

Dept. of Justice: AG Kaul applauds EPA for plan to reaffirm mercury and air toxics standards

Posted on Tuesday, Apr 12, 2022

>> **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 joined a coalition of 23 states and cities in filing comments in support of the U.S. Environmental Protection Agency’s (EPA) proposal to reaffirm that it is “appropriate and necessary” under the federal Clean Air Act to regulate mercury and other toxic air pollution from coal- and oil-fired power plants. That determination, first made over 20 years ago, is the basis for the 2012 Mercury and Air Toxics Standards (MATS Rule), a landmark rule that has substantially reduced emissions of especially dangerous pollutants that threaten some of our most vulnerable communities, including children and historically marginalized communities.

EPA’s plan reverses an unlawful Trump Administration rule from 2020 that withdrew EPA’s longstanding determination underpinning the MATS Rule and restores the agency’s prior finding. In comments filed with the EPA, the coalition agrees with EPA’s proposal to revoke the 2020 rule, which lacked a reasoned basis and created a serious threat to public health. The comments point out that the MATS Rule has led to huge reductions in emissions of toxic pollutants that would otherwise expose communities to dirtier air and mercury-contaminated fish.

“Wisconsinites will benefit significantly from stronger protection against hazardous air pollutants,” said Attorney General Kaul. “This proposal is a welcome reversal of the Trump administration’s unlawful rule.”

As the proposal describes, industry compliance with the rule has resulted in massive reductions in emissions of hazardous air pollutants including acid gases, mercury, and other toxic metals such as arsenic, chromium, and nickel. Since the MATS Rule was implemented, power-plant mercury emissions declined by 91 percent between 2010 and 2020, and acid gas and non-mercury metal emissions declined by 96 and 81 percent, respectively, between 2010 and 2017. Exposure to those toxins causes serious human health harms, such as pulmonary and cardiovascular disease, neurological injury, and cancer, and devastates wildlife and aquatic ecosystems.

Mercury in particular poses serious dangers to public health, with especially harmful effects on developing fetuses, children, and wildlife. Airborne mercury from power plants falls back to the ground, where it is converted into methylmercury, a potent neurotoxin that accumulates in the food chain, particularly in fish. A child exposed to methylmercury consumed by her mother during pregnancy can suffer lifelong adverse developmental effects including impaired attention, fine motor function, visual-spatial abilities, and verbal memory. Mercury exposure is also linked to an increased risk of diabetes, autoimmune dysfunction, and cardiovascular disease and death in adults.

Power-plant mercury emissions are also a major contributor to mercury contamination of U.S. waterways, which have necessitated fish consumption advisories in all 50 states. Mercury pollution in lakes and rivers hurts subsistence fishing communities and local fishing economies and deprives residents across the country of the ability to enjoy recreational fishing and commercially harvested seafood.

The coalition’s comments point out that industry is in full compliance with the MATS Rule, which is providing enormous health, environmental, and economic benefits to the residents of their states and local governments—and at a fraction of the predicted cost and with little effect on electricity prices or reliability. EPA’s proposal estimates that the MATS Rule’s mercury reductions are providing hundreds of millions of dollars a year in monetizable direct benefits across the U.S. population by preventing IQ deficits in children and heart attack deaths in adults. As the comments underscore, those substantial benefits are only a small portion of the MATS Rule’s total benefits because most of the adverse health and ecological harms the rule prevents are not readily quantifiable. 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. Fine particulate matter is the largest environmental health risk factor in the country and is linked to premature death, aggravated asthma, chronic bronchitis, and other cardiopulmonary illnesses that disproportionately affect many historically marginalized communities.

The MATS Rule represents the culmination of more than two decades of study and rulemaking by the EPA and was triggered by Congress’s 1990 amendments to the Clean Air Act. In 2000, EPA determined that it was “appropriate and necessary” to regulate hazardous pollutants emitted from fossil-fuel-fired plants that are harmful to human and wildlife health. The agency found that fossil-fuel-fired power plants are the country’s largest source of hazardous air pollution, and that other existing provisions of the Clean Air Act would not adequately address those dangerous emissions. EPA reaffirmed that finding in 2012, relying on a growing body of scientific evidence.

In 2016, following the U.S. Supreme Court’s decision in *Michigan v. EPA*, EPA issued a supplemental finding reaffirming once again that it is “appropriate” to regulate power plant emissions when the costs of regulation are considered. In 2020, the Trump-era EPA reversed course, purporting to rescind that determination based on an incorrect interpretation of the Clean Air Act and in reliance on stale, inaccurate information that overstated the actual costs and vastly underestimated the benefits of reducing power plant air pollution. Today’s comments commend EPA for once again recognizing that overwhelming scientific evidence demonstrates that the enormous health and environmental benefits of the MATS Rule far outweigh the costs of compliance.

In July 2020, Attorney General Kaul joined states, counties, and cities in [challenging](#) in court EPA’s unlawful attempt to rescind its longstanding decision that regulation of toxic power-plant emissions was appropriate and necessary. Joining Attorney General Kaul in submitting the comments are the attorneys general of California, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, Wisconsin, and the District of Columbia, as well as the cities of Baltimore, Chicago and New York City.