

***SECTION I***

**REGULATION AND HEALTH INFORMATION**



# MERCURY IS DANGEROUS TO OUR HEALTH

## EMISSIONS CAUSE LEARNING DISABILITIES AND OTHER NEUROLOGICAL PROBLEMS

Coal-fired electric utility plants were responsible for spewing 48 tons of mercury emissions into our air in 1999, and it is estimated that 156 million Americans live within 30 miles of a coal plant. The National Academy of Sciences states that mercury causes birth defects and adversely affects the development of fetal brains. In February 2004, the EPA released a more revealing analysis indicating that in 2000 as many as 630,000 infants were born at risk of unsafe levels of mercury in their blood.

***“The Bush administration continues to pretend that mercury is not as dangerous as it really is.”***

- Dr. Michael McCally, President of Physicians for Social Responsibility, [Associated Press, 2/25/04]

## 156 MILLION AMERICANS LIVE WITHIN 30 MILES OF A COAL PLANT

**More Than Half Of All Americans Live Within 30 Miles Of A Coal Plant.** Clear the Air, a coalition of the National Environmental Trust, Clean Air Task Force, and U.S. PIRG, estimate in their report Toxic Neighbors that more than half of all Americans – over 156 million people – live within 30 miles of a coal-fired power plant. [Toxic Neighbors: A Report By Clear the Air, Page 5]

## NATIONAL ACADEMY OF SCIENCES: MERCURY CAUSES BIRTH DEFECTS

**National Academy of Science: Mercury Disrupts 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 has found that 8 percent of women of childbearing age had mercury in their blood exceeding levels considered safe by the EPA. [Associated Press, 12/2/2003]
- **CDC Sampled 1,500 Women Of Childbearing Age.** When the CDC made its analysis of mercury in women’s blood, it tested a sample of 1,500 women of childbearing age. Most of the women reported consuming more shrimp and tuna as opposed to other forms of fish and shellfish. [Federal Register, 1/30/04, Page 4658]

**Hundreds Of Thousands Of Children Are Damaged By Mercury.** Clear the Air has estimated that 360,000 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. This figure 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 Clean The Air, Page 13]

- **Mercury Causes Learning Disabilities.** One of the major problems associated with mercury is 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](http://books.nap.edu/books/0309071402/html), National Academy of Sciences, <http://books.nap.edu/books/0309071402/html>]
- **Young Children Most Susceptible.** Children are particularly sensitive to the effects of mercury because their central nervous system is still developing. [[Toxicological Effects of Methylmercury](http://books.nap.edu/books/0309071402/html), National Academy of Sciences, <http://books.nap.edu/books/0309071402/html>]

**Exposure To Mercury Causes Numerous Serious Health Effects.** Exposure to mercury is highly toxic and has serious effects on the human health. The fetus is most at risk to mercury exposure when its mother eats contaminated fish. Infants are exposed to this toxin through a mother's breast milk. [[Toxic Neighbors: A Report By Clean The Air](#), Page 10]

- **Health Effects Of Mercury In Children:**
  - ✓ Poor performance on tests of attention and language
  - ✓ Impaired visual and motor function
  - ✓ Impaired memory, inability to process and recall information
- **Health Effects Of Mercury In Adults:**
  - ✓ Affected fertility and blood pressure regulation
  - ✓ Heart-rate variability and heart disease

**Health Impacts Of Mercury Are Irreversible.** All available science indicates that the health impacts of mercury are irreversible. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003]

## EPA: ONE IN SIX INFANTS ARE AT RISK FOR DEVELOPMENTAL IMPAIRMENT

**February 2004: EPA Analysis Finds That As Many As 630,000 Infants Were At Risk Of Mercury In Their Blood In 2000.** In February 2004, EPA scientists said new research has shown that as many as 630,000 U.S. newborns out of the 4 million that are born each year were at risk unsafe levels of mercury in their blood in the fiscal year that ended in 2000. [[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 Environmental Protection Agency 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](#) nine months later was it released by the White House. [[Union Of Concerned Scientists: Scientific Integrity In Policy Making](#), February 2004]

## EPA AND FDA: MERCURY CONTAMINATES OUR FOOD SUPPLY

**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 to 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]

- **Advisory Also Told Women To Avoid Other Types Of Fish.** The FDA’s consumption advisory also told pregnant women and children to avoid shark, swordfish, king mackerel and tilefish. [Food and Drug Administration Consumer Advisory, <http://vm.cfsan.fda.gov/~dms/admehg.html>; Washington Post, 3/20/04]
- **One Member Of The Panel That Issued The Advisory Resigned Because The Restriction Wasn’t Stringent Enough.** University of Arizona toxicology professor Vas Aposhian resigned from the panel, saying the advisory did not reflect the experts' view that children and childbearing women should not eat albacore tuna, and should eat less light tuna than the advisory recommends. [Washington Post, 3/20/04]
- **Senator Leahy Criticized Mercury Advisories As “Mild Gestures.”** Senator Patrick Leahy (D-VT) has criticized the Administration’s attempt to issue mercury advisories amounts to “mild gestures to a problem that demands strong action.” [Associated Press, 3/23/04]
- **Frank Dulcich, President & CEO Of Pacific Seafood Is A 2004 Bush Pioneer.** One company that would benefit by albacore tuna not being placed on “do not eat” advisory would be Washington-based Pacific Seafood whose president and CEO, Frank Dulcich is a 2004 Bush Pioneer. [White House For Sale, March 2004]

**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 power plants. [Federal Register, 1/30/04, Page 4656]

**Mercury Reaches Most Humans Through Oral Intake.** The most common form of mercury intake is from oral consumption. Fish consumption dominates the pathway for human and wildlife exposure to mercury. [Federal Register, 1/30/04, Page 4658]

### Fish Consumption Advisories Are In Effect In More Than 80 Percent Of States

**More Than 12 Million Acres Of Lakes And 450,000 Miles Of Rivers Have Fish Consumption Advisories.** Across the country in 2002, more than 11 million acres of lakes and 470,000 miles of rivers were under advisory, warning people to avoid or limit fish consumption due to mercury pollution. [EPA Fact Sheet, <http://www.epa.gov/waterscience/fish/advisories/factsheet.pdf>]

**Fish Advisories Have Been Issued In More Than 40 States.** Warnings about mercury contamination in fish caught in local waters have been issued in more than 40 states. In 19 states there is a warning against eating fish from all state rivers and/or lakes. [EPA Fact Sheet, <http://www.epa.gov/waterscience/fish/advisories/factsheet.pdf>]

**Mercury Contamination Threatens The Sport Of Fishing.** Going out to a lake for an afternoon of fishing is part of a bygone era, and the Bush Administration's proposal to cap and trade mercury emissions will ensure that future generations will not be able to enjoy what has been a great American pastime. Brad Maurer, president of the Ohio Smallmouth Alliance (a fishing conservation group) told the Appleton, Wisconsin Post Crescent, "Mercury contamination has taken away the simple, pleasurable act of bringing fish home for the family to eat." [Appleton, Wisconsin Post Crescent, 2/25/04]

**NJ, PA State Residents Are Warned To Not Eat More Than One Meal Of Local Fish Per Month.** In Pennsylvania and New Jersey, officials warn people to eat no more than one meal a month of fish caught in many of the two states' lakes and streams. [Philadelphia Inquirer, 2/24/04]

**Several Midwest States Advise Their Residents To Limit Fish Consumption.** State governments in Ohio, Indiana, Illinois, Michigan, Wisconsin and Minnesota all have issued advisories limiting fish consumption because of mercury contamination. [Akron Beacon Journal, 2/25/04]

### Certain Sub-Populations Are More Likely To Be Impacted, Says EPA

**Southeast Asians And Native Americans Are At Greater Risk.** In a risk-benefit assessment of mercury reduction completed by the EPA, the agency states that certain U.S. subpopulations are at greater risk for exposure to mercury because they eat more fish. The EPA noted in its assessment that Southeast Asians and Native Americans would be the most at risk of health impacts. [EPA Benefit Analysis for the Section 112 Utility Rule, EPA Docket No. OAR- 2002-0056]

### UTILITY INDUSTRY CONTENDS HEALTH EFFECTS ARE MINIMAL

**Electric Industry Lobbying Group Says Health Effects From Utility Emissions Are Minimal.** The Edison Electric Institute, an association representing major electric utilities, has claimed that the health impact of power plant emissions is negligible. [Toxic Neighbors: A Report By Clear the Air, Page 12]

### MERCURY DAMAGES WILDLIFE

**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." [www.eman-rese.ca/eman/reports/publications/mercury95/part1.html, Accessed 2/26/04]

**Mercury Most Greatly Affects Reproductive Capabilities Of These Animals.** Only very small doses of mercury are needed to impair the reproductive capabilities of predatory birds. Only one-fifth the amount of mercury that is needed to produce neurological effects in birds is needed to produce reproductive effects. [http://www.eman-rese.ca/eman/reports/publications/mercury95/part1.html, Accessed 2/26/04]

**Loons Neglect Their Young, Species At Risk.** Research in the Adirondacks in New York and lakes in southern Canada shows increasing levels of mercury in loons, who eat contaminated fish. Loons with high mercury levels are more lethargic, and incubating and feeding their young less. These popular birds are very much at risk. [Science Daily, December 2003; National Geographic, 5/16/03]

# THE DOUBLE STANDARD ON HEALTH

## ***BUSH APPLAUDS PROTECTING UNBORN CHILDREN, BUT ROLLS BACK ENVIRONMENTAL SAFEGUARDS THAT WOULD SAVE THEIR LIVES***

*President Bush has pledged to protect mothers and unborn children under federal law while at the same time proposing EPA regulations that would allow a known poison to continue to harm mothers and unborn children. Yet he has criticized political opponents for taking two sides on the same issue.*

***“...the mother and the unborn child – and both victims should be protected by federal law.”***

***- George W. Bush*** [White House Statement, 2/26/04]

## **BUSH: MOTHERS AND UNBORN CHILDREN SHOULD BE PROTECTED BY FEDERAL LAW**

**Bush: “The Mother And The Unborn Child – And Both Victims Should Be Protected By Federal Law.”** President George Bush said the mother and the unborn child should be protected by federal law, when applauding the House for passing the Unborn Victims of Violence Act. Bush also said, “We must continue to build a culture of life in our country, a compassionate society in which every child is born into a loving family and protected by law.” [White House Statement, 2/26/04]

## **ADMINISTRATION WANTS TO IMPLEMENT INADEQUATE MERCURY REGULATIONS ENDANGERING MOTHERS AND UNBORN CHILDREN**

**Bush Proposal Would Implement Inadequate Controls.** The Bush administration proposed regulations to allow more mercury emissions from coal-fired power plants than allowed under the Clean Air Act the same week that his own FDA and EPA cautioned people to limit their intake of fish because of potentially high levels of mercury. By allowing mercury pollution allowances to be bought and sold freely, Bush’s cap-and-trade program also does nothing to prevent or alleviate “hot spots” – areas of dangerously high mercury pollution. In fact, Bush’s proposal would exacerbate existing “hot spots.” [[Financial Times](#), 12/4/03; [New York Times](#), 12/3/03; [Washington Post](#), 12/3/03, 12/5/03, 12/11/03; [Houston Chronicle](#), 12/5/03]

**Mercury Is Especially Toxic to Fetuses and Pregnant Women.** Mercury, a known neurotoxin, accumulates in the environment and builds up in the tissue of fish and the humans that consume them. It is particularly hazardous for pregnant women because of the developmental effects on fetuses. Fetal exposure to mercury can cause brain damage, poor attention span and language development, impaired memory and vision, problems processing information, and impaired visual and fine motor coordination. According to the EPA, as many as 630,000 infants are born in the U.S. each year at risk of blood mercury levels higher than the EPA’s level of concern. [[New York Times](#), 12/3/03; [Washington Post](#), 12/3/03; [Associated Press](#), 12/3/03; [Los Angeles Times](#), 2/6/04; [Out of Control & Close to Home: Mercury Pollution from Power Plants](#), Environmental Defense, 2003]

# MERCURY REGULATION HISTORY

*It has taken the federal government more than a decade to act on mercury, and now that the time is here to take decisive action to clean the air, the Bush administration has decided to side with the polluters over regular Americans by creating industry-friendly regulations.*

## 1990: CLEAN AIR ACT REQUIRED INVENTORY OF HAZARDOUS POLLUTANTS

**Clean Air Act Required EPA To Conduct Study Of Hazardous Air Pollutant.** Section 112(n)(1)(B) of the Clean Air Act Amendments in 1990 required EPA to conduct a study of mercury emissions from electric steam generating utility units by 1994. [Clean Air Act, Public Law 101-549, §112 (n)(1)(a); 42 U.S.C. 7412]

**EPA Was Then Responsible For Considering Results And Determining If Regulation Was “Necessary And Appropriate.”** After the EPA completed its study, it was charged with the responsibility of reviewing its findings and determining whether regulation was “necessary and appropriate”. [Clean Air Act, Public Law 101-549, §112 (n)(1)(a); 42 U.S.C. 7412]

## 1998: EPA RELEASES REPORT TO CONGRESS NOTING MERCURY AS GREATEST CONCERN FOR PUBLIC HEALTH

**EPA Released Report Noting Mercury As Hazardous Air Pollutant Of Greatest Concern For Public Health.** In February 1998, the EPA released its report to Congress based on its 1993 study of hazardous air pollutant (HAP) emissions. In the [Study of Hazardous Air Pollutant Emissions From Electric Utility Steam Generating Units: Final Report to Congress](#), the EPA noted mercury from coal-fired steam units is the HAP of greatest concern for public health. [1998 EPA Report to Congress, Page 26, <http://www.epa.gov/ttn/oarpg/t3rc.html>]

**Report Failed To Include A Regulatory Finding.** Despite the original instructions legislated by the Clean Air Act Amendments of 1990, the EPA Report to Congress failed to include a regulatory finding, instead recommending further research and evaluation. [1998 EPA Report to Congress, Page 26, <http://www.epa.gov/ttn/oarpg/t3rc.html>]

**Environmental Groups Sued EPA To Force Agency To Make A Finding.** Since the EPA did not include a regulatory finding in its 1998 Report to Congress, the Natural Resources Defense Council went back to court to require the EPA to 1) issue a regulatory finding by December 15, 2000; 2) issue a proposed regulation by December 15, 2003; 3) issue a final regulation by December 15, 2004. [NRDC v. EPA, No. 92-1415; DC Circuit Court, 1/13/99]

## 2000: EPA FINDS NEED TO REGULATE COAL- AND OIL-FIRED POWER PLANTS

**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 a Maximum Achievable Control Technology (MACT) standard.

[<http://www.epa.gov/mercury/1880338.pdf>, Page 2]

- **EPA Ruled That It Was “Necessary And Appropriate” To Regulate Mercury Because Utilities Are Largest Mercury Emitters.** The EPA found in its 2000 decision on regulating mercury that it was “necessary and appropriate” to do so because electric utilities were the largest domestic source of mercury emissions and mercury “in the environment presents significant hazards to public health and the environment.” [<http://www.epa.gov/mercury/1880338.pdf>, Page 24]
- **Decision Based On 1998 Report.** The December 2000 EPA decision to regulate coal- and oil-fired utility units under Section 112 of the Clean Air Act was based upon the findings of the February 1998 Study of Hazardous Air Pollutant Emissions from Electric Utility Steam Generating Units – Final Report to Congress. [<http://www.epa.gov/mercury/1880338.pdf>, Page 20]
- **Study Noted Mercury As The Most Dangerous Pollutant.** The 1998 Study examined 67 hazardous air pollutants that the EPA considered could potentially be emitted from utility units. The study recognized mercury as being the pollutant of greatest concern from a public health perspective. [<http://www.epa.gov/mercury/1880338.pdf>, Page 20]

## 2000: EPA SAYS MACT IS “NECESSARY AND APPROPRIATE” FOR COAL- AND OIL-FIRED PLANTS

**EPA Decided Mercury Regulation Was “Necessary And Appropriate.”** In 2000 the EPA issued a regulatory finding stating that regulation of HAP from coal- and oil-fired electric utility steam generating units was necessary and appropriate. [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 29]

**Clean Air Act Defines Maximum Achievable Control Technology As Way To Control Emissions.** Due to the regulatory finding by the EPA in December 2000, EPA is required to regulate mercury from coal- and oil-fired electric utility steam generating units by section 112(d) of the Clean Air Act. This provision calls for the development of Maximum Achievable Control Technology (MACT) standards to control emissions. [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 30; Clean Air Act: §112(d)(1) and 112(d)(2)]

**CAA Section 112(d) Established MACT Based On Best Plants.** The Clean Air Act establishes that MACT could not be lower than the average emission limitation achieved by the best performing 12 percent of the existing sources. [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action, The Northeast States For Coordinated Air Use Management, 2003, Page 30; Clean Air Act: §112(d)3(a)]

## 2001-2003: EPA FORMS THEN DISSOLVES MACT WORKING GROUP

**2001: EPA Formed A MACT Working Group To Discuss Mercury Reduction Options.** In 2001, the EPA formed a mercury MACT working group that was comprised of industry, state, tribal, and environmental representatives. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 30]

**Working Group Held 14 Meetings Over Two-Year Period.** The working group discussed a number of options during 14 meetings between August 2001 and March 2003. The working group was “designed and created to foster active participation from stakeholders, including environmental groups, the regulated industry, and State and local regulatory agencies.” [[www.epa.gov/mercury/1880338.pdf](#), Page 26]

**2002: MACT Working Group Issued Its Final Recommendations.** The MACT working group issued its final recommendations in October 2002. The group created a range of proposals on the best way to reduce mercury emissions with the most stringent reducing emissions by 96 and the least stringent reducing emissions by 40 percent. [[http://www.epa.gov/ttn/atw/combust/utiltox/wgfinalreport10\\_02.pdf](#)]

**March 2003: EPA Dissolved Working Group With No Explanation.** In March 2003 the EPA dissolved the MACT Working Group by canceling its April 2003 meeting and not rescheduling it. The working group never met in the months leading up to the EPA’s December announcement. [Letter to EPA Inspector General, Senators Leahy, Jeffords, et al, 4/12/04]

- **Dissolving Working Group Showed Administration Wasn’t Interested In Its Work.** S. William Becker, Executive Director of an association of state air quality officials and a working group member said, “It was a huge decision that demonstrated that [the EPA’s] desire wasn’t to regulate mercury in the way that Congress and a federal advisory committee and other stakeholders had anticipated.” [[Washington Post](#), 1/30/04]

## DECEMBER 2003: DAYS AFTER COMMITTEE TELLS FDA TO ISSUE ADVISORY ON FISH CONSUMPTION, EPA ANNOUNCES PROPOSAL TO REDUCE MERCURY BY ONLY 70 PERCENT OVER 14 YEARS

**12/10/03: EPA and FDA Announced Their Intention To Issue Fish Consumption Advisory For Mercury.** On December 10, 2003, a federal advisory panel told the FDA and the EPA that it was necessary to establish a consumption advisory for pregnant women and children to warn them about the dangers of eating tuna due to mercury contamination in that fish. [[Washington Post](#), 12/11/03]

**12/15/03: EPA Announced Its Intention To Propose Regulation Giving Companies More Than An Additional Decade To Reduce Mercury Emissions.** On December 15, 2003, the EPA announced that it would be issuing a mercury regulation that would give companies more than an additional decade to reduce their mercury emissions. The EPA said it would seek to cut these regulations through the use of a “cap and trade method.” [[Associated Press](#), 12/16/03]

**Bush Proposal Would Establish Trading Program.** The December EPA proposal, under Section 111 of the Clean Air Act, establishes a mechanism by which mercury emissions would be capped at the national level. [[http://www.epa.gov/mercury/1880338.pdf](#), Page 3]

- **First Nationwide Cap Would Become Effective In 2010.** [<http://www.epa.gov/mercury/1880338.pdf>, Page 3]
- **Second Nationwide Cap Would Become Effective In 2018.** [<http://www.epa.gov/mercury/1880338.pdf>, Page 3]
- **Allowances Can Be Traded Between Power Plants.** The rule permits that allowance be readily transferable among all regulated facilities. [<http://www.epa.gov/mercury/1880338.pdf>, Page 3]

## JANUARY 2004: EPA ISSUES MERCURY REGULATION

**1/30/04: EPA Issues Proposed Mercury Regulation In Federal Register.** [[Washington Post](#), 1/31/04]

## MARCH 2004: INTER-FAITH COALITION OPPOSES PROPOSED MERCURY REGULATION

**3/16/04: An Interfaith Group Sends Letter To White House Expressing Opposition To Bush's Mercury Proposal.** On March 16, 2004, an interfaith coalition of organizations including the National Council of Churches, the United Methodist Church, and the Coalition on the Environment and Jewish Life sent a letter to the White House expressing their opposition to the administration's proposed mercury regulation. [National Council Of Churches Press Release, 3/16/04]

**Churches Called The Regulation "A Threat To Our Health And Integrity Of God's Creation."** In their letter to the White House, the religious organizations called the mercury proposal a threat to God's creation specifically stating, "The present threat to our health and the integrity of God's creation is clear. We believe it is unacceptable and immoral to sacrifice our children's health and their future for the sake of current consumption patterns and lifestyle choices." [National Council of Churches Press Release, 3/16/04]

## MARCH 2004: EPA ANNOUNCES FURTHER STUDY OF MERCURY REGULATION

**3/17/04: EPA Administrator Mike Leavitt Announced Mercury Regulation Would Be Further Analyzed.** On March 17, 2004, citing concerns that the proposed EPA regulation would not meet its proposed 2018 reduction target, EPA Administrator Mike Leavitt announced that the EPA's mercury regulation would undergo further analysis. [[Washington Post](#), 3/17/04]

## **APRIL 2004: 45 SENATORS AND 10 ATTORNEYS GENERAL ANNOUNCE OPPOSITION TO REGULATION**

**4/1/04: Nearly Half Of Senate And 20 Percent Of State Attorneys General Announce Opposition To Bush Administration Mercury Plan.** On April 1, 2004, 45 U.S. Senators (38 Democrats and seven Republicans) sent a letter to EPA Administrator Mike Leavitt expressing their opposition to the agency's proposed regulation for reducing mercury emissions. On the same day, the attorneys general of 10 states also sent a letter to Leavitt expressing their opposition to the proposal. [[Associated Press](#), 4/1/04]

**Senators Told Leavitt To Scrap EPA Rule And Start Over.** In their letter to EPA administrator Mike Leavitt, the Senators called for the agency to scrap the mercury regulation that had been proposed in January and to start over because the administration's proposal would "fall far short of what the law requires and they fail to protect the health of our children and our environment." [Letter to Administrator Leavitt, 4/1/04; [Associated Press](#), 4/1/04]

## **APRIL 2004: EPA PLANS TO MAKE DECISION BY MARCH 2005**

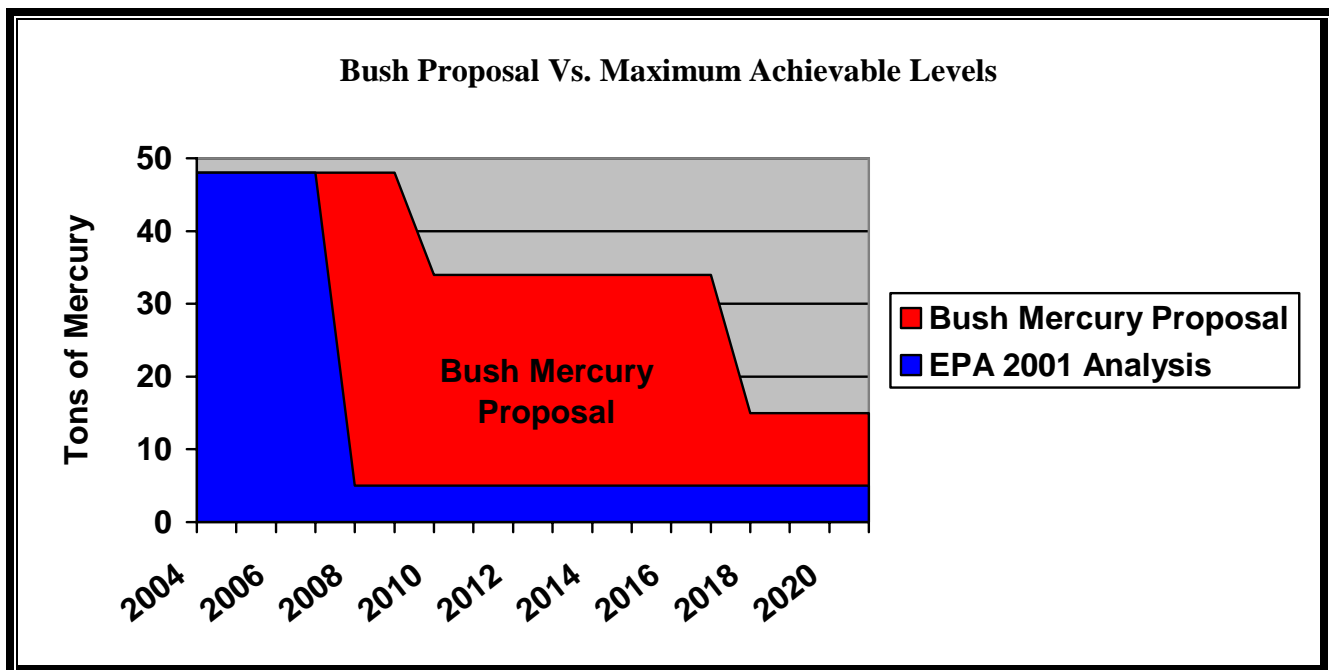
**4/29/04: EPA Will Make A Decision On Proposed Mercury Regulations By March 2005.** After analyzing public comments, the Environmental Protection Agency will make a decision on its proposed mercury regulations and issue a final rule by March 15, 2005. [EPA Deadline Extension, [yosemite.epa.gov/opa/admpress.nsf/0/26dcd12366f2e40385256e850078dbb7?OpenDocument](http://yosemite.epa.gov/opa/admpress.nsf/0/26dcd12366f2e40385256e850078dbb7?OpenDocument)]

# ORIGINAL EPA ANALYSIS SHOWED POSSIBILITY OF 90 PERCENT REDUCTION

*The debate about appropriate levels of mercury controls boils down to one main factor: the Bush Administration plan allows too much mercury, a known toxin that causes birth defects and brain damage, in the air for too long. The technology now exists to reduce mercury emissions by 90 percent, but the Administration prefers a cap and trade method that would allow electric utilities to continue pumping 34 tons of mercury into our nation's skies each year because it is more cost effective for the industry.*

## BUSH PLAN LEAVES TOO MUCH MERCURY IN THE AIR FOR TOO LONG

**Bush Plan Allows Too Much Mercury In Air For Too Long.** The main problem with the Bush administration's mercury proposal is that it allows too much mercury in the air for too long a period of time, said former Clinton EPA Administrator Carol Browner during a CNN News Night Interview. Browner said implementing the Clean Air Act would achieve a 90 percent reduction in five years, and the Bush proposal would achieve a 70 percent reduction over 15 years. [CNN News Night, 12/3/03]



**2010: Bush Administration Proposal Would Allow 580 Percent More Mercury In Environment Than The Clean Air Act Requires.** The proposal put forth by the Bush Administration to reduce mercury would cap emissions at 34 tons by 2010. This is 580 percent greater than what the Clean Air Act would call for under a stringent MACT standard. [CNN News Night, 12/3/03; Ginsberg Lahey Analysis]

**2018 and Beyond: Bush Administration Proposal Would Allow 300 Percent More Mercury Emissions In Environment Than The Clean Air Act Requires.** The proposal put forth by the Bush Administration to reduce mercury would cap emissions at 15 tons by 2018. This is a 300 percent greater reduction than what the Clean Air Act would call for under a stringent MACT standard. [CNN News Night, 12/3/03; Ginsberg Lahey Analysis]

**Mercury Emissions Could Fall To 5 Tons Per Year Under Clean Air Act Section 112.** EPA officials have acknowledged previously that if the agency issued a rule under the Clean Air Act designed to achieve the maximum reduction possible with available technology, mercury emissions could be reduced to only 5 tons a year by 2008. [[Scripps Howard News Service](#), 12/2/03]

<b>BUSH ADMINISTRATION'S MERCURY LEGACY</b>			
<b>Year</b>	<b>MACT Standard</b>	<b>Bush EPA Proposal</b>	<b>Difference</b>
2004	48 tons	48 tons	0 tons
2005	48 tons	48 tons	0 tons
2006	48 tons	48 tons	0 tons
2007	48 tons	48 tons	0 tons
2008: <i>Achievable Technology Would Reduces Emissions To Five Tons Per Year</i>	5 tons	48 tons	43 tons
2009	5 tons	48 tons	43 tons
2010: <i>Bush Proposal Reduces Emissions To 34 Tons Per Year</i>	5 tons	34 tons	29 tons
2011	5 tons	34 tons	29 tons
2012	5 tons	34 tons	29 tons
2013	5 tons	34 tons	29 tons
2014	5 tons	34 tons	29 tons
2015	5 tons	34 tons	29 tons
2016	5 tons	34 tons	29 tons
2017	5 tons	34 tons	29 tons
2018: <i>Bush Proposal Reduces Emissions To 15 Tons Per Year</i>	5 tons	15 tons	10 tons
2019	5 tons	15 tons	10 tons
2020	5 tons	15 tons	10 tons
<b>TOTAL</b>	<b>257 tons</b>	<b>605 tons</b>	<b>348 tons</b>

**Mercury Reduction Technology Exists And Will Become Cheaper**

**Technology Exists To Control 90 Percent Of Power Plant Emissions.** Clear the Air reported that power plants that install control systems such as fabric filters, electrostatic precipitators, and SO<sub>2</sub> scrubbers can control more than 90 percent of their air pollutant emissions. Clear the Air stated, “The findings of this analysis indicate that it is possible for the agency [EPA] to set a relatively stringent emissions standard with available technology.” [[The White House Bulletin](#), 12/3/03]

- **Colorado-Based ADA Environmental Solutions Has Such Technology.** Michael Durham, president of Colorado-based ADA Environmental Solutions, said carbon devices from his company could reduce power-plant mercury emissions between 50 percent and 90 percent. [[Knight Ridder](#), 2/24/04]
- **Regulatory Requirements Drive Technology Innovation.** According to a 2000 report by the Northeast States for Coordinated Air Use Management, regulations with well-defined targets and deadlines drive innovations in control technology. Ultimately this effect greatly reduces the implementation cost. [[Mercury Emissions From Coal-Fired Power Plants: The Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003]

## Technologies Have Reduced Mercury Emissions By 95 Percent In Some Plants

**Scrubbers, Baghouses, and Low-Nitrogen Oxide Burners Help Reduce Mercury Emissions.** There are three basic conventional emission control technologies that can be used by utility plants that help reduce emissions. Wet/dry scrubbers help control sulfur dioxide emissions. Electrostatic precipitators and baghouses (also known as fabric filters) collect particulate matter. Low-nitrogen oxide burners reduce the nitrogen oxide emissions. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 35]

- **Clay Boswell Plant Achieved An 86 Percent Reduction In Mercury Emissions.** The Clay Boswell Plant in Minnesota achieved an 86 percent reduction in its mercury emissions by using a boiler equipped with a fabric filter and low-nitrogen oxide burner. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 36]
- **Inter Mountain Power Agency In Utah Achieved An 84 Percent Reduction In Mercury Emissions.** The Inter Mountain Power Agency in Utah (Mike Leavitt's home state) achieved an 84 percent reduction in mercury emissions by using a boiler equipped with a low-nitrogen oxide burner, wet scrubber, and fabric filter. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 36]
- **AES Hawaii Achieved A 74 Percent Reduction In Mercury Emissions.** AES Hawaii achieved a 74 percent reduction in mercury emissions by using a boiler equipped with limestone injection and a fabric filter. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 36]
- **All Of These Reductions Are Greater Than The Reduction Proposed By The Bush Administration.** The reductions taking place *today* exceed 69 percent, which is the level that the Bush administration plans to attain by 2018. This was achieved using standard market ready technology. [[Atlanta Journal Constitution](#), 2/26/04; [Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 36]

**Activated Carbon Injection System Would Absorb Mercury.** The Activated Carbon Injection (ACI) system injects dry, powdered carbon into the flue gas duct between the air pre-heater and the electrostatic precipitator or baghouse (fabric filter). The carbon absorbs the mercury, and it is collected in the collection mechanism (the precipitator or baghouse). In this phase, additional adsorption takes place between the mercury and the carbon. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 37]

- **DOE Has Sponsored Four ACI Demonstration Projects.** The Department of Energy has sponsored four demonstration projects that use the ACI system: Alabama Power Gaston Plant, WEPCO Pleasant Prairie, PGE NEG Salem Harbor Station, PGE NGE Brayton Point Station. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 38; [A Review of DOE/NETL's Mercury Control Technology R&D Program For Coal-Fired Power Plants](#), April 2003]
- **The Results Of These Projects Show 90 Percent Mercury Removal.** In these demonstration projects, it has been shown that the ACI system can effectively remove 90 percent of mercury. The ninety percent reduction mark was obtained in plants with electrostatic precipitators when 20 pounds per million cubic feet of carbon was injected. Plants with baghouses achieved 90 percent reduction

when only 4 pounds per million cubic feet of carbon was injected. [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003, Page 40]

### Reducing Emissions Shown to Reduce Environmental Impact

- **Florida Study Shows Reducing Emissions Reduces Mercury Levels In The Environment.** A study conducted by the South Florida Mercury Science Program, a collaboration of experts from public and private organizations, found striking mercury reductions in bird feathers and fish tissue. The study compared mercury levels in the Everglades before and after pollution controls were installed at municipal and medical waste incinerators in South Florida. As a result, mercury emissions dropped nearly 99 percent. The scientists found that mercury levels in birds and fish dropped 60 to 70 percent. [Florida Department of Environmental Protection Press Release, 11/6/03, <http://www.dep.state.fl.us/secretary/news/2003/nov/1106.htm>]

### Administration Claims Cap And Trade Is Most Cost Effective Approach

**EPA Claims Cap And Trade Is The Most Cost Effective Approach To Reducing Mercury Emissions.** The EPA states in the preamble to the proposed ruling, “We believe that such a ‘cap and trade’ approach to limiting mercury emissions is the most cost effective way to achieve the reductions in Hg emissions from the power sector that are needed to protect human health and the environment.” [<http://www.epa.gov/mercury/1880338.pdf>, Page 3]

- **Emission Trading Is Acceptable For Other Toxins, But Not Mercury.** Environmental Defense agrees that emissions trading works for other pollutants such as ozone, but mercury should not be regulated under such a fashion because of the health risks associated with this element. Vicky Patton, an attorney for Environmental Defense said, “It is inappropriate to trade an air toxic such as mercury.” [[Associated Press](#), 12/2/2003].

### Stronger State Measures Raise Questions About Weak Federal Measures

**Existence Of Stronger State Provisions Questions Justification Of Less Stringent Federal Standard.** States have already begun to implement stronger provisions to regulate power plant emissions. The Northeast States for Coordinated Air Use Management states in their November 2003 comments to the EPA that, “The existence of stringent state mercury standards for power plants raises a serious question as to how a less stringent federal standard for these sources could be justified.” [[Mercury Emissions From Coal-Fired Power Plants: Case For Regulatory Action](#), The Northeast States For Coordinated Air Use Management, 2003]

### Bush Supporters Oppose Strong Standards

**Strong Mercury Standards Are Opposed By Bush Rangers and Pioneers.** The MACT standards are being resisted by coal-burning power companies, including the Southern Company in Atlanta, American Electric Power and FirstEnergy Corp. in Ohio. [[Cox News Service](#), 12/2/03]

- **Southern Co. Was The Top Contributor From Energy Industry During 2002 Election.** In the 2002 election cycle, Southern Co. was No. 1 among energy companies for campaign giving. Enron had been the top giver during the 1998 and 2000 federal election cycles. Dwight Evans, executive vice president of Southern Company tried to downplay the role of political contributions by saying to Cox News Service, “When you get a letter saying, 'By the way, you're invited to this fund-raiser,' then you

need to go to some of those.” Evans said he doesn’t think campaign contributions help Southern Company influence votes. [[Cox News Service](#), 2/22/03]

- **FirstEnergy President Anthony Alexander Is Bush Pioneer.** Anthony Alexander, President of FirstEnergy, is a 2000 and 2004 Pioneer. Alexander served on the Energy Department transition team. [[Whitehouseforsale.org](#), 8/19/03]

## **Bush Critics Contend Mercury Proposal Is Payback To Campaign Contributors**

**Wesley Clark: Provision Gives Power Plants Free Reign To Pollute.** Democratic Presidential candidate Wesley Clark harshly criticized the Bush plan saying, “We’ve got mercury in our air, mercury in our water and mercury in our food. Giving power plants free reign to pollute our country and poison our citizens doesn’t protect our environment.” [[Associated Press](#), 12/3/03]

**Howard Dean: Accused Bush Of Selling Nation’s Health To Benefit Campaign Contributors.** Democratic Presidential candidate Howard Dean harshly criticized the Bush mercury proposal accusing the President “of selling our health, our environment and our economic security to its campaign contributors.” [[Associated Press](#), 12/3/03]

**NY State Attorney General’s Environmental Protection Chief: Bush Administration Is Caving In To Its Campaign Contributors.** Peter Lehner, the environmental protection chief in the New York Attorney General’s office, said during an EPA public comment hearing, “The Bush EPA is continuing the trend of caving in to corporate polluters, caving in to its campaign contributors.” [[Associated Press](#), 2/26/04]

**Clean Air Council: Mercury Proposal Has Nothing To Do With Science Or Technology.** Joseph Minott, Executive Director of the Clean Air Council in Philadelphia wrote in an op-ed that, “EPA’s about face on the power plant mercury issue has nothing to do with science or technology, and everything to do with the Bush administration’s desire to please its supporters in the utility industry.” [[Morning Call](#), 2/25/04]

**Chesapeake Bay Foundation: The Caps Are Too Little, Too Late.** Beth McGee, a senior scientist at the Chesapeake Bay Foundation criticized the Bush administration cap and trade proposal during an EPA hearing saying, “To use an oft-quoted phrase, these caps are too little, too late.” [[Baltimore Sun](#), 2/26/04]

**Connecticut Attorney General: Proposal Would Allow A Few Companies To Fatten Their Bottom Lines.** Connecticut Attorney General Richard Blumenthal told the Associated Press that the mercury regulations proposed by the Bush administration EPA are an unacceptable risk to the health of women and children. Blumenthal added, “A cap-and-trade system would concentrate mercury pollution in hot zones, condemning residents to brain and nerve illnesses simply so a few companies can fatten their already obese bottom lines.” [[Associated Press](#), 4/1/04]

# EPA ADMINISTRATOR CLAIMS LACK OF EMISSIONS REDUCTION TECHNOLOGY

*EPA administrator Mike Leavitt has said the technology does not exist to provide a 90 percent reduction of mercury emissions from coal-fired power plants, but the technology in fact does exist and in some instances has removed 95 percent of mercury emissions. Leavitt's claim that technology doesn't exist falsely reshapes the mercury debate from public health to technology. Mike Leavitt can say whatever he wants, but facts don't lie – the technology to reduce mercury emissions by 90 percent exists, has been tested, and in some cases is already implemented. In fact, one plant in Leavitt's home state of Utah achieved an 84 percent reduction of mercury without using advanced technologies. So why would Leavitt as a public administrator charged with defending the U.S. environment distort the truth about mercury reduction technology? Certainly not because while Leavitt was Governor of Utah he took \$161,300 from electric utilities, including \$97,200 from PacifiCorp, the country's 17<sup>th</sup> largest mercury polluter.*

## HUH?

***"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."***

***– EPA Administrator Mike Leavitt*** [[Atlanta Journal Constitution](#), 2/26/04]

## THE TRUTH:

- ✓ **Existing Pollutant Control Technology Reduced Mercury Emissions By 95 Percent In Four Bituminous Coal Plants.** Four bituminous coal plants reduced mercury emissions by 95 percent during emissions tests by using dry scrubbers and fabric filters. The 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]
- ✓ **Existing Pollutant Control Technology Reduced Mercury Emissions By 74 to 86 Percent In Three Subbituminous Coal Plants.** Three subbituminous coal 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]

## CERTAINLY NOT BECAUSE

**Utah Electric Utilities Contributed \$161,300 To Leavitt While He Was Governor.** 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]

## MR. LEAVITT WAS A DEAR FRIEND OF PACIFICORP AS UTAH GOVERNOR

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

- **2001: PacifiCorp Emitted 1,502 Pounds Of Mercury Into Our Nation's Skies.** In 2001 while Mike Leavitt was taking tens of thousands of dollars from PacifiCorp, the company emitted 1,502 pounds of mercury into our nation's skies. [2001 EPA Toxic Release Inventory Data]
  - **2001: PacifiCorp Was The 17<sup>th</sup> Largest Emitter Of Mercury.** In 2001, PacifiCorp Plants were the 17<sup>th</sup> largest emitters of mercury in the United States. [2001 EPA Toxic Release Inventory Data]
- **2001: PacifiCorp Emitted 402 Pounds Of Mercury In Utah Skies.** In 2001, while Mike Leavitt was taking tens of thousands of dollars from PacifiCorp, the company emitted 402 pounds of mercury into Utah's skies. [2001 EPA Toxic Release Inventory Data]
  - **PacifiCorp's Total Was 60 Percent Of Total Mercury Emissions In Utah.** In 2001, 654 pounds of mercury were released into Utah skies. PacifiCorp accounted for 60 percent of those emissions. [2001 EPA Toxic Release Inventory Data]

## PUTTING MERCURY IN CONTEXT:

### MERCURY REGULATION IS ADMINISTRATION'S LATEST ASSAULT ON CLEAN AIR

*The Bush Administration's proposed mercury regulation is its latest assault on Clean Air. From withdrawing from the Kyoto Treaty, to revising new source review regulations, to the "Clear Skies" Initiative, President Bush has tried at every turn to help the utility industry get around the Clean Air Act.*

### 2001-2003: ADMINISTRATION CHANGES NEW SOURCE REVIEW LAWS

**January 2002: Justice Department Decides It Can Continue To Legally Pursue NSR Suits.** On January 15, 2002, the Justice Department announced that it was justified under the Clean Air Act in continuing to pursue lawsuits that had been filed against 51 power plants during the Clinton Administration. [Department of Justice Press Release, 1/15/02]

**February 2002: Top EPA Official Resigns In Protest Over Administration Efforts To Reduce Emission Standards.** On February 27, 2002, Eric Schaeffer, the head of the EPA's Office of Regulatory Enforcement, resigned in protest of the White House's efforts to weaken emission standards for power plants. [National Resources Defense Council, Bush Record On Power Plant Pollution, <http://www.nrdc.org>]

- **Schaeffer Saw Unethical Relationship Between Bush EPA And Industry Lobbyists.** In his resignation letter to EPA Administrator Christine Todd Whitman, Eric Schaeffer wrote that he was tired of fighting an administration set on weakening the rules his office was trying to enforce. Schaeffer alleged in his letter that EPA officials were leaking rule changes to industry lobbyists saying, "It is hard to know which is worse, the endless delay or the repeated leaks by energy industry lobbyists of draft rule changes that would undermine lawsuits already filed." [National Resources Defense Council, Bush Record On Power Plant Pollution, <http://www.nrdc.org>]

**August 2003: Administration Revises New Source Review Regulations.** On August 27, 2003, the Bush Administration modified the new source review regulations by creating a 20 percent cost threshold that needed to be met in order for utilities to be required to install new pollution control equipment. The change undermined lawsuits being prosecuted by the Department of Justice against electric utilities for not meeting the original new source review requirements. [National Resources Defense Council, Bush Record On Power Plant Pollution, <http://www.nrdc.org>]

### 2001-2003: PRESIDENT PROPOSES "CLEAR SKIES" INITIATIVE

**July 2001: Whitman Testifies That Clean Air Act Would Be Replaced With Emission Trading Programs.** On July 26, 2001, then EPA Administrator Christine Todd Whitman testified before the Senate Environment and Public Works Committee that the Bush Administration would propose legislation to modify the Clean Air Act expanding the acid rain pollution-credit trading system to other pollutants. This approach was the favored by the electric utility industry. [National Resources Defense Council, Bush Record On Power Plant Pollution; Whitman testimony before Senate Environment and Public Works Committee, 7/26/01, [http://epw.senate.gov/107th/whitman\\_0726.htm](http://epw.senate.gov/107th/whitman_0726.htm)]

**February 2002: Bush Announces New Targets For Power Plant Emission Reductions.** On February 14, 2002, President Bush announced new reduction targets for three pollutants that come chiefly from U.S. power plants. The new emission targets would delay by up to 10 years the emission cuts that were proposed under the Clean Air Act. [National Resources Defense Council, Bush Record On Power Plant Pollution, <http://www.nrdc.org>]

**April 2002: EPA Estimates That Bush’s “Clear Skies” Would Increase Coal Usage By 79 Million Tons.** On April 17, 2002, an EPA analysis of the Bush administration’s “Clear Skies” Initiative indicated the proposed legislation would increase the amount of coal burned by electric utilities by 7.3 percent. This increase would mean utility companies would burn 79 million more tons of the mercury-containing substance between now and 2020. [National Resources Defense Council, Bush Record On Power Plant Pollution, <http://www.nrdc.org>]

**September 2003: President Bush Hails “Clear Skies” Initiative While Visiting A Dirty Coal Plant.** On September 15, 2003, President Bush visited the DTE Monroe Power Plant in Monroe, Michigan to defend his “Clear Skies” Initiative. In order to promote his “Clear Skies” plan, Bush visited a power plant that emitted 755 pounds of mercury into Michigan’s air in 2001. [National Resources Defense Council, Bush Record On Power Plant Pollution, <http://www.nrdc.org>; 2001 EPA Toxic Release Inventory Data; [Associated Press](#), 9/15/03]

