

United States Senate

May 7, 2024

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

Dear Administrator Regan:

I write to continue the discussion we began earlier this week regarding the effects that the Environmental Protection Agency (EPA)'s final Mercury and Air Toxics Standards (MATS) rule could have on hardworking families in Colstrip, Montana and on ratepayers across the state. While I agree that we must have strong, common sense air pollution standards, I am hearing concerns from affected stakeholders in Montana that this final rule could severely harm access to base load power in Montana by directly resulting in Colstrip Units 3 and 4 being prematurely retired before replacement energy can be secured.

As I made clear during the Senate Appropriations hearing, safe, reliable energy generation is critical to good-paying jobs, keeping costs down for consumers and maintaining public health during extreme weather events. Rules made in Washington, D.C. need to actually make sense on the ground and I believe your agency missed the mark on this one. The EPA's final MATS rule mentions Colstrip by name 13 times, and acknowledges that these two units are the only ones projected to install the most costly particulate matter control upgrade option to come into compliance. It is simply not acceptable for the federal government to issue a rule that directly targets a singular energy source that supplies a significant portion of Montana's energy without providing a reasonable timeline to replace the potential job and energy production loss.

That's why the EPA must explore a path forward that improves clean air standards without putting Montana ratepayers and a Montana community at risk. Following your testimony before the Senate Appropriations Subcommittee on the Interior, I request clarity on two aspects of our conversation:

1. The final rule provides "additional flexibilities" to bring sources into compliance. In your testimony you mentioned these flexibilities include different types of control technologies, timing, and flexibilities that take the unique nature of the case and the state into consideration. What additional details can the agency provide on these flexibilities that will be available to bring Colstrip into compliance without bankrupting their facility and leaving thousands of Montanans out in the cold?

2. A major hurdle for Colstrip Units 3 and 4 is the estimated \$350 million in capital investments it would take to bring these units into compliance so close to their 2042 depreciation date. That is why Colstrip operators and the local workforce separately pushed for a reasonable compliance timeline to more stringent non-particulate metal standard (fPM). During your testimony you mentioned your team's doubt that the compliance costs would be hundreds of millions of dollars, especially in light of the technology available. What details can you provide on the plans and technology that your agency has that would bring the costs of compliance down from the estimated \$350 million to an amount that would be justifiable to invest in a retiring plant?

I believe protecting Montana's clean air is critically important. Clean air is a key part of our outdoor economy and our families' health. But rules made in Washington D.C. need to be rooted in reality, and I am concerned that your Agency failed to take this community and the state of Montana into account when finalizing this one. I await your timely response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Tester", with a long horizontal flourish extending to the right.

Jon Tester
United States Senator