

AG Kaul: Sues EPA over rule undermining mercury, air toxics standards

Posted on Monday, Jul 20, 2020

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

MADISON, Wis. – Attorney General Josh Kaul, with a coalition of 25 states, cities and counties, today is suing the U.S. Environmental Protection Agency (EPA) over its rule reversing the agency’s determination — first made nearly 20 years ago — that it is “appropriate and necessary” under the Clean Air Act to regulate mercury and other toxic air pollution from coal- and oil-fired power plants. The new rule undermines the 2012 Mercury and Air Toxics Standards (MATS), a landmark rule that has substantially reduced emissions of mercury and other hazardous pollutants that harm human health and the environment, and that pose especially significant health risks to children and pregnant women.

“Even though the dangers of mercury to the environment and to people’s health are well-known, this Trump administration rule lays the groundwork for harmfully deregulating mercury emissions from power plants,” said Attorney General Kaul. “This case seeks to put a stop to this threat to clean air.”

The [lawsuit](#) LINK, filed in the U.S. Court of Appeals for the District of Columbia Circuit, challenges EPA’s reversal of its finding that the MATS regulation is “appropriate and necessary.” Over the past two decades, EPA has made such a finding no less than three times, relying on a growing body of scientific evidence, because power plants are the country’s largest source of hazardous pollutants, and because other provisions of the Clean Air Act would not adequately reduce those emissions. The agency’s final rule seeks to undermine MATS even though power plants have been complying with the standards since 2015 and already have

installed the pollution-control technologies.

Mercury has especially adverse effects on the developing brains of fetuses and children. A child exposed to mercury consumed during pregnancy can suffer permanent neurological damage and a lifelong loss of IQ. Mercury exposure is also linked to an increased risk of diabetes, autoimmune dysfunction, and cardiovascular issues in adults. A 2016 study projected that the total benefits associated with reducing mercury under MATS through 2050 would amount to at least \$43 billion.

The primary route through which humans are exposed to mercury is by consuming fish. Airborne mercury from power plants falls back to earth, where it is converted into methylmercury, a potent neurotoxin that accumulates in increasing quantities as it moves up the food chain, particularly in fish. Mercury emissions from power plants have been a major contributor to mercury contamination of U.S. waterways. As of 2011, that contamination was so widespread that fish consumption advisories were in place in all 50 states. Mercury pollution in lakes and rivers hurts local fishing economies and deprives residents across the country of the ability to enjoy recreational fishing and commercially harvested seafood. It also results in serious harms to wildlife.

In addition to effectively controlling mercury and other toxic metals — like arsenic and chromium —MATS has led to a dramatic reduction in the fine particulate matter emitted by power plants. Particulate matter is strongly linked to premature death, aggravated asthma, chronic bronchitis, and other cardiopulmonary illnesses that disproportionately affect many minority and low-income communities. In April, researchers at the Harvard T.H. Chan School of Public Health released a study linking long-term exposure to fine particulate matter with increased COVID-19 death rates.

In April 2019, a coalition of 26 states, counties, and cities in submitted comments to EPA opposing the agency's then proposed rule to undermine MATS. The comments argued that the agency does not have the authority to reverse its previous finding and underscored that MATS is providing enormous health, environmental, and economic benefits to the residents of the states and local governments — and at a fraction of the predicted cost.

Joining Attorney General Kaul in the lawsuit are the attorneys general of California, Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington, as well as the cities of Baltimore, Chicago and New York, and Erie County.

<https://www.doj.state.wi.us/news-releases/ag-kaul-sues-epa-over-rule-undermining-mercury-air-toxics-standards>