



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2009-0234; FRL-9919-21-OAR]

RIN 2060-AS39

National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)). This direct final rule amends the reporting requirements in the MATS rule by temporarily requiring affected sources to submit all required emissions and compliance reports to the EPA through the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool and temporarily suspending the requirement for affected sources to submit certain reports using the Electronic Reporting Tool and the Compliance and Emissions Data Reporting Interface (CEDRI).

DATES: This rule is effective on **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless the EPA receives adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register

informing the public that some or all of the amendments in the final rule will not take effect.

ADDRESSES: Comments. Submit your comments, identified by Docket ID Number EPA-HQ-OAR-2009-0234, by one of the following methods:

- http://www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: a-and-r-docket@epa.gov. Attention Docket ID Number EPA-HQ-OAR-2009-0234.
- Fax: (202) 566-9744. Attention Docket ID Number EPA-HQ-OAR-2009-0234.
- Mail: U.S. Postal Service, send comments to: U.S. Environmental Protection Agency, EPA Docket Center, Mail Code: 28221T, Attention Docket ID Number EPA-HQ-OAR-2009-0234, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- Hand Delivery: U.S. Environmental Protection Agency, EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave., NW, Washington, DC 20004. Attention Docket ID Number EPA-HQ-OAR-2009-0234. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA-HQ-OAR-2009-0234. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any

personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web-site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: <http://www.epa.gov/dockets>.

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243-05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-5635; fax number: (919) 541-3207; and email address: parker.barrett@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information in this preamble is organized as follows:

- I. Why is the EPA using a direct final rule?
- II. Does this direct final rule apply to me?
- III. What should I consider as I prepare my comments for the EPA?
- IV. What are the amendments made by this direct final rule?
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act

I. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this Federal Register, we are publishing a separate document that will serve as the proposed rule to the National

Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units, if adverse comments are received on this direct final rule. If the EPA receives adverse comment on all or a distinct portion of this direct final rule, we will publish a timely withdrawal in the Federal Register informing the public that some or all of this direct final rule will not take effect. Any rule provisions that are not withdrawn will become effective on **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, notwithstanding adverse comment on any other provision, unless we determine that it would not be appropriate to promulgate those provisions because they are affected by another provision (or provisions) for which we receive adverse comments. If we receive adverse comments on this direct final rule, resulting in withdrawal of the entire rule or any part(s) of it, we will address those comments when we finalize the proposal we are also publishing in this Federal Register. The EPA does not plan to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

II. Does this direct final rule apply to me?

Categories and entities potentially regulated by this final rule include:

| Category | NAICS Code ¹ | Examples of Regulated Entities |
|---------------|-------------------------|--|
| Industry..... | 221112 | Fossil fuel-fired electric steam generating units. |

| | | |
|--|--------|--|
| Federal government ² ... | 221122 | Fossil fuel-fired electric steam generating units owned by the federal government. |
| State/local/tribal government ² | 221122 | Fossil fuel-fired electric steam generating units owned by states, tribes or municipalities. |
| | 921150 | Fossil fuel-fired electric utility steam generating units in Indian country. |

¹ North American Industry Classification System.

² Federal, state or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility would be regulated by this direct final rule, you should examine the applicability criteria in 40 CFR 63.9981. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

III. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the

comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD-ROM or disk that does not contain CBI, mark the outside of the disk or CD-ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Attention Docket ID Number EPA-HQ-OAR-2009-0234.

IV. What are the amendments made by this direct final rule?

This direct final rule amends the reporting requirements in 40 CFR 63.10031(f) of the MATS regulation. Currently the rule requires affected sources to submit certain MATS emissions and compliance information electronically, using either the CEDRI or the ECMPS Client Tool. The EPA has developed these two systems for the electronic submittal of emissions data. Historically, CEDRI has been used by sources regulated under 40 CFR parts 60 and 63 to submit performance test reports and other air emissions reports. Historically, ECMPS has been used to report emissions data under the EPA's Acid Rain Program and other programs that are required to continuously monitor and report emissions according to 40 CFR part 75. These two systems have enhanced the way sources are reporting

emissions data to the EPA by providing a streamlined and standardized electronic approach.

Subsequent to publication of MATS, stakeholders commented that the EPA could improve the reporting efficiency of the rule by requiring all data to be reported to one system instead of two. Stakeholders also commented that one system could benefit the EPA and the public in the review of data submitted by setting one consistent format for all data reported through MATS. Further, because the vast majority of sources covered under the MATS rule have been using the ECMPS Client Tool since 2009, the stakeholders have encouraged the EPA to seriously consider consolidating the electronic reporting under ECMPS.

The EPA agrees with the stakeholders that taking an action to increase the efficiency of reporting is not only a plausible path forward, but also a priority of the agency. As a result, the EPA plans to start the process of converting all electronic reporting in the rule to be facilitated by the ECMPS Client Tool with the first step of conversion being this direct final rulemaking. However, because the EPA cannot create a detailed set of reporting instructions and design, develop, beta-test and implement the necessary modifications to the ECMPS Client Tool prior to April 16, 2015, the compliance deadline for the MATS rule, the EPA is implementing a phased approach to completing the modifications to the ECMPS Client Tool.

The first part of the phased approach the EPA plans to take is this direct final rulemaking. This direct final rule requires sources to temporarily use the ECMPs Client Tool to submit Portable Document Format (PDF) versions of the reports that the current MATS rule requires to be submitted using CEDRI. The specific reports that must be submitted in PDF format include: Quarterly and annual performance stack test reports; 30 operating day Hg LEE test reports; Relative Accuracy Test Audits (RATA) reports for Sulfur Dioxide (SO₂), Hydrogen Chloride (HCl), Hydrogen Fluoride (HF), and Mercury (Hg) monitors; Relative Calibration Audit (RCA) and Relative Response Audit (RRA) reports for Particulate Matter (PM) Continuous Emissions Monitoring System (CEMS); 30 operating day rolling average reports for PM CEMS, PM Continuous Parameter Monitoring System (CPMS), and approved HAP metals CEMS; and Semiannual compliance reports. Reports for the performance stack tests, Hg Low Emitting EGU (LEE) tests, RATAs, RRAs, and RCAs typically include a description of the source, the test date(s), a list of attendees, a test protocol, a summary of results, raw field data, and example calculations, and, depending on the method(s) used, may also include the results of sample analyses, quality-assurance information (e.g., bias and drift checks), instrument calibrations, and calibration gas certificates. Additionally, the due dates for all report submittals will continue to be the same as in the original final MATS rulemaking in the Federal Register at 77 FR 9303, February 16, 2012.

The EPA realizes that submitting electronic PDF reports is not as desirable as reporting the data in extensible markup language (XML) format, because the information in a PDF report cannot easily be extracted and put in a database format. In view of this, the EPA intends to promulgate an additional data reporting revision to the MATS rule in the second phase of this approach. In the second phase the EPA plans to develop another direct final rulemaking that requires affected sources to submit the data elements required in the rule in a structured XML format using the ECMPS Client Tool, already in use. The second phase will complete the process of conversion of the electronic reporting of data using the ECMPS Client Tool and the MATS rule will be revised to specify all of the required XML data elements for each type of report. The EPA will also develop a detailed set of reporting instructions for each report and modify ECMPS accordingly, in order to be able to receive and process the data submitted.

In the event the EPA is unable to finalize the rulemaking for the second phase of the electronic reporting conversion by April 16, 2017, in accordance with the revisions to the reporting requirements contained in this rulemaking, the reporting requirements will automatically revert to the original requirements set forth in the original MATS rulemaking in the Federal Register at 77 FR 9303, February 16, 2012. This is to ensure that the data submitted in the future is consistent with the database accessibility that is associated with information reported in structured XML formats even

if the second rulemaking cannot be finalized. Accordingly, this rulemaking includes a date of April 16, 2017, to complete the second phase of the electronic reporting conversion to the ECMPs Client Tool.

Comments on this direct final rule are to be limited to issues directly associated with the electronic reporting changes covered in 40 CFR 63.10031.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden because it does not change the information collection requirements. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulation (40 CFR part 63, subpart UUUUU) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., and has assigned OMB control number 2137.06. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impact of this final action on small entities, small entity is defined as: (1) A small business that is an electric utility producing 4 billion kilowatt-hours or less as defined by NAICS codes 221122 (fossil fuel-fired electric utility steam generating units) and 921150 (fossil fuel-fired electric utility steam generating units in Indian country); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is

to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 USC 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule will not impose any requirements on small entities, and no small entities are expected to incur annualized costs as a result of the amendments. We have determined that the amendments will not result in any "significant" adverse economic impact for small entities. This amendment does not create any new requirements or burdens, and no costs are associated with this amendment.

D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. The costs of the final amendments would not increase costs associated with the final rule. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA).

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The final amendments contain no requirements that apply to such governments and impose no obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action does not modify existing responsibilities or create new responsibilities among the EPA Regional offices, states or local enforcement agencies. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental

effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The final amendments are either clarifications or compliance alternatives which will neither increase or decrease environmental protection.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This

direct final rule will be effective on [INSERT DATE 45 DAYS AFTER
DATE OF PUBLICATION IN THE FEDERAL REGISTER].

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure,
Air pollution control, Intergovernmental relations, Reporting and
recordkeeping requirements.

Dated: November 7, 2014.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
FOR SOURCE CATEGORIES**

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

**Subpart UUUUU- National Emission Standards for Hazardous Air
Pollutants: Coal- And Oil-Fired Electric Steam Generating Units**

2. Section 63.10031 is amended by:

- a. Revising the first sentence in each of the following paragraphs: (f) introductory text, (f)(1), (f)(2), and (f)(4);
- b. Revising paragraph (f)(5); and
- c. Adding paragraph (f)(6) to read as follows.

§ 63.10031 What reports must I submit and when?

* * * * *

(f) On or after April 16, 2017, within 60 days after the date of completing each performance test, you must submit the results of the performance tests required by this subpart to EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through EPA's Central Data Exchange (CDX) (www.epa.gov/cdx). * * *

(1) On or after April 16, 2017, within 60 days after the date of completing each CEMS (SO₂, PM, HCl, HF, and Hg)

performance evaluation test, as defined in § 63.2 and required by this subpart, you must submit the relative accuracy test audit (RATA) data (or, for PM CEMS, RCA and RRA data) required by this subpart to EPA's WebFIRE database by using CEDRI that is accessed through EPA's CDX (www.epa.gov/cdx). * * *

(2) On or after April 16, 2017, for a PM CEMS, PM CPMS, or approved alternative monitoring using a HAP metals CEMS, within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st, you must submit quarterly reports to EPA's WebFIRE database by using the CEDRI that is accessed through EPA's CDX (www.epa.gov/cdx). * *

*

* * * * *

(4) On or after April 16, 2017, submit the compliance reports required under paragraphs (c) and (d) of this section and the notification of compliance status required under § 63.10030(e) to EPA's WebFIRE database by using the CEDRI that is accessed through EPA's CDX (www.epa.gov/cdx). * * *

(5) All reports required by this subpart not subject to the requirements in paragraphs (f) introductory text and (f)(1) through (4) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of a source, these reports may be submitted on electronic media. The Administrator

retains the right to require submittal of reports subject to paragraphs (f) introductory text and (f)(1) through (4) of this section in paper format.

(6) Prior to April 16, 2017, all reports subject to electronic submittal in paragraphs (f) introductory text, (f)(1), (f)(2), and (f)(4) of this section shall be submitted to the EPA in electronic portable document format (PDF) using the ECMPS Client Tool. The following data elements must be entered into the ECMPS Client Tool at the time of submission of the PDF file:

(i) The facility name, physical address, mailing address (if different from the physical address), and county;

(ii) The ORIS code (or equivalent ID number assigned by EPA's Clean Air Markets Division (CAMD)) and the Facility Registry System (FRS) ID;

(iii) The EGU (or EGUs) to which the report applies. Report the EGU IDs as they appear in the CAMD Business System;

(iv) If any of the EGUs in paragraph (f)(6)(iii) of this section share a common stack, indicate which EGUs share the stack. If emissions data are monitored and reported at the common stack according to part 75 of this chapter, report the ID number of the common stack as it is represented in the electronic monitoring plan required under § 75.53 of this chapter;

(v) If any of the EGUs described in paragraph (f)(6)(iii) of this section are in an averaging plan under § 63.10009, indicate which EGUs are in the plan and whether it is a 30- or 90-day averaging plan;

(vi) The identification of each emission point to which the report applies. An "emission point" is a point at which source effluent is released to the atmosphere, and is either a dedicated stack that serves one of the EGUs identified in paragraph (f)(6)(iii) of this section or a common stack that serves two or more of those EGUs. To identify an emission point, associate it with the EGU or stack ID in the CAMD Business system or the electronic monitoring plan (e.g., "Unit 2 stack," "common stack CS001," or "multiple stack MS001");

(vii) The rule citation (e.g., § 63.10031(f)(1), § 63.10031(f)(2), etc.) for which the report is showing compliance;

(viii) The pollutant(s) being addressed in the report;

(ix) The reporting period being covered by the report (if applicable);

(x) The relevant test method that was performed for a performance test (if applicable);

(xi) The date the performance test was conducted (if applicable); and

(xii) The responsible official's name, title, and phone number.

* * * * *

[FR Doc. 2014-27126 Filed 11/18/2014 at 8:45 am;
Publication Date: 11/19/2014]