NESCAUM
www.nescaum.org

Northeast States for Coordinated Air Use Management
89 South Street, Suite 602 Boston, MA 02111
Phone 617-259-2000 Fax 617-742-9162
*Paul J. Miller, Executive Director*

**NESCAUM TESTIMONY**

**U. S. Environmental Protection Agency Hearing**

**Proposed National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Revocation of the 2020 Reconsideration, and Affirmation of the Appropriate and Necessary Supplemental Finding**

**February 24, 2022**

**Presented by Dr. Paul J. Miller**

**NESCAUM Executive Director**

Hello. My name is Paul Miller, and I am the Executive Director of the Northeast States for Coordinated Air Use Management or "NESCAUM." NESCAUM is the regional association of air pollution control agencies representing Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

I am here today to testify in support of the U.S. Environmental Protection Agency's (EPA's) proposed rule to reaffirm EPA's 2016 "appropriate and necessary" finding underlying the Utility Mercury and Air Toxics Standards (MATS) rule. As a natural consequence, I am also testifying in support of revoking the 2020 EPA action to withdraw the 2016 finding.

1. "Totality-of-the-circumstances" Methodology

NESCAUM supports EPA's "totality-of-the-circumstances" cost-benefit methodology in the proposal, as it is similar to what states have done in their own rulemakings that pre-date the MATS rule. Prior to MATS, states adopted stringent limitations on mercury emissions from new and existing fossil fuel power plants, often as part of multi-pollutant programs that included considerations for sulfur dioxide ($SO_2$) and nitrogen oxides ($NO_X$). Power plant rules in Delaware, Maryland, Massachusetts, New Jersey, New York, and Wisconsin are illustrative of the cost considerations taken by these states.[1]

[1] Delaware Department of Natural Resources & Environmental Control, Division of Air & Waste Management, Air Quality Management Section, *Technical Support Document for Proposed Regulation No. 1146, Electric Generating Unit (EGU) Multi-Pollutant Regulation*, September 2006 (pp. 47-56). Available at: http://www.dnrec.delaware.gov/dwhs/Info/Regs/Documents/8969c5c8305d44318a38de77339cdf66multi_p_TechSptDoc1.pdf.

In considering costs, the states included similar cost factors used by EPA. For example, Delaware and New York estimated the impact of their rules on retail electricity prices. While they projected an increase in the cost of electricity generation for the affected power plants, they concluded that it was not of sufficient magnitude to expect increased rates for consumers. In addition, the historical experience in the states that adopted mercury standards in rulemakings prior to MATS rendered it self-evident, even before MATS was promulgated, that the control costs did not impose an unreasonable burden on the regulated power plants, did not cause a drastic rise in electricity rates, and did not undermine electric grid reliability.

Now that MATS is fully implemented, the national experience re-affirms the experiences of the leading states. We also note that the MATS experience is another example of Clean Air Act rules in which the actual incurred control costs to industry were significantly less than original estimates. In the case of MATS, it's billions of dollars less.

Along with the approach on costs, NESCAUM also supports the more robust consideration of health benefits from MATS, not only in the additional monetized benefits from lower mercury exposure through commercial fish consumption included in this proposal, but also the more reasoned consideration and inclusion of health and environmental benefits from reduced air toxics exposures that are difficult to monetize but are real and significant. These difficult to monetize benefits were ignored in the 2020 finding withdrawal.

---

Maryland Department of the Environment, *Technical Support Document for Proposed COMAR 26.11.27, Emission Limitations for Power Plants*, December 26, 2006 (pp. 36-41).

Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Division of Planning and Evaluation, *Evaluation of the Technological and Economic Feasibility of Controlling and Eliminating Mercury Emissions from the Combustion of Solid Fossil Fuel*, December 2002. Available at: www.mass.gov/eea/docs/dep/toxics/stypes/mercfeas.pdf.

New Jersey Register, *Air Pollution Control: Control and Prohibition of Mercury Emissions,* Vol. 36, No. 1, 123(a), January 5, 2004 (available on-line via LexisNexis® at http://www.lexisnexis.com/njoal/).

New York State Department of Environmental Conservation, 6 NYCRR Part 246, *Mercury Reduction Program for Coal-Fired Electric Utility Steam Generating Units*, 6 NYCRR Part 200.9, *Referenced Material Revised Regulatory Impact Statement*, 2006.

Wisconsin Department of Natural Resources, Bureau of Air Management, *Factsheet on Rule to Control Mercury Emissions from Coal-Fired Power Plants*, revised August 2008. Available at: http://dnr.wi.gov/files/PDF/pubs/am/AM392.pdf.

2. Co-benefits

NESCAUM also supports the inclusion of co-benefits from reducing other pollutants that have occurred through MATS controls. Many states that were early adopters of power plant mercury rules took a similar "multi-pollutant" approach and considered a suite of control technology packages to simultaneously reduce criteria pollutants as well as mercury ($SO_2$ and $NO_X$ for fine particulates, $NO_X$ for ground-level ozone). Based on the states' own approaches, NESCAUM agrees with EPA that it is appropriate to consider co-benefits from reducing other pollutants in addition to HAPs in the proposed supplemental finding.

The metal air toxics covered by the MATS rule, with the exception of mercury, are controlled using particulate (PM2.5) control equipment. Because many of the metal air toxics are physically incorporated into particulates emitted by fossil fuel power plants, the controls needed to reduce those air toxics by necessity reduce particulates. Reflecting their fundamentally intertwined nature, EPA in the past has treated particulate matter as a surrogate for metal toxics. Particulate reductions, therefore, are a direct result of the need to control for metal air toxics, and it is entirely logical and appropriate to include the benefits of these reductions in the "appropriate and necessary" finding.

Finally, fully considering co-benefits in cost-benefit analyses provides decision makers with important additional information that is standard in regulatory rulemaking assessments. Considering co-benefits is a crucial component of the federal regulatory process, as has long been recognized in the Office of Management and Budget's (OMB's) Circular A-4 guidelines on conducting cost-benefit analyses. It is also standard and long accepted sound economic practice.

To conclude, NESCAUM supports the "totality-of-the-circumstances" methodology in weighing costs and benefits in EPA's proposed "appropriate and necessary" finding. NESCAUM also supports a full accounting of the co-benefits resulting from other pollutant reductions that arise as a natural outcome of HAPs controls under MATS. These approaches are similar in concept to the approaches taken by the states who applied a multi-pollutant perspective in their own power plant mercury standards prior to MATS. Thank you.