

**Hearing Before the U.S. House of Representatives
Committee on Oversight and Government Reform
Subcommittee on Energy & the Environment**

Statement of Mandy M. Gunasekara

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Chairman Rouda, Ranking Member Comer and members of the subcommittee. Thank you for the opportunity to testify today.

My name is Mandy M. Gunasekara and I am the Founder of Energy 45, a non-profit based in Jackson, Mississippi. The mission of Energy 45 is to inform the public of the energy, environmental and economic gains made under the Trump Administration. I am a Senior Fellow of the Texas Public Policy Foundation's *Life: Powered* project, which is dedicated to promoting economic freedom and advancing the human condition. I am also a Visiting Fellow at the Independent Women's Forum, which works to engage and inform women on policies that enhance their freedom, choices and opportunities. Finally, I volunteer on a range of boards and caucuses whose goal is to enhance the discussion and thought regarding today's leading environmental issues.

Prior to starting Energy 45, I served President Trump as the Principal Deputy Assistant Administrator in the Office of Air and Radiation at the U.S. Environmental Protection Agency. Previously, I served as Majority Counsel for Chairman Inhofe and for Chairman Barrasso on the United States Senate Environment and Public Works Committee. I also served in U.S. House of Representatives for Congressman Bob Latta as energy and environmental counsel.

Children's health is an extremely important issue. Beyond my public policy interests, I am a mother of two young children, so this hearing addresses an issue that is especially personal. I'm thankful they are growing up in a nation that celebrates the environment and in which our leaders strive to improve our world-leading status in clean air, clean water and cleaning up contaminated lands.

This Administration has taken a number of actions to improve children's health, including releasing information on successes and opportunities. This past October, EPA released a comprehensive [update](#) to its report on "America's Children and the Environment." This report shows that great progress has been made in protecting children from environmental harms.

There is much to celebrate, which is a testament to the talented engineers, scientists, economists and experts at the Agency who work hard every day to fulfill the mission of protecting public health and the environment for our children. There is also a clear recognition that more progress can be made. Under the Trump Administration's leadership, a range of rules and initiatives have been developed to secure and expand the success of this mission. A few examples include the new Lead and Copper Rule that would require daycares and elementary schools to sample for lead as well as the Healthy School's Initiative.

Children's health and the continuation of important programs are issues that warrant an earnest discussion. I no longer work for the agency, but I have no doubt that if any of the members of this committee or the stakeholders represented on the panel were to request a conversation with EPA to figure out ways the Agency can complement the ongoing work of the committee, EPA would jump at the opportunity.

Turning to one of the specific topics of today's hearing, the proposed revisions to the existing MATS standard would not threaten in any way the Nation's ongoing progress in improving children's health. That's because the proposal would not change the standard in any form, which is explicitly stated on the first page of the Federal Register notice:

[EPA] further proposes that finalizing this new response to *Michigan v. EPA* will not remove the Coal- and Oil-Fired EGU source category from the CAA section 112(c) list of sources that must be regulated under CAA section 112(d) and will not affect the existing CAA section 112(d) emissions standards that regulate HAP emissions from coal- and oil-fired EGUs.

In other words, the proposed MATS revision has nothing to do with changing mercury protections. Those suggesting that it does either have not read the rule or are purposefully acting in a disingenuous manner. The proposed MATS revisions aim to fix a dishonest accounting mechanism the last administration used that had the effect of justifying any

regulatory action regardless of costs. Such an approach flies in the face of Section 112 of the Clean Air Act and is wholly inconsistent with the Supreme Court's *Michigan* decision that remanded the 2012 rule back to the Agency. Recall in that decision, the Court found the Obama Administration's "Appropriate and Necessary" Finding underlying the 2012 rule to be fundamentally flawed because EPA failed to consider cost in making that finding. The Court specifically observed that it is not "rational, never mind 'appropriate,' to impose billions of dollars in economic costs in return for a few dollars in health or environmental benefits."

As an administrative agency, the U.S. EPA has an unavoidable legal obligation to respond to the Supreme Court's remand. Accordingly, this administration embarked on a process guided by science and the facts to determine whether or not regulating hazardous air pollutants (HAPS) from coal fired power plants under section 112 was 'appropriate and necessary' when properly considering costs. EPA has proposed to find that the last administration's Supplemental Finding was flawed and that, when considering costs relative to the HAP benefits, it is not appropriate and necessary to regulate this source under Section 112.

In particular and with regard to costs, the Agency determined that the disparity between compliance costs and relative benefits was so great that the Obama Administration's 'reasonableness' test was invalid. Additionally, under the traditional cost-benefit comparison, EPA found that the overreliance on co-benefits associated with the reduction of pollutants, primarily particulate matter (PM), that are controlled under other programs to be inconsistent with the statutory requirements of Section 112. To put this disparity in context, EPA estimated total compliance costs at \$7.4 to \$9.6 billion and that the total monetized benefits would be between \$37 billion and \$90 billion. However, when that number was adjusted to reflect only reductions of the targeted pollutant, *i.e.* mercury, the benefits drop down to \$4 to \$6 million. In other words, well under *one-one-thousandth* of the claimed benefits were from reductions in mercury, the actual pollutant of concern here.

Even with this determination, the proposed revisions explain the existing MATS standard will not be impacted because of unique features of Section 112 as interpreted by the controlling D.C. Circuit Court decision in *New Jersey v. EPA*. This decision has made clear the only way to remove the existing MATS standard would be to go through a delisting process laid out under Section 112(c)(9). EPA not only states unequivocally it is not proposing to delist the power plant source category, but that the related risk and

technology review proposal included in the regulatory package show that the source category does not meet the criteria for delisting even after the MATS rule has been fully implemented.

Beyond the proposed revisions to the MATS cost-benefit accounting and the determination that those revisions have no bearing on the existing standard, the agency proposed one other major action in the regulatory package. It completed the next phase of regulatory analysis referred to as the Risk and Technology Review or RTR. Under Section 112, the agency must determine if there is any residual risk to public health or the environment after implementation of MATS and whether there have been any new developments in practices, processes or control technologies that would justify a change in the existing emissions standards. Accordingly, the agency proposed that the existing MATS standard provides the requisite ample margin of safety to protect public health and to prevent adverse environmental effects and that there were no new developments in air pollution control methods that warrant a change to the current standards.

Prior to the February 2019 proposed revisions, the MATS rule was an egregious example of the previous administrations use of co-benefits to justify otherwise unjustifiable regulatory actions. Their disregard for costs was deemed inappropriate by the Supreme Court.

This administration's proposed revisions are not in any way about weakening existing protections, but rather fulfilling a legal obligation to properly respond to the Supreme Court through a process guided by science and the facts. If finalized, EPA's rule would establish an accounting process that properly addresses co-benefits, ensures future rulemakings are effective and holds true to the Clean Air Act's carefully crafted measure of balance.