



Statutory and Regulatory Background Related to the Appropriate and Necessary Finding



Lydia Wegman
Office of Air Quality Planning and Standards
U.S. EPA

Science Advisory Board Meeting
June 15, 2011



Statutory and Regulatory Background

- Clean Air Act (CAA) section 112 requires EPA to conduct a study of the hazardous air pollutant (HAP) emissions from electrical generating units (EGUs) in the U.S and determine whether it is "appropriate and necessary" to regulate such units
 - Under section 112(n)(1), Congress directed EPA to conduct a study to evaluate the hazards to public health reasonably anticipated to occur as the result of HAP emissions from U.S. EGUs after imposition of the requirements of the CAA
 - If EPA determines it is appropriate and necessary to regulate HAP emissions from U.S. EGUs, then EPA is required to issue emissions standards
- In December 2000, EPA determined that it was appropriate and necessary to regulate coal- and oil-fired U.S. EGUs and added them to the list of sources subject to regulation under section 112
 - EPA concluded that it is appropriate to regulate HAP emissions from EGUs because, among other things, U.S. EGUs are the largest domestic source of mercury emissions, and mercury in the environment presents significant hazards to public health and the environment
 - EPA concluded that it is necessary to regulate these emissions because the implementation of other requirements of the CAA will not adequately address the public health and environmental hazards arising from U.S. EGU HAP emissions



Statutory and Regulatory Background (continued)

- In March 2005, EPA determined that it was neither appropriate nor necessary to regulate HAP emissions from coal- and oil-fired U.S. EGU under section 112 and removed them from the list of sources to be regulated
- In February 2008, the U.S. Court of Appeals for the D.C. Circuit vacated this rule because EPA failed to follow the statutory requirements for delisting a source category
 - The Court did not address the appropriate and necessary finding
- The current risk assessment confirms the 2000 finding that it is appropriate and necessary to regulate U.S. EGUs
 - National-scale Mercury Risk Assessment designed to examine the nature and magnitude of risk to public health from exposure to mercury released from U.S. EGUs



Statutory and Regulatory Background (Continued)

- On May 3, 2011, EPA proposed National Emissions Standard for Hazardous Air Pollutants (NESHAP) for coal- and oil-fired U.S. EGUs
 - These proposed standards require reductions in mercury, metal HAPs, organic HAPs and acid gas HAPs
- National-scale mercury risk assessment, non-mercury case studies, and additional information provide analytical support for the rule
 - Confirms the finding by EPA from 2000 that it is appropriate and necessary to regulate HAP emissions from U.S. EGUs



Anticipated Schedule for the Rulemaking

Activity	Anticipated Schedule
SAB peer review on Hg Risk Assessment	June 15 - 17, 2011
End of public comment period on proposed rule	July 5, 2011
Draft SAB review letter on Hg Risk Assessment	Late July, 2011
Final SAB review letter on Hg Risk Assessment	Late August, 2011
Court-ordered signature date for the final rule	November 16, 2011

For additional information, see <http://www.epa.gov/ttn/atw/utility/utilitypg.html>