

# PUBLIC SUBMISSION

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**Docket:** MSHA-2014-0031

Exposure of Underground Miners to Diesel Exhaust

**Comment On:** MSHA-2014-0031-0076

Exposure of Underground Miners to Diesel Exhaust: Request for Information; Reopening of Rulemaking Record; Extension of Comment Period

**Document:** MSHA-2014-0031-0102

Comment from v v, NA

## Submitter Information

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## General Comment

Repeal the Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (EGUs). Regulations requires cost to be taken into consideration in setting the standards . The (At Best) Merely Implicit Consideration of Costs Allowed in Setting "MACT-Floor" Standards proves Rather than Disproves the Relevance of Costs in Determining Whether Regulation Is Appropriate. EPA did not consider costs in setting standards for electric generators because virtually all of the standards it adopted were based on the "MACT-floor" methodology. To argue that costs are implicitly considered in setting MACT-floor standards in that those standards, have been achieved by some currently operating units. Recognize that setting standards in this fashion can result in extremely high compliance costs for the large majority of other units and can lead to plant closures. Other Section 7412 Context Supports Congress' Intent that EPA Consider Costs under Section 7412(n)(1)(A). study must also include an examination of alternative control technologies. Regulations should know whether control technologies were technically feasible, and economically feasible, many things are technically feasible but completely infeasible as a practical matter because of their cost. costs in Section 7412(n)(1)(B). Congress would want to ensure that EPA considered all relevant factors, including costs, No Valid Reason for Ignoring Costs Given the Rule's Extraordinarily Unbalanced Regulatory Costs and Benefits. Congress did adopt Section 7412(n)(1)(A) and directed EPA to regulate only if "such regulation" was "appropriate." EPA thus must do more to justify the appropriateness of the hugely disproportionate costs and benefits that occurred here than to pretend that Congress never instructed it to determine whether regulation with such

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consequences is appropriate . \$9.6 billion per year is not a steep price simply because facilities are being forced to pay it. No other industries have experienced the extraordinary regulatory costs under the MATS rule, and none has seen the wave of plant closures . Congress did not specify that EPA must make an appropriateness finding for these other industries before regulating under Section 741 . States supporting EPA that have adopted these standards like California are located far from country's coal fields. Companies supporting EPA are not large coal users, which stand to gain a competitive advantage under the rule. the rule was to have a transformative effect on the electric power sector, with projected retirements of one-sixth to one-quarter of all coal-fired electric generation which had supplied half of the country's electric power. Congress cannot be seen as having authorized regulation of such "vast economic and political significance, by instructing EPA to regulate only if "appropriate." EPA unreasonably ignored costs. NMA maintains that the costs and benefits of acid gas regulation did not become irrelevant when EPA made that determination. NMA Br. 42-44. Given the interplay between Sections 7412(n)(1)(A) and 7412(d), NMA maintains that Congress did not intend that EPA would regulate electric generator emissions that EPA had determined did not "warrant regulation." EPA's reasons for ignoring the cost of regulation are unquestionably relevant to the overall issue of the reasonableness of EPA's decision to ignore the cost of HAP regulation as a whole. 76 Fed. Reg. 24,976, 25,050-51 (May 3, 2011), where EPA discusses the health effects of acid gases if inhaled in sufficient amounts. In contrast, they ignore EPA's conclusion in the same Federal Register notice that acid gases in the amount emitted by electric generators (and dispersed over very wide areas) do not pose a cancer risk and that "our case studies did not identify significant chronic non-cancer risks from acid gas emissions." Id. at 25,016. Study does not show that electric generators in the United States emit acid gases in sufficient amounts to affect the acidification levels in domestic water bodies. EPA chose to force the domestic power sector to spend over \$5 billion per year to reduce emissions of a substance that EPA concedes does not present a significant health risk and that it cannot provide any concrete evidence is causing material acidification anywhere. It did so even though Congress adopted a separate program that was intended to cost-effectively ameliorate the power sector's contribution to acidification. NMA Br. 25-27. Given the paucity of evidence of any continuing impact that power sector acid gas emissions might be having on acidification, and given the huge costs that EPA's acid gas regulations imposed, EPA's refusal to consider the cost of those regulations was unreasonable.