

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing these final priorities only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory

action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The priorities included in this notice would benefit students, parents, educators, administrators, and other stakeholders by improving the quality of State assessment instruments and systems. Priority 1 will yield new, more authentic methods for collecting evidence about what students know and are able to do and provide educators with more individualized, easily integrated assessments that can support competency-based learning and other forms of personalized instruction. Priority 2 will allow for States to score non-multiple choice assessment items more quickly and at a lower cost and ensure that assessments provide timely, actionable feedback to students, parents, and educators. Priority 3 will encourage States to ensure that assessments are of high quality, maximize instructional goals, and have clear purpose and utility. Further, it will encourage States to eliminate unnecessary or redundant tests.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 1, 2016.

Ann Whalen,

Senior Advisor to the Secretary, Delegated the Duties of Assistant, Secretary for Elementary and Secondary Education.

[FR Doc. 2016–18530 Filed 8–5–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2009–0234; FRL–9950–31–OAR]

40 CFR Parts 60 and 63

Reconsideration on the Mercury and Air Toxics Standards (MATS) and the Utility New Source Performance Standards Startup and Shutdown Provisions; Final Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action denying petitions for reconsideration.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is providing notice that it has responded to two petitions for reconsideration of the final rule titled “Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants (NESHAP) From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance (NSPS) for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units,” published in the **Federal Register** on November 19, 2014. The Administrator denied the requests for reconsideration in separate letters to the petitioners. The letters and a document providing a full explanation of the agency's rationale for each denial is in the docket for these rules.

DATES: August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Eddinger, Sector Policies and Programs Division (D243-01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5426; fax number: (919) 541-5450; email address: eddinge.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. How can I get copies of this document and other related information?

This **Federal Register** document, the petitions for reconsideration, the letters denying the petitions for reconsideration, and the document titled “Denial of Petitions for Reconsideration of Certain Startup/Shutdown Issues: MATS” (Reconsideration Response Document) are available in the dockets the EPA established under Docket ID No. EPA-HQ-OAR-2009-0234. The Reconsideration Response Document is available in the MATS docket by conducting a search of the title “Denial of Petitions for Reconsideration of Certain Startup/Shutdown Issues: MATS.” All documents in the dockets 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 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 either electronically through www.regulations.gov or in hard copy at the EPA Docket Center (EPA/DC), Room 3334, EPA WJC West Building, 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. This **Federal Register** document and the Reconsideration Response Document denying the petitions can also be found on the EPA’s Web site at <https://www.epa.gov/mats>.

II. Judicial Review

Section 307(b)(1) of the Clean Air Act (CAA) indicates which Federal Courts of Appeals have venue for petitions for review of final EPA actions. This section provides, in part, that the petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of “nationally applicable

regulations promulgated, or final action taken, by the Administrator,” or (ii) such actions are locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

The EPA’s actions denying the petitions for reconsideration are nationally applicable because the underlying rules—the “National Emission Standards for Hazardous Air Pollutants (NESHAP) From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance (NSPS) for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units,” are nationally applicable. Thus, any petitions for review of the EPA’s decisions denying petitioners’ requests for reconsideration must be filed in the United States Court of Appeals for the District of Columbia Circuit by October 7, 2016.

III. Description of Action

On February 16, 2012, pursuant to sections 111 and 112 of the CAA, the EPA published the final rules titled “National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units” (77 FR 9304). The NESHAP issued pursuant to CAA section 112 is referred to as the Mercury and Air Toxics Standards (MATS), and the NSPS rule issued pursuant to CAA section 111 is referred to as the Utility NSPS. Following promulgation of the final rules, the Administrator received petitions for reconsideration of numerous provisions of both MATS and the Utility NSPS pursuant to CAA section 307(d)(7)(B). The EPA received 20 petitions for reconsideration of the MATS rule and 3 petitions for reconsideration of the Utility NSPS.

On November 30, 2012, the EPA issued a proposed rule reconsidering certain new source limits in MATS, the requirements applicable during periods of startup and shutdown for MATS and the Utility NSPS (for the particulate matter standard only), certain definitional and monitoring issues in the Utility NSPS, and additional technical corrections to both MATS and the Utility NSPS (77 FR 71323). On April 24, 2013, the EPA issued the final action on reconsideration of the new

source MATS, the definitional and monitoring provisions in the Utility NSPS, and the technical corrections in both rules (78 FR 24073). The EPA issued the final action on reconsideration of the startup and shutdown provisions in the MATS and Utility NSPS on November 19, 2014 (79 FR 68777).

The EPA received two petitions for reconsideration of the November 19, 2014, final action on reconsideration of the startup and shutdown provisions in the MATS rule. One petition was submitted by the Environmental Integrity Project, the Chesapeake Climate Action Network, and the Sierra Club, and the other was submitted by the Utility Air Regulatory Group.

CAA section 307(d)(7)(B) states 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. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time 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, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed.”

The EPA carefully reviewed the petitions for reconsideration and evaluated all issues raised to determine if they meet the CAA section 307(d)(7)(B) criteria for reconsideration. In separate letters to the petitioners, the EPA Administrator, Gina McCarthy, denied the petitions for reconsideration. The letters were accompanied by a separate Reconsideration Response Document that articulates in detail the rationale for the EPA’s final responses. These documents are all available in the docket for this action.

Dated: July 29, 2016.

Gina McCarthy,
Administrator.

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