

**Coalition Letter to Members of the
Environmental Quality Board
On Reducing Mercury Emissions from Power Plants**

May 11, 2006

Dear EQB Member:

On May 17th you will be asked to vote on a proposed rule reducing mercury emissions from power plants. Our coalition of labor and business groups and the coal industry support significant reductions in mercury emissions. However, the regulation proposed by the Department of Environmental Protection (DEP) would mandate reductions in a way that would lead to:

1. The loss of good-paying jobs in Pennsylvania;
2. The premature retirement of smaller, older coal-fired power plants;
3. Forcing power generators to consider switching to out-of-state coal supplies;
4. Higher costs for electric customers; and
5. More importantly, no additional health benefits over those provided by the federal Clean Air Mercury Rule.

For the above reasons, we ask that you either amend the regulation to include the language contained in the federal Clean Air Mercury Rule, or vote against DEP's proposal.

No Added Health Benefits

The bottom line in the discussion of whether or not to adopt DEP's proposed rule or participate in the federal Clean Air Mercury Rule is this: will there be any added health benefit from adopting DEP's proposed rule?

The answer is no.

Neither DEP nor any other group has presented any information showing any net positive health benefits from adopting DEP's proposed rule.

In fact, modeling shows there is virtually no difference in mercury deposition in Pennsylvania between the federal rule and eliminating all mercury emissions from all U.S. power plants.

Alleged "Hotspots"

DEP and others contend that a cap and trade system would create mercury "hotspots" around power plants because mercury allegedly tends to fall "locally."

No information was presented to DEP's Mercury Work Group that identified any mercury "hotspots" in Pennsylvania. Also the definition of "local" as used by DEP when

they describe mercury deposition actually refers to distances of 400 miles or more from a power plant, much greater than the width of the entire state of Pennsylvania.

Studies by the Brookhaven National Laboratory attempting to specifically identify “hotspots” by measuring mercury deposition around existing power plants, including one in Pennsylvania, determined there is no evidence “hotspots” exist.

The federal Clean Air Mercury Rule will require mercury emission reductions by Pennsylvania power plants of 64 percent by 2010 and a total of 86 percent by 2018. Controls will be required to meet this rule because the reductions required are simply too great to be achieved through buying credits alone. Even DEP acknowledges this to be the case.

With the cap and trade program implemented under the new federal Clean Air Interstate Rule, DEP estimates 90 percent of the generating capacity in Pennsylvania will have to install advanced air pollution control equipment that will reduce not only sulfur dioxide and nitrogen oxide emissions, but mercury as well.

Mercury in Sensitive Populations

Three conditions are needed to have a mercury “hotspot” threaten public health--power plant emissions with sufficient concentrations of mercury, a large body of water where those emissions can be deposited and ingested by fish in the aquatic food chain, and finally having individuals eat a sufficient quantity of fish from that body of water to cause health effects.

Dr. Jack Snyder, an M.D. and Toxicologist from the Annapolis Center for Science-Based Public Policy, told the Senate in testimony that there is “no credible evidence supporting speculation that any women, children, or fetuses have been harmed, or have been placed at increased risk of harm, as a result of eating fish obtained from bodies of water in Pennsylvania or other parts of the United States.”

In addition to being a licensed physician in Pennsylvania, Dr. Snyder spent 15 years on the faculty of the Jefferson Medical School in Philadelphia.

With respect to current levels of mercury currently in sensitive populations, the U.S. Centers for Disease Control did a nationwide study of women of childbearing age, infants and young children and did not find a single case where mercury levels came anywhere near those required to cause adverse health effects.

Using the level of mercury at which humans may see some health risk, according to the U.S. Environmental Protection Agency, a 160 pound individual would have to eat 22.8 pounds of catfish or 15.5 pounds of freshwater trout a week, each week, for 70 years or more before any health consequences are observed.

True Cap and Trade Program

DEP’s proposed rule lacks a market-driven cap and trade program to promote early reductions of mercury emissions in a verifiable and cost-effective way.

According to DEP, cap and trade programs have worked to significantly reduce air emissions that cause acid rain and summertime ozone pollution in a cost-effective way. Just like those pollutants, mercury travels great distances and moves from west to east across Pennsylvania. Just like those pollutants, mercury deposition varies considerably based upon weather and seasonal precipitation patterns.

Mercury is only an indirect threat to health. According to DEP, there is no health threat from breathing in mercury in ambient air. The health threat is from eating fish that may contain mercury deposited in water and ingested by the fish in their food chain.

A true cap and trade program is needed to help achieve earlier and verifiable mercury emissions reductions here in Pennsylvania, to minimize or eliminate incentives to switch to lower-mercury content, out-of-state coal and to avoid the premature retirement of power plants.

Under a cap and trade program, power plants would own the surplus credits they generate by early and over-control of mercury emissions. They can then sell those credits to other generators who may have smaller plants where the installation of advanced air pollution control equipment may not be technically possible or cost-effective.

If a true cap and trade program is not adopted, generators will have no option except to evaluate how to comply with the rule by switching to lower-mercury bituminous coal mined outside the state or subbituminous coal produced in the West, in-lieu of or in addition to installing advanced air pollution controls. The mercury content of coal in Pennsylvania can be as much as twice as high as coal from West Virginia, Kentucky, Wyoming and other states (see attachment).

If an economically viable compliance strategy cannot be found, the effect of DEP's proposal will be to risk the premature retirement of smaller generating units in Pennsylvania representing approximately 20 percent of the state's coal generating capacity. The early retirement of these plants would not only eliminate good-paying jobs, but also potentially significantly affect the availability of electric generating capacity in the state.

In fact, PJM, the operator of the regional electricity grid, came to a similar conclusion in a submission to the U.S. Department of Energy supporting the development of high capacity electric transmission lines that would bring power from the west and south through Pennsylvania to New Jersey.

“New limits on mercury emissions from coal-fired power plants now under consideration in Pennsylvania, New Jersey and Maryland, among other states, may prove to be an important factor in potential future retirements. PJM has been closely monitoring the states’ deliberations on these requirements; its analyses indicate that, should the current proposed requirements be adopted, as much as 4,000 MW of older, coal-fired generation capacity potentially could be retired because the investment needed at such units to meet the new emission limits would be deemed uneconomic.”

Disincentives for Early Reductions

DEP's proposal does contain a “trading” system that would permit only DEP to bank allowances for over-control of mercury emissions and allow only DEP to assign them to electric generators who do not comply with this proposed rule.

But, DEP's system actually provides a disincentive for power plants to over-control mercury emissions because the plants do not own the allowances. Plant owners have no opportunity to recoup their investment in extra air pollution control equipment. In addition, DEP could assign allowances to a market competitor that was not able to meet its emissions cap, creating a situation where one generator is subsidizing the costs of emissions control at a competing generating facility.

These disincentives mean there is no guarantee that any over-control allowances will be available under DEP's system, further weakening DEP's goal of reducing mercury emissions by 90 percent.

Unconstitutional Provisions

As already noted, under DEP's proposed rule, electric generators are presumed to be in compliance if they burn bituminous coal. While this is a welcome, but misguided attempt to address issues related to the use of Pennsylvania coal, it unfortunately represents a state attempt to create a preference for certain types of coal that may be unconstitutional under recent court rulings.

The fact that the DEP rule does not specifically identify "Pennsylvania" bituminous coal for favored treatment does not shield the rule from legal attack from other states, in particular western coal states.

If, in fact, this provision of the rule is struck down by the courts, Pennsylvania coal miners, electric generators and the coal industry would be left with a rule that not only offers no preference for bituminous coal, there would be no true cap and trade system to provide the flexibility needed to retain the use of Pennsylvania coal in Pennsylvania power plants.

The overall impact of the rule is to discourage the use of higher-mercury Pennsylvania coal and encourage the use of out-of-state coal, in spite of claims to the contrary.

Furthermore, because Pennsylvania coals are comparatively high in mercury and recognizing that bituminous coal is not just produced in Pennsylvania but is also mined in about thirteen other states east of the Mississippi, the bituminous coal preference could have the unintended consequence of inducing Pennsylvania's power generators to switch to bituminous coals with a lower mercury content mined outside the state.

Increasing the Cost of Electricity

Each requirement imposed on electric generators that cannot be justified by additional health or environmental benefits means the cost of electricity to customers will increase for no reason.

For Pennsylvania in particular this is a significant problem. If coal-fired generating capacity is retired prematurely, the reduction in generating capacity will not only have an impact on the availability of electricity, as PJM pointed out, it will also directly increase the cost of electricity to customers at a time when rate caps will be expiring.

We have already seen increases in electricity rates of 60 – 70 percent or more in other states as rate caps expire and utilities purchase electricity on the open market for their customers.

Given the warning flag PJM already raised, it does not make either environmental or economic sense to impose a Pennsylvania-specific rule that provides no incremental environmental benefits over the federal mercury reduction rule.

For these reasons, and many others, we urge you to amend DEP's proposed rule to adopt the federal Clean Air Mercury Rule or vote against DEP's proposal.

DEP's proposal represents a major public policy issue for Pennsylvania. We want to let you know we are supporting bipartisan legislation pending in the General

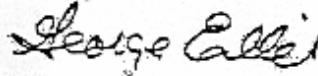
Assembly-- Senate Bill 1201 and House Bill 2610 -- that would adopt the federal Clean Air Mercury Rule for Pennsylvania. A summary of that legislation is attached.

Thank you for considering this information in your decision-making process on the mercury rule.

Sincerely,



Edward D. Yankovich, Jr.
International Vice President, District
United Mine Workers of America



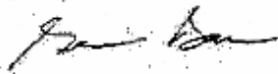
George Ellis
President
Pennsylvania Coal Association



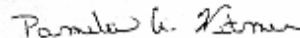
Donald C. Siegel
International Vice President
International Brotherhood of Electrical
Workers



Douglas L. Biden
President
Electric Power Generation Association



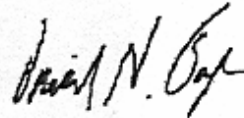
Eugene Barr
Vice President
Pennsylvania Chamber of Business and
Industry



Pamela A. Witmer
President
Pennsylvania Chemical Industry
Council



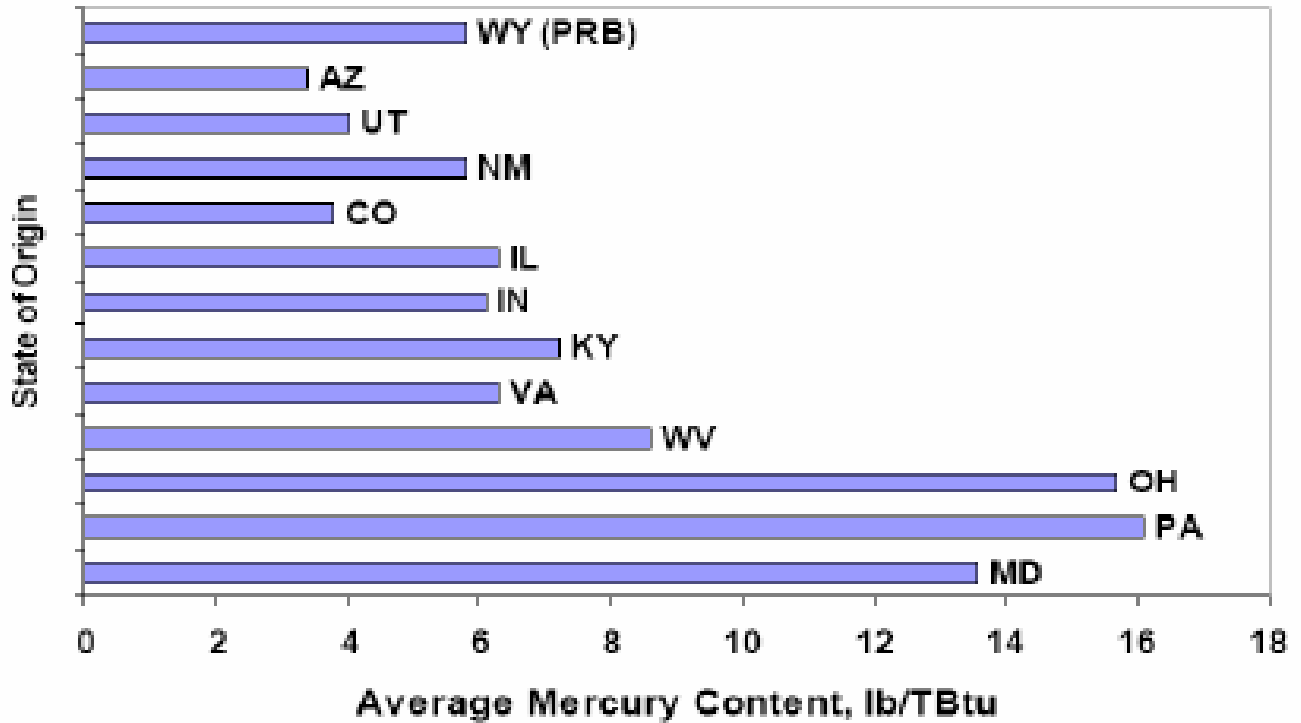
Rolf Hanson
Executive Director
Associated Petroleum Industries of
Pennsylvania



David N. Taylor
Executive Director
Pennsylvania Manufacturers'
Association

Attachments

Mercury Contents of Bituminous and PRB Coals*



*Based on EPA ICR Part II Data

Summary

PA Clean Air Mercury Compliance Act

86% Mercury Reduction: Senate Bill 1201 and House Bill 2610 will require an 86 percent reduction in mercury emissions from Pennsylvania power plants by 2018, one of the most stringent requirements in the nation.

Labor, Business, Coal Support: This legislation is supported by a coalition of labor, business and coal organizations because it dramatically reduces mercury emissions in a way that protects good-paying jobs in Pennsylvania and electric customers. The coalition includes:

United Mine Workers of America	Pennsylvania Coal Association
International Brotherhood of Electrical Workers	Electric Power Generation Association
PA Chamber of Business and Industry	PA Chemical Industry Council;
Pennsylvania Manufacturers Association.	Associated Petroleum Industries of PA

Incentives for Early Reductions: By adopting a cap and trade program, this legislation gives power plant owners in Pennsylvania economic incentives to reduce mercury emissions below the minimums, and faster than the law requires, because it allows plant owners to sell these extra reductions to other power plant owners through participation in the national emissions trading program.

PA Power Plants Will Have Controls: The Department of Environmental Protection said 90 percent of the electric generating capacity in Pennsylvania will install advanced air pollution reduction controls in the next few years to reduce mercury, sulfur dioxide and nitrogen oxide emissions right here in Pennsylvania.

Mercury Travels Hundreds of Miles: Mercury emissions are a global and regional issue because they travel hundreds and thousands of miles. Mercury emissions from U.S. power plants are 1 percent of total global emissions. Pennsylvania power plants make up 0.09 percent of global emissions.

Part of a Nationwide Mercury Reduction Effort: This legislation makes Pennsylvania part of a nationwide effort to reduce mercury, sulfur dioxide and nitrogen oxide emissions from power plants under the federal Clean Air Interstate Rule and the federal Clean Air Mercury Rule that work together to dramatically reduce air pollution. This is the first effort in the world to reduce mercury emissions from power plants.

Other Background:

“Alleged Hotspots:” According to studies by Brookhaven National Laboratory there is no evidence of “hotspots” (areas close to power plants that have high mercury concentrations). A study of Steubenville, OH often cited as proof there are hotspots actually found that mercury is deposited over a 400 mile area, not locally.

No Threatening Levels of Mercury Found: A nationwide study of women and infants by the U.S. Centers for Disease Control found none with a level of mercury in their blood that even approaches a level which would cause adverse health effects.

Mercury Comes From Eating Fish: The Department of Environmental Protection said health threats from mercury comes from eating fish containing traces of mercury, not from breathing it in.

DEP Proposal Threatens Jobs: A mercury reduction rule proposed by DEP would promote the early retirement of electric generating plants, threatening good paying jobs, force generators to look outside Pennsylvania to buy their coal and potentially increase costs for electric customers.

Other Attachments

Reality Check #1
Regulating Mercury Emissions in Pennsylvania
[Labor and Coal Industry Positions on DEP Mercury Regulation](#)

Reality Check #2
Regulating Mercury Emissions in Pennsylvania
[Will “Cap and Trade” Significantly Reduce Mercury Emissions in PA?](#)

Testimony of
[Dr. Jack W. Snyder](#)
[Annapolis Center for Science-Based Public Policy](#)
Before the
Senate Environmental Resources and Energy Committee