The Honorable Scott S. Harris  
Clerk  
Supreme Court of the United States  
One First Street, N.E.  
Washington, D.C. 20543

Utility Air Regulatory Group v. EPA, et al., No. 14-47  
National Mining Association v. EPA, et al., No. 14-49

Dear Mr. Harris:

In its final rule, EPA responded to comments about the consideration of costs in establishing subcategories in the Mercury and Air Toxics Standards (MATS) rulemaking in the following way:

Failing to demonstrate that coal-fired EGUs are different based on emissions, the commenters turn to economic arguments, asserting that failing to subcategorize will impose an economic hardship on certain sources. Congress precluded consideration of costs in setting MACT floors, and it is not appropriate to premise subcategorization on costs either. See S. Rep No. 101-228 at 166–67 (5 Legislative History at 8506–07) (rejecting the implication that separate categories could be based on “assertions of extraordinary economic effects”); see also NRDC v. EPA[,] 489 F.3d 1364 (D.C. Cir. 2007) (holding that EPA properly declined to create a subcategory for a particular source and rejecting the argument that the source may have to incur more costs to comply with the rule without such subcategory).


Petitioners would appreciate it if you could distribute this letter to members of the Court for their consideration.
Mr. Harris
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March 27, 2015

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CERTIFICATE OF SERVICE
Nos. 14-46, 14-47, 14-49

State of Michigan, et al.,

Petitioners,

v.

U.S. Environmental Protection Agency, et al.,

Respondents.

I, Aaron D. Lindstrom, do hereby certify that, on this 27th day of March, 2015, I caused a copy of the preceding letter in the foregoing consolidated cases to be served by email on the following parties. The paper copies will be mailed on Monday, March 30, 2015.

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