

exposed to emissions from a source in the category or subcategory to less than one in one million, the Administrator shall promulgate standards under this subsection for such category.” Taken together, these two provisions are known as the RTR. EPA released the MATS RTR under the statutory authority of these sections.

EPA originally finalized the RTR for MATS on May 22, 2020 (the 2020 MATS RTR).⁶ In that rulemaking, EPA determined that the residual risks from coal-fired and oil-fired EGUs were acceptable and did not identify any new technologies to control HAPs for these units. EPA finalized the RTR without any changes to emissions standards or work practices.

When President Biden took office, he directed EPA to reconsider the 2020 MATS RTR. EPA embarked on a new rulemaking in response, resulting in the MATS RTR. On May 7, 2024, EPA published the final MATS RTR. The MATS RTR lowers the fPM emission standard from 0.030 lb/MMBtu to 0.010 lb/MMBtu. The Rule also tightens the standard for emissions of mercury from lignite-fired EGUs from 4.0 lb/TBtu to 1.2 lb/TBtu. The MATS RTR also requires that existing coal-fired EGUs use PM CEMS to demonstrate compliance with the fPM emission standard, eliminating the stack testing option. The low emitting EGU (LEE) status option for fPM, total non-Hg HAP metals, and individual non-Hg HAP metals for coal-fired and solid-oil derived fuel-fired EGUs has also been removed.

The RTR requires EPA to consider “developments in practices, processes, and control technologies.” With respect to fPM, EPA concluded that there are “no new practices, processes, or control technologies for non-Hg HAP.”⁷ This finding should have signaled the end of EPA’s statutory inquiry for fPM. With respect to the mercury standard for lignite coal-fired units, EPA concluded that lignite plants must remove less than 90% of mercury in the flue gas to meet the new limit and are able to achieve this.⁸ The MATS RTR reverses course from the 2012 MATS mercury requirements for lignite combustors. The 2012 rule set an emissions limitation for low rank virgin coal that allows for variations in coal quality. The 2012 MATS mercury emission limitation provides lignite power plants enough leeway to account for high mercury batches of coal, recognizing that mercury emissions are higher from coal with lower heat values.⁹

Minnkota strongly supports EPA’s decision to reconsider the MATS RTR for these reasons and others identified in our comments in the MATS RTR docket. There were no developments, so the 2020 MATS RTR analysis should have been affirmed.

2. The Presidential Exemption

CAA 112(i) sets a schedule for compliance. In Section 112(i)(4), Congress provided the President with executive discretion to exempt a stationary source from compliance with standards and limitations provided under Section 112.

⁶ 85 Fed. Reg. 31286 (May 22, 2020).

⁷ Proposed Rule at 24868.

⁸ 89 Fed. Reg. 38547 (May 7, 2024).

⁹ 77 Fed. Reg. 9304, 9388 (Feb. 16, 2012).