

United States Senate
WASHINGTON, DC 20510

June 22, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan,

We write to express our strong concerns regarding the proposed rule from the Environmental Protection Agency (EPA) on Mercury and Air Toxic Standards (MATS) published in the Federal Register on April 24, 2023. EPA's proposed rule will threaten grid reliability and drive up electricity costs by replace the existing cost-effective standards on coal-fired power plants, and we request that the proposed rule be withdrawn.

The proposed rule comes on top of a similar rule from 2012 that contributed to the closure of many coal-fired power plants before the Supreme Court remanded the case to the lower court in 2015, effectively blocking the rule. That decision centered on the fact that the EPA had not sufficiently considered the potential costs of the regulation. However, by that time most power plants were forced to either close early or pass along the increased compliance costs to consumers, despite the 2012 rule's legal deficiencies. This new proposal again does not sufficiently consider the costs and it has dubious legal standing.

Importantly, this new proposal would replace the existing standards, which the EPA has already found to protect human health and safety following an eight-year technology review that was completed in 2020. The EPA's risk analysis of air toxins demonstrated that air toxins from power plants are already at an acceptable level, and notably, the EPA declined to reverse this finding in this new proposed rule. Given this tacit validation of the safety and effectiveness of current standards, it does not make sense for the EPA to target coal-fired power plants that are in compliance with existing standards with unnecessary new regulations.

Coming at a time when grid regulators, including members of the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation, are issuing warnings about grid instability, the EPA's proposed rule will only increase the danger of power outages across the county by removing critical generating capacity. For example, in order to come into compliance with this proposal, the Colstrip Generating Station in Montana would be required to invest between \$500 million and \$1 billion in technology upgrades. This would endanger the economic viability of the plant, which if closed would undermine the region's electric grid. Further, the proposed elimination of the lignite subcategory would impose unachievable standards on lignite-fired power plants in North Dakota and Gulf Coast states. It is concerning that EPA's proposed rule fails to account for the chemistry difference between coal types and their utilization. Imposing an unworkable, one-size-fits-all mandate would disproportionately impact mine-mouth power generation facilities, including those in North Dakota that rely solely on fuel sourced from nearby lignite mines. Finally, the EPA's aggressive 2026 compliance

deadline does not provide sufficient time to plan and construct adequate replacement generation for those plants that are forced to close.

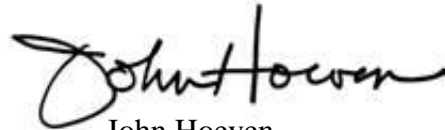
The early retirement of plants that provide reliable baseload power or the additional cost of complying with the new standards will inevitably be passed on to consumers who will have to bear the burden of higher energy costs. We have heard from constituents who are even now struggling with the high cost of energy, and this rule will only accelerate increasing costs. With inflation remaining at elevated levels, this is a poor time to add additional costs for the American people.

We request that you withdraw this proposed rule to prevent negative impacts on our electric reliability and increased costs for consumers.

Sincerely,



Steve Daines
United States Senator



John Hoeven
United States Senator