



**EPN Oral Comments on EPA's Proposal to
Repeal the MATS RTR**

Docket No: EPA-HQ-OAR-2018-0794

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My name is Michelle Montoya and I am the Policy Director for the Environmental Protection Network. EPN is an organization of hundreds of former EPA employees who provide the unique technical perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

EPN welcomes the opportunity to comment on this proposal. We wish to acknowledge the professionalism and dedication of the EPA career staff who have worked on these issues for many years prior to this proposal. Despite their best efforts, we have serious concerns about the defensibility of the proposal and request that EPA reconsider this course of action.

In 2012, EPA finalized the [Mercury and Air Toxics Standards](#) requiring coal- and oil-fired power plants to achieve standards limiting emissions of mercury and other toxic substances.

Lignite coal is incredibly dirty, releasing numerous harmful toxic pollutants when burned, and is an inefficient energy source —*more* lignite fuel must be burned to generate power compared to other types of coal, creating greater and more toxic emissions.

In 2024, EPA updated the MATS rule with a more stringent mercury standard for lignite burning plants that is consistent with the limit set for other coal plants in 2012. This decision was based on knowledge that brominated activated carbon can be used to effectively control mercury emissions at these plants at less cost than previously thought, with no negative environmental impacts.

In the current proposal, EPA seeks to restore the less stringent limit for lignite burning plants. The agency claims that not all units can achieve the revised, lower standard, in spite of the fact that many units can and are meeting it. This proposed relaxation is inconsistent with the MACT standards requirement of Clean Air Act (CAA) section 112 (d) 2 and with the D.C. Circuit's decision in *Sierra Club v. EPA* (No. 03-1202, 2007).

Filterable particle emission limits

The 2024 rule also set a more stringent standard for emissions of filterable particles (fPM) from all coal-fired plants, which serves as a surrogate for emission of non-mercury hazardous metals. The current proposal seeks to eliminate that more stringent requirement, arguing that the cost of meeting the lower fPM standard is not justified. The agency claims that the cost:benefit ratio of meeting the standard is far out of line when compared to similar air toxic rules.

Again, section 112 does not authorize EPA to relax MACT standards. In fact, section 112 was clearly adopted as a directive to EPA to ensure that the most current and best-performing pollution-reduction technologies are used by all sources in a source category, and there is nothing in section 112 that envisions backsliding by EPA or by polluting sources. Moreover, each rule stands on its own facts and its own record, so prior cost-effectiveness decisions by EPA are not relevant to this action.

Continuous emission monitors for fPM

In addition, the 2024 rule required that all of the regulated plants monitor fPM emissions with continuous emissions monitors (CEMs) to ensure that the standards would be met. EPA now proposes to remove this requirement, arguing that the cost of CEMs is out of line with the benefit it provides.

On the contrary, as EPA demonstrated in the 2024 rulemaking, CEMs will provide the invaluable benefit of helping to ensure compliance and, therefore, the achievement of the full measure of fPM emissions reductions. Just as in the case of CEMs requirements for NO_x and SO₂ emissions, the data recorded and reported by CEMs incentivize operators to ensure emissions control compliance on a continuous basis.

Methylmercury RfD

Finally, we urge EPA to resume efforts to update the methylmercury oral reference dose (RfD). As mentioned elsewhere, it is a known neurotoxin and the current RfD, developed more than two decades ago, does not incorporate recent analyses and studies that address various neurological and cardiovascular endpoints, which would likely result in a more protective RfD and aid development of future health impact analyses of power plant mercury emissions. Additionally, a 2023 study¹ found mercury deposition hotspots near lignite-burning facilities located in Texas and North Dakota and concluded that exposures to highly-exposed individuals like subsistence fishermen likely exceed the current RfD.

EPN strongly supported the 2024 standards as they reflected what we had come to know about the capability, costs, and health benefits of control technologies at these facilities. EPA is now proposing to ignore all that has been learned. Doing so would be a willful failure to follow the requirements of the CAA and betray the factual record, with the result that the proposed rule is unsupportable and flawed. We urge the agency to uphold its responsibility to protect public health and the environment and rescind this proposal.

¹ Sociodemographic Disparities in Mercury Exposure from United States Coal-Fired Power Plants, Mona Q. Dai, Benjamin M. Geyman, Xindi C. Hu, Colin P. Thackray, and Elsie M. Sunderland *Environmental Science & Technology Letters* 5 June 2023, <https://pubs.acs.org/doi/10.1021/acs.estlett.3c00216>.