

June 29, 2004

EPA Docket Center (Air Docket)
U.S. EPA West (6102T)
Room B-108
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

RE:Docket ID number OAR-2002-0056 "National Emission Standards for Hazardous Air Pollutants for Utility Air Toxics"

Dear Sir/Madam:

On behalf of the United States Conference of Catholic Bishops, the Catholic Health Association of the United States, the National Catholic Rural Life Conference, the National Council of Catholic Women, and the National Catholic Educational Association, we appreciate the opportunity to comment on the proposed rule by US Environmental Protection Agency (EPA) to reduce mercury emissions from electric utilities.

As Catholics, we share the belief with other people of faith that we are called to be stewards of God's creation and to actively participate in sustaining creation by caring for our children and their physical environment. We believe that every person possesses a fundamental dignity that comes from God. In our view, human life deserves full respect and protection at every stage and in every condition. We defend the right to life and the right of children to live with dignity and to realize the bright promise and opportunity of childhood. We are particularly concerned about the most vulnerable among us, the powerless, and children who most often directly bear the burden and suffer disproportionately from the harmful environmental effects of toxins.

Because of our concerns about environmental health, the Catholic community has formed a coalition of major Catholic institutions and networks, the Catholic Coalition for Children and a Safe Environment (CASE), which includes our organizations. The purpose of CASE is to address in particular the environmental hazards affecting children's health. Based on our extensive experience in providing health care and social services to many children and families, particularly among the poor, we are concerned that they remain unaware about the harmful effects of toxins such as mercury, as well as other toxins.

We are especially concerned with how the proposed mercury rule might affect the protection of humans, particularly developing humans (i.e. children in utero, infants, young children and adolescents). As you know, the ability of children's bodies to cope with harmful substances is significantly less than that of adults. A mother's womb is a child's first environment; yet from conception, unborn children may face a disproportionate threat to their neurological development from environmental exposures to toxins such as mercury. According to public health experts, neurological damage caused by mercury exposure is irreversible. Children's futures can be undermined by the release of harmful toxins like mercury in our environment.

In addition, the health and welfare of children in low-income families is already compromised by the poor quality of housing and air quality to which they are disproportionately exposed. We are concerned that low-income families who already suffer from multiple environmental exposures and who often live in proximity to emitting sources would have to bear even additional health burdens.

Proposed Rule

We support the Agency's intention to reduce mercury and other harmful emissions from power plants. Executive Order 13045 directs each Federal agency to "make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children" and to "ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks."

Even before this order, the Agency's October 1995 policy directive requires the EPA to consistently and explicitly evaluate environmental risks of infants and children in all risk assessments, risk characterizations, and

in setting environmental and public health standards. The history of EPA's regulation of mercury emissions from other sources, such as medical waste and municipal solid waste incineration, has been effective in achieving significant reductions.

In light of our ethical perspective and service based experience, we write to explicitly state the principles we believe should guide the development of the proposed mercury rule and urge the EPA to follow these principles when setting its guidelines and standards under the new rule:

- *A central role of government is to protect the dignity of the human person and foster the common good of society.* In fulfilling this obligation, it is necessary for the state to establish regulations to ensure adequate protection of life and health. While the regulatory function of government should be to protect the health of all individuals, the needs of the most vulnerable deserve priority protection.
- *Since children are the most vulnerable among us, the regulations governing emissions should set standards that reflect this vulnerability.* Children are growing and therefore they eat, drink and breathe more than adults. They are likely to be more exposed to substances in their environment than are adults, have higher metabolic rates than adults and are different from adults in how their bodies absorb, detoxify and excrete toxicants.
- *Pregnant women and unborn children should be especially protected from exposure.* Additionally, every effort should be made to eliminate the possibility that developing humans (i.e., children in utero, infants, young children, or adolescents) be exposed to toxic chemicals. Children, particularly children in utero, face periods of greater vulnerability. During critical stages of development, exposure to toxicants, such as mercury, may result in irreversible damage when the same exposure to a mature system may result in little or no damage.
- *Children from low-income families are most likely to be affected, and must therefore be protected.* Children in general do not have control over their environment and are not able to remove themselves from harmful situations, but this is particularly true of children from low-income families. Low-income families most often lack the resources to remove themselves and their children from harmful environments.

We also wish to share several specific concerns regarding the proposed regulations. First, we are concerned about the Agency's effort to remove mercury from EPA's list of hazardous (toxic) air pollutants emitted from power plants. EPA's draft proposal would rescind the December 2000 EPA finding that mercury emissions from power plants constitute hazardous air pollution requiring the maximum amount of technologically achievable reduction. Instead, EPA has proposed to exempt mercury emissions -- only those from the utility industry -- from the level of reduction mandated by the Clean Air Act for a hazardous air pollutant.

Since mercury is clearly a hazardous air pollutant as defined under the Clean Air Act, the bases for making this change are not clear to us. We are concerned about this approach, which might allow for less effective requirements for decreasing mercury emissions and could have negative consequences for children's health.

Second, the proposed rule delays mercury emissions reductions, unnecessarily. This delay would expose vulnerable populations to additional toxic exposure over a longer period of time creating additional health problems. The proposed rule takes years longer than the law permits. EPA is legally required to reduce mercury emissions to the maximum extent possible by February 2008 (three years after the new regulations become effective). We urge the EPA to meet the 2008 deadline.

Finally, while we recognize that allowing utilities to buy and sell emission credits of non-hazardous air pollutants to decrease total emissions may be beneficial to the environment and public health, allowing utilities to buy and sell mercury emission credits using the proposed "cap-and-trade" regulatory model could be problematic. Mercury is a toxic substance and a hazardous air pollutant that poses a serious health threat to the unborn and the young. We have no position on "cap and trade" as a regulatory model, but we are concerned that children and low-income families who live in "hot spots" will suffer disproportionately from the continuing and possibly increased emissions of mercury allowed under this proposal.

We appreciate your efforts to protect the health of present and future generations from the harmful threats of mercury in our environment. We thank you for the opportunity and for your consideration of our views in your efforts to carry out the EPA's mission to protect public health and the environment.

We urge EPA to promulgate a mercury rule that results in the most child-protective and cost-conscious reduction of mercury from coal-fired power plants that is possible.

Sincerely,

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United States Conference of Catholic Bishops

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