

**POISONING OUR SKIES:
President Bush's Proposed Mercury Regulation**



League of Conservation Voters

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Executive Summary

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Under the Bush Administration, the Environmental Protection Agency has recommended a change in the way they regulate the amount of toxic mercury emitted into the air. Today, June 24, 2004, there are six days left in the public comment period. The change will leave too much mercury in our air for too much time and will risk exposing pregnant women and children to a dangerous neurotoxin that can have serious health-related repercussions. While technology exists to reduce mercury levels by 90 percent before 2008, the EPA has proposed regulations that will reduce mercury emissions just 70 percent by 2018. EPA has shown, despite their own finding, that the new regulation might not succeed in reaching even this significantly reduced standard until 2026. In proposing this regulation, the Bush administration has worked closely with the electric utility industry – a major campaign contributor. Indeed, portions of electric utility lobbying memos appeared nearly verbatim in the EPA’s suggested regulation, and the industry has been aided by high-ranking EPA political appointees who recently served as industry lobbyists. These officials have misled the American public into believing that the technology to reduce mercury emissions is simply not ready, when in fact the technology has been developed, tested, and implemented. Ultimately, the electric utility industry will save billions by not having to immediately meet the Clean Air Act’s Maximum Achievable Control Technology standards. This change will reward at least 10 Bush Rangers and Pioneers and dozens of other companies for the \$6 million in contributions they have given to Bush since 1999. EPA estimates that in 2001 coal-fired units emitted more than 48 tons of mercury into our skies with the majority of this pollution coming from states like Pennsylvania and Ohio where mercury accumulation has already taken its toll and caused issuance of statewide fish consumption advisories for all lakes, rivers, and streams. EPA administrator Mike Leavitt has recently stepped back from the proposed regulations and has said additional studies will be done. On the other hand, Leavitt has also defended the regulation. Forty-five Senators and ten state Attorneys General have written to the EPA asking that the proposals be scrapped and rewritten. Time to comment on the EPA’s proposed rules is running out – the deadline is June 30, 2004. A final decision will be made in March 2005, and the United States will have a plan to reduce mercury emissions. The question still remains whether the plan will first benefit the electric utility industry or public health. This report states the following:

- **Mercury Is A Poison.** Mercury is a neurotoxin that can cause damage to the brain and nervous system. Children are the most susceptible population, and significant impact can occur while breastfeeding or in the womb. An EPA analysis released in February of this year projected that up to 630,000 infants born in the United States in 2000 were at risk of unsafe levels of mercury in their blood. The same analysis indicates that one in six women has enough mercury in her system to put a fetus at risk. Studies have shown that mercury contributes to heart disease in adults.
- **EPA Mercury Proposal Leaves Too Much Mercury In The Air For Too Long.** The EPA proposal would reduce mercury emissions by 70 percent by 2018 by using a “cap and trade” method allowing electric utilities to buy and sell emission allowances. Critics contend that this method would create mercury “hotspots” across the United States meaning that certain locations would see increases in their mercury emissions and deposition, even though national averages would show a reduction of emissions. The Clean Air Act requires EPA to set a Maximum Achievable Control Technology standard, which could reduce mercury emissions by 90 percent by 2008 at every power plant.

- **Regulation Will Save Billions For Electric Utility Industry.** The biggest beneficiaries of the proposed regulation are the electric utilities who will save billions of dollars by not having to meet the Maximum Achievable Control Technology standard. Electric utilities have been major contributors to the Bush campaign, having doled out nearly \$6 million. Their ranks include 10 former and current Pioneers and Rangers. This money has purchased considerable political influence. One of their former lobbyists, Jeffrey Holmstead, is now the Assistant Administrator for Air and Radiation. Holmstead is so industry-friendly that he was the preferred choice of the National Petrochemical and Refiner's Association to succeed Christine Todd Whitman as EPA Administrator.
- **The United States Can't Wait 14 Years To Reduce Mercury Emissions.** States simply can't wait 14 more years for companies to reduce their mercury emissions. More than 40 states have issued some type of fish consumption advisory due to mercury contamination. Millions of people live within a 10-mile radius of these mercury-emitting plants, and rainwater samples in many of these states exceed the Great Lakes Standard for Wildlife.

MERCURY IS DANGEROUS TO OUR HEALTH

When one thinks of mercury one should think of hazardous substances like asbestos, lead, arsenic, and nicotine, all of which do irreparable harm to human health. While one hand of the EPA is issuing fish consumption advisories to keep women and small children from eating tuna due to mercury contamination, the other hand is extending the deadlines that companies must meet to reduce their mercury emissions. Doctors have criticized the Bush administration for not taking the mercury threat seriously enough. When up to 630,000 infants each year are born at risk of unsafe levels of mercury in their blood, how can we afford to not take mercury seriously?

MERCURY IS A DEVELOPMENTAL NEUROTOXIN

Mercury Prevents Brain Cell Development

National Academy of Science: Mercury Prevents Development of Babies' Brain Cells. The National Academy of Sciences has declared that when consumed by pregnant women, usually in fish, mercury disrupts the development of brain cells in their babies. [[Cox News Service](#), 12/2/03]

CDC: 8 Percent Of Women Have Mercury In Their Blood. The Centers for Disease Control and Prevention recently found that 8 percent of women of childbearing age had mercury in their blood exceeding levels considered safe by the EPA. [[Associated Press](#), 12/2/03]

Hundreds Of Thousands Of Children Are Damaged By Toxic Emissions. Clear the Air (CTA), a coalition of the National Environmental Trust, Clean Air Task Force, and PIRG, has estimated that up to 320,000 children, or 1 in 200, suffer from neurological defects caused by exposure to known toxic substances. These toxic substances are often neurological toxins, which are released by power plants. CTA notes that this is a low estimate because it only uses well-defined cases of developmental and neurological defects and does not use more subtle cases in developing this number. [[Toxic Neighbors: A Report By Clear the Air](#), Page 13]

Power Plant Emissions Have Dangerous Impacts On Children

Power Plant Emissions Cause Learning Disabilities. Amongst the major problems associated with power plant emissions are learning disabilities and attention deficits. The National Academy of Sciences (NAS) has concluded that as many as three percent of known developmental and neurological deficits in children are caused by exposure to known toxic substances, including developmental and neurological toxins. [[Toxicological Effects of Methylmercury](#), National Academy of Sciences, <http://books.nap.edu/books/0309071402/html>]

Passing Mercury From Mother To Child Causes Irreparable Effects. High levels of mercury passed from mother to child in utero were shown in a long-term study to produce irreversible impairment to specific brain functions in children, in a study in Japan, Denmark, and the Faroe Islands. The observations were found at both 7 and 14 years of age, suggesting that this effect is lasting. A second study of the same children also linked increased mercury concentrations and damaged brain functions to decreased nervous system control of the heart. [OBGYN & Reproduction Week, Monday, March 1, 2004, discussing article in the February 2004 issue of the Journal of Pediatrics.]

EPA: One in Six Infants Are Born At Risk Of Unsafe Levels Of Mercury In Blood

February 2004: EPA Scientists Estimate That As Many As 630,000 Infants Were At Risk Of Unsafe Levels Of Mercury In Their Blood In 2000. EPA scientists released new research estimating that 630,000 out of the 4 million babies born in the U.S. each year are at risk of unsafe levels of mercury in their blood. [[Scripps Howard](#), 2/04/04; [New York Times](#), 2/10/04]

- **White House Barred Release of an Earlier Study.** In May 2002 the White House barred release of an EPA report that showed 8 percent of women from 16 to 49 had blood levels of mercury that could reduce the IQ and motor skills of their children. Only when the report was leaked to reporters at the [Wall Street Journal](#) was it released by the White House. [[Union Of Concerned Scientists: Scientific Integrity In Policy Making](#), February 2004]

DOCTORS SAY MERCURY IS MAJOR PUBLIC HEALTH THREAT

Doctors Say Bush Administration Isn't Taking Mercury Seriously Enough

Physicians For Social Responsibility: "Bush Administration Continues To Pretend That Mercury Is Not As Dangerous As It Really Is." Dr. Michael McCally, president of Physicians for Social Responsibility, told the EPA during a hearing on proposed mercury regulations that the neurotoxin has a detrimental impact on the development of the brain and nervous systems. McCally said, "Consuming mercury-laden fish can damage the developing brain and nervous system, leading to developmental deficiencies and delays in walking and talking, yet the Bush administration continues to pretend that mercury is not as dangerous as it really is." [[Associated Press](#), 2/25/04]

NC Doctor: Amount Of Mercury In Patients' Blood Is "Through The Roof." During an EPA hearing on the proposed mercury regulation, Dr. John Pittman, of Raleigh, NC, said mercury exposure can cause permanent brain and kidney damage and has been linked to heart disease and Alzheimer's disease. He added, "The amount of mercury (in patients) is through the roof. Everything we can do to eliminate mercury from our environment has to be done." [[Associated Press](#), 2/26/04]

MERCURY IS POISONING OUR FOOD SUPPLY

EPA and FDA Advise Restricted Tuna Consumption Due To Mercury Contamination

March 2004: EPA And FDA Issue Consumption Advisory For Mercury In Fish. In March 2004, the Environmental Protection Agency and the Food and Drug Administration issued a national Fish Consumption Advisory stating that pregnant woman and small children should limit their intake of canned albacore tuna to no more than 6 ounces per week – the equivalent of one meal – due to levels of mercury that are present in that fish. [Food and Drug Administration Consumer Advisory, <http://vm.cfsan.fda.gov/~dms/admehg.html>; [Washington Post](#), 3/20/04]

December 2000: EPA Found A Plausible Link Between Coal-Fired Utility Emissions And Mercury In Fish. In December, 2000 the EPA found that there is a plausible link between mercury concentrations in fish and mercury emissions from coal-fired utility units. [[Federal Register](#), 1/30/04, Page 4656]

More Than Forty States Have A Fish Consumption Advisory

Fish Advisories Have Been Issued In Over 40 States. Warnings about mercury contamination in fish caught in local waters have been issued in over 40 states. In 14 states there is a warning against eating fish from all state rivers and lakes. [[New York Times](#), 2/24/03; [EPA Fish Consumption Advisory Fact Sheet, <http://www.epa.gov/waterscience/fish/advisories/factsheet.pdf>]

More Than 12 Million Acres Of Lakes And 400,000 Miles Of Rivers Have Fish Consumption Advisories. Across the country, more than 12 million acres of lakes and 400,000 miles of rivers are under advisory, warning people to avoid or limit fish consumption due to mercury pollution. [EPA Fish Consumption Advisory Fact Sheet, <http://www.epa.gov/waterscience/fish/advisories/factsheet.pdf>]

MERCURY DAMAGES WILDLIFE

Mercury Hurts Our National Symbol

Eagles And Other Predatory Birds Are At Risk For Exposure To Mercury. The longer that mercury stays in our environment the greater the risk for our national symbol, the eagle, and other predatory birds. A 1995 study by A.M. Scheuhammer entitled [Methylmercury Exposure And Effects In Piscivorous Birds](#) stated, "Predatory species associated with aquatic food chains are generally at greatest risk for Hg (mercury) exposure, and should most readily reflect changes in environmental Hg bioavailability. These species include fish-eating birds such as loons, merganser ducks, osprey, eagles, herons, and kingfishers." [<http://www.eman-rese.ca/eman/reports/publications/mercury95/part1.html>, Accessed 2/26/04]

EPA COULD MORE STRICTLY REGULATE MERCURY

At the heart of the mercury debate is whether the EPA should require coal-fired plants to install the Maximum Achievable Control Technology to reduce mercury emissions by 90 percent or whether the utilities should be allowed to trade emission credits and improve their environmental controls as they see fit in order to achieve a 70 percent reduction by 2018.

EPA Plan Leaves Too Much Mercury In The Air For Too Long

EPA Plan Leaves Too Much Mercury In Air For Too Long. The main problem with the EPA mercury proposal is that it leaves too much mercury in the air for too long a period of time, said former EPA Administrator Carol Browner during a CNN News Night interview. Browner said under the current law a 90 percent reduction in mercury emissions would be possible, but the EPA proposal would achieve a 70 percent reduction over 13 years. [[CNN News Night](#), 12/3/03]

EPA Finding Requires Implementation Of MACT

2000: EPA Found That Plants Should Be Regulated Under Strict Clean Air Act Provision. In December 2000, the EPA found that coal and oil fired utility units should be regulated under Section 112 of the Clean Air Act, which would require utility units to meet hazardous air pollutant emissions standards by applying Maximum Achievable Control Technology (MACT). [<http://www.epa.gov/mercury/1880338.pdf>, Page 2]

MACT Would Reduce Mercury Emissions By 90 Percent By 2008

Installation Of Maximum Achievable Control Technology Could Result In 90 Percent Reduction Of Toxic Emissions. The installation and optimization of fabric filters, electrostatic precipitators, and sulfur dioxide scrubbers could result in reductions of toxic air emissions by more than 90 percent. [Toxic Neighbors: A Report By Clear the Air, Page 2; Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 35]

EPA PROPOSAL WOULD GIVE 14 YEARS TO REDUCE MERCURY EMISSIONS

EPA Proposal Would Reduce Mercury Levels By 70 Percent Over 14 Years

Bush Proposal Sets Mercury Levels At 34 Tons by 2010. The cap and trade proposal would begin by limiting mercury levels at 34 tons by 2010, and then capping them at 15 tons by 2018. This is a reduction of 70 percent in mercury emissions in 14 years, but critics contend that technology already exists to reduce mercury emissions by 90 percent. [ABC News, 12/3/03]

Proposal Allows Companies To Buy and Trade Emission Credits

Proposal Would Allow Companies To Buy Emission Credits. The Bush Administration is proposing the implementation of a cap and trade proposal to reduce mercury emissions. The proposal would set an overall national limit for mercury pollution then allow companies that produce more mercury to buy “emission credits” from cleaner burning companies. [ABC News, 12/3/03]

EPA Doesn't Believe This Regulation Will Reduce Mercury By 70 Percent

One EPA Analysis Predicts Cap And Trade Will Only Reduce Mercury Emissions By Half. Not everyone in the EPA is convinced that the cap and trade method will result in the type of mercury reductions that the Bush Administration has been promoting. One analysis by EPA staff predicts that emissions would reach 26 tons by 2020 and 23 tons by 2026 – a reduction of little more than half. [Knight Ridder, 2/24/04]

REDUCTION TECHNOLOGY EXISTS DESPITE EPA ADMINISTRATOR'S CLAIMS TO THE CONTRARY

The electric utility industry has tried to explain that the reason for a cap and trade approach to regulating mercury is because the technology does not exist to reduce emissions from coal-fired power plants. One of the biggest promoters of this false claim is EPA Administrator Mike Leavitt who has gone as far as penning a series of op-ed pieces stating, “No. Technology is simply not there for now.” The reality is that contrary to what Leavitt and the industry say, the technology to reduce mercury emissions does exist and has already shown as much as 95 percent reductions in some plants.

Mike Leavitt: Technology Doesn't Exist To Reduce Mercury Emissions

Mike Leavitt: Reduction Technology Doesn't Exist. In an op-ed that appeared in The Atlanta Journal Constitution, EPA administrator Mike Leavitt said the technology to reduce mercury emissions by 90 percent does not exist. He added that the “most promising” technologies still need to be tested. Leavitt wrote, “So in the near future, will there be technology capable of getting a 90 percent reduction of mercury from coal-fired power plants? No. Technology is simply not there for now.” [Atlanta Journal Constitution, 2/26/04]

Truth Is That The Technology Does Exist

Technology Is Being Used In Plants Across The Country

Why, Mr. Leavitt?

Technology Is Available To Reduce Mercury Emissions. The technology is available to reduce mercury emissions. Existing technologies that are being utilized to reduce sulfur dioxide, nitrogen oxides, and particulate matter can also be used to effectively eliminate a majority of mercury emissions. In addition to these measures there are several technologies in the highly advanced stages of development that would help to further eliminate emissions. [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 35]

Pollutant Control Technology Reduced Mercury Emissions By 95 Percent In Four Bituminous Coal Plants. Four bituminous coal-fired power plants reduced mercury emissions by 95 percent during emissions tests by using dry scrubbers and fabric filters. These four plants are: Mecklenberg Cogeneration Facility in Virginia, Dwayne Collier Battle Cogeneration plant in North Carolina, Logan Generating Plant in New Jersey, and SEI Birchwood in Virginia. [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 36]

Pollutant Control Technology Reduced Mercury Emissions By 74 To 86 Percent In Three Subbituminous Coal Plants. Three subbituminous coal-fired power plants reduced their mercury emissions by 74 to 86 percent during emissions tests by using fabric filters and other stack control technologies. [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 36]

Utah Electric Utilities Contributed \$161,300 To Leavitt While He Was Governor of Utah. Utah's electric utilities contributed \$161,300 to Leavitt's campaign coffers, led by PacifiCorp/Utah Power with \$97,200, the largest contribution total from a company under EPA regulation. [Desert Morning News, 8/13/03]

Utility Lobbyist Calls Leavitt “A Good Man With A Good Record.” Frank Maisano, an electric utility lobbyist said during Leavitt’s Senate confirmation that the Utah Governor was a surprise choice for the position, but Maisano lauded Leavitt saying, “... Mike Leavitt is a good man with a good record.” [Salt Lake City Tribune, 9/4/03]

A MASSIVE GIVEAWAY TO ELECTRIC UTILITIES

Using the cap and trade method to regulate mercury would be a tremendous giveaway to electric utilities at the expense of public health. Electric utilities have been among Bush’s more generous donors, having given almost \$6 million. For their campaign contributions, the utility industry has been handsomely rewarded – including the appointment of their lobbyists such as Jeffrey Holmstead to key positions inside the EPA. During Holmstead’s time as a political appointee at EPA he has suppressed scientific analysis for political gain, allowed portions of a lobbying memo from his old firm to appear practically verbatim in the proposed mercury regulation, told the EPA enforcement office to not pursue new cases against agribusinesses, and allegedly lied in his testimony before two Senate Committees. With this kind of influence, utilities have been devised a regulation that would allow them to save billions of dollars by not implementing the most rigorous existing environmental controls.

Pioneers and Rangers Have Bundled \$800,000 To Bush This Year

2004: Two Rangers And Four Pioneers Have Bundled \$800,000 To Bush Campaign. An analysis of the Bush administration's campaign finance reports by Public Citizen demonstrated that two Rangers and four Pioneers from the electric utility industry have bundled at least \$800,000 for the campaign. [Public Citizen Congress Watch, March 2004]

Industry Has Contributed Almost \$6 Million Since 1999

Electric Utilities Have Contributed Nearly \$6 Million To Bush Since 1999. The electric utility industry has made combined contributions of \$5,991,092 in hard, soft, and inaugural donations since 1999, according to a Public Citizen analysis of industry giving. [Public Citizen Congress Watch, March 2004]

INDUSTRY MEMOS APPEARED VERBATIM IN THE RULE

EPA Lifted Paragraphs From Latham & Watkins Memo

Proposed Mercury Rule Took Dozens Of Paragraphs From Corporate Law Firm Memo. EPA's proposed mercury rules lifted dozens of paragraphs from a memorandum submitted by Latham & Watkins, one of Washington's top law and lobbying firms that helps corporations skirt environmental regulations. [[Washington Post](#), 1/31/04]

Firm Lobbied On Behalf Of Cinergy

Latham & Watkins Lobbied For Cinergy And Other Mercury Polluters. Latham & Watkins lobbied on behalf of Cincinnati-based Cinergy before the Bush administration last year during deliberations over mercury rules in the Clean Air Act. [[Washington Post](#), 1/31/04]

- **2001-2002: Energy For A Clean Future Paid Latham & Watkins \$240,000 To Lobby On Emission Control.** From 2001 to 2002, a pro-electric utility industry group that represented Cinergy Corp., PPL (Pennsylvania Power & Light) Corp., Reliant Energy Inc., Tampa Electric Co., TransAlta Corp., and Wisconsin Electric Power Co. paid \$240,000 to Latham & Watkins to lobby the Executive Office of the President, the House of Representatives, the Senate, the EPA, and the Department of Energy on "the development of emission reduction strategies for power plants." [Senate Lobbying Disclosure Form; [Washington Post](#), 9/10/01]

A WEST Associates Memo Was Copied Into The Regulation

Sections Of Industry Memo Appear Verbatim In EPA Proposal. In its proposal on limiting mercury emissions the EPA lifted sections verbatim from a March 2003 memo prepared by WEST Associates, an industry organization representing 23 western utility companies. Several sentences on at least two pages of the EPA rule's preamble are worded exactly as they were in the memo. The proposal also heavily borrows from an analysis of mercury emission reduction scenarios. [[Greenwire](#), 2/26/04]

- **Some Changes Were Made, But Those Changes Were Even Worse Than Original Memo.** Critics claim that in the sections where wording had not been copied directly, the assumptions made by the EPA are even more lenient than those suggested by the industry. [[Greenwire](#), 2/26/04]

Industry Should Not Be Writing Regulations

Former EPA Assistant Administrator For Air: Industry Should Not Have Role In Writing Regulation Proposals. The former Assistant Administrator of EPA for Air during the Clinton administration said agency regulations are to be drafted by the staff. Robert Perciasepe said it would be inappropriate for the agency to heavily borrow from an industry memo. He told the Washington Post, “The regulations are supposed to be drafted by the staff – the people in the science program and regulatory branches.” [Washington Post, 1/31/04]

EPA’S REVOLVING DOOR: LOBBYISTS ARE MAKING THE REGULATIONS

Top Clean Air Official Worked For Lobbying Firm Whose Memo Appears In Regulation

EPA’s Assistant Administrator For Air Worked For Law Firm Before Joining EPA. Jeffrey Holmstead, the EPA Assistant Administrator for Air and Radiation had worked for Latham & Watkins before joining the EPA. [Washington Post, 1/31/04]

Holmstead’s General Counsel, Bill Wehrum, Also Worked At Firm. Holmstead’s General Counsel, Bill Wehrum, had also worked previously at Latham & Watkins before coming to the EPA. [Washington Post, 1/31/04]

Holmstead Has Postponed Scientific Analysis For Political Reasons

Holmstead Indefinitely Postponed Analysis On Mercury Regulation For Political Purposes. EPA career employees say Holmstead informed them that analyses of the mercury regulation that were proposed in December 2003 were to be postponed indefinitely because of “White House concern.” [Los Angeles Times, 3/19/04]

Ex-EPA Administrator Whitman Said Holmstead Was Responsible For Conducting Analysis. Responding to criticism that she postponed and covered up analysis on the proposed mercury regulation, former EPA Administrator Christine Todd Whitman said Jeffrey Holmstead, the EPA Assistant Administrator for Air and Radiation, was responsible for that analysis. [Los Angeles Times, 3/19/04]

Holmstead Killed Analysis That Showed Clear Skies In Negative Light. Jeffrey Holmstead ordered EPA officials to discontinue further analysis that drew comparisons between Senator Tom Carper’s Clean Air Planning Act and President Bush’s “Clear Skies” Act when it became apparent that Carper’s proposal would provide more environmental benefits at only a slightly greater cost. [EPA’s Smoke Screen, Public Citizen report, Page 13]

Holmstead: “How Can We Justify Clear Skies If This Gets Out?” After reading data at a May 2, 2003 meeting that indicated Carper’s bill would be more effective than the Clear Skies Act, several EPA employees heard Jeffrey Holmstead utter, “How can we justify Clear Skies if this gets out?” [New York Times, 7/14/03]

Analysis Should Not Be Withheld for Political Reasons, Said Nixon White House Official

Scientific Analysis Should Not Be Withheld For Political Reasons, Said Nixon EPA Administrator. William D. Ruckelshaus, the first EPA Administrator during the Nixon administration, said to the New York Times, “Is the analysis flawed? That is a legitimate reason for not releasing it. But if you don't like the outcome that might result from the analysis, that is not a legitimate reason.” [New York Times, 7/14/03]

Holmstead Was Wrong In Sworn Testimony Before Congress Regarding New Source Review Law

Holmstead Testified Before Two Senate Committees That New Source Review Rule Changes Would Not Affect Pending Lawsuits. In sworn testimony before the two Senate Committees, Holmstead said the EPA's enforcement office had concluded that the EPA's lawsuits against nine utilities for violating the Clean Air Act would not be undermined - despite the fact that two senior career EPA officers had informed him prior to testifying that the rule change would directly hurt the cases. Additionally, he was wrong about the impacts that the rule changes would have on the environment and public health. [[EPA's Smoke Screen](#), Public Citizen report, Page 2; New Source Review Policy Hearing, Senate Committee on Environment and Public Works, Committee on the Judiciary, 7/16/02, Page 34]

Holmstead's Staff Left EPA To Take Lobbying Positions For Electric Utilities

Former Holmstead Staffer John Pemberton Hired By Southern Company In September 2003, Southern Company hired John Pemberton as a lobbyist. Prior to his coming aboard at Southern Company, Pemberton was Chief of Staff to EPA Assistant Administrator for Air, Jeffrey Holmstead. [[Multinational Monitor](#), 10/103]

Pemberton Had Major Role In Rewriting New Source Review Rules. Pemberton was one of the three major contributors to rewriting the new source review rule. He had been the behind-the-scenes coordinator of events for the two and a half years prior to the rule's completion. [[Knight Ridder](#), 9/4/03]

Ed Krenik Took Job At Electric Utility Lobbying Firm After Stint At EPA. Ed Krenik, the Associate Administrator for Congressional and Intergovernmental Relations, joined the law firm of Bracewell & Patterson. In his new position Krenik lobbies on behalf of electric utilities regulated by the EPA such as Southern Company. [[Los Angeles Times](#), 9/4/03]

ELECTRIC UTILITIES ARE POISED TO SAVE BILLIONS FROM THIS REGULATION

Utilities Could Save \$2.7 Billion

Cap And Trade Mercury Proposal Would Save Electric Industry Up To \$2.7 Billion. EPA admits that there would be no additional costs to the 30% mercury reductions under its mercury plan over reductions under other EPA proposals to limit other power plant pollutants. An analysis by EPA, presented to the Utility MACT Working Group on May 13, 2002, indicates that the cost of reducing mercury emissions by 80 percent would result in costs of about \$2.7 billion. [EPA "Analysis of Alternative Subcategorization Options, presented to Utility MACT Working Group, 5/13/2002]

Estimated 35 Million People Live Within 10 Miles of a Mercury-Emitting Plant

35 Million People Live Within 10 Miles Of A Mercury-Emitting Plant Owned By The Top Mercury Emitters. According to 2000 census data available at the EPA Enforcement and Compliance History Online website, there are roughly 35 million Americans who live within a 10-mile radius of a mercury-emitting power plant owned by one of the top 25 mercury emitters. [EPA Enforcement and Compliance Online Data]

3.4 Million Children Under Five Live Within 10 Miles Of A Mercury-Emitting Plant Owned By The Top Mercury Emitters. According to 2000 census data, there are roughly 3.4 million children under five years of age who live within a 10-mile radius of a mercury-emitting power plant owned by one of the top 25 mercury emitters. [EPA Enforcement and Compliance Online Data]

STATE INFORMATION: ELECTRIC UTILITIES EMITTED 48 TONS OF MERCURY IN 2001

States simply cannot wait 14 more years for electric utilities to reduce their emissions. In 1999 coal-fired plants emitted 48 tons of mercury into our nation's air, with 25 percent of that total coming from Texas, Ohio and Pennsylvania. The frightening thing is that if the government doesn't act soon to force plants to reduce their mercury emissions, there is the possibility that they could increase emissions. U.S. energy demands will cause a two percent increase in coal usage over the next 20 years. Meanwhile, more than 40 states have already issued fish consumption advisories for mercury.

Coal-Fired Plants Emit 48 Tons Of Mercury Into Nation's Air

Coal Plants Send 48 Tons Of Mercury Into The Air Annually. Coal-fired power plants are the nation's largest source of unregulated airborne mercury pollution, sending an estimated 48 tons into the atmosphere annually. The mercury can enter the food chain and threaten public health, especially for children and pregnant women who eat tainted fish. [[Washington Post](#), 12/3/03]

Plants Will Burn More Coal In The Future

Coal Fired Plants Released More Mercury Into Air Than Any Other Industry. Coal-fired power plants were the largest industrial source of mercury emissions. About sixty percent of industrial mercury air emissions came from power plants. The chemical industry and metal mining ranked second and third for mercury air emissions in 2001. [[Toxic Neighbors: A Report By Clear the Air](#), Page 2]

Mercury Emissions From Coal Plants Will Increase In The Future. If measures are not passed to limit mercury emissions from coal plants, it is expected they will increase in the future as the demand for energy in the United States increases. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003]

Coal Usage Projected To Increase Over Next 20 Years. The United States Energy Information Administration projects that the amount of coal that is used to generate electricity in the United States will increase over the next 20 years. EIA estimates that coal, which created 50 percent of all power generated in 2002, will provide 52 percent in 2025. [[Kiplinger Business Forecasts](#), 3/25/04]

MERCURY CONTAMINATION THREATENS RECREATIONAL FISHING AND STATE ECONOMIES

Bush's Mercury Rule Could Threaten Recreational Fishing Activities

Mercury Contamination Threatens Recreational Fishing. Surveys indicate that people take fewer fishing trips if they know there are fish consumption advisories in the area. One study indicates that 36 percent of respondents would change their fishing site if they knew it was under an advisory for mercury. [[Fishing For Trouble](#), U.S. Public Interest Research Group Education Fund, June 2003]

- **Recreational Fishing Is a Multibillion-Dollar Industry.** In 2001, recreational fishing trips generated more than \$35.6 billion including costs for food, lodging, transportation, equipment, and other items. [[Fishing For Trouble](#), U.S. Public Interest Research Group Education Fund, June 2003]

- **Recreational Fishing Supported One Million Jobs.** In 2001, it is estimated that recreational fishing supported one million jobs in the United States. [[Fishing For Trouble](#), U.S. Public Interest Research Group Education Fund, June 2003]

THE HIGHEST MERCURY-EMITTING STATES

Texas Ranked No. 1 For Mercury Emissions In 2001

2001: Texas Ranked No. 1 In The Country For Mercury Emissions. Coal-fired power plants in Texas pumped more than 8,992 pounds of mercury into the air in 2001. This amount ranked No. 1 among U.S. states with mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 440,000 People Live Within 10 Miles Of These Plants. There are roughly 440,000 people who live within a 10-mile radius of the 14 major mercury-emitting power plants in Texas. [EPA Enforcement and Compliance History Online]

Texas Has A Fish Consumption Advisory For King Mackerel. Since 1997 Texas has had a fish consumption advisory for mercury levels found in king mackerel along the coast of the Gulf of Mexico. [National Listing Of Fish And Wildlife Advisories, www.epa.gov, March 2004]

Ohio Ranked No. 2 For Mercury Emissions In 2001

2001: Ohio Ranked No. 2 In Country For Mercury Emissions. Coal-fired power plants in Ohio pumped 8,050 pounds of mercury into the air in 2001. This ranked Ohio No. 2 among states for mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 2 Million People Live Within 10 Miles Of These Plants. There are roughly 2.45 million people who live within a 10-mile radius of the 17 major mercury-emitting power plants in Ohio. [EPA Enforcement and Compliance History Online]

Ohio Has A Statewide Fish Consumption Advisory. Since 1997 the state of Ohio has had a fish consumption advisory for all fish due to mercury contamination in all state waters. [National Listing of Fish and Wildlife Advisories; <http://www.epa.gov>, March 2004]

Pennsylvania Ranked No. 3 For Mercury Emissions In 2001

2001: Pennsylvania Ranked No. 3 In Country For Mercury Emissions. Coal-fired power plants in Pennsylvania pumped 7,427 pounds of mercury into the air in 2001. This ranked Pennsylvania No. 3 among U.S. states for mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 3 Million People Live Within 10 Miles Of These Plants. There are roughly 3.15 million people who live within a 10-mile radius of the 15 major mercury-emitting power plants in Pennsylvania. [EPA Enforcement and Compliance History Online]

Pennsylvania Has A Fish Consumption Advisory For All Freshwater Fish. Since 2001 there has been a statewide fish consumption advisory for all freshwater fish due to mercury contamination in Pennsylvania. [National Listing of Fish and Wildlife Advisories; <http://www.epa.gov>; March 2004]

Indiana Ranked No. 4 For Mercury Emissions In 2001

2001: Indiana Ranked No. 4 In The Country For Mercury Emissions. Coal-fired power plants in Indiana pumped more than 5,728 pounds of mercury into the air in 2001. This amount ranked No. 4 among U.S. states with mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 2 Million People Live Within 10 Miles Of These Plants. There are roughly 2 million people who live within a 10-mile radius of the fifteen major mercury-emitting power plants in Indiana. [EPA Enforcement and Compliance History Online]

Indiana Has A Fish Consumption Advisory For Common Carp. Since 1996 Indiana has had a fish consumption advisory for all freshwater rivers and streams for mercury levels found in common carp. [National Listing Of Fish And Wildlife Advisories, www.epa.gov, March 2004]

West Virginia Ranked No. 5 For Mercury Emissions In 2001

2001: West Virginia Ranked No. 5 In Country For Mercury Emissions. Coal-fired power plants in West Virginia pumped 4,796 pounds of mercury into the air in 2001. This ranked West Virginia No. 5 among U.S. states for mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 400,000 People Live Within 10 Miles Of These Plants. There are roughly 444,000 people who live within a 10-mile radius of the 12 major mercury-emitting power plants in West Virginia. [EPA Enforcement and Compliance History Online]

West Virginia Has A Fish Consumption Advisory For The Ohio River. Since 2001 West Virginia has had a fish consumption advisory for the entire length of the Ohio River due to mercury contamination found in largemouth bass, smallmouth bass, hybrid striped bass, white bass, carp, channel catfish, flathead catfish, freshwater drum, and sauger. [National Listing of Fish and Wildlife Advisories; <http://www.epa.gov>; March 2004]

Illinois Ranked No. 6 For Mercury Emissions In 2001

2001: Illinois Ranked No. 6 In Country For Mercury Emissions. Coal-fired power plants in Illinois pumped 4,005 pounds of mercury into the air in 2001. This ranked Illinois No. 6 among U.S. states for mercury emissions. [2001 EPA Toxic Release Inventory Data]

4.7 Million People Live Within 10 Miles Of These Plants. There are roughly 4.7 million people who live within a 10-mile radius of the 13 major mercury-emitting power plants in Illinois. [EPA Enforcement and Compliance History Online]

Illinois Has A Statewide Fish Consumption Advisory. Since 2002 Illinois has had a fish consumption advisory for all fish in all state waters due to mercury contamination. [National Listing of Fish and Wildlife Advisories; <http://www.epa.gov>; March 2004]

Alabama Ranked No. 7 For Mercury Emissions In 2001

2001: Alabama Ranked No. 7 In The Country For Mercury Emissions. Coal-fired power plants in Alabama pumped more than 3,880 pounds of mercury into the air in 2001. This amount ranked No. 7 among U.S. states with mercury emissions. [2001 EPA Toxic Release Inventory Data]

Nearly 170,000 People Live Within 10 Miles Of These Plants. There are roughly 170,000 people who live within a 10-mile radius of the eight major mercury-emitting power plants in Alabama. [EPA Enforcement and Compliance History Online]

Alabama Has Several Fish Consumption Advisories. Since 1996 Alabama has had a fish consumption advisory for levels of mercury found in king mackerel from coastal and estuarine waters. Ten rivers and swamps in Alabama have additional fish advisories: two for all fish in the rivers, seven for largemouth bass, and one for catfish. [National Listing Of Fish And Wildlife Advisories, www.epa.gov, March 2004]

***Kentucky Ranked
No. 8 For Mercury
Emissions In 2001***

2001: Kentucky Ranked No. 8 In The Country For Mercury Emissions. Coal-fired power plants in Kentucky pumped more than 3,796 pounds of mercury into the air in 2001. This amount ranked No. 8 among U.S. states with mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 400,000 People Live Within 10 Miles Of These Plants. There are roughly 400,000 people who live within a 10-mile radius of the 12 major mercury-emitting power plants in Kentucky. [EPA Enforcement and Compliance History Online]

Kentucky Has A Statewide Fish Consumption Advisory. Since 2000 Kentucky has had a statewide fish consumption advisory for all rivers and lakes due to mercury levels found in all species of fish. [National Listing Of Fish And Wildlife Advisories, www.epa.gov, March 2004]

***Missouri Ranked
No. 9 For Mercury
Emissions In 2001***

2001: Missouri Ranked No. 9 In Country For Mercury Emissions. Coal-fired power plants in Missouri pumped 2,989 pounds of mercury into the air in 2001. This ranked Missouri No. 9 among U.S. states for mercury emissions. [2001 EPA Toxic Release Inventory Data]

Nearly 580,000 People Live Within 10 Miles Of These Plants. There are roughly 579,000 people who live within a 10-mile radius of the 9 major mercury-emitting power plants in Missouri. [EPA Enforcement and Compliance History Online]

Missouri Has A Statewide Fish Consumption Advisory For Largemouth Bass. Since 2001 Missouri has had a fish consumption advisory for all state waters due to mercury contamination levels found in largemouth bass. [National Listing of Fish and Wildlife Advisories; <http://www.epa.gov>; March 2004]

***North Carolina
Ranked No. 10 For
Mercury Emissions
In 2001***

2001: North Carolina Ranked No. 10 In The Country For Mercury Emissions. Coal-fired power plants in North Carolina pumped more than 2,956 pounds of mercury into the air in 2001. This amount ranked No. 10 among U.S. states with mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 1.5 Million People Live Within 10 Miles Of These Plants. There are roughly 1.5 million people who live within a 10-mile radius of the 10 major mercury-emitting power plants in North Carolina. [EPA Enforcement and Compliance History Online]

North Carolina Has A Regional Fish Consumption Advisory. Since 2002 there has been a regional fish consumption advisory for all North Carolina waters located South and East of Interstate 85 due to mercury contamination. This advisory includes largemouth bass, bowfin, and pickerel. [National Listing Of Fish And Wildlife Advisories, www.epa.gov, March 2004]

North Carolina Has A Statewide Fish Consumption Advisory For All Coastal And Estuarine Waters. Since 2002 there has been a statewide fish consumption advisory for all North Carolina coastal and estuarine waters due to mercury contamination. These consumption advisories include king mackerels and sharks. [National Listing Of Fish And Wildlife Advisories, www.epa.gov, March 2004]

Michigan Ranked No. 11 For Mercury Emissions For 2001

2001: Michigan Ranked No. 11 In Country For Mercury Emissions. Coal-fired power plants in Michigan pumped 2,852 pounds of mercury into the air in 2001. This ranked Michigan No. 11 among U.S. states for mercury emissions. [2001 EPA Toxic Release Inventory Data]

Nearly 2 Million People Live Within 10 Miles Of These Plants. There are roughly 1.9 million people who live within a 10-mile radius of the 10 major mercury-emitting power plants in Michigan. [EPA Enforcement and Compliance History Online]

Michigan Has A Fish Consumption Advisory For Several Fish Species. Since 1993 Michigan has had a statewide fish consumption advisory for largemouth bass, rock bass, smallmouth bass, black crappie, white crappie, muskellunge, yellow perch, northern pike, and walleye. [National Listing of Fish and Wildlife Advisories; <http://www.epa.gov>; March 2004]

Georgia Ranked No. 12 For Mercury Emissions In 2001

2001: Georgia Ranked No. 12 In The Country For Mercury Emissions. Coal-fired power plants in Georgia pumped more than 2,549 pounds of mercury into the air in 2001. This amount ranked No. 12 among U.S. states with mercury emissions. [2001 EPA Toxic Release Inventory Data]

More Than 180,000 People Live Within 10 Miles Of These Plants. There are roughly 180,000 people who live within a 10-mile radius of the five major mercury-emitting power plants in Georgia. [EPA Enforcement and Compliance History Online]

Georgia Has Fish Consumption Advisories For More Than 100 Bodies Of Water. The Georgia Environmental Protection Division has issued mercury advisories for more than 100 bodies of water across the state. [The Atlanta Journal Constitution, 1/7/04]