



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

September 12, 2022

Dear Intergovernmental Association Colleague:

The purpose of this letter is to seek your input on the following U.S. Environmental Protection Agency (EPA) forthcoming proposed regulatory revisions and emission guidelines:

- Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units (GHG NSPS for EGUs),
- Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Generating Units (GHG Emission Guidelines for existing EGUs), and
- National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-fired Electric Utility Steam Generating Units (commonly referred to as the Mercury and Air Toxics Standards or MATS Rule).

EPA is evaluating revisions to the GHG NSPS for EGUs and MATS Rule and is developing proposed GHG Emission Guidelines for existing EGUs consistent with the Agency's statutory authorities and obligations. The proposed rule revisions and emission guidelines would impact owners and operators of EGUs that must comply with the revised rules and with requirements in state plans developed in response to the emission guidelines as well as delegated authorities that enforce air regulations in their jurisdiction. To that end, we would like to invite you to a meeting to be held virtually on September 22, 2022, 1:00 p.m. – 3:00 p.m. Eastern Time.

Consultation is requested pursuant to the terms of Executive Order 13132, entitled "Federalism," which directs federal agencies to consult with elected state and local government officials, or their representative national organizations, when developing regulations and policies that impose substantial compliance costs on state and local governments. Options being considered for the proposed rulemakings may also meet consultation requirements of the Unfunded Mandates Reform Act (UMRA). Thus, the Agency has elected to engage UMRA stakeholders in the same consultation as there are many overlapping interests between the groups, and a discussion of the proposed rule revisions and emission guidelines can be more effectively shared in a joint meeting.

In 2015, EPA finalized the GHG NSPS for EGUs and set numerical emission limits for carbon dioxide (CO₂) for steam-generating EGUs (utility boilers and integrated gasification combined cycle [IGCC] units) and for fossil fuel-fired stationary combustion turbines. The performance standards in the 2015 rule (40 CFR part 60, subpart TTTT) were based on the determination that the best system of emissions reduction (BSER) for new steam-generating EGUs is an efficient supercritical pulverized coal boiler utilizing partial carbon capture and

storage (CCS). The performance standards for large new and reconstructed stationary combustion turbines that produce electricity for intermediate and base load demand were based on a BSER consisting of efficient generation using combined cycle combustion turbine technology. For smaller combustion turbines that generate electricity more infrequently (*i.e.*, non-base load EGUs), such as units that provide power to the electric grid in support of the intermittent output from renewable wind and solar sources, the standards of performance were based on the use of clean fuels. The Agency's current review includes all aspects of the 2015 rule involving the performance standards for new and reconstructed combustion turbine EGUs. EPA is requesting your input on options for the proposed regulatory revisions. Additional information can be found at: <https://www.epa.gov/stationary-sources-air-pollution/nsps-ghg-emissions-new-modified-and-reconstructed-electric-utility>.

The Agency is also in the process of developing proposed GHG Emission Guidelines for existing EGUs. In 2015, EPA finalized emission guidelines for existing power plants (the Clean Power Plan or CPP) that provided a framework for states to use in developing plans to limit CO₂ emissions from fossil fuel-fired power plants. The CPP never took effect due to a U.S. Supreme Court stay, and in June 2019, EPA repealed the CPP and finalized the Affordable Clean Energy (ACE) rule (40 CFR part 60, subpart UUUUa), which set efficiency-based emission guidelines for existing EGUs. In January 2021, the U.S. Court of Appeals for the D.C. Circuit vacated the ACE rule and repeal of the CPP. In June 2022, the U.S. Supreme Court overturned the D.C. Circuit's decision in *West Virginia v. EPA*. EPA is now working on a proposal for new emission guidelines, taking the *West Virginia* decision into consideration, for states to follow in submitting state plans to establish and implement standards of performance for GHG emissions from existing EGUs. EPA is requesting your input on options for the proposed emission guidelines.

In the MATS Rule (40 CFR part 63, subpart UUUUU), EPA set technology-based emissions standards for mercury and other hazardous air pollutants emitted by coal- and oil-fired steam-generating EGUs with a capacity of more than 25 megawatts. These standards reflect levels achieved by the best-performing sources and apply to existing and new EGUs. In 2020, EPA finalized the residual risk and technology review (RTR) for coal- and oil-fired EGUs regulated by the MATS Rule. On January 20, 2021, President Biden signed Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis." The Executive Order, among other things, instructed EPA to review the 2020 final action titled, "National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units – Reconsideration of Supplemental Finding and Residual Risk and Technology Review" and consider publishing a notice of proposed rulemaking suspending, revising, or rescinding that action. As directed by Executive Order 13990, the Agency is in the process of reviewing the 2020 RTR and will take appropriate action resulting from the review. EPA is requesting your input on options for the proposed regulatory revisions. Additional information is at: <https://www.epa.gov/stationary-sources-air-pollution/mercury-and-air-toxics-standards>.

Pursuant to this consultation process, the Agency is contacting the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the International City/County Management Association, the National Association of Towns and Townships, the County Executives of America, and the Environmental Council of States to request

their input on these rulemakings. Additionally, the Agency is inviting air and utility professional groups who may have state and local government members, such as the Association of Air Pollution Control Agencies, National Association of Clean Air Agencies, and others to participate in this meeting. Recently, EPA has engaged informally with some of these groups.

EPA is requesting your attendance at this meeting to obtain your input on the options under consideration. At the meeting, the Agency will present background information on the proposed rule revisions and emission guidelines and will answer questions you may have. You will have the opportunity to provide input to the Agency during the meeting and may provide written input to EPA within 60 days after the meeting. Per established policy and practice, this briefing is for intergovernmental association staff only, but you will be encouraged to forward the briefing information and materials to your members after the meeting and invite them to develop and submit comments to the Agency.

Please RSVP via the electronic scheduler to which this letter is attached. If you have questions regarding the proposed rule revisions and emission guidelines, you may email *PowerSectorGHG@epa.gov*.

Sincerely,

Peter Tsirigotis
Director