



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2009-0234; FRL-9923-98-OAR]

RIN 2060-AS39

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 19, 2014, the Environmental Protection Agency (EPA) proposed amending certain reporting requirements in the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Steam Generating Units (Mercury and Air Toxics Standards (MATS)) rule. This final rule amends the reporting requirements in the MATS rule by temporarily requiring owners or operators of affected sources to submit certain required emissions and compliance reports to the EPA through the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool, and the rule temporarily suspends the requirement for owners or operators of affected sources to submit certain reports using the Compliance and Emissions Data Reporting Interface (CEDRI).

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-HQ-OAR-2009-0234. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publically available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

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:

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 - H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act (NTTAA)
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act (CRA)

I. Why is the EPA issuing a final rule?

The EPA is finalizing its proposed rule with revisions, and this final rule replaces the existing requirements that became effective on January 5, 2015, pursuant to a direct final rule published on November 19, 2014. See 79 FR 68840 and 79 FR 68795. We also respond to comments in this final rule. See 79 FR 68796.

II. Does this 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 final rule. To determine whether your facility would be regulated by this 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 are the amendments made by this final rule?

This final rule amends the reporting requirements in 40 CFR 63.10031(f) of the MATS rule at 40 CFR part 63, subpart UUUUU.

The final MATS rule required affected sources to submit certain MATS emissions and compliance information electronically, using either the CEDRI or the ECMPS Client Tool. The EPA developed these two systems prior to the MATS rule for the electronic submittal of emissions data from many source categories. CEDRI is currently used by owners or operators of sources regulated under 40 CFR part 60 and 40 CFR part 63 to submit performance test reports and other air emissions reports. ECMPS is used to report emissions data under the Clean Air Act title IV 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 source owners and operators report emissions data to the EPA by providing a streamlined and standardized electronic approach.

Subsequent to publication of the MATS rule, stakeholders commented that we could improve the reporting efficiency of the MATS 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 consider consolidating the electronic reporting under ECMPS.

We agree that requiring reporting to one system will increase the efficiency of reporting and facilitate review of reported data. For these reasons, the agency is beginning the process of consolidating the submission of electronic reports required under the MATS rule to one system - the ECMPS Client Tool. This final rule is the first step in the process. The next step is for the EPA to create a detailed set of reporting instructions and design, develop, beta-test and implement the necessary modifications to the ECMPS Client Tool; however, the EPA cannot complete the second step prior to April 16, 2015, the compliance deadline for the MATS rule. Therefore, we are implementing a phased approach to completing the change in the electronic reporting requirements.

This final rulemaking completes the first step in the agency's plan by removing the requirement to submit MATS compliance reports to CEDRI and requiring source owners or operators to 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. As stated above, this interim step is necessary because the ECMPS Client Tool is not currently programmed to accept the reports that the MATS rule required sources to submit to CEDRI. The specific reports that must be submitted in PDF format include: Quarterly and annual performance stack test reports; 30- (or 90-) boiler

operating day mercury (Hg) Low Emitting EGU (Electric Generating Unit) (LEE) test reports; Relative Accuracy Test Audits (RATA) reports for sulfur dioxide, hydrogen chloride, hydrogen fluoride, and Hg monitors; Relative Calibration Audit (RCA) and Relative Response Audit (RRA) reports for particulate matter (PM) continuous emissions monitoring system (CEMS); 30-boiler operating day rolling average reports for PM CEMS, PM continuous parameter monitoring system (CPMS), and approved hazardous air pollutants (HAP) metals CEMS; and semiannual compliance reports. Reports for the performance stack tests, Hg 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., leak, bias and drift checks), and instrument calibrations and calibration gas certificates. This final rule does not alter the due dates for any report submittals contained in the final MATS rule. See 40 CFR part 63, subpart UUUUU.

The EPA recognized 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, we plan to promulgate an additional data reporting

revision to the MATS rule in the second part of our phased approach. In this second part, we plan to develop another rulemaking that requires affected source owners or operators to submit the data elements required in the rule in a structured XML format using the ECMPS Client Tool, which is already in use. The second part of our phased approach 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. We also plan to develop a detailed set of reporting instructions for each report and to modify ECMPS accordingly, in order to be able to receive and process the data submitted.

In the event we are unable to finalize the rulemaking for the second part of our phased approach for electronic reporting conversion by April 16, 2017, the reporting requirements established in this final rule will revert automatically to the original requirements set forth in the final MATS rulemaking published on February 16, 2012 (77 FR 9303). This trigger is necessary 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 part of our phased approach for electronic reporting

conversion to the ECMPS Client Tool. The EPA intends to revoke this requirement once the final conversion to the ECMPS Client Tool is complete.

IV. Public Comments and Responses

The direct final and parallel proposed rules received comments from nine persons - two members of the public, one state government representative, four EGU owners or operators and two EGU industry representatives.

A. Support for the Proposed Approach

Most commenters expressed support for the planned two phased approach for merging the electronic reporting systems, as well as the revisions to allow temporary submission of MATS rule emissions and compliance reports through the ECMPS Client Tool and suspension of mandatory submission of certain reports using the CEDRI. Commenters recognized the benefits afforded by the proposed approach, noting that through the use of the transition period, the agency will be able to obtain the necessary information to assure compliance while simultaneously developing final reporting formats and infrastructure for XML reporting. Commenters agree that consolidating all reporting requirements through one system will streamline and simplify requirements, making reporting more efficient and user-friendly, improve the quality of reported emissions data and enable the agency to track compliance effectively. We reviewed and considered these

comments and are finalizing the proposed rule, with minor revisions, to implement the first part of our phased approach to merge all MATS rule electronic reporting into the ECMPs Client Tool.

B. Opposition to the Proposed Approach

One commenter, a state government representative, opposed the provisions of the proposed rule on two grounds: (1) the commenter alleges the rule did not contain a requirement for EGU owners or operators to submit full stack test reports; and (2) the commenter indicates that it is improper to include a temporary suspension of the requirement to use the electronic reporting tool (ERT) in preparing and submitting stack test reports electronically.

With regard to the first item, the EPA maintains that the proposed rule did include a requirement to submit complete performance test reports during the interim period. In the proposed rule, the EPA stated that stack test reports were required to be submitted during the transition period: "...(t)he specific reports that must be submitted in PDF format include: Quarterly and annual performance stack test reports..." and "...(r)eports for the performance stack tests...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..." (79 FR 68797). Other commenters agreed with the EPA's view of the requirements while some believed that the requirement to submit the test reports was only triggered upon request by the permitting authority. To address any ambiguity on this issue, we are revising the proposed rule and expressly requiring submission of emissions test reports in the final rule.

With regard to the second item, we agree with the state representative who commented that "...(s)ubmittal of stack test reports using ERT will allow (regulatory agencies) to independently verify emissions calculations without having to re-enter data into separate spreadsheets for re-calculation. ERT does the calculations and can include all raw field and laboratory data as attachments..." These are among the reasons we mandated use of the ERT in both the Information Collection Request and the MATS rule. Moreover, we agree with the state representative that the "...ERT can generate a full PDF report that could be submitted to ECMPS with minimal effort..." Indeed, we maintain that using the "one-touch" ERT feature to create PDF versions of ERT-developed reports is the easiest way to meet the interim electronic reporting requirements. However, at the present time, the ERT does not support every MATS rule-related

test method, quality assurance approach or performance specification (PS), e.g., RCA or RRA for PM CEMS and PS-11 for PM CEMS. Moreover, despite the efficiency and ease of using the "one-touch" capability of the ERT for the majority of MATS rule related test methods, quality assurance approaches or PS, the ERT is not the sole means of developing PDF versions of required reports. We considered requiring EGU owners or operators to use the ERT's PDF creation feature for those reports that can be developed through the current version of the ERT, but decided against it for concerns that mandated use of two separate systems during the interim period could be inefficient. While we believe many EGU owners or operators will choose to use the ERT's cost-effective PDF creation approach when possible, the rule does not require its use.

C. Other Comments

Even though comments on the proposed rule were to be limited to issues directly associated with the electronic reporting changes covered in 40 CFR 63.10031, commenters provided other comments. One industry representative sought assurance that under the interim rule, EGU owners or operators could use self-generated forms that included relevant information per the aforementioned preamble language (79 CFR 68797), going on to assert that the only formatting specification is that the reports be submitted in PDF format.

The industry representative expressed support for the proposed rule if those assertions were correct. Commenters are correct, provided the necessary information is included in a reasonable manner to allow review in the electronic PDF versions of the reports.

Industry commenters also opposed the proposed rule to the extent it required EGU owners or operators to use the ERT or CEDRI forms to create the reports that will be submitted in PDF format, believing that the rule revision would not provide any relief if their understanding were correct. While we disagree with the commenters' views that using the ERT or CEDRI to create PDF versions of reports or forms would not provide relief, the rule neither requires nor prohibits during the interim period preparation or submission of PDF reports or forms using the ERT or CEDRI. We also note that the current versions of the ERT or CEDRI do support notice of compliance (NOC) status reporting and the majority of MATS rule-related test methods, quality assurance approaches and PS, including all associated requisite calculations and validations. For this reason, the commenters' concerns are misplaced.

Industry commenters also commented that some in the regulated community might be confused over the reporting requirements and misinterpret the provisions such that only PDF versions of ERT or CEDRI generated reports or forms would be

allowed for submission during the interim period. Both commenters suggested we provide guidance, or, if necessary, additional rule language after the first sentence of 40 CFR 63.10031(f)(6), to clarify the role of the ERT and CEDRI for data submittal during the interim reporting phase. We considered these comments and decided that such guidance or rule language is unnecessary, as the ERT is not required to be used during the interim period. With regard to reporting requirements during the transition period, as mentioned earlier, the use of the CEDRI to submit reports to our WebFIRE database will be suspended, the information that would have been reported through the CEDRI must be submitted to the ECMPS in PDF format and the deadline for submitting reports remains unchanged. We will make the necessary adjustments to the ECMPS to enable the PDF reports to be submitted. Note that submission of a PDF version of a test report during this interim period is sufficient, provided that the test report contains sufficient information to assess compliance and to determine whether the testing has been done properly.

One commenter expressed concern with using the ERT and CEDRI in the interim period because, in his view, those platforms are not capable of accepting certain MATS reports, such as NOC status reports and 30-boiler operating day averages from PM CEMS. Moreover, the commenter believes using the ERT

would be inefficient because, in his view, it was not designed to handle MATS rule data, such as those from PS-11, RCAs and RRAs. Finally, the commenter believes the usefulness of ERT collected data is limited because, in his view, the ERT neither performs the requisite calculations for quality assurance tests nor validates test results in accordance with method acceptance criteria. As stated above, the rule neither requires nor prohibits during the interim period preparation or submission of PDF reports or forms using the ERT or CEDRI. We also note that the current versions of the ERT or CEDRI do support NOC status reporting and the majority of MATS rule related test methods, quality assurance approaches and PS, including all associated requisite calculations and validations. While not a part of this rulemaking, we soon expect the ERT will be able to handle all of the remaining MATS rule related test methods, quality assurance approaches and PS, which will be important if the agency does not complete the revisions to the ECMPS. In addition, we expect the ECMPS Client Tool to be revised to accept all MATS rule related electronic reporting during the second part of our phased approach such that the ECMPS will be the sole means for providing MATS reports electronically.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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 and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0567. The agency believes this action does not impose an information collection burden because it does not change the information collection requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This amendment does not create any new requirements or burdens, and no costs are associated with this amendment. See 79 FR 68795 at 68798 (November 19, 2014).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

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.

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

This action does not have tribal implications, as specified in Executive Order 13175. 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 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of

“covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will **not** have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action does not affect the level of protection provided to human health or the environment. The final amendments are either clarifications or alternate, temporary reporting instructions which will neither increase nor decrease environmental protection.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: March 9, 2015.

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 EMISSIONS 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), (2), and (4); and
- b. Revising paragraphs (f) (5) and (6).

The revisions 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 performance test reports 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). * *

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(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 an EGU, 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), (2), and (4) shall be submitted to the EPA at the frequency specified in those paragraphs in electronic portable document format (PDF) using the ECMPs Client Tool. Each PDF version of a submitted report must include sufficient information to assess compliance and to demonstrate that the testing was done properly. The following data elements must be entered into the ECMPs Client Tool at the time of submission of each 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.

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