



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2009-0234; FRL-9958-30-OAR]

RIN 2060-AS75

Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the electronic reporting requirements for the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units (also known as the Mercury and Air Toxics Standards (MATS)) to allow for the temporary submission, through June 30, 2018, of certain reports using the portable document file (PDF) format and to correct inadvertent errors. With this action owners or operators of Electric Utility Steam Generating Units (EGUs) will be able to continue to use temporarily a single electronic reporting system for MATS data submissions, to rely on correct language for mercury (Hg) relative accuracy test audit (RATA) requirements, and to rely on the correct acceptance criterion for ongoing quality assurance test requirements for Hg RATAs. This extension will allow the EPA the necessary time to develop, implement, and test the code necessary so that all MATS reports required to be submitted electronically can be submitted using the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool.

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 No. EPA-HQ-OAR-2009-0234. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information 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 publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

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

SUPPLEMENTARY INFORMATION:

Organization of the document.

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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 this final rule?

As explained in the MATS Completion of Electronic Reporting Requirements proposal (see 81 FR 67062, September 29, 2016), the EPA proposed to amend the MATS electronic reporting requirements by revising and streamlining the electronic data reporting requirements for owners and operators of EGUs that use performance stack testing or continuous monitoring to demonstrate compliance. Such an approach, based on the ECMPS Client Tool only, was requested by industry stakeholders and would increase data transparency by providing the public and regulatory authorities with enhanced access to MATS data. In addition to proposing a single electronic reporting submission system, the proposal identified associated regulatory text changes, proposed to correct inadvertent errors in appendix A of 40 CFR part 63, subpart UUUUU carried over from the final Technical Corrections rule (see 81 FR 20712, April 6, 2016), proposed to revise appendix B to facilitate use of hydrogen chloride continuous emission monitoring systems (CEMS) operating in accordance with newly-promulgated Performance Specification 18, proposed to add appendices C and D to identify reporting requirements for users of particulate matter (PM) CEMS and PM continuous parameter monitoring systems (CPMS), identified in appendix E the electronic data elements already required to be reported, and proposed to require quarterly – rather than semiannual – compliance reports. Based on

requests for additional time to prepare comments, the proposal's comment period was extended for an additional 15 days (see 81 FR 75365, October 31, 2016).

Commenters generally supported the proposal. They also provided many ideas regarding merging the electronic submission systems. Many commenters suggested extending the interim regulatory deadline (April 16, 2017) that allows submission of non-ECMPS ready reports in PDF format. We originally established this deadline to allow temporary submission in PDF format while we make and implement the changes to the ECMPS Client Tool necessary for a single electronic reporting system. After considering the comments received and factoring in the time necessary to provide complete responses to all significant comments, we have decided to take final action on just a portion of the proposal. Specifically, we have decided to extend the interim submission regulatory deadline and make two corrections to appendix A. We may take final action on the other proposed changes in a separate rulemaking, which would be conducted later.

No comments were received in opposition to extending the interim submission regulatory deadline from April 16, 2017, to December 31, 2017. However, a few commenters suggested replacing a date certain deadline with a fixed time period after promulgation, in order to provide a smooth transition to the single electronic reporting system. We may choose to adapt such an approach at a future date, but for now, we believe a deadline of June 30, 2018, will provide certainty to industry stakeholders, third party programmers, regulatory authorities, the public, and the EPA. We believe that date will give us adequate time to complete our review, respond to comments, and promulgate a separate final rule addressing the remaining issues in the September 29, 2016 proposal. In addition, we believe other important items, such as guidance and programming, will be well on their way to completion by that date. Moreover, that date coincides with the end of a reporting period.

No comments were received in opposition to making the two corrections to appendix A. As many owners and operators of EGUs currently rely on Hg CEMS for compliance purposes, we believe it important to make these corrections at this time.

II. General Information

A. Does this final rule apply to me?

Categories and entities potentially affected by this action include:

Category	NAICS code ¹	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units.
Federal government	221122 ²	Fossil fuel-fired electric utility steam generating units owned by the Federal government.
State/local/Tribal government	221122 ² 921150	Fossil fuel-fired electric utility steam generating units owned by municipalities. 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 action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether an entity is regulated by this action, please examine the applicability criteria found in 40 CFR 63.9981 of the rule. For 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.

B. What is the scope of these amendments?

This rule extends the interim PDF reporting process described in 40 CFR 63.10031(f) from April 16, 2017, to June 30, 2018. In addition, this rule amends the text in 40 CFR 63.10021(e)(9) and in 40 CFR 63.10031(f) related to this extension. Finally, this action clarifies instructions in section 4.1.1.5.2 of appendix A with regard to calculating Hg RATA results and conditions described in Table A-2 of appendix A for demonstrating compliance with ongoing Hg measurement instrument quality assurance requirements.

C. What is the purpose of these amendments?

As mentioned earlier, the purpose of these amendments is to extend through June 30, 2018, the temporary submission of certain reports using the PDF format and to correct inadvertent errors in appendix A. Without this action, owners or operators of EGUs would have to use separate electronic reporting systems for MATS submissions, rely on incorrect language for Hg RATA requirements, or rely on an unclear acceptance criterion for ongoing quality assurance test requirements for Hg RATAs. This extension is intended to allow us the necessary time to develop, implement, and test the code necessary so that all MATS electronic reports can be submitted using the ECMPS Client Tool. The corrections to appendix A are intended to ensure that owners and operators of EGUs have clear and correct instructions with regard to calculating Hg RATA results and demonstrating compliance with ongoing Hg measurement instrument quality assurance requirements.

D. What action is the agency taking?

This action amends parts of 40 CFR part 63, subpart UUUUU. The amendments are discussed in the paragraphs below.

1. Revisions to Tune-Up Reporting Requirements in 40 CFR 63.10021.

The tune-up reporting section of MATS, *i.e.*, 40 CFR 63.10021(e)(9), is amended to extend through June 30, 2018, the temporary submission of certain tune-up reports using the PDF format. Starting on and after July 1, 2018, the tune-up reports must be submitted as described in 40 CFR 63.10031(f).

2. Revisions to Reporting Requirements in 40 CFR 63.10031.

The deadline for temporary submission of certain reports in PDF format using the ECMPS Client Tool, as described in 40 CFR 63.10031(f)(6), is amended to extend through June 30, 2018. On and after July 1, 2018, the performance test reports, CEMS performance evaluation test reports, quarterly reports for PM or hazardous air pollutant metals CEMS or PM CPMS, compliance reports, and notification of compliance status reports, as described in 40 CFR 63.10031(f), (f)(1), (f)(2), and (f)(4), must be submitted to the EPA's Compliance and Emissions Data Reporting Interface that is accessed through EPA's Central Data Exchange (www.epa.gov/cdx).

3. Revisions to Appendix A.

This rule makes two corrections to the Hg monitoring provisions of appendix A.

First, in the MATS Technical Corrections rule package, which was published on April 6, 2016 (see 81 FR 20172, April 6, 2016), there is language in section 4.1.1.5.2 of appendix A describing an alternate way to calculate and interpret RATA results when Hg emissions are less than 50 percent of the standard. This language was inadvertently carried over from the MATS Technical Corrections proposed rule and conflicts with the alternate relative accuracy (RA) specification in Table A-1 of the final rule. That language is deleted.

Second, the MATS Technical Corrections final rule contains an inconsistency of the Hg RATA acceptance criteria in Table A-2 versus that in Table A-1. This final rule amends Table

A-2 to make it consistent with Table A-1 so that the 20-percent RA specification in Table A-1 may be applied at any reference method concentration level and the alternate specification applies only when the average reference method value (RM_{avg}) is < 2.5 micrograms per standard cubic meter ($\mu\text{g}/\text{scm}$).

E. What are the incremental costs and benefits of this action?

This action extends the deadline for temporary submission of certain reports using the PDF format and corrects inadvertent errors in appendix A. It does not promulgate substantive changes to the February 2012 final MATS rule (77 FR 9304). Therefore, there are no incremental costs and benefits associated with this final action. The costs and benefits associated with MATS are discussed in detail in the February 16, 2012, final MATS rule.

F. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under CAA section 307(b)(2), the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that “[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.” This section also provides a mechanism for the EPA to reconsider the rule “[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public

comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.” Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC South Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

G. What is the effective date of this rule?

We are making these amendments effective upon publication of this action. This timeframe for the effective date is appropriate because the EPA is issuing this final rule under section 307(d) of the CAA. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. CAA section 307(d)(1) clarifies that: “The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.” Thus, section 553(d) of the APA does not apply to this rule. Rather the effective date of this rule is governed by CAA Section 112(d)(10), which provides that “Emission standards or other regulations promulgated under this subsection shall be effective upon promulgation.” Accordingly, we are making this rule effective upon publication in the **Federal Register**. Additionally, making this rule effective upon publication in the **Federal Register** will allow the CFR to be updated more quickly, which will provide greater notice of these amendments to EGU owners or operators affected by this final action.

III. Statutory and Executive Orders Reviews

Additional information about these statutes and Executive Orders can be found at <http://www.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 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. In making this determination, the impact of concern is any significant adverse economic impact on small entities. 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, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. These amendments create no new requirements or burdens, and no costs to small entities would be associated with these amendments. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

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 would 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 only 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

This rulemaking 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 that this action does **not** have disproportionately high and adverse human health or environmental effects on minority, low-income, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment. The final amendments are either alternate, temporary reporting instructions or corrections 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,
Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 29, 2017.

E. Scott Pruitt,
Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR part 63 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 Utility Steam Generating Units

2. Section 63.10021 is amended by revising the first and second sentences of paragraph (e)(9) to read as follows:

§63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(e) * * *

(9) Report the dates of the initial and subsequent tune-ups in hard copy, as specified in §63.10031(f)(5), through June 30, 2018. On or after July 1, 2018, report the date of all tune-ups electronically, in accordance with §63.10031(f). * * *

* * * * *

3. Section 63.10031 is amended by revising the first sentence of paragraphs (f) introductory text, (f)(1), (2), and (4), and (f)(6) introductory text.

The revised text reads as follows:

§63.10031 What reports must I submit and when?

* * * * *

(f) On or after July 1, 2018, within 60 days after the date of completing each performance test, you must submit the performance test reports required by this subpart to the EPA's WebFIRE database by using the Compliance and Emissions Data Reporting Interface (CEDRI) that is accessed through the EPA's Central Data Exchange (CDX) (*www.epa.gov/cdx*). * * *

(1) On or after July 1, 2018, 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 July 1, 2018, 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 the EPA's WebFIRE database by using the CEDRI that is accessed through the EPA's CDX (*www.epa.gov/cdx*). * * *

* * * * *

(4) On or after July 1, 2018, 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 the EPA's WebFIRE database by using the CEDRI that is accessed through the EPA's CDX (*www.epa.gov/cdx*). * * *

* * * * *

(6) Prior to July 1, 2018, 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.

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4. Appendix A to Subpart UUUUU is amended by:

- a. Revising section 4.1.1.5.2; and
- b. Revising the entry “RATA” in Table A-2.

The revised text reads as follows:

Appendix A to Subpart UUUUU of Part 63 – Hg Monitoring Provisions

* * * * *

4. Certification and Recertification Requirements

* * * * *

4.1.1.5.2 *Calculation of RATA Results.* Calculate the relative accuracy (RA) of the monitoring system, on a µg/scm basis, as described in section 12 of Performance Specification (PS) 2 in appendix B to part 60 of this chapter (see Equations 2—3 through 2-6 of PS 2). For purposes of calculating the relative accuracy, ensure that the reference method and monitoring system data are on a consistent basis, either wet or dry. The CEMS must either meet the main performance specification or the alternative specification in Table A-1 of this appendix.

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5. ONGOING QUALITY ASSURANCE (QA) AND DATA VALIDATION

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Table A-2--On-Going QA Test Requirements for Hg CEMS

Perform this type of QA test....	At this frequency....	With these qualifications and exceptions....	Acceptance criteria....
* * * * *			

<p>RATA</p>	<p>Annual⁴</p>	<ul style="list-style-type: none"> • Test deadline may be extended for “non-QA operating quarters,” up to a maximum of 8 quarters from the quarter of the previous test. • 720 operating hour grace period available 	<p>$\leq 20.0\% \text{ RA}$ or $RM_{avg} - C_{avg} + CC$ $\leq 0.5 \mu\text{g}/\text{scm}$, if $RM_{avg} < 2.5 \mu\text{g}/\text{scm}$.</p>
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⁴ “Annual” means once every four QA operating quarters.

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