual rate of 0.6 lb Hg/TBtu with measured values as low as 0.1 lb/TBtu, which demonstrated that EGUs burning subbituminous coal have utilized control options to meet the 1.2 lb/TBtu emission standard despite the challenges presented by the low halogen content in the coal (which results in production of difficult-to-control elemental Hg vapor in the flue gas stream) (88 FR 24880). Cost-effectiveness estimates for a model 800 MW lignite-fired EGU using a range of sorbent injection rates to meet the revised Hg emission standard were lower or consistent with cost-effectiveness values for Hg controls that the EPA has found to be acceptable in previous rulemakings.

After reviewing the revised emission standard that was promulgated in the 2024 Final Action, the EPA is proposing to repeal the revised Hg emission limit for lignite-fired EGUs because the revised standard was based on insufficient available data demonstrating that lignite units can meet the lower limit over the range of boiler types and variable compositions of fuels used at lignite-fired EGUs.[22] While the EPA found that all 22 lignite-fired EGUs at 12 facilities would need to control their Hg emissions to 95 percent or less to meet an emission standard of 1.2 lb/TBtu in the 2024 Final Action, the Agency did not demonstrate that this high level of Hg

[22] In May 2021, the EPA issued a CAA section 114 request to lignite facilities for Hg emissions and related operational information. The request designated specific time periods which were not representative of emissions achievable on a 30-day rolling basis.

removal is achievable for all lignite-fired units while taking into account the wide-ranging and highly variable Hg content of the various lignite fuels. In fact, Hg emission rates reported in the 2024 Final Action from units at 11 of the 12 lignite facilities were well above the final 1.2 lb/TBtu emission standard (89 FR 38548). The EPA, instead, relied on the emission reduction performance of only two units (at the Twin Oaks facility in Texas) that have achieved the revised emission standard (89 FR 38539, May 7, 2024). Between August 1 and September 19, 2023, a series of Hg emissions performance tests were conducted on Twin Oaks units 1 and 2. The average Hg emissions rate for the 30-boiler operating day performance tests was 1.1 lb/TBtu for unit 1 and 0.9 lb/TBtu for unit 2 (89 FR 38540, May 7, 2024). Further, in performance testing for the previous year (2022), the average Hg emissions rate for the 30-boiler operating day performance test was 0.9 lb/TBtu for unit 1 and 0.6 lb/TBtu for unit 2. However, these tests were conducted over a limited operating period and are not sufficient to establish that meeting a 1.2 lb/TBtu standard continuously is possible for all lignite-fired EGUs.

Furthermore, the Twin Oaks facility, constructed in the early 1990s, is one of the newest lignite units and uses a circulating fluidized bed (CFB) combustor, which affects its Hg emissions. Conventional boilers use coal that is pulverized to a very fine particle size to maximize combustion efficiency and to minimize unburned carbon. In contrast, the design of CFB combustors permits the burning of larger-sized coal particles. Fluidized bed units typically operate at lower temperatures compared to conventional boilers and have longer fuel residence times. As a result, CFB combustors typically have higher levels of unburned carbon present in the fly ash. The unburned carbon particles behave much like injected activated carbon sorbent and, coupled with the lower operating temperature and longer residence time, can promote more efficient Hg removal as compared to that observed from units using non-CFB boilers using

conventional pulverized coal combustors.

Other lignite-fired EGUs that utilize a CFB combustor also had generally lower Hg emission rates. For instance, the 2022 measured Hg rates reported in the 2024 Final Rule for the Red Hills facility in Mississippi, which also employs CFB combustors, was 1.7 lb/TBtu, compared to a range of 2.5 – 3.0 lb/TBtu for other lignite-fired EGUs in the southern U.S. (89 FR 38548). Additionally, the lowest 2022 Hg emissions from lignite-fired facilities in North Dakota were found at Spiritwood Station, which also utilizes a CFB combustor. In revising the Hg emission standard for lignite-fired EGUs in the 2024 Final Action, the EPA failed to evaluate the achievability of the revised Hg emission standard by affected sources that are not using the better performing CFB combustor technology.

In addition, the EPA assumed that the revised Hg standard of 1.2 lb/TBtu could be met by injecting better performing powdered sorbents using existing sorbent injection systems without the need for equipment modifications or additions. However, industry commenters noted that existing equipment at lignite-fired power plants may not be able to achieve the 1.2 lb/TBtu Hg limit and that demonstration testing would be required to determine a sorbent dosage rate, guaranteed injection rate, and the emissions rate that can be achieved when considering the Hg content variability of the lignite. Commenters claimed that modifications to Hg control systems may be required in order to meet the 1.2 lb/TBtu emission limit. The EPA did not consider such cost in the final analysis.

Lastly, the Agency did not sufficiently investigate the complex composition of lignite coals, including the variability of the Hg content in the inlet fuel source and the corresponding reductions needed to comply with the 1.2 lb/TBtu Hg emission standard. In the 2023 Proposal, the EPA explained how the halogen content of coal influences the oxidation state of Hg in the

flue gas stream and thus the partitioning of Hg into elemental Hg vapor, oxidized Hg vapor, or particle-bound Hg, which impacts Hg control approaches (78 FR 24875). Lignites and subbituminous coals have lower halogen content compared to bituminous coals and the Hg in the flue gas from boilers firing those fuels tends to stay in the elemental vapor state, which is more challenging to control. The EPA noted that pre-halogenated (typically brominated) sorbents have been effectively utilized to control Hg emissions at power plants firing low-halogen content subbituminous coals. However, the EPA also noted that lignite coals tend to contain higher amounts of sulfur (more similar to some bituminous coals), which, under certain circumstances, can result in the production of sulfur trioxide (SO_3) in the flue gas stream. SO_3 is known to inhibit the effectiveness of some sorbents that are used for Hg control. The EPA acknowledged the challenges with higher sulfur content coals, but noted that bituminous coal-fired power plants had found ways to overcome those challenges – sometimes by utilizing newly developed "sulfur-tolerant" sorbents. However, while the EPA acknowledged the respective challenges that the halogen and sulfur content of coal can have on Hg control in the 2024 Final Action, the EPA failed to address the impact of lower halogen content coupled with higher sulfur on Hg control for lignite-fired power plants. Subbituminous coals tend to have low content of both halogen and sulfur, while bituminous coals tend to contain higher levels of both halogen and sulfur. In comparison, lignites tend to have low halogen content (similar to subbituminous coals) and higher sulfur content (similar to some bituminous coals). The EPA failed to consider the impact of this combination.

In addition, stakeholders provided data challenging the assumed inlet value of 25.0 lb/TBtu used in modeling in the 2024 Final Action. For example, historical data indicate that lignite seams near the San Miguel plant in Texas result in coal feeds that have an average Hg

inlet content of 34.0 lb/TBtu (Docket ID No. EPA-HQ-OAR-2018-0794-5965). As a result, San Miguel would need to achieve an average control rate of 96.3 percent to meet the new standard (Docket ID No. EPA-HQ-OAR-2018-0794-5965). Additionally, monthly fluctuations in Hg content could require even higher control levels at least half the time. Ignoring monthly variability not only leads to an underestimation of costs associated with Hg removal but also overlooks control device modifications and enhancements required to achieve pollution control levels exceeding 90 percent. For these reasons, the EPA is proposing to repeal the Hg emission limit for lignite-fired EGUs that was promulgated in the 2024 Final Action and revert to the Hg emission limit – 4.0 lb/TBtu – that was promulgated in the 2012 MATS Final Rule. The EPA solicits comment on the proposed repeal of the more stringent Hg standard for lignite-fired EGUs because of insufficient data demonstrating the standard can be met by lignite-fired EGUs with a range of boiler types and variable fuel composition (Question #6). Additionally, the EPA solicits comment on if there are alternative cost-effective and achievable Hg standards for lignite-fired EGUs that are based on developments in practices, processes, and control technologies that we should consider instead of repealing the 1.2 lb/TBtu standard (Question #7).

B. Statutory Authority of CAA Section 112

Under CAA section 112(d)(6), the EPA is required "to review, and revise *as necessary* (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section no less often than every 8 years" (emphasis added). When deciding to revise standards pursuant to CAA section 112(d)(6), the EPA can consider the costs of developments in practices, processes, and control technologies. *See Ass'n of Battery Recyclers, Inc. v. EPA*, 716 F.3d 667, 673-74 (D.C. Cir. 2013); *see also Nat'l Ass'n for Surface Finishing v. EPA*, 795 F.3d 1, 11 (D.C. Cir. 2015). Given the high costs and potential technical

feasibility concerns with implementing the revised standards under the 2024 Final Action, the EPA is also proposing, as an additional and complementary basis for this action, to find that the 2024 changes were not "necessary" under CAA section 112(d)(6).

In addition, the EPA solicits comment on whether a technology review conducted under CAA section 112(d)(6) should take into consideration whether any meaningful risk reduction would be obtained from further reducing HAP emissions under the technology review. As stated in section II, the 2020 Residual Risk Review found the residual risks due to emissions of air toxics to be acceptable from the Coal- and Oil-Fired EGU source category and determined that the current NESHAP (as promulgated in the 2012 MATS Final Rule) provided an ample margin of safety to protect public health and prevent an adverse environmental effect.[23] The results of the chronic inhalation cancer risk assessment based on actual emissions, as shown in table 1 of this preamble, indicated that the estimated maximum individual lifetime cancer risk (cancer MIR) was 9-in-1 million, with nickel emissions from certain oil-fired EGUs as the major contributor to the risk. Approximately 193,000 people were estimated to have cancer risks at or above 1-in-1 million from HAP emitted from four facilities in this source category—all of which resulted from oil-fired sources in Puerto Rico. The highest estimated risk from any coal-fired EGU was 0.3-in-1 million. The results of the risk analysis thus indicated that both the actual and allowable inhalation cancer risk to the individual most exposed was well below 100-in-1 million, which is the EPA's presumptive limit of acceptability. Therefore, the EPA solicits comment on whether, when weighing the costs associated with developments under a CAA section 112(d)(6) technology review, the Agency should also consider whether there would be a meaningful risk

[23] In the 2023 Proposal, the EPA determined not to reopen the 2020 Residual Risk Review, and accordingly did not propose any revisions to that review.

reduction from lowering HAP emissions based on potential revisions to the emission standards resulting from those developments (Question #8).

C. Reliance Interests in Reevaluating the 2024 Final Action

In proposing to repeal amendments to MATS introduced in the 2024 Final Action, the EPA is considering reliance interests of impacted stakeholders. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020). Because the effective date of the revised standards introduced in the 2024 Final Action is not until July 8, 2027, the EPA does not anticipate significant reliance interest in the 2024 revised standards. However, the EPA requests comments on the reliance interests implicated by this proposed action (Question #9).

IV. Request for Comments

The EPA solicits comments on all aspects of this proposed action. A summary of questions for which the EPA invites specific comment is listed below. The EPA requests commenters number their responses with the question number when responding to each question.

Question #1: Should the revision of the fPM standard for existing coal-fired EGUs from 0.030 lb/MMBtu to 0.010 lb/MMBtu be repealed, as proposed, because the cost effectiveness of the revised fPM standard is inconsistent with the EPA's prior CAA section 112(d)(6) technology review determinations for other source categories?

Question #2: Are there other cost-effective and achievable fPM limits for existing coal-fired EGUs that are based on developments in practices, processes, and control technologies that the EPA should consider as an alternative to repealing the 0.010 lb/MMBtu standard?

Question #3: Should the quarterly stack testing and PM CPMS compliance demonstration options for the fPM standard be reinstated, as proposed, because other air pollution control indicators can adequately inform operators of malfunctions and that the higher costs for PM

CEMS do not outweigh the advantages of more efficient pollutant abatement and more transparency of EGU fPM emissions?

Question #4: Should the Low Emitting EGU (LEE) program for fPM and non-Hg HAP metals be reinstated, as proposed?

Question #5: Should the EPA retain, as proposed, the updated minimum volume per run or minimum mass per run requirements for fPM compliance demonstration for coal-fired and IGCC EGUs?

Question #6: Should the revision of the Hg standard for lignite-fired EGUs from 4.0 lb/TBtu to 1.2 lb/TBtu be repealed, as proposed, because of insufficient data demonstrating the standard can be met by lignite-fired EGUs with a range of boiler types and variable fuel composition?

Question #7: Are there other achievable and cost-effective Hg standards for lignite-fired EGUs that are based on developments in practices, processes, and control technologies that the EPA should consider as an alternative to repealing the 1.2 lb/TBtu standard?

Question #8: Should the Agency consider whether, when weighing the costs associated with developments under a CAA section 112(d)(6) technology review, there would be any meaningful risk reduction from reductions in HAP emissions based on potential revisions to emission standards resulting from those developments?

Question #9: Are there reliance interests implicated by the proposed repeal of the 2024 revised standards that the EPA should consider in this rulemaking?

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and Review

This action is a significant action under E.O. 12866 Section 3(f)(1) that was submitted to the OMB for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, *Regulatory Impact Analysis for the Repeal of Amendments to National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units*, is available in the docket.

We present the estimated present values (PV) and equivalent annualized values (EAV) of the estimated cost savings of repealing the 2024 Final Action in 2024 dollars over the 2028 to 2037 period, discounted to 2025. In addition, the Agency presents the assessment for specific snapshot years, consistent with historic practice. These snapshot years are 2028, 2030, and 2035. The power industry's cost savings are represented in this analysis as the change in electric power generation costs due to the repeal of the 2024 Final Action requirements. In simple terms, these cost savings are an estimate of the decreased power industry expenditures resulting from the repeal of the 2024 Final Action requirements.

Under this proposed action, the 2024 Final Action would no longer reduce emissions of Hg and non-Hg HAP metals as projected in the 2024 MATS RTR RIA.[24] The potential benefits from reductions of HAP were not able to be monetized in the 2024 MATS RTR RIA, nor were potential impacts from the 2024 Final Action requirement to use PM CEMS for compliance demonstration. See section I.A for more details of the proposed repeal of requirements.

[24] "Regulatory Impact Analysis for the Final National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review" (Ref. EPA-452/R-24-005). Docket ID No. EPA-HQ-OAR-2018-0794-6966.

Table 2 presents the estimated cost savings of this proposed action in 2024 dollars discounted to 2025. This table presents the PV and EAV of these estimates discounted at 3 percent and 7 percent.

Table 2–Present Value and Equivalent Annualized Value of Compliance Cost Savings Estimates of the Proposed Action from 2028-2037 (Millions of 2024$, Discounted to 2025)

	3 Percent Discount Rate	7 Percent Discount Rate
Present Value	1,000	770
Equivalent Annualized Value	120	110

The full benefit-cost analysis, which is contained in the RIA for this rulemaking, is consistent with Executive Order 12866 and is available in the docket.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2137.12. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information collection activities in this rule include performance testing, continuous emission monitoring, notifications and periodic reports, recording information, monitoring and the maintenance of records. The information generated by these activities will be used by the EPA to ensure that affected facilities comply with the emission limits and other requirements. Records and reports are necessary to enable delegated authorities to identify affected facilities

that may not be in compliance with the requirements. Based on reported information, delegated authorities will decide which units and what records or processes should be inspected. The recordkeeping requirements require only the specific information needed to determine compliance. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). The following burden and cost estimates represent the total burden and cost for the information collection requirements of the NESHAP for Coal- and Oil-Fired EGUs assuming the repeal of the amendments is finalized.

Respondents/affected entities: The respondents are owners or operators of coal- and oil-fired EGUs. The NAICS codes for the coal- and oil-fired EGU industry are 221112, 221122, and 921150.

Respondent's obligation to respond: Mandatory per 42 U.S.C. 7414 *et seq*.

Estimated number of respondents: 192 per year.

Frequency of response: The frequency of responses varies depending on the burden item. Responses include daily calibrations, monthly recordkeeping activities, semiannual compliance reports, and annual reports.

Total estimated burden: 181,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $73,800,000 (per year), includes $24,500,000 in annual labor costs and $49,400,000 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the

EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at *www.reginfo.gov/public/do/PRAMain*. Find this information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function. OMB must receive comments no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

D. Regulatory Flexibility Act (RFA)

The EPA certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This proposed action would lead to reduction in EAV of costs over the 2028 to 2037 timeframe of about $120 and $110 million per year at discount rates of 3 percent and 7 percent, respectively. Additionally, in the 2024 MATS RTR RIA, the EPA identified 45 potentially affected EGUs owned by 24 small entities that would together incur compliance costs of about $2.4 million (in 2024 dollars) in 2028, the year of compliance. Of these small entities, one was projected to incur compliance cost reductions greater than 1 percent of baseline revenue, and two were projected to incur compliance cost increases greater than 1 percent (relative to a baseline without the requirements). The remaining 23 entities were not projected to experience compliance cost changes of more than 1 percent. Under the proposed repeal, these projected compliance cost changes for small entities will be avoided. Consequently,

the EPA expects that this deregulatory action, if finalized as proposed, would relieve the regulatory burden for facilities that, absent this proposed repeal, would be affected by the provisions from the 2024 Final Action. As a result, this action will not have a significant economic impact on a substantial number of small entities under the RFA.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (adjusted for inflation) as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed $100 million or more (adjusted for inflation) in any one year.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the action.

Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA will engage in consultation with tribal officials during the development of this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. Emissions from this source category include HAP like Hg and lead, which are known developmental toxicants. However, the 2020 residual risk assessment showed all modeled exposures to HAP from these facilities to be below levels of public health concern (85 FR 31286). Therefore, this action does not present or address disproportionate risk to children.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The 2024 MATS RTR RIA projected the 2024 Final Action would have minimal impacts on average retail electricity prices across the contiguous U.S., coal-fired electricity generation, natural gas-fired electricity generation, and utility power sector delivered natural gas prices. This proposed action will prevent any adverse energy impacts that might have occurred under the 2024 Final Action. Details of the projected energy effects are presented in section 3 of the RIA, which is in the public docket.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51

This rulemaking does not involve technical standards.

List of Subjects in 40 CFR Part 63

Administrative practice and procedures, Air pollution control, Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

_____

Lee Zeldin,

Administrator.