

The attached transcript of the public hearing held on February 25/26, 2004, in Chicago, IL, contains testimony on both the "Proposed National Emission Standards for Hazardous Air Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Proposed Rule," 69 Fed. Reg. 4692 (Jan. 30, 2004) (Proposed Mercury Rule); and "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule); Proposed Rule," 69 Fed. Reg. 4566 (Jan. 30, 2004) (Proposed Interstate Air Quality Rule). Only the testimony covering the Proposed Interstate Air Quality Rule is pertinent to this rulemaking. This transcript is also included in e-docket OAR-2002-0056 (Proposed Mercury Rule).

PUBLIC MEETING

THE INTERSTATE AIR QUALITY RULE
THE UTILITY MERCURY REDUCTION RULE

February 25 & 26, 2004
Continental Room, Chicago Hilton
720 South Michigan Avenue
Chicago, Illinois

VOLUMES I & II

List of Speakers

February 25, 2004	
Rule	Name/Organization
Mercury	Eric Uram - Mercury Free Wisconsin
Mercury	Marc Looze - Clean Wisconsin
Mercury	Sarah Streed - Wisconsin Interfaith Climate and Energy Campaign
Mercury	Al Milham - Vice-Chair, Pottawatamie Tribe
Mercury	Laura Urbaszewski - Private Citizen
Both rules	Rebecca Stanfield - Illinois Public Interest Research Group
Mercury	Jean Flemma - Prairie Rivers Network
Interstate	Bernard Melewski - Adirondack Council
Both rules	Jon Heinrich - Wisconsin Dept. Natural Resources
Mercury	Shannon Fisk - Environmental Law and Policy Center
Mercury	Verena Owen - Lake County Conservation Alliance
Mercury	Zoe Lipman - National Wildlife Federation
Mercury	Susan Zingle - Lake County Conservation Alliance
Mercury	F. Daniel Cantrell - Speaking on for Congressman Danny K. Davis
Mercury	Kim Novick - Private Citizen
Mercury	Paul Zugger - Michigan United Conservation Clubs
Mercury	Laurel O'Sullivan - Lake Michigan Federation and Delta Institute
Mercury	Henry Anderson - Wisconsin Dept of Health and Family Services
Mercury	Jackie Schomer - Private Citizen
Mercury	Peg Lautenschlager - Attorney General for Wisconsin
Mercury	Lt. Govenor Pat Guinn - Illinois
Mercury	Marjorie Ettliger - League of Women Voters
Mercury	Carey Hamilton - Save the Dunes Council
Mercury	John Raffensperger - Private Citizen
Mercury	Ellen Rendulich - Citizens Against Ruining the Environment
Mercury	Andy Knott - Hoosier Environmental Council of Indiana
Mercury	Katherine Duck - IN Faith-Based Environmental Task Force
Mercury	Indra Frank - Private Citizen

Rule	Name/Organization
Mercury	Lisa Yee - Private Citizen
Mercury	Lee Francis - Physicians for Social Responsibility
Mercury	Sarah Welch - Midwest Office of Izaak Walton League of America
Mercury	Joe Highland - Private Citizen
Both rules	Cory Chadwick - President of ALAPCO
Both rules	John Paul - Ohio Regional ALAPCO
Mercury	David Hetzel - Private Citizen
Mercury	Jacob Zausch - Private Citizen
Mercury	Stephanie Montgomery - Private Citizen
Mercury	Bill Moore - Private Citizen
Mercury	Ginger Duiven - Private Citizen
Mercury	Brad Maurer - Ohio Smallmouth Alliance
Mercury	Michelle Navarre Cleary - Private Citizen
Both rules	Dan Reidinger - Edison Electric
Mercury	Patty Crow - Private Citizen
Mercury	Michael Brill - Private Citizen
Mercury	Michelle Sommers - Private Citizen
Mercury	Colleen Sarna, Private Citizen
Mercury	Shane Staten - Missouri Sierra Club
Mercury	Mary Holms - Private Citizen
Mercury	Gina Lettiere - Private Citizen
Mercury	Margeret McClintock - Private Citizen
Mercury	Sandra Benzeev - Private Citizen
Mercury	Michael B. Kaye - Private Citizen
Mercury	Thomas Robert Hartmann - Private Citizen
February 26, 2004	
Mercury	Matt Little - Mercury Free Minnesota
Mercury	Julia Allison Risser - Private Citizen
Mercury	Robert Shimek - Indigenous Environmental Network
Mercury	Lea Foushee - Indigenous Womens Mercury Investigation
Mercury	Kristi Kowal - Private Citizen

Rule	Name/Organization
Mercury	Blayne Grave - Private Citizen
Mercury	Erin Jorhadl-Redin - Private Citizen
Mercury	Rich Femling - Rose Creek Anglers
Mercury	Michael Carey - Ohio Coal Association
Mercury	Phil Gonet - Illinois Coal Association
Mercury	Kathleen Schuler - Institute for Agriculture and Trade Policy
Both rules	Dennis Leonard - Detroit Edison
Both rules	Mary Kenkel - Cinergy Corporation
Mercury	Karen Truskowski - Dental Amalgam Mercury Syndrome (DAMS)
Mercury	Rebecca Winkler - Private Citizen
Mercury	Boise D. Jones - Environmental Justice Advocates of Minnesota
Mercury	Danielle Welliever - Evangelical Lutheran Church in America
Both rules	Linda Gray Sonner - Presbyterians for Restoring Creation
Mercury	Leise Jones - U.S. Public Interest Research Group
Both rules	Lauren Mansell - Private Citizen
Both rules	Cathy S. Woolums - Mid American Energy Company
Both rules	P. Bruce Hill - The American Coal Company
Mercury	Elaine Kittredge - Private Citizen
Mercury	Roger Grissette - Private Citizen
Mercury	Dave Madden - Private Citizen
Mercury	Sandy Justis - Private Citizen
Mercury	James Coursey - Illinois Council of Trout Unlimited
Mercury	John Thompson - Clean Air Task Force
Mercury	Jill DeWitt - Private Citizen
Mercury	Marsha Willhite - Association of State and Interstate Water Pollution Control Administration
Both rules	Lee Walker - New Coalition for Economic and Social Change
Mercury	Ajay Goyal - Private Citizen
Mercury	Michelle Gottlieb - Greater Boston Physicians for Social Responsibility
Mercury	Lisa Diment - Private Citizen
Mercury	Ryan Canney - Citizen Action/Illinois

Rule	Name/Organization
Mercury	Ariele Llorens - Private Citizen
Mercury	Steve Frankel - Private Citizen
Mercury	Edward Haggard - Private Citizen
Mercury	Renee Cipriano - Illinois EPA
Mercury	Michael Grill - Private Citizen
Both rules	Marcia Jimenez - Environmental Commissioner for the City of Chicago
Interstate	Brian Urbaszewski - American Lung Association
Mercury	David Cugell, MD - Private Citizen
Interstate	Roberta Richardson - Private Citizen
Mercury	Vince Bertolini - Private Citizen
Mercury	Joan Para - Private Citizen
Mercury	Caroline Herzenberg - Private Citizen
Both rules	Kurt Waltzer - Ohio Environmental Council
Mercury	Michael B. Kaye - Private Citizen
Mercury	J. Caitlin Sticco - Private Citizen
Mercury	Andrew Allen - Private Citizen
Mercury	Donna Green - Private Citizen

PUBLIC MEETING
**THE INTERSTATE AIR QUALITY RULE
THE UTILITY MERCURY REDUCTION RULE**

February 25, 2004
Continental Room, Chicago Hilton
720 South Michigan Avenue
Chicago, Illinois

VOLUME I

Panel:

Bill Wehrum, Chairman
Sarah Dunham
Joe Paisie

Reported by:

Christine M. Luciano, CSR
Brenda K. Dufek, CSR

SPEAKERS:

Eric Uram
Marc Looze
Sarah Streed
Al Milham
Laura Urbaszewski
Rebecca Stanfield
Jean Flemma
Bernard Melewski
Jon Heinrich
Shannon Fisk
Verena Owen
Zoe Lipman
Susan Zingle
F. Daniel Cantrell
Kim Novick
Paul Zugger
Laurel O'Sullivan
Henry Anderson
Jackie Schomer
Attorney General of Wisconsin Peg Lautenschlager
Lieutenant Governor of Illinois Pat Quinn
Marjorie Ettliger
Carey Hamilton
John Raffensperger
Ellen Rendulich
Andy Knott
Katherine Duck
Indra Frank
Lisa Yee
Lee Francis
Sarah Welch
Joe Highland
Cory Chadwick
John Paul
David Hetzel
Jacob Zausch
Stephanie Montgomery
Bill Moore
Ginger Duiven
Brad Maurer
Michelle Navarre Cleary
Dan Reidinger
Patty Crow
Michael Brill
Michelle Sommers
Colleen Sarna
Shane Staten
Mary Holms
Gina Lettiere
Margaret McClintock
Sandra Benzeev
Michael B. Kaye
Thomas Robert Hartmann

SO₂

CHAIRMAN WEHRUM: Good morning. Thank you for attending the EPA's public hearing on two proposed rules to limit air emissions of sulfur dioxide, nitrogen oxides, and mercury.

I recognize many of you have traveled quite a distance to be here, and I appreciate your efforts. My name is Bill Wehrum, and I will be chairing today's meeting. We are here today to listen to your comments on EPA's proposed Interstate Air Quality Rule and Utility Mercury Reductions Rule.

Before we move to the comment period, I would like to briefly describe the rules that are the subject of today's hearing. Both rules were proposed in December of 2003. The Interstate Air Quality Rule, IAQR, is designed to dramatically reduce and permanently cap emissions of sulfur dioxide known as SO₂ and nitrogen oxides or NO_x in the eastern United States.

States have two options to achieve the required emissions reductions: First, they can require utilities to participate in an interstate cap-and-trade system run by EPA that reduces and caps SO₂ and NO_x emissions; or two, they can meet their individual state emissions reduction requirement through measures of their choice.

The cap-and-trade program proposed as part of the Interstate Air Quality Rule would reduce power plant SO₂ emissions by approximately 3.6 million tons in 2010, across states covered by the rule, with reductions ultimately reaching more than 5.5 million tons a year. When fully implemented, NO_x emissions reductions also would be substantial, measuring about 1.5 million tons in 2010 and 1.8 million tons in 2015.

By substantially reducing SO₂ and NO_x emissions across the multi-state region, the Interstate Air Quality Rule or IAQR for short, will go a long way to help states and cities across the country meet national health-based air quality standards.

SO₂ and NO_x contributes to the formation of fine particles and ground level ozone. Together these pollutants are associated with thousands of illnesses and premature deaths each year. Reducing emissions of these pollutants will significantly address these health issues in addition to improving visibility and protecting sensitive

ecosystems from problems like acid rain.

We plan to propose a supplement to the IAQR in May that would include further details of the model cap-and-trade approach, rule text, and results of additional analysis. We intend to finalize this rule by the end of this year.

That's a quick summary of the IAQR. The proposed Utility Mercury Reductions Rule is a separate action from the IAQR, but it is closely related. In the proposal, EPA offered two options for controlling mercury emissions from electric utilities. By reducing mercury levels under either of these options, the Utility Mercury Reduction Rule would reduce health risks for pregnant women, fetuses, and young children who consume certain fish from local streams and lakes.

Let me briefly describe the options. The first option would require utilities to install controls known as Maximum Achievable Control Technologies under Section 112 of the Clean Air Act. If the agency implements this approach known as MACT, we would reduce nationwide emissions of mercury by 14 tons or 29 percent by the year 2007.

The second option would establish performance standards limiting mercury emissions from new and existing utilities under Section 111 of the Clean Air Act and would create a market based cap-and-trade program. If EPA implements this option, we would reduce nationwide utility emissions of mercury in two distinct phases. When fully implemented, mercury emissions would be reduced by 33 tons or about 69 percent of today's levels.

Many of you have read the EPA also is proposing to revise its December 2000 finding that it is appropriate and necessary to regulate utility hazardous air emissions using the MACT standard provisions, Section 112 of the Clean Air Act. Let me emphasize that EPA believes that we must control mercury emissions from utilities. I want to say that again. I want to emphasize EPA believes that we must reduce mercury emissions from utilities.

We are proposing this revision in order to gain flexibility we need to consider

the second option I mentioned to control mercury. The agency believes this is a more efficient and cost-effective way to control mercury emissions, permanently capping and reducing mercury emissions from power plants for the first time ever.

Earlier this week and, in fact, just yesterday afternoon, EPA proposed a supplement to the December 2003 utility mercury reductions proposal. In this supplement, we proposed rule language for a model cap-and-trade program to achieve the mercury reductions required under the proposed cap-and-trade option. EPA also proposed requirements for monitoring mercury emissions from utilities in states choosing to participate in the trading program.

We will be holding a separate hearing in the near future to listen to the comments on this supplemental proposal. We intend to finalize a rule to control mercury emissions from power plants also by the end of the year, and this will be in conjunction with IAQR as I described earlier.

Together the mercury proposal and the Interstate Air Quality Rule create a multi-pollutant strategy that will improve air quality throughout the United States. Through our experience with the acid rain program, we believe we can use cap-and-trade to get cost-effective reductions with virtually 100 percent compliance, and we have much of the infrastructure in place to implement it.

Now let's turn to the comment portion of today's hearing. This hearing is one of three hearings we're holding across the country in Chicago, Illinois, one in Philadelphia and another in our offices in Research Triangle Park, North Carolina just outside Raleigh.

We'll be preparing a written transcript of each hearing. Transcripts will be available as part of the official record for each rule. We are also accepting written comments on the two proposed rules until March 30, 2004. We have a handout available at the registration table with detailed information for submitting written comments on the proposed rules.

Now I'd like to outline how today's hearing will work. I will call the scheduled

speakers to the microphone in pairs. Please state your name, your affiliation, and where you're from. It will help our court reporter if you also spell your name. Again, we're keeping a record of all the testimony, and our court reporter will appreciate your help.

In order to be fair to everyone, we're asking you to limit your testimony to ten minutes each and to remain at the microphone until both speakers in a pair have finished. After you finish your testimony, a panel member may ask clarifying questions. We're transcribing today's hearing, and each speaker's oral testimony will become part of the record. Please be sure to give a copy of any written comments to our staff at the registration table.

We have a time keeping system -- on the table you'll see the little box in front of me -- consisting of green, yellow and red lights. When you begin speaking, the green light will come on. The yellow would signal that you have two minutes left to speak, and when the red light comes on, we'll ask you to stop.

Although we have a very full schedule of speakers already, we intend to stay into the evening to allow everyone an opportunity to comment. So if you're here and you would like to talk, we will accommodate you. If you would like to testify but haven't registered, please sign up at the registration table.

For those who have already registered to speak, we've tried to accommodate your requests for specific time slots. We ask for your patience as we proceed through the list. We may need to make minor adjustments as the day progresses.

Before I introduce the other members of the panel here, one other ground rule that didn't make it into our prepared statement. When you're assigned time, we request that you use the time that's available to you and seating of time of one speaker or blocking time is not something we'll permit.

Now I'd like to introduce the members of the panel. To my left is Sarah Dunham from the Office of Atmospheric Programs in Washington D.C. She is an expert on cap-and-trade systems and was very instrumental in putting together the

Interstate Air Quality Rule and also the part of the mercury reductions rule that relies on cap and trade. To my right is Joe Paisie with the Office of Air Quality Planning and Standards in North Carolina. He also is an air quality expert and in particular was involved in the development of the IAQR.

So you have experts at the table who are part and parcel of the development of these rules and who actually do look forward to listening to your comments. As I said previously, we may ask you some questions if we need some clarification.

Thanks to everybody for participating, and I think we'll now get started.

Mr. Uram.

ERIC URAM: Thank you. My name is

Eric Uram. The last name is spelled U-r-a-m. Good morning. I represent the Sierra Club and our 700,000 plus members in presenting oral comments at this hearing. I would like to thank you for the opportunity to speak to you today on the proposed mercury and interstate transport rules.

Currently I'm employed by the Sierra Club in their Midwest regional office where I've worked since 1998 on Midwestern states' environmental issues, focusing on fish advisories and persistent bioaccumulative toxins including mercury. During my tenure, I've testified before the National Academy of Sciences review panel on health effects of methylmercury. I've participated in the development of the currently proposed mercury and air toxic rules in the State of Wisconsin. I've also served on the flawed MACT federal advisory committee process that was initiated to help develop the mercury rules I'm present here today to testify on.

The Sierra Club is stating for the record that we support a rigorous approach on Clean Air Act's MACT program for controlling hazardous air pollutants from fossil fuel fired utility boilers by calling for reductions to be achieved by 2008 as ordered and at the 90 percent level that the Northeast States for Coordinated Air Use Management and the Environmental Protection Agency have stated are appropriate. In addition, we oppose any trading program for air pollutants with adverse health

effects.

As a long-time resident in Illinois, Minnesota, and Wisconsin, I have hunted and fished throughout the Midwest for most of my life and am concerned by the threat of mercury in fish poses to human and environmental health. Currently 45 states and territories have issued health advisories for mercury in fish. Nineteen of those have statewide mercury fish advisories including the states of Minnesota, Missouri, Illinois, Indiana, Ohio, Michigan, and Kentucky; all states in which I work and recreate in.

Fishing is a prime recreational and vacation activity for many folks in these Midwestern states. In 2001 in my nine state region, folks purchased over 10 million fishing licenses and spent over \$6 billion on fishing-related activities.

Since I reside in and know Wisconsin best, I'll refer to specific statistics from my own state; yet the surrounding states have much in common with these Wisconsin numbers as annual fishing license sales and economic activity there are very near what these Wisconsin numbers reflect.

According to the 2001 U.S. Fish and Wildlife Service National Survey on fishing, hunting and wildlife associated recreation, Wisconsin is one of the nation's top five fishing destinations. According to the survey, in Wisconsin alone, anglers caught 50 million fish, spent \$1.22 billion on fishing gear and trips, put \$90 million into state and federal funding mechanisms, sustained 26,000 jobs, and generated \$2.3 billion in economic activity.

Additionally, according to the most recent report by Wisconsin's Legislative Audit Bureau, Wisconsin spends over one-third of their fisheries budget, over \$6 million, for propagating and stocking fish for those anglers to catch. These include 222,000 largemouth bass, 2.2 million muskellunge, 12.3 million northern pike, and 47.6 million walleye. All of these are species included in the most restrictive of the categories for fish consumption due to mercury contamination. According to the Wisconsin Department of Natural Resources in 2001, the most fished for species in Wisconsin was walleye followed by bass.

In Wisconsin as in much of the country, the culture of fishing is about catching fish, which many times are the same ones considered toxic due to elevated levels of mercury. I hope one day to be able to teach my 18-month-old son to fish just as my father and grandfather taught me. If we continue to add additional mercury to those waters, we run the risk of perpetuating toxic fish and ending the cultural attachment we have to fishing.

According to many government sources, the major source of mercury in our bodies comes from eating mercury tainted fish. The most sensitive population to mercury's effects is the developing child and the mother who carries it.

At the recent EPA national forum on contaminants in fish, it was announced that the number of children born every year potentially affected by mercury's toxic effects was almost doubled to 630,000 from the Centers for Disease Control's previous estimates of 320,000 based on blood analysis and the National Science Foundation's previous estimate of 60,000 based on dietary surveys.

In response, federal and state governments are taking action to limit people's exposure to this risk. Currently the FDA has proposed increasing warnings to sensitive populations regarding commercially sold fish. Tuna, a staple of many families, is joining swordfish, shark, mackerel and tilefish as a health threat containing too much mercury. Many states have included their own warnings for commercially bought seafood and are posting warnings at boat landings and other places.

While these education efforts are critically important, we must dramatically reduce emissions of mercury to prevent the poisoning of our children with this potent neurotoxin. At the heart of the issue are coal-fired power plants, the nation's largest reported source of mercury air emissions emitting approximately 48 tons of mercury each year.

The Clean Air Act requires that we control these emission of the mercury from the coal-fired power plants and other sources. According to the Clean Air Act, EPA must list air pollutants as hazardous when emissions, ambient concentrations,

bioaccumulation or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects. Mercury clearly meets those criteria. Clean Air Act prohibits trading of these hazardous air pollutants and requires technology based controls to reduce pollution from major source sectors.

On December 20, 2000, EPA determined that a maximum achievable control technology standard should set the level of control. In a presentation by EPA to utility interests in December of 2001, EPA indicated that 90 percent reductions in mercury were not only achievable with currently available technologies but were readily available and less expensive than pollution controls for smog and acid rain. However, we can't do this using the same tools we use for criteria pollutants.

EPA's proposal for trading mercury emissions is unacceptable from a public health and public policy perspective. Trading emissions would create local or regional hot spots of greater mercury contamination in those areas geographically close to the plants which would be allowed to emit higher levels of mercury under such a trading scheme. Under the Clean Air Act, this is illegal.

We need to reduce mercury pollution from coal-fired power plants by at least 90 percent by 2008 to protect human health. Ultimately, we need to virtually eliminate emissions of this potent neurotoxin.

This diagram here shows you how far away we really are. This is the deposition sampling that was done in Devil's Lake in Wisconsin. This is part of the TMDL approach that the EPA sponsored. As you can see, the red bars are the high end of the depositional analysis of mercury concentrations in rain on the left side at Devil's lake. The low levels in mercury deposition are the yellow bars, and then the weigh-in means are the gray bars.

On the right side, the two red bars are where mercury concentrations are acceptable under the Great Lake's Initiative, what would be considered safe for human health and for wildlife.

So you can see the disparity between these bars of what is coming out of the sky of mercury concentrations in the rain compared to what is considered safe in water quality standard, the disparity is very, very great. What we need to do is bring these bars down to this level.

Having tracked this issue over the years, it's clear to me that politics have taken center stage to the detriment of protecting public health, protecting the environment, and even honoring the letter of the law.

We can achieve what has been laid out in the Clean Air Act. In the Midwest, the most recent permit for a sub-bituminous coal-fired power plant has been written and issued with over 85 percent levels of reduction in mercury emissions.

In the EPA information collection request used to poll utilities on their ability to reduce mercury emissions, eastern bituminous coal-burning units were found to achieve better than 90 percent reductions in mercury using only controls for acid rain, smog, and soot. We can achieve what EPA said was possible and should do so.

To sum up, the mercury reduction proposed doesn't go far enough, nor does it meet the letter of the law. The mercury trade proposal goes too far according to the law.

EPA should implement the 90 percent reduction levels known to be achievable and should do so on the timetable indicated by 2008. Anything less will not protect happily health.

Lastly, I must take issue with EPA's lumping together scheduled public hearings on the proposed rules for mercury control and interstate transport. While these are issues are connected due to the source of the problem, they're separate enough and they deserve distinct opportunities to weigh in by interested parties.

Briefly, since the time allowed only allows me to really talk about one of these issues, the Interstate Air Quality Rule is a step backward. It doesn't go far enough, fast enough, and will result in nonattainment areas around the country for both smog and soot resulting in about 100,000 unnecessary premature deaths by the year 2020.

EPA needs to reduce the annual control region SO₂ cap to 1.8 million tons -- that's equivalent to about a 2 million ton nationwide cap -- and reduce the NO_x cap to a 1.25 million tons and make all these reductions effective in one phase by 2009.

Thank you for the opportunity.

CHAIRMAN WEHRUM: Thank you.

Did you submit your chart into the record?

ERIC URAM: I can.

CHAIRMAN WEHRUM: We'd like you to do that. If not the chart, send us a copy.

Where is Devil's Lake?

ERIC URAM: Devil's Lake is in south central Wisconsin. The only water coming into that body is through atmospheric deposition. There are no open line sources so it has a very small drainage basin. So it's chosen for the TMDL process by the EPA along with the site in Florida.

CHAIRMAN WEHRUM: Thank you very much. Appreciate your proposal.

ERIC URAM: Thank you.

CHAIRMAN WEHRUM: Next up, Emily and Bill Kordus and Marc Looze. I don't know who's on deck.

MARC LOOZE: I think as you guessed I'm not Emily and Bill Kordus. Unfortunately they weren't able to make it today. I am Marc Looze. My name is spelled M-a-r-c, L-o-o-z-e, and I'll be speaking today on the proposed mercury rules.

Again, I share Eric Uram's frustration at the short amount of time allotted to talk about two very complex air quality reduction rules.

My name is Marc Looze and I'm the clean air campaign director for Clean Wisconsin. We are an environmental advocacy organization that protects Wisconsin's water and air and advocates for clean energy by being an effective voice in the state legislature and by holding elected officials and corporations accountable. On behalf of

our 10,000 members and our coalition partners, Clean Wisconsin protects the special places that make Wisconsin such a wonderful place to live, work, and play.

Mercury is a serious health threat to the families of Wisconsin. It is also a threat to Wisconsin's fishing tradition and multi-billion dollar tourism economy. Every lake and river in Wisconsin is on a health advisory due to widespread mercury contamination in fish. Pregnant women and women who might become pregnant, nursing mothers, and children under 15 are advised by the state to severely limit the amount of sport fish they eat from Wisconsin waters.

For over a half a decade, our organization has worked to pass two different bills in the Wisconsin legislature and one administrative rule to require stringent cuts in mercury pollution from coal-fired power plants in the state, the largest source of uncontrolled mercury emissions to Wisconsin's air.

Nearly four years ago, Clean Wisconsin and 26 organizations and individuals including sporting groups, physicians, resort owners, fishing guides, republican and democrat state legislators and others submitted a legal petition to the state asking for administrative rules to reduce mercury by 90 percent.

In June of 2003, the State of Wisconsin took a step forward towards reducing mercury pollution from the state's coal plants. The Natural Resources Board, which is the natural resources policy setting body in Wisconsin, passed unanimously a rule that would require an 80 percent mercury reduction from the state's major electric utilities by 2015.

Although we support a rule with deeper and faster mercury cuts, this is a step in the right direction especially for a state that relies on western sub-bituminous coal for roughly 85 percent of its coal-based electricity generation.

It is worth noting that the rule was developed under then Governor Tommy Thompson and that all but one of the Natural Resources Board members was appointed by then Governor Thompson who is a republican and current United States secretary of health and human services.

Unfortunately Wisconsin's mercury reduction progress has been stalled. The main reason, according I think to a lot of the state, is that trade group and utility lobbyists have convinced some legislative leaders that we should wait for the federal government to propose a nationwide mercury reduction standard. We agree if and only if the federal standard guarantees that Wisconsin coal-fired power plants will have to follow an aggressive time line for installing mercury pollution control technology that achieves the maximum mercury control. Both mercury rules proposed by the Bush Administration's Environmental Protection Agency fall well short of passing that smell test.

Clean Wisconsin and its 10,000 members urges the EPA to adequately address Wisconsin's mercury problem by greatly strengthening the proposed mercury rule under Section 112 of the Clean Air Act for plants burning all types of coal. We further urge the agency to reject the alternative new source performance rule in place of a MACT standard.

One basis for the EPA's inadequate mercury proposal is the apparent position that power plants burning western sub-bituminous coal cannot significantly reduce mercury due to a lack of effective pollution control technology. The Wisconsin Natural Resources Board and Department of Natural Resources staff has developed a state mercury rule that contradicts that position. The Wisconsin mercury rule would require an 80 percent mercury reduction from coal-fired power plants that almost exclusively burn western sub-bituminous coal. The reduction levels are based on the installation of activated carbon injection and some fabric filters.

While we maintain that the technology allows for a 90 percent reduction from sub-bituminous coal-fired power plants, the Wisconsin rules show that reduction can occur at a level that far exceeds what is contemplated in the EPA's proposed rule.

The EPA's proposed new source performance rule establishes a scenario in which power plants that burn eastern bituminous coal can install conventional pollution control technologies for sulfur dioxide, nitrogen oxides, and particulate matter make

steep mercury cuts as co-benefits and sell mercury pollution credits to Midwestern utilities that burn western sub-bituminous coal.

Wisconsin with its 15,000 lakes and thousands of river miles and rich fishing tradition cannot afford to emerge from a federal rule making process that may allow many power plants in the state and in the Great Lakes region to make little or no mercury reductions.

There is a close relationship between local and regional coal-fired power plant mercury pollution and mercury deposition to our waters. Computer modeling done by a scientist at the National Oceanic Atmospheric Association estimates that 43 percent of mercury falling into Lake Michigan, a true gem to Wisconsin citizens, comes from mercury sources within 60 miles of the lake.

Furthermore, if Wisconsin and other Midwestern states do not see local and regional power plant mercury reductions, our state may also not see declines in mercury levels in locally caught fish anytime soon.

Research done on a northern Wisconsin lake found that regional reductions in mercury deposition matter make steep mercury cuts as co-benefits and sell mercury pollution credits to Midwestern utilities that burn western sub-bituminous coal.

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mercury levels in locally caught fish anytime soon.

Research done on a northern Wisconsin lake found that regional reductions in mercury deposition resulted in rapid decreases in fish mercury levels. The encouraging results of this scientific study should help motivate the Bush Administration's EPA to strengthen the proposed federal mercury MACT proposal to ensure that every power plant in the country reduces mercury pollution by the maximum achievable through technology.

CHAIRMAN WEHRUM: Thank you very much.

Up next Sarah Streed, Wisconsin Interfaith Climate and Energy Campaign; Al Milham, Potawatomi Tribe; on deck Laura Urbaszewski and Rebecca Stanfield.

Is Al Milham with us?

(No response.)

CHAIRMAN WEHRUM: Take your time.

SARAH STREED: Thanks. I am addressing you today about two mercury threats. My name is Sarah Streed, S-t-r-e-e-d.

I am here as a mother whose child was recently affected by a mercury spill, and I am here as the chair of the Wisconsin Interfaith Climate and Energy Campaign, a faith-based group of people of various beliefs who want to reduce air pollution including mercury pollution.

A few weeks ago at Stoughton High School in Stoughton, Wisconsin, a student spilled approximately three ounces of mercury in the science lab. This was a serious threat, and it was taken seriously. The response was immediate and dramatic. The principal implemented the emergency procedures plan, the Stoughton hazardous materials team was called in, and a specialty hazardous materials team was called in from Milwaukee.

The entire school was quarantined inside and out. Parents were prevented from reaching their children. Students were prevented from leaving. All clothing and backpacks were checked. The classrooms and hallways were sniffed. Seven

students were found with mercury on their shoes and clothing. Fortunately my son was not one of them. Forty students were asked to return to give urine samples the following Monday morning. In the aftermath of the incident, the superintendent stated there will be no more mercury in Stoughton High School.

Contrast this to the serious mercury threat from coal-burning power plants. Coal-fired power plants are the largest uncontrolled mercury polluters in the nation. These coal plants put almost 50 tons of mercury into our air each year, and that's much, much more than the three ounces that caused the temporary quarantine at Stoughton High School. Our old coal plants are the new tobacco companies, a clear health hazard especially to children.

Every lake and river in Wisconsin is on a health advisory because of mercury contamination in fish, and similar situations exist in a majority of the states. Recently I read that the Environmental Protection Agency doubled its estimate of the number of children born each year at risk of learning problems and brain damage from mercury.

What has the Bush Administration's response been? Unlike the Stoughton High School principal who demonstrated leadership by thinking of the safety of the students in the midst of a health threat from mercury, the Bush Administration is shrinking from responsible leadership by proposing federal mercury rules that won't protect public health.

As the mother of a child who was temporarily quarantined after a mercury spill at his high school and as the chair of the Wisconsin Interfaith Climate and Energy Campaign, I'm incensed at the Bush Administration and Environmental Protection Agency's inadequate response to this threat.

It was not easy for me to travel here today, but I did so in order to respectfully urge the Bush Environmental Protection Agency to strengthen the federal mercury proposal to include a 90 percent reduction from power plants nationwide by 2008. I'm asking you to do the right thing for our children and our world and strengthen the mercury proposal.

Thank you.

CHAIRMAN WEHRUM: Thank you very much, Ms. Streed.

Are you Mr. Milham?

AL MILHAM: Yes.

Good morning. Thank you for a chance to speak to you about the Environmental Protection Agency's proposed mercury rulings. I'm Al Milham, vice chairman of the Forest County Potawatomi Community.

I'm here to tell you that these rules fail to provide the protection from mercury that our waters and our children need. The rules are especially poor in protecting the water and the children of northern Wisconsin. For these reasons, I speak in strongly opposing both proposals by EPA.

Potawatomis have roots around the Great Lakes including Chicago and Milwaukee, but the federal government forced us to leave our homelands. They tried to move us west to the plains. We are woodland Indians, not plain Indians, and our ancestors of the Forest County Potawatomi know that they would not survive in the plains. So they took refuge from the U.S. Military Forces in the thickly wooded areas over Wisconsin. They finally settled along the shores of Lake Michigan and northern Wisconsin where the federal government had established trust lands in our interests. This is a place where the waters were once pristine and the people fished and trapped and gathered as a way of life. Today our connection with the land has also been acknowledged in Milwaukee. However, a small fraction of the land and water resources were available to our ancestors as well as our tribe today.

Just as the federal government took our resources away, coal plants are taking the lakes and the fish away from all of us by polluting them with toxic mercury.

Nothing is more important to the Forest County Potawatomi than protecting the natural resource that are still left for our people and our country.

We recently purchased a site of the proposed metallic mine at the headwaters of the Wolf River. We have hired many scientific experts to study the mine proposal

and attorneys to represent us in front of federal and state regulations.

In the end we decided the way to protect the environment in the area was to take control of the site ourself. So using gaming revenues from our casino, we joined with the Mole Lake Chippewas to purchase the mine site for \$16.5 million last October.

The tribal government understands that it is our duty to protect our people and our environment. We determined that the federal government must do the same. EPA must enact its rules and require coal plants to do everything they can to stop poisoning our waters, our fish, our children with this toxic mercury.

EPA has estimated 630,000 children were born each year with the levels of mercury in their blood that puts them at high risk of learning disabilities and other developing problems. As shocking as this number is, the risks are probably greater for the Potawatomis and other Native Americans who have cultural traditions of eating fish.

The lakes in northern Wisconsin where we live are the types of lakes where mercury pollution has a severe impact. We know this from our studies of the reservation.

The Forest County Potawatomi Community determined to increase and understand the current consequences of mercury and methylmercury both local and global. Our tribal environmental protection department is working with Dr. Carl Watras of the University of Wisconsin to study the transmittals of mercury in Devil's Lake, one of the most natural and cultural resources on the reservation. It is used extremely for fishing by our members. So far the Watras study of Devil's Lake has shown a high level of methylmercury and the most highly toxic form of mercury.

From a prevailing study, we concluded that the reduction of strong deposits of mercury would result in rapid reduction in the levels of methylmercury in Devil's Lake.

The study on our reservation presents both a learning and a hope for our members. Pollution from coal-fired power plants is filling our waters with dangerous

levels of mercury. We had hoped the members is in the hand -- our hope for our members is in the hands of EPA. Your agency has found that most important factors of creating methylmercury in the environment is emissions from coal-fired power plants, and the study showed that strong mercury control to reduce emissions would produce quick and dramatic improvements in Devil's Lake and other northern lakes if EPA requires it.

However, neither of the current EPA proposals provide improvements that could be made in Wisconsin lakes. Under EPA own estimates, MACT standard proposals will reduce emissions only 29 percent by 2007, and the other proposal will allow trading and mercury credits. They do nothing at all to reduce the mercury that affects Devil's Lake and other Wisconsin lakes.

The trades program will only lead to hot spots in mercury pollution. One of these hot spots may be in Wisconsin where lakes convert elemental mercury to more toxic methylmercury. Wisconsin utilities and other utilities in our air shed burn western coal.

Under a trades program, our utilities might not reduce mercury emissions. They might choose instead to buy credits from other regions that burn eastern coal and that can easily reduce mercury.

Trading is unfair and irresponsible. Let me remind you the United States government and its agents have the trust responsibility to protect Potawatomi lands and the resources in which we rely on. The United States must protect our reservations and the resources on which we rely from assault by deadly mercury poisons pollution.

The proposed rules fail to do that. The impact of mercury pollution is especially harmful to Native American people. The Forest County Potawatomi Tribe work hard to maintain our connection with the natural world which is part of our identity. For many people in Wisconsin, hunting, fishing and gathering of is a form of recreation, but

when Potawatomi members do not do these things, we do so to continue our tradition and customs and practices.

When we are told fish are not safe to eat because of mercury contamination, we have to choose between practicing our culture on the one hand or protecting our health and the health of our children and families on the other hand. No other one should face them kind of choices.

Our traditional medicine also come from the natural environment. When mercury is in the water, it is transmitted to the plants and animals that we use for medical purposes. These medicines cannot work if the water, plants, and animals have all been contaminated by mercury.

Water quality is also central to our religion. We need pure water to perform our ceremonies. When mercury drops from the sky into the lakes, it harms them and the water and the creation that we depend on. It also harm harms our ability to practice our religion.

The United States and the EPA have committed themselves to principles of environmental justice. If EPA abandons the formal commitment to cleaning -- clean up mercury emissions, the impact will fall much more heavier on the Native American people like the Forest County Potawatomis who depend on natural resources and consume more fish than the rest of the population.

Proposed rollback in government proposed rulings are extremely opposing to environmental justice demands.

CHAIRMAN WEHRUM: Mr. Milham, I have to ask you to wrap up, please.

AL MILHAM: Pardon me?

CHAIRMAN WEHRUM: Please wrap up your remarks. Your time is up.

AL MILHAM: You need a copy of them?

CHAIRMAN WEHRUM: Yes, please. If you have one, we'd appreciate it.

AL MILHAM: Thank you for hearing me out.

CHAIRMAN WEHRUM: Thank you very much.

Next up Laura Urbaszewski and Rebecca Stanfield.

If you would please come up in pairs if you are here, this makes the administration of our time a bit easier.

LAURA URBASZEWSKI: Good morning. My name is Laura Urbaszewski. This is my baby, Julian. He's about six months old. When I was pregnant with Julian, I tried to learn as much as I could about dangers to unborn children. I wanted, like most mothers, to have a healthy baby. It was then that I really started learning more about mercury, its effects on unborn children and its effects on young babies. I read state guidelines and EPA warnings about mercury levels in fish. I learned that I couldn't eat most fish safely because of the levels of mercury in fish. And the more I learned about how mercury affects babies, the more worried I got.

When I was pregnant, I basically stopped eating fish even though it's one of the best protein sources of foods for pregnant women. I was never sure which fish were safe to eat, how often. It was all very confusing.

I also worry about how much mercury I might have had in my system before I got pregnant. I know that a recent study has shown that 1 of 12 women already has elevated levels of mercury in their blood. This was something I couldn't really control.

As you can see, I was lucky. My baby is healthy and happy, but many, many others are not. The EPA's own figure shows up to 630,000 babies are born with elevated mercury levels. And so it seems to me that mercury is already such a public health threat that the EPA should be working to eliminate it completely from our environment or as much as possible rather than relaxing rules for polluting power plants and allowing more mercury to be put into the atmosphere and eventually into our children.

So given the EPA's own information on the dangers of mercury, I'm kind of shocked and upset that they would consider allowing power plants to emit more mercury; that they would consider relaxing the provisions of the Clean Air Act enforcement; and that they would consider reclassifying mercury as a nontoxic

substance. I find this hard to believe.

Mercury like lead I think has been acknowledged to be toxic for decades. I imagine how mercury building up in the environment will affect my children, our children, our grandchildren. I imagine a world where we can't eat fish at all and this ^scares ^ scarce me. It makes me a little angry too that when mercury is already such a problem, EPA isn't doing more to tighten standards and in fact is considering relaxing the Clean Air Act.

So I would urge the EPA to listen to its own experts, to put the health of our children first instead of corporate profits or what may be more practical considerations. This is an important public health issues, and I think it affects all of us.

If the Bush Administration and EPA truly care about children, both children that have been born like Julian and children are unborn or yet to be burn, they will tighten restrictions on mercury and not loosen them to get as much mercury as possible out of power plant emissions and out of our environment.

I think that if the EPA doesn't protect public health this way, babies like this will pay the price, so that's why I brought him here today.

CHAIRMAN WEHRUM: Thank you both.

Ms. Stanfield.

REBECCA STANFIELD: Thank you for allowing me an opportunity to testify. My name is Rebecca Stanfield, and I'm an environmental attorney with Illinois Public Interest Research Group. Illinois PIRG is a statewide consumer and environmental advocacy organization. As you know, Bill, I've also been the director of the clean air program for U.S. PIRG for a number of years and have been following this rule making for at least the last seven years.

Illinois PIRG will submit written comments on both the mercury proposal and interstate transport rule. Today I'm going to limit my comments to just the mercury proposal and will be very brief and will be submitting more extensive in detail comments for the record.

First I want to thank you for choosing Illinois as a site for this -- for a hearing on this critically important issue.

Mercury pollution has contaminated fish throughout the state. Illinois is one of 19 states in which a statewide mercury advisory has been issued by the state covering every single body of water. That means the vulnerable populations including children, woman of child-bearing age, pregnant and nursing mothers, and anyone really under 15 years of age whose brain is still undergoing development needs to limit their consumption of predator fish from every body of water in the state or risk serious health consequences.

It's not just the fish pulled out of Illinois lakes and rivers that's threatening the health of children in Illinois. Often it's also the fish we buy in the supermarket and restaurant has unsafe levels of mercury and should not be consumed by children or any woman that may become pregnant.

Your agency has estimated the roughly one in six children born in the U.S. has already been exposed to enough mercury to cause neurological damage such as loss of motor skills, learning disabilities, and developmental delays. Across the U.S. that means that more than 600,000 children are born with a higher risk of these types of health problems.

Using that same ratio in Illinois where about 185,000 kids are born each year, one would estimate that more than 30,000 children born in Illinois each year have to face the risk of neurological damage from mercury exposure before they are even born.

I know these are statistics that are being repeated throughout the day, but I think they're important. That's the reason we are here.

The public is counting on your agency to fulfill your duty under the law to reduce mercury as much and as quickly as possible using the most aggressive controls available. We have reviewed your proposals and have concluded that they fall far short of fulfilling this obligation. In abrogating your responsibilities, you're putting

another generation of American children at risk for permanent brain damage and as we're learning also permanent heart damage.

Just today the Chicago Tribune reported that your own scientists have discovered evidence that your preferred proposal which allows trading of mercury will not provide assurances that mercury contamination in Illinois will be addressed. This new evidence itself which shows that mercury pollution emitted in Illinois has a tendency to fall in Illinois and that addressing the mercury contamination problem in Illinois requires clean-up in Illinois. This new evidence itself is cause to withdraw the 111 trading proposal for mercury entirely.

There's ample evidence showing that deep cuts in power plant mercury are achievable. The Northeast States for Coordinated Air Use Management, NESCAUM, has compiled evidence from across the nation showing that a 90 percent reduction in mercury emissions from power plants is achievable with existing technologies.

Moreover, I have attached to my written testimony that I will submit a power point presentation by U.S. EPA staff that was given on December 4, 2001 concluding that an overall 90 percent emission target was achievable using existing technologies even accounting for differences in coal, their abilities in types of boilers. Accounting for all the differences in all the plants across the country, your own staff concluded that an overall reduction of 90 percent was achievable. At least two states, Kentucky and New Jersey, have adopted or proposed regulations requiring deep cuts of 90 percent or more. Your contention that it is not possible to achieve a 90 percent reduction in mercury emission simply is no longer credible.

Finally, we know that deep cuts in mercury power plants will produce results. This year a \$40 million study by scientists from the State of Florida, the U.S. Geological Survey, and once again U.S. EPA concluded that deep cuts in mercury emissions from facilities near the Florida Everglades resulted in a dramatic decline, 60 to 75 percent,

in levels of mercury found in the fish from that body of water.

It seems like common sense would dictate as much, but for years the owners of the power plants have argued that reducing mercury pollution would not have an impact. Now we have clear evidence to confirm what common sense would otherwise suggest.

There is no longer any justification for further delay; however, that is exactly what you propose to do. The U.S. EPA proposal on mercury regulation adds another ten-year delay to our weight for meaningful action to address mercury emissions from power plants.

The law requires the use of maximum achievable control technology on every plant by 2008. As stated above, this would result in the overall emission reduction of 90 percent.

When would we achieve this level of emission reduction under your proposal? The answer is never. When would advanced mercury controls be used on any plant under your proposal? Not until 2018, a full decade after the law requires plant clean-up. Adding insult to injury, your proposal allows some plants to avoid clean-up by purchasing emission credits.

Last year, a committee convened by your agency put forward several stronger proposals to curb power plant emissions -- mercury emissions. Some of these much stronger proposals had support from industry, states, and public interest organizations. However, your agency has refused to take the simple action of performing a cost and benefits analysis to determine whether they can be implemented cost effectively. We urge you to at a minimum perform an analysis of the feasibility of implementing the proposals that were developed by the committee you convened to study this issue.

In conclusion, the proposals you put forward leave another generation of children unnecessarily at risk. You do so by ignoring the mandate that Congress gave you in the Clean Air Act. Moreover, you ignore mountains of data showing a compelling need to do better and the technological feasibility to do better.

We are asking you to go back to the drawing board and draft a new proposal that will require every plant to install state of the art mercury controls to achieve an aggregate reduction of 90 percent by 2008. Thank you.

CHAIRMAN WEHRUM: Thank you very much.

Next up Jean Flemma and Shannon Fisk. If you could both come to the table.

On deck will be Verena Owen and

Laurel O'Sullivan.

JEAN FLEMMMA: Hi. I'm Jean Flemma.

CHAIRMAN WEHRUM: Just a second.

Is Shannon Fisk in the room?

Ms. Flemma.

JEAN FLEMMMA: Thank you. Again, my name is Jean Flemma, F-l-e-m-m-a, and I'm the executive director of Prairie River Network. We are a statewide river conservation organization that seeks to protect the health and beauty of the rivers and streams in Illinois for the people, fish, and wildlife that depend on them to survive. We're headquartered in Champaign, Illinois, about two and a half hours south of here.

Illinois has 87,000 miles of rivers and streams and 309,000 acres of lakes, and they have been severely polluted by mercury so much so that the Illinois fish contaminate monitoring program issued a statewide advisory for predator fish in all Illinois waters due to methylmercury. The advisory has been established to protect the most sensitive populations which you're familiar with, pregnant and nursing women, fetuses, women of child-bearing age and children under the age of 15.

The species of fish to which the advisory applies include all species of black bass, largemouth, smallmouth and spotted. Those are very popular sport fish here in Illinois; striped bass, white bass, walleye and a number of other fish.

Your agency has the opportunity to drastically reduce emissions which have enormous impact on public health, particularly on women and children, and on the health of the rivers and wildlife of Illinois. Unfortunately the proposed rules published

on December 30 do not do this and instead allow the children in Illinois to be exposed to far more mercury for much longer than is necessary.

They also fail to implement Clean Air Act's requirement for safeguarding human health and our environment against toxic air pollutants.

As such I join with many other witnesses here today in urging your agency to reject the proposals it is currently considering and instead reduce power plant mercury emissions as much as possible using maximum achievable control technology at every and every plant by 2008.

As many with far greater expertise than I will testify today, mercury is a highly toxic chemical whose effects on the nervous system are comparable to those of lead. Exposure which can cause severe neurological and developmental problems is widespread.

I have already mentioned Illinois has a statewide fish advisory in effect for a large number of fish species that applies to all our rivers and lakes. I apologize. I know you're going to hear these numbers over and over again today. Nationwide there are more than 12 million acres of lakes and 450,000 miles of rivers that have currently posted warnings. Still -- another number you're going to hear again and again -- a recent study by CDC estimated that 1 in 12 women of child-bearing age have unsafe levels of mercury in their blood. In addition, your agency just doubled its estimate to as much as 630,000, the number of children born each year that could be at risk of developmental disorders because of mercury exposure.

Mercury is not just a threat to human health. It also has biological and physiological effect on many species of wildlife. Studies indicate that in some fish species, size, weight and reproduction are negatively impacted by mercury exposure. The toll on fish-eating birds including mallards, red-tailed hawks, and the common loon are also documented and include eggshell thinning, reduced hatchability, and embryo mortality.

Mercury has also been shown to impact the survival, reproduction and growth of river otters. Here in Illinois river otters were about ten years ago on the verge of extinction. They've recently started to make a comeback in our rivers, so this is a concern to us.

In Illinois wildlife-associated recreation including sport fishing, hunting, and bird watching contributed \$1.9 billion to our economy in 2001. The continued assault of mercury on the environment threatens not only human health but this valuable contributor to the state's economy at a time when we can ill afford it.

Fortunately we know the source of mercury emission problems, and we have the technology to address it. As we are all well aware, the largest industrial source of mercury emissions is our coal-fired power plants, yet they are the only major mercury polluters not regulated under federal clean air standards. As a result in 2001, Illinois utilities released more than 4,000 pounds of mercury to the air; a staggering number that ranks our state sixth in the nation for mercury emissions.

Protecting public health and our \$1.9 billion wildlife-associated recreation industry in Illinois necessitates the reduction of mercury from its largest source, and the Clean Air Act requires these reductions. As you know, Section 112 of the Act says that toxic substances such as mercury must be control to emission level achieved by maximum achievable control technologies or MACT.

As the first witness talked about two years ago your agency estimated under a MACT standard, electric utilities can produce 90 percent of mercury from power plants; thereby lowering mercury emissions to about five tons per year by 2008.

Well, what a difference two years can make. When issued last December, the proposed options for reducing mercury were dramatically different from the protections provided under the Clean Air Act and your own estimates of what were possible.

Specifically the proposed MACT rule will only require an overall 30 percent cut in emissions controls are put in place.

In closing, EPA's pending proposal to regulate mercury emissions do not protect the people and the environment of Illinois and do not fulfill the agency's obligations under the Clean Air Act in allowing power plants to emit six to seven times more mercury into the air and for a decade longer than the Act requires.

I respectfully urge you to withdraw the proposals now on the table and develop a new MACT proposal that rejects mercury trading plans and that will require every plant to install state of the art mercury controls to achieve an aggregate reduction of 90 percent by 2008.

Thank you very much for allowing me to testify.

CHAIRMAN WEHRUM: Thank you for coming.

Next up, Verena Owen and Laurel O'Sullivan. If either/or both of you are in the room, please come to the table.

A note for those who are interested in speaking. We're going to let folks speak as time allows. I think we're moving along a little faster than we anticipated. So if you are here and you are assigned to comment, I encourage you to stay in the room. We may very well get to you sooner than we had anticipated.

Shannon Fisk, Verena Owen, Laurel O'Sullivan, Susan Zingle or Kim Novick?

Bernard Melewski or John Heinrich?

You are?

BERNARD MELEWSKI: My name is Bernard Melewski with the Adirondack Council.

CHAIRMAN WEHRUM: Thank you.

BERNARD MELEWSKI: I'm glad I was here an hour and ten minutes early.

CHAIRMAN WEHRUM: We are trying to be efficient. Anyone who has an interest in speaking, we'll accommodate your interest. If you happen not to be in here, we'll certainly come back around and grab you.

Mr. Melewski.

BERNARD MELEWSKI: Thank you. Good morning. My name is Bernard

Melewski. As I said, I'm here today representing the Adirondack Council. The Adirondack Council is a not-for-profit environmental organization based in the Adirondack Park of New York State. The mission of the Adirondack Council is to ensure the ecological integrity and wild character of the Adirondack Park which is the largest park, state or federal, in the continental United States.

The six million acre park includes over one million acres of true wilderness which were protected as forever wild by the New York State Constitution in 1894.

Over one hundred years ago, the people of the State of New York could not have anticipated that the greatest threat to the resources of the Adirondack Park would come from the rain and snow that falls within its boundaries.

And with the assistance of your tech help, hopefully we'll show you some of the resources that are at risk.

Acid rain is destroying the forest, the waters, and the wildlife of the Adirondack Park. If the damage --

CHAIRMAN WEHRUM: If you don't mind, did you want to be showing slides now?

BERNARD MELEWSKI: I would like to, yes.

CHAIRMAN WEHRUM: Is our tech department caught up? We'll provide you the time. I'm sorry to interrupt.

BERNARD MELEWSKI: That's quite all right.

Acid rain is destroying the forests, the waters, and the wildlife of the Adirondack Park. The damage from acid rain to the resources of the park have been well documented. The high elevation red spruce forests on its mountain sides have been destroyed. The growth and regeneration of its sugar maple trees had been stunted, and more than 500 lakes in the Adirondack Park are too acidic to support their native species of fish. Many more lakes and hundreds of miles of streams suffer from spring shock, the acid bath that comes with the annual snow melt. Mercury has accumulated in some species of fish in dozens of lakes to the levels that are dangerous

to the rest of the food chain including the common loon, otters, raptors, and humans.

New York State has taken action. Research that began decades ago and continues today has revealed not only the frightening extent of the damage from acid rain but also the source: Sulfur dioxide and nitrogen oxide emissions from power plant smoke stacks.

In 1984 New York State became the first state in the nation to address acid rain by limiting the emissions from its own power plants. Those same state regulations were tightened again and to be the toughest in the nation less than a year ago.

Unfortunately while we can lead by example, New Yorkers alone cannot protect the Adirondack Park and its resources from acid rain. Pollutants borne on the winds from outside our state are the principal source for the acid deposition that falls in the Adirondacks.

It is most fitting that we testify today here in Chicago. The same coal-fired power plants that provide cheap electricity to this state and to Wisconsin, Minnesota, and communities along the length of the Ohio River Valley also produce the sulfur and nitrogen pollutants which create rainfall with the acidity of tomato juice that falls in pristine Adirondack valleys and vinegar-like acid fog that bathes our mountain tops.

Your communities are not spared from the damage of these emissions. Your historic buildings and limestone monuments like ours are literally melting from the chemical onslaught. Lethal mercury falls from Lake Michigan to Long Island Sound, and the people suffer from ozone in the summer and from microscopic particulates that make it difficult to breathe year-round. Our problem is your problem.

In 1990 Congress adopted the Clean Air Act amendments which included a new acid rain program that was designed to cut sulfur dioxide emissions nationwide by up to 350 percent over 10 years and also made progress from reducing nitrogen oxide emissions. The deputy administrator for EPA at that time even declared when the program went into effect that it would mark the end to acid rain. He was an optimist.

Ten years later, we now know that the acid rain problem is not solved, and that we need to do much more. We also recognize that the same pollutants that produce acid rain also contribute to summer ozone and particulates that have devastating effects on human health. A number of reports to Congress by federal agencies and studies by independent organizations over the past decade have consistently come to the same conclusion.

In 1998, for example, members of New York's congressional delegation led by the late Senator Moynihan and Congressman Boehlert began the effort to have Congress revisit the acid rain program to acquire deep new reductions in power plant emissions.

Unfortunately to date Congress has failed to act. A number of bills have been introduced, many hearings have been held, and at the beginning of this legislative session, the president of the United States urged Congress to make Clean Air Act provisions a priority. The prospects unfortunately remain uncertain.

It is for these reasons that the Adirondack Council welcomes and strongly supports the proposed Interstate Air Quality Rule. The rule is intended to address the inability of downwind states such as New York to come to compliance with national ambient air quality standards when power plants emissions from outside their borders are substantial contributors to the pollution problems.

We believe that the Environmental Protection Agency is taking appropriate action for its authority under Section 110 to implement and enforce the Clean Air Act. The Interstate Air Quality Rule will result in substantial public health benefits far in excess of its cost. Tens of thousands of premature deaths of our citizens with respiratory illnesses may be avoided each year. We applaud these steps on behalf of all New Yorkers. But we take a special interest in the secondary benefits of the reduction acid deposition through the eastern portion of the nation and the most sensitive area, the Adirondacks.

The new cap-and-trade program envisioned in the proposed rules and the

target reductions in emissions meet or exceed the recommendations in the report to Congress by the National Acid Deposition Assessment Program in 1998 and is consistent with recommendations of several other similar reports.

The National Research Council of the National Academy of Sciences in January of this year recommended that EPA look to address the regional transport of pollutants with a multi-pollutant approach for similar sources, and the NRC recommended a cap-and-trade strategy where feasible.

In December of 2002, the Environmental Defense, a fellow environmental organization, issued a publication calling on the EPA to adopt a new cap-and-trade program year-round for nitrogen with additional cuts in sulfur that would focus on the eastern region. This proposed rule parallels that report.

Similarly the Clean Air Network in a 2002 report on nitrogen pollution in the Midwest called for a year-round nitrogen program in the eastern United States that would build on the 22 state ozone SIP Call by regulating nitrogen year-round and adding the states of Wisconsin and Minnesota to the program. The proposed rule mirrors those two recommendations as well. The rule also echoes the recommendations of the Southern Appalachian Mountains Initiative, SAMI, a collaborative effort to improve air quality which involved a number of state agencies and environmental organizations and the scientific community primarily in the Appalachian area. The SAMI report was issued in August of 2002.

The proposed rule also exceeds the goals of the acid rain platform adopted by the Association of New England Governors and Eastern Canadian Premiers at their annual conference in 1999.

The Adirondack Council appreciates the opportunity to comment on the specifics of this proposal, and we make the following observations from an acid deposition control perspective.

First, we strongly support nitrogen emission reductions on a year-round basis. In its 1995 report to Congress on the progress of the acid rain control program, EPA

observed that the contribution of nitrogen emissions to the overall acid deposition problem had been underestimated. In the Adirondacks, nitrogen builds up in the winter snow pack and with the spring snow melt contributes heavily to the episodic acidification of lakes and streams.

There is substantial science that the saturation of nitrogen in soils has played a substantial role in the depletion of essential minerals from forest soils in much of the northeastern United States.

Second, the timetable proposed for implementation of the new sulfur and nitrogen caps is broken into the same five-year periods as the initial two phases of the existing sulfur program. The industry found little or no difficulty in meeting those deadlines. We strongly recommend against any consideration of extending these timelines.

In fact, EPA should consider advancing the time frame for year-round controls for nitrogen, given the participation of the majority of the affected states in the region in the summer ozone program just going into effect in May of this year.

Third, while we agree with the agency's observation that action by Congress would allow for a more smooth integration with the existing acid rain program, we believe that the agency's proposals to increase the number of sulfur allowances required to emit one ton of sulfur dioxide in 2010 and again in 2015 is reasonable and a good attempt to integrate the new caps into the existing acid rain program.

As the agency has correctly observed, the paramount concern should be the integrity of public health and environmental objectives of the rule. We note also that Congress specifically observed that the sulfur allowances allocated to each facility are not property rights.

We are troubled, however, by EPA's intention to allow the continued collection and use of banked allowances. The use of significant numbers of banked allowances can cause spikes in emissions that exceed the emission budget for any given year or even delay the point at which targeted caps are finally achieved.

The Adirondack Council recommends that EPA review other options for dealing with banked allowances that are more protective of the caps and of the public health and environmental goals of the proposed rule.

We specifically oppose the idea advanced by the agency that pre-2010 allowances that are banked prior to 2010 could continue to be used on a one-to-one ratio at any time. The agency seems willing to accept a trade-off where early emission reductions result in a delay until the ultimate cap level is achieved. EPA seems to assume that banking is a good thing and has failed to provide balanced consideration of alternatives. EPA should review the consequences of prohibiting banking or limiting the use of banking such as the prohibition on the use of banked allowances after 2015. The absence of consideration of alternatives is glaring in your analysis.

Fourth, in response to your request for comments, we believe that interpollutant trading of SO₂ and NO_x allowances is a bad idea. The determination of an appropriate ratio of sulfur to nitrogen allowances and whether allowances allocated to one type of source can be traded to another is an empty fiscal calculation where considerations of cost and convenience dominate. The savings in time and money can be estimated, while the cost to public health and the environment cannot be properly anticipated.

By the end of the comment period, we are sure you'll hear from the various state regulatory bodies about the integration of the summer ozone program in 22 eastern states which is to begin in May. We believe there are at least two points that deserve more consideration.

First, the electric generating utilities in those states have already set into motion plans to reduce their nitrogen emissions for at least the summer months. There may not be a need to wait until 2015 to reach the proposed caps for nitrogen.

Second, the benefits to human health of lower nitrogen emissions in the summer months should not be lost in the creation of a year-round nitrogen program. Summertime ozone reductions should not be postponed.

New York has recently adopted a year-round program for nitrogen that has separate targets for the summer and winter months. The agency should review the merits of this approach.

Finally, the EPA seeks comment on the level of second phase caps and the resulting division of responsibility between local and interstate transport sources. As the agency has correctly observed, many of the downwind states are themselves in turn contributing significantly to the air quality attainment problems of other states.

The Adirondack Council strongly encourages the EPA to lower the emission caps in the second phase. We believe that EPA can get even more help to states through regional controls that achieve greater reductions and benefits while remaining cost effective.

In conclusion, the Adirondack Council strongly endorses the Interstate Air Quality Rule and commends EPA for its action, but we believe more can be done to protect public health and the environment. We urge EPA to look for opportunities to implement the program more quickly and to examine the feasibility of even deeper reductions than currently proposed.

Thank you for the opportunity to comment here. We will be submitting comments on the mercury rule as well.

CHAIRMAN WEHRUM: Thank you very much. I'm sorry you had to rush. Were you able to show the pictures that you had hoped to?

BERNARD MELEWSKI: I have no idea. Thank you.

CHAIRMAN WEHRUM: Thank you.

Let me see if others have signed up and made it back into the room.

Shannon Fisk. I see a hand, but it doesn't look like Shannon.

SHANNON FISK: I am Shannon.

CHAIRMAN WEHRUM: Okay. Shows you how much I know.

Why don't we start with Mr. Heinrich.

JON HEINRICH: Good morning. My name is

Jon Heinrich, and I work for the Wisconsin Department of Natural Resources in their air management program. Thank you for the opportunity to provide comments on both of these proposals.

First I'd like to start with comments on the Interstate Air Quality Rule. Regional control of fine particulate matter in the ozone is critically important for eastern Wisconsin where we'll continue to have various and have not achieved national air quality standards even after we've implemented the final reduction requirements proposed in the Interstate Air Quality Rule.

When EPA names its eight-hour ozone nonattainment areas in the spring, 38 percent of Wisconsin population will be living in an ozone noncontainment area. We have been working for over 20 years to bring ozone air quality in Wisconsin to an acceptable level.

Interstate transport of ozone and ozone precursors have plagued our ability to meet air quality standards. We urge EPA to develop a regulation that limits transport pollutants as much as possible to help us protect the health of Wisconsin citizens and improve the state's economic health as well.

The proposed Interstate Air Quality Rule can help us achieve these goals. First, too little too late. EPA's proposal is a good first step, but we have concerns about the timing of emission reductions and the stringency of control. Timing is particularly important and should be and many areas in the eastern United States will have attainment-based ozone and PM2.5 between three and six years from now.

The proposed transport rule will have little effect of achieving attainment. For example, Wisconsin's Sheboygan County is an ozone nonattainment area principally because of interstate transport. This April we expect Sheboygan County to be designated as a modern nonattainment area for the eight-hour ozone standard with an attainment date in the spring of 2010. Therefore, we will need to rely on local controls or control programs limited to the Lake Michigan region in effect in 2007, 2008, and 2009 to demonstrate attainment of the ozone standard. This doesn't make

sense for a nonattainment area dominated by long-range transport of ozone and its precursors.

Stringency of control of the proposed rule is another concern. Wisconsin is one of the states that will have nonattainment areas even after implementation of the second phase reductions proposed in the rule. We will find it difficult to get additional emission reductions from electrical generating units after the transport rule is promulgated, especially given the structure of trading program.

In addition to this difficulty, federal pre-emption on emission controls for highway vehicles and off-road engines leaves few remaining choices for the emission reductions that will still be necessary particularly in Wisconsin where we already have inspection maintenance programs, stage two vapor recovery and reasonably available control technology on all other stationary sources.

We would encourage EPA to leave nothing on the table when considering highly cost-effective controls in the final interstate transport rule.

Second, timing is important. EPA has made a commitment to finalize the rule making sometime between December 2004 and July 2005. It is critical that EPA promulgate an interstate transport rule as soon as possible. With state ozone plans due in May of 2007, many states including Wisconsin will need to complete their attainment demonstration and air quality modeling by about November of 2005. This would leave us only 18 months to develop rules and state an implementation plan and submittal which is not much time considering the expected complexity of the attainment demonstration.

For a timely submittal, we must know what reductions we can expect from the Interstate Air Quality Rule as early as possible to complete our analysis, develop an attainment demonstration including the necessary agreements with our neighboring states.

Third, interpollutant trading is not appropriate. EPA has requested comment on interpollutant trading in this proposal. Wisconsin is opposed to interpollutant trading.

We have confidence in our attainment demonstration for ozone. We need certainty in the emission reduction from states that contribute to nonattainment in Wisconsin.

Interpollutant trading eliminates the certainty we need, and to compensate we would likely be forced to provide additional control of local sources. Interpollutant trading also further complicates emission allocations and compliance determinations.

Fourth, industrial boilers are significant sources. EPA has previously identified nonelectrical generating units as being capable of having cost-effective nitrogen oxide controls. EPA is not proposing nitrogen oxide emission reductions for nonelectrical generating units in this proposal because the cost effectiveness of integrating nitrogen oxide and sulfur dioxide controls will not be demonstrated.

However, we believe that this proposal at a minimum should include nonelectrical generating units, nitrogen oxide controls in states required to reduce emissions of ozone precursors.

Fifth and finally, using banked emission allowances. Analysis by the Lake Michigan Air Directors Consortium indicates that the use of banked allowances significantly delays the air quality benefits of the Interstate Air Quality Rule and interferes with attainment of the National Ambient Air Quality Standards.

We urge EPA to retire any remaining banked allowances that electrical generating units hold under Title 4 of the Clean Air Act on the start of the first phase of the Interstate Air Quality Rule.

Now I'd like to provide comments on the proposal to control emissions and hazardous air pollutants from utilities.

The Wisconsin DNR appreciates the EPA's efforts to reduce mercury from coal-fired electric utility plants and nickel from oil-fired utility plants by proposing these regulations.

Mercury especially continues to be a great concern to us because of the health risk to residents who consume fish and the potential economic consequences caused by fish consumption advisories that threaten Wisconsin's strong condition of recreation

and tourism activities.

Federal regulations to control emissions of mercury from electric utilities are indeed necessary because mercury is a persistent bioaccumulative toxic substance that can be transported and deposited in great distances. However, we have serious concerns with the mercury regulation that EPA's proposing and believe that either regulation as currently written will compromise public health.

The main issue of concern include the proposed national trading program, delay in requiring installation of mercury control equipment, and the lack of stringency of mercury reductions. The Wisconsin DNR strongly urges EPA to address all these issues and promulgate a regulation that achieves more mercury emission reductions sooner from the electric utility sector.

Because of elevated mercury levels, Wisconsin is one of the 45 states that have issued fish consumption advisories. Since the 1970s Wisconsin has found that mercury and fish tissue exceeds EPA's recommended safe levels in more than 1200 water body we have sampled. Mercury contamination continues to be one of the greatest challenges to Wisconsin waters. Addressing this problem is important because frequently eating mercury contaminated fish increases risk of health problems.

Nearly all of Wisconsin's 15,000 lakes and 57,000 miles of rivers and streams are under a general fish consumption advisory that recommends that people, particularly pregnant women and young children, limit the number of fish species they eat because of the elevated mercury levels.

To reduce the amount of mercury entering the environment and ultimately to help protect public health, the Wisconsin DNR is taking action to develop regulations to limit mercury emissions from coal-fired utility boilers, our largest unregulated source.

Neither the MACT or NSPS proposal was adequate. Neither proposal provides the necessary federal government actions needed to move control technology installation forward. Furthermore, these proposals authorize trading

banking programs that result in sources in and outside the state avoiding mercury emission reductions that could otherwise be achieved.

The health of our citizens is compromised because timely and significant mercury emission reductions that could otherwise be achieved are delayed.

Thank you for the opportunity to provide comments on these proposals. In addition to the comments we presented here today, the Wisconsin DNR intends on submitting detailed comments by the March 30 deadline.

CHAIRMAN WEHRUM: Thank you very much.

We now have Shannon Fisk. My apologies before for letting my biases show.

SHANNON FISK: That's all right.

CHAIRMAN WEHRUM: The floor's yours.

SHANNON FISK: Good morning. My name is Shannon Fisk. I'm a staff attorney with the Environmental Law and Policy Center. Thank you for the opportunity to comment.

The OPC has serious concerns about the proposed Mercury Reduction Rule because none of the three regulatory options set forth therein relate to steep reduction in mercury emissions by 2008 that are required under the Clean Air Act. The EPA proposals appeared to be inconsistent with the Clean Air Act and to be an arbitrary and capricious departure from its prior findings regarding the need for and possibility of achieving true reductions in mercury emissions.

In order to be consistent with the Act and prior EPA findings, the mercury rule must be based on three main facts. First, mercury emissions from power plants constitute a hazardous air pollutant. There must be reduction as soon as possible. Power plants are the largest industrial source of mercury emissions in the U.S. releasing approximately 48 tons of mercury per year.

Mercury is a highly toxic chemical and can cause people and especially unborn fetuses and very young children to suffer various neurological and developmental

problem. Recent studies by the U.S. Centers for Disease Control recently estimated that

1 in 12 women of child-bearing age in the U.S. have unsafe levels of mercury in their blood, and the EPA itself has estimated as many as 630,000 children may be born each year with unhealthy levels of mercury in their blood. Fish consumption advisories due to mercury contamination have been issued in 43 states.

Second, the technology is available to achieve the steep reductions in mercury emissions from power plants that are necessary to protect human health. Other emitters of mercury such as chemical and waste incinerators have already been required to cut their mercury emissions by as much as 90 percent. In 2001 the EPA determined that existing technologies can similarly reduce mercury emissions by approximately 90 percent by the end of 2007. The Northeast States for Coordinated Air Use Management recently concurred stating that 90 percent or greater mercury reductions is, quote, feasible for power plants.

One state, Connecticut, has enacted legislation requiring power plants to reduce mercury emissions by 90 percent by 2008, and regulations have been proposed in Massachusetts that would require 85 percent reductions by 2006 and 95 percent reductions by 2012.

Third, the Clean Air Act requires the maximum emission reductions that can be achieved with existing technologies. Section 112 of the Act requires that hazardous air pollutants from sources listed in Section 112(c) be regulated through the installation of maximum available control technology or MACT on every source and listed source category. As noted above, the EPA's own analysis and other studies suggest that MACT would reduce mercury emissions from power plants by 90 percent.

In 1990 Congress amended Section 112 in order to require the EPA to determine a regulation of mercury emissions was appropriate and necessary, and in December 2000 the EPA determined that the regulation of mercury as a hazardous air

pollutant was appropriate and necessary. Having made that determination, the MACT requirements of Section 112(d) are triggered and must be adopted under EPA's Mercury Reduction Rule.

The proposed rule at issue here is problematic for three reasons. First, it fails to adopt true MACT requirements. The 2001 EPA analysis projected that the then current 45 tons of mercury emissions from power plants could be reduced to 5 tons of emission by the end of 2007. Today, however, the EPA sets forth a MACT standard that in reality would require only a 29 percent reduction in mercury approaches for mercury emissions in this report that it filed to Congress. It doesn't change the fundamental regulations of those hazardous air pollutants under Section 112(d).

Third, the EPA has also proposed to no longer treat mercury as a hazardous air pollutant. Despite overwhelming evidence to the contrary in its own determination in 2000, the EPA identifies as its preferred approach simply declining to regulate mercury as a hazardous air pollutant and instead regulating mercury under Section 111 of the Act.

Section 111 proposal, however, is not adequate replacement for MACT under Section 112. First, the Section 111 proposal would not require significant reductions in mercury until 2018, while Section 112 requires such reductions within three years; second, the EPA's proposed 69 percent reduction by 2018, not the 90 percent reductions that the EPA itself has previously determined can be achieved under MACT.

Third, the EPA Section 111 proposal allows a cap-and-trade program and once again may be appropriate given the toxic and hazardous nature of mercury emissions.

For the foregoing reasons, the OPC believes the EPA should reconsider its proposed mercury rule and issue a final rule that will work to achieve the 90 percent

reductions in mercury emissions from the power plants that's necessary to protect human health.

Thank you for the opportunity to comment.

CHAIRMAN WEHRUM: Thanks for coming. Appreciate it.

Next two in the line Verena Owen, and I have Henry Anderson on my list.

Does Henry want to testify or was Henry with Mr. Heinrich?

JON HEINRICH: I think Henry wanted to testify himself.

CHAIRMAN WEHRUM: Sounds like he's not in the room right now.

Eric Uram, are you in the room? If you want to testify, please come up to the table.

ERIC URAM: I already did.

CHAIRMAN WEHRUM: Yes, you did. You broke this ice this morning, didn't you?

ERIC URAM: Yes, I did.

CHAIRMAN WEHRUM: Zoe Lipman. Great.

Mr. Uram, I'm glad to see you're still here.

Again, for anyone who shows up, we are more than happy to accommodate you and we'll certainly do that. When you show up and sign in, if you could stay in the room because we are going to call folks as time allows and not necessarily in the time slots that are suggested when you signed up.

Ms. Owen.

VERENA OWEN: Good morning. My name is Verena Owen. I live in Winthrop Harbor, a small town in the very northeast corner of Illinois which is between Lake Michigan and the Wisconsin border and equal distance from the Waukegan power plant and the Pleasant Prairie power plant.

I really appreciate the opportunity to be able to address you today. I'm here to speak on behalf of myself and my family, my friends and my neighbors and all the people who encouraged me to make the trip down here to Chicago to let you know

that we are concerned.

I believe I also speak by extension for the several hundred people who signed a petition against construction of the waste water sludge incinerator in Waukegan; the fact that at the time the incinerator would have been the first new source of mercury emissions permitted in Illinois in over a decade was a huge concern for all of them.

Word is out that mercury is a threat to public health. Almost every week now there seems to be a new report about the dangers of mercury. Two weeks ago I was interviewed by reporter who flew in all the way from Washington to meet with us, a couple of citizens, to talk about mercury. I was curious as to why his news service would be interested in how mercury pollution in fish affects the personal life of ordinary people. It seems like a huge expense. He told me that one of his editors was diagnosed with a heart problem. It turned out that this editor was an avid fisherman, and he had an elevated level of mercury in his blood.

EPA has determined that mercury poses a significant risk to the health and the environment. Former EPA administrator Christie Todd Whitman testified at the Senate environmental and public works clean air subcommittee hearing that mercury is a potent toxin and can cause permanent damage. So what needs to be done? I understand what EPA is proposing.

Let's digress a little bit. Let me tell you a short story. A couple of years back, chunks of asbestos were found on a beach near my house. There was huge public outcry about that because people were well aware of the dangers of friable asbestos. Big warning signs went up alerting the public of the danger, and the party responsible eventually spent a lot of money cleaning it up.

Let's imagine for just a minute that asbestos was a cap-and-trade pollutant. And I know the comparison limps a bit. But you can envision the outcome would have been quite different. Instead of cleaning up the asbestos, we could have been told that some company in, let's say, Ohio has some asbestos credits for a clean-up they did there so sorry about your beach. Just don't take your kids there anymore.

We know it's dangerous. And the warning signs would still be up. This would obviously not be especially acceptable to us.

Your idea is not acceptable of a cap-and-trade program of pollutants, nor is the idea that the clean-up of some power plants can be delayed leaving them dirty and creating hot spots, nor is the idea acceptable to us that we have any further delay in reduction of mercury in our environment.

I understand some of the history of the mercury argument. In 1998 a consent decree was issued forcing the establishment for mercury emission limits to utilities. In 2000 EPA found that it was necessary to apply the MACT standard to utilities by 2007, and that decision is still the law of the land.

The members of an EPA sponsored task force called Utility MACT Working Group generally agreed that 1100 coal and oil-fired power plants in the U.S. must use MACT to reduce mercury on every single coal and oil-fired power plant in the U.S.; that is until the group was suddenly disassembled in April of last year.

Be assured that even plain folks like me know what EPA is trying to do. You're trying to downgrade the dangers of mercury, and let me tell you it's too late. We do understand that mercury is not like SO₂. You're pretending it can be regulated under Section 111 of the EPA Act. No, it cannot.

Mercury emissions have to be regulated under Section 112 of the Clean Air Act, the section that deals with the most hazardous of air pollutants.

MACT will ensure reductions of mercury emissions by 90 percent of 2008, and anything else is unacceptable, unethical, and illegal.

So to sum up, my message to you is very simple: Just uphold the law.

And I thank you for your time.

CHAIRMAN WEHRUM: Thank you. I appreciate you coming.

Ms. Lipman.

ZOE LIPMAN: Thank you. My name is

Zoe Lipman. I manage the National Wildlife Federation's mercury work for the

Midwest. On behalf of the National Wildlife Federation, its member and supporters, I'm pleased to have the opportunity to comment on the rule options for reducing mercury emissions from coal-fired power plants recently proposed by the U.S. Environmental Protection Agency.

The National Wildlife Federation is a national conservation education and advocacy organization with over four million members supported throughout the country. NFW affiliates in 47 states represent a network of thousands of hunting, fishing, conservation, and environmental groups and communities across the nation.

Through our Great Lakes field office in Ann Arbor, we have been involved for many years in efforts to address the releases of persistent, bioaccumulative toxic PBTs including mercury in the Great Lakes region.

Some of the anglers who are our members in Michigan, for example, have been living with fish consumption advisories for three decades. So what brings us here now? We're here for two reasons. First, because we are deeply concerned over the recent evidence that underscores the dangers mercury poses to fish, wildlife, and human health and to the recreational fishing industry which is important to the economy of many states here in the Midwest.

Second, we are here because it is now possible to solve this problem. It is clear that the knowledge and the technology exists today to dramatically reduce mercury emissions from coal-fired power plants, the largest single source of mercury air pollution in the U.S. and the predominant source in many of our Midwest states.

We are also here to express our concerns over the current proposal which falls far short of what is necessary to protect wildlife and human health. It also falls far short of what we know can be achieved, even in our heavily coal reliant states.

Here in the Midwest, we treasure our outdoor traditions, and we see firsthand the impacts of mercury pollution. We have statewide mercury fish consumption advisories in seven out of eight states in the region covering either all lakes or all rivers

or both. This means that even for popular sport fish like walleye or northern pike, catch and release often isn't a choice but a necessity.

Nationwide, 44 million people fish, more than play golf and tennis combined. According to the U.S. fish and wildlife service, more than ten million anglers fished in the Great Lakes states in 2001, spending \$6.7 billion. Mercury contamination threatens not just this economically important industry, but a treasured family pastime.

As the National Wildlife Federation, we are further concerned that mercury threatens not just our fishing industry but the fisheries themselves and the wildlife that depend on fish. Mercury can cause reproductive and other impairments in animals as diverse as river otters, raccoons, and alligators and a wide array of shorebirds. One study found that loons with high mercury levels hatched 50 percent fewer young than other pairs and also had other impairments.

In addition to mercury's impacts on fish and wildlife, we are also deeply concerned about mercury's impacts on children and adults. As a leader of a large state conservation group said recently, we just don't believe that the proper method of recycling mercury is through people.

Recent evidence is alarming. Based on the most recent data on blood mercury levels obtained by the Centers for Disease Control and Prevention, an EPA researcher recently revised upward to 630,000, the number of U.S. newborns born annually at risk for neurodevelopmental problems including problems in memory, attention, and language development due to mercury exposure they receive in the womb.

In addition, recent research has indicated that mercury exposure may diminish the cardiovascular benefits of eating fish in men, and another recent study showed links between high blood mercury levels and infertility in both men and women.

People here in the Midwest have concerns over the current rule proposal not just because it is too weak to meaningfully address environmental and public health concerns, but also because in addition to valuing the out of doors, we also value our

manufacturing ingenuity. Both the gravity of this pollution threat and the Clean Air Act itself require that the best modern technology be employed to control mercury pollution. Whether that means optimizing existing mercury controls or adding new mercury specific controls, we see that it is possible to achieve up to 90 percent mercury reductions on power plants burning all kinds of coal.

Many of the tests of these new technologies have been implemented or are currently going on right here in the Midwest and have achieved or are expected to achieve reductions in the near term that exceed what this proposal requires even at the end of the next decade.

In addition, we see at least one new coal-fired power plant, the Council Bluffs plant in Iowa, already permitted with a requirement to use activated carbon injection to control mercury; further evidence that this technology in particular is at the stage where it can be applied on a broader scale.

Leading manufacturers and developers of mercury control equipment and technology are also based here in the Midwest. And recent studies show that investing in cleaner energy technologies promises jobs and economic growth for our heavy industrial states.

And let's talk for a moment about cost. Even without offsetting the financial benefits to our communities of reducing learning disabilities and other neurological damage to our children or of bolstering the health of our fishing and tourism industry, for instance, the cost of achieving stringent mercury reduction is reasonable. Estimates suggest stringent mercury reduction will be little -- the cost of stringent mercury reduction will be little different than current upgrades to address nitrogen oxides emissions; in other words, affordable for both industry and consumers.

We are seeing that meeting a stringent mercury reduction goal is technically and economically feasible. Recent studies also show that we should expect to see results from those reductions.

Local and regional sources of mercury are the major contributors to mercury

loadings in our lakes and streams. Measurement of computer models as part of the Lake Michigan mass balance study indicated that the Chicago-Gary area alone contributed nearly one-fifth of mercury loadings from the air to Lake Michigan.

Other computer modeling has indicated that over 40 percent of the mercury falling on Lake Michigan comes from sources within 60 miles of the lake. Recent unpublished EPA data indicates that nearly 80 percent of the mercury falling in southeastern Michigan comes from Michigan sources, and similar predictions were made for other Midwestern states.

Limited sample of precipitation done by NWF has confirmed findings in other studies that urban areas can have higher precipitation concentrations of mercury than more rural areas. Also recent studies in Florida, New Hampshire, and Wisconsin also prove that there is a direct correlation between reducing mercury at the source and a near term reduction in mercury in nearby fish and wildlife.

Unfortunately, the rule options that EPA has proposed to address mercury emissions from coal-fired power plants are not adequate to address mercury pollution in the Midwest or the nation as a whole.

First, the EPA's rule should accomplish what's mandated by the Clean Air Act; emissions reductions from all plants equivalent to the level that can be achieved by the most up-to-date pollution controls. Based on data collected by the EPA, that would result in at least a 90 percent reduction in power plant mercury emissions nationwide. The current proposals do not even approach these necessary and feasible levels of reduction.

Subcategorization and the trading provisions under the proposals only make matters worse for communities in the Midwest. Subcategorization is likely to mean even lower overall reductions for states like Minnesota, Wisconsin, Michigan, and Illinois whose plants use a significant amount of western coal, while trading is likely to result in ongoing mercury hot spots around the selected plants.

Midwest states have numerous power plants, many of them located right on our

lakes and rivers and in many of our largest communities, thus continued high local emissions would mean that many communities and wildlife areas would face ongoing mercury contamination problems.

It was not that long ago in this region that we had rivers which caught on fire and smog that choked our cities. Sportsmen in the Midwest have a vivid understanding of how effective the Clean Air and Clean Water Acts have been in restoring our wild areas and improving our quality of life; but we still can't eat the fish, and mercury still threatens the health of our children.

We urge the EPA to maintain a rigorous implementation of the Clean Air Act, to greatly strengthen its proposed rule, and issue a protective maximum achievable control technology standard for mercury reduction under Section 112.

We respectfully urge the EPA to adopt a rule which moves rapidly and effectively to protect human health and the health of our fish, wildlife, and environment.

Thank you very much for this opportunity.

CHAIRMAN WEHRUM: Thank you.

Is Henry Anderson in the room?

Peg Lautenschlager?

Has the Lieutenant Governor joined us yet?

Marjorie Ettliger?

Is there anyone in the room who has signed up to speak who is prepared to come in? You're more than welcome.

Your name?

SUSAN ZINGLE: Susan Zingle. I'm here today representing the Lake County Conservation Alliance, a grass roots group with several hundred members in Lake County, Illinois.

We are very aware of the dangers and problems -- I should also mention I'm on the board of the Illinois Environmental Council.

In Lake County we are very aware of the dangers posed by mercury, and we are pleased that our state legislature has over the past few years taken steps to improve it. Last year the state passed a ban on mercury fever thermometers. And this year under the governor's auspices, they are working on legislation that would also the ban the sale of mercury light switches, thermostats, all the small pieces that put mercury into the environment.

So one drop at a time, our state legislature is trying to take mercury out. Unfortunately, their efforts are hampered by the insisting laws.

We had in Lake County a proposal for a sludge incinerator. This was originally to be located in Zion, and it proposed emitting 92 pounds of mercury a year. Citizens were outraged. Thousands of signatures were on petitions. People actually blocked the entrance to the construction site with snow plows one cold morning. It was quite a fight.

Thanks to the outcry, first of all, it's no longer going to be located in Waukegan. It moved north of Zion. And also thanks to the outcry, the company voluntarily agreed to put mercury absorption equipment on its sludge incinerator so now the emissions are down.

The bad news is that Congress has no teeth with the existing state of the federal legislation. If, in fact, the sludge incinerator violates its own permit, the IEPA is helpless to do anything about it.

That's a small example. We also have a coal-fired plant coming into Elmwood and there's a plant going in downstate. All of these things could be better controlled in, if fact, we had appropriate federal legislation in the Clean Air Act. Now let's do so.

Thank you.

CHAIRMAN WEHRUM: Thank you very much. Next up Mr. Daniel Cantrell who is speaking for Representative Danny Davis.

F. DANIEL CANTRELL: Good morning, Mr. Chairman.

CHAIRMAN WEHRUM: Good morning.

F. DANIEL CANTRELL: I thank you for the opportunity to be here with you this morning. I'd like to tell you that my name is Daniel Cantrell, and I'm the congressional district director for U.S. Representative Danny K. Davis, and I'd like to read a statement that he would tendered into the record.

Scientific research has demonstrated that mercury is a potent neurotoxin. Studies have shown that one in six women of child-bearing age have levels of mercury in their blood at unsafe levels placing as many as 600,000 newborns at risk of neurological problems due to mercury exposure.

Mercury contamination is to be found in ten million acres of lakes and 400 thousands miles of streams making the fish caught in those waters questionable for human and animal food. Evidence continues to mount that mercury causes reproductive problems in wildfowl populations such as loons and mallard ducks.

Two years ago the EPA estimated that existing technologies could reduce 90 percent of mercury pollutants from power plants bringing mercury emissions down to roughly five tons per year by 2008. EPA's preferred approach rescinds its prior determination that mercury is a toxic pollutant and proposes a far weaker standard. EPA's proposals would allow power plants to emit six to seven times more mercury into our airways for a decade longer compared to what EPA said was achievable.

The new EPA proposed mercury standards are not protective of the public's health. This proposed action joins a long list of recent EPA actions which ignores and distorts the sound science which threatens the health of well-being of the American people.

I call on the EPA to go back to the drawing board to elaborate tougher standards consistent with the threats to our health and the environment proposed by mercury pollution and to implement and enforce these standards vigorously.

Thank you for your consideration in this matter, U.S. Representative Danny K. Davis.

CHAIRMAN WEHRUM: Thank you for coming.

F. DANIEL CANTRELL: Thank you, sir.

CHAIRMAN WEHRUM: Next up, Kim Novick and Laurel O'Sullivan. Is Laurel in the room?

Ms. Novick.

KIM NOVICK: Good morning. My name is Kim Novick. I live here in Chicago. I'm speaking today as a private citizen, and I will probably only need a minute or two.

I'd like to thank the EPA for giving me this opportunity to speak, though I have to admit that I'm rather disappointed that we've had to come together today to discuss whether or not we should uphold a law to reduce emissions of the dangerous toxic metal that can cause severe neurological and developmental disorders in young children.

When studies show that one in six women of child-bearing age in the United States have unsafe levels of mercury in their blood, it seems the answer to the question of whether or not to reduce mercury emissions as quickly and effectively as possible is a clear and sounding yes.

Mercury is a highly toxic chemical with effects on the central nervous system similar to those of lead. Children and fetuses exposed to mercury can suffer poor attention span and language development, impaired memory and vision, problems processing information, and impaired fine motor coordination. At least 300,000 and as many 600,000 children are born every year with developmental -- with a heightened risk of developmental problems due to mercury exposure. There's no doubt that this is a serious problem.

Coal-burning power plants are the largest uncontrolled source of mercury contamination in the country, and coal-burning power plants in Illinois emit more mercury pollution every year than all but five other states.

Mercury emissions from power plants settle out of the air and into our streams,

rivers, and lakes. Every lake and river in the State of Illinois is under a mercury advisory for at least one species of fish affecting not the only the health of our children but also the health of our recreational fishing industry. There is no doubt that coal-burning power plants need to clean up their act.

The Clean Air Act calls for the control of toxic substances such as mercury to emission levels achievable by maximum achievable control technologies which the EPA estimated two years ago to be a 90 percent reduction in emissions by the year 2008.

Unfortunately, the agency has recently proposed to underwrite the Clean Air Act with a new mercury rule that would allow power plants to put six, seven times more mercury into the air than the law allows and get them an extra decade to clean up. This is unacceptable.

As a woman of child-bearing age, I am very concerned about the levels of mercury in my bloodstream and the effects that this might have on my unborn children. When it comes to reducing the largest, uncontrolled source of mercury emissions in the country, every woman and child deserves nothing less than maximum achievable control technologies which could be installed on coal-burning power plants at a price that is a drop in the bucket when compared to annual industry revenues.

To let the coal-burning power plants off the hook will be to literally prioritize a small amount of corporate profit over the health of 300,000 children born every year with developmental disorders due to mercury contamination.

I urge the EPA to prioritize public health and the environment over special corporate interests by enforcing the laws and not rewrite them. You have a great opportunity to stand up for the environment and public health by requiring coal-burning power plants to reduce mercury emissions by 90 percent by the year 2008. It's the right thing to do, and I encourage you to do it.

Thank you.

CHAIRMAN WEHRUM: Thank you.

Laurel O'Sullivan join us? How about Henry Anderson? Mr. Uram's name has come up a third time.

Is there anyone who has signed up who would like to come forward? Yes.

PAUL ZUGGER: Good morning.

CHAIRMAN WEHRUM: Your name is?

PAUL ZUGGER: Hello. My name is Paul Zugger, Z-u-g-g-e-r. I'm the environmental policy advisor to Mr. Sam Washington who is the executive director of the Michigan United Conservation Clubs in Lansing, Michigan.

Mr. Washington has requested that I present the following oral testimony on his behalf and on behalf of the members of the Michigan United Conservation Clubs, MUCC, whose headquarters is located at 2101 Wood Street, Lansing, Michigan.

MUCC would like to thank EPA for scheduling this hearing in Chicago and other locations across the country on this very critical topic of mercury regulation of air emissions from coal-fired power plants.

Formed in 1937, the MUCC is the largest statewide conservation organization in the nation with nearly 100,000 members and more than 500 affiliated clubs. Combined, MUCC represents over 250,000 Michigan hunters, anglers and outdoors enthusiasts.

The mission of MUCC is to unite citizens to conserve Michigan's natural resources and protect our outdoor air. As part of that mission, we advocate for the wise use and scientific management of Michigan's natural resources and protection of the natural environment.

MUCC strives to maintain effective working relationships with state and federal agencies, legislators, and key leaders to influence the direction of natural resource and environmental protection issues.

MUCC and its affiliate clubs are extremely concerned about mercury contamination which is a serious problem in Michigan and throughout the country.

Fish in Michigan waters are contaminated to a level that anglers cannot safely

eat the fish and catch. This is a critical issue to the thousands of anglers MUCC represents.

Michigan has over 10,000 lakes. And late 1980s, state agencies were surprised to find fish in our lakes are contaminated with mercury. There are no direct discharges of waste water to most of these lakes, and regulatory agencies have determined the primary source of this contamination is air pollution.

Virtually all Michigan inland lakes now have fish consumption advisories because of contamination from mercury, and two of the Great Lakes also have advisories. Given the devastating effect mercury has on children, the advisories are especially restrictive for children, nursing mothers, and women of child-bearing age.

These advisories are taken very seriously by most anglers and have a profound effect on the sport of fishing in Michigan. This also has serious economic impacts.

Tourism is a major industry in Michigan, and fishing is a key aspect of Michigan's appeal. Likewise, the sport fishing industry is an important Michigan industry. More than 1.3 million anglers fished in Michigan waters in 2001. Aside from the pure joy of fishing, these anglers generate more than \$2 billion of positive economic impact in Michigan.

Michigan's tourism and sport fishing industry are vital to our economy and mercury contamination impacts both. Mercury contamination of the fishery to the levels that are threatening to the well being of our children certainly has a chilling effect on this sport.

While the purpose of fish consumption advisories is to protect the public health, they are far from fully achieving that purpose. Surveys of anglers have revealed that even with widespread publication of advisories, many anglers are not fully aware of dangers of eating mercury-contaminated fish.

Furthermore, fish advisories do nothing to solve the problem. To solve the problem, mercury must be reduced at its source.

In determining the level of mercury reduction achievable using available

technology. We believe that existing plants using modern technology can achieve mercury reductions far in excess of the proposed 29 percent reduction by 2007. The technology to achieve these reductions has been developed and installed in plants right here in the Midwest.

While costs must be considered, the agency is required by law to establish technology-based standards that reflect maximum achievable control technology. The costs of removing mercury from emissions is part of the cost of producing power, and increased cost should not be used as a justification for failing to impose the required regulatory standards.

EPA's alternative proposal, the cap-and-trade approach being proposed under Section 111 of the Clean Air Act, is not appropriate for this hazardous pollutant. Relying on individual state implementation plans to establish the necessary mercury reduction levels is administratively cumbersome and time consuming and is likely to result in widespread disparate regulation.

We are especially concerned about the proposed authorization of emission trading for this hazardous pollutant. The concept of trading is fatally flawed for emissions of a pollutant known to have localized impacts in the vicinity of the emissions.

Even under the longer time frames proposed under the Section 111 cap-and-trade approach, EPA's proposed emission goals could not reflect what can be accomplished with existing technology. Much greater reductions can be accomplished and should be required.

In summary, EPA's proposed MACT approach fails to accomplish what's mandated by the Clean Air Act for mercury reduction, levels that meet standards that reflect maximum achievable control technology. And the alternative new source proposed standard proposal is not appropriate, nor does it represent an adequate mercury control approach.

We urge the EPA to regulate mercury as a hazardous pollutant under Section

112 of the Clean Air Act but strengthen the proposed mercury reduction requirements to require emission reductions from all coal-fired power plants by 2008 to reflect levels that can be met through maximum achievable control technology. Based on data collected by the EPA, this should be in the order of a 90 percent reduction in the power plant mercury emissions nationwide.

We further urge the agency to reject the alternative proposal to regulate mercury under Section 111.

MUCC is concerned about mercury contamination and consistent with our mission, we will continue to educate the public and advocate for wise stewardship and protection of Michigan's natural resources.

Thank you for the opportunity to offer testimony on this important issue.

CHAIRMAN WEHRUM: Thank you, Mr. Zugger.

Laurel O'Sullivan.

LAUREL O'SULLIVAN: Good morning and thank you for the opportunity to comment on this very important rule that will have significant impacts on generations to come. My name is Laurel O'Sullivan. I'm here today on behalf of the Lake Michigan Federation and the Delta Institute.

CHAIRMAN WEHRUM: Are you going to send us a copy of your slides?

LAUREL O'SULLIVAN: Yeah. I've already given them -- I'm sorry. I've had a little technological problems this morning, but, yes, you'll get copies.

CHAIRMAN WEHRUM: I want to make sure we'll have them.

LAUREL O'SULLIVAN: No problem.

CHAIRMAN WEHRUM: Great.

LAUREL O'SULLIVAN: The Lake Michigan Federation and the Delta Institute are two nonprofit organizations committed to protecting and furthering the health of the Great Lakes communities.

We are opposed to the proposed utility rule because it will put the health of women, children, and other sensitive populations in the Great Lakes at greater risk.

Toxic trading programs like the utility reduction rule have the potential to create hot spots or higher concentrations of toxic chemicals in the Chicagoland area and elsewhere in the Great Lakes because facilities under the rule may choose not to reduce mercury but instead offset their emissions through trading.

By allowing some facilities to forego controls, the rule places a higher burden on sensitive local populations instead of achieving a 90 percent reduction as would be required under the MACT rule.

This rule allows power plants to emit more than five times as much mercury for a decade longer and three times as much after the year 2018. By adopting the cap-and-trade approach, the rule marks compelling evidence from recent studies in the Great Lakes, the Everglades, and elsewhere that show that individual facility controls do work.

The result is that the rule perpetuates emissions of mercury longer and so in effect justifies their emissions into our waterways and ultimately into the fish that we eat. This is contrary to all our recent local and regional policy initiatives, and even more troubling the rule ignores the stated goals of the Great Lakes Water Quality Agreement which states that we shall achieve zero discharge of persistent bioaccumulative toxins. And under that agreement, the U.S. EPA is charged under Section 118 of the Clean Water Act with ensuring that goal is met.

On every level, the rule will have adverse consequences, and in particular it will have adverse consequences for the Great Lakes and the Great Lakes' region which are already burdened by mercury.

Locally in Illinois, Lake Michigan as a whole is saturated with mercury and it's no wonder. In 1999 -- according to 1999 data, Illinois was ranked fourth in terms of power plant emissions. Two years ago Illinois joined the rest of Lake Michigan states and issued a fish assumption advisory for mercury for the first time. And in the past several years, local citizens from Waukegan to Joliet have been engaged in several -- in opposition to several attempts to introduce new sources mercury into their region

including sewage sludge incinerator and a new power plant in Joliet.

This is in addition to the power plants that already dot the landscape in the Chicagoland region. The majority of these power plants disproportionately impact minority populations.

Regionally next to the Everglades, the Great Lakes has the highest deposition rate of mercury in the country and the highest concentration of coal-fired power plants. Nationally 33 percent of mercury emissions come from coal-fired power plants, but on a regional level that number is closer to 50 percent.

Under the cap-and-trade approach, the Great Lakes will likely experience an increase in mercury deposition because it's extremely vulnerable to mercury's impacts. A number of geologic conditions contribute to this fact including the fact that the lakes are virtually a closed ecosystem and experience a very slow renewal rate which varies in length from lake to lake. In Lake Michigan, that renewal rate is approximately 100 years, and in Lake Superior that rate is almost 200 years. So what goes in such as mercury tends to stay in for a really long time and finds its way up the food chain.

At odds with this geologic reality is an emerging political reality that's been created in the wake of this rule which is the recent proliferation of proposals for new sources of mercury around Lake Michigan, not just even in Illinois, from the proposed expansion of the Oak Creek Power Plant in southern Wisconsin to a new brand new proposal for a brand new coal-fired power plant on the shores of Lake Michigan and Manistique, Michigan within miles of Sleeping Bear Sand Dunes National Lake Shore.

Recent studies such as the U.S. EPA sponsored one in the Florida Everglades completed at the end of last year confirmed that the most effective way of achieving mercury reductions on a local level is to implement facility-by-facility controls. That's because the most toxic form of mercury, reactive gas phase mercury, which is also the type of mercury emitted by combustion processes is most commonly deposited locally. It's the most toxic because it's a form of mercury which most readily

transitions to methylmercury in the environment.

Closer to home, the U.S. EPA's mass balance study of Lake Michigan has shown that 80 percent of mercury deposited to Lake Michigan comes from the air and 30 percent of that comes from local sources in the Chicago area.

By comparison the rule's cap-and-trade approach only promises to reduce overall emissions to the environment with no assurances of achieving significant local reductions. For areas like the Great Lakes, this drastically altered approach will exacerbate, not alleviate, health threats to women, children, and indigenous populations for whom Great Lake's fish is an important source of protein.

A final reason for our opposition to this rule is that the scientific community simply does not fully understand how mercury cycles in the environment. For example, we don't fully understand the percentage of mercury that enters the environment and is converted to methylmercury, the form of mercury that most readily enters our food chain.

According to U.S. EPA's environmental incentive performance guidelines, trading programs must be able to quantify reductions of pollutants. Without the knowledge base to understand how mercury travels in the environment and to establish baseline emissions level, quantifying reductions becomes very difficult.

As a result, under the proposed utility reduction rule, assessing whether we truly made any inroads in such a critical public health matter may remain an elusive goal.

Finally, the rule itself delays evaluating the impacts of the cap-and-trade approach until the year 2018. This proposal is problematic because by that time the damage will already have occurred. Mercury will have been deposited and accumulated in the environment.

We seen from EPA's residual risk program that evaluating mercury levels and health risks is highly complex. Delaying the evaluation of mercury health risks from remaining levels caused by hot spots would only allow sensitive populations to suffer further exposure.

To conclude my remarks, we strongly urge the U.S. EPA to reject the proposed utility reduction rule which adopts a cap-and-trade approach and instead to go forward with a MACT rule which would implement controls on a facility-by-facility basis.

Thank you.

CHAIRMAN WEHRUM: Thank you.

We're going to take a couple minute break here to get our house in order. We'll restart here in hopefully about 10 but no more than 15 minutes.

If you have signed up to speak, please stay close. We're going to try to keep the ball rolling here folks. Thank you very much.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: We're going to get started at this point.

Just a few reminders as we get started here. If you're interested in talking, you need to sign in at the table just outside the doors in the back here. We're assigning times as a convenience, frankly. As a practical matter, we're doing first come, first serve. Once you sign in, if you can plan to stay in the room until your name gets called. At least so far this morning, there has not been a significant time lag between the time folks sign in and the chance they get to talk so we won't hold you up much.

Also, just as an administrative point so that it's easy for us to hear and more importantly for our court reporter to hear, if you will keep the microphone in front of you three or four inches from your mouth so that you can clearly be heard. That will be quite helpful to us.

I understand Marjorie Ettliger is in the room. Marjorie, are you with us?

(No response.)

Is Henry Anderson with us?

HENRY ANDERSON: Good morning.

CHAIRMAN WEHRUM: Thank you, Mr. Anderson.

HENRY ANDERSON: My name is Dr. Henry Anderson. I'm the chief medical officer and State Environmental and Occupational Disease epidemiologist with the Wisconsin Department of Health and Family Services.

Our department supports the agency's intention to reduce mercury, nitrogen oxide, and sulfur dioxide emissions; however, bolder and immediate public health protection action is needed.

The proposed rule neither goes as far as feasible to reduce from power plants nor, does it propose an adequately public health protective timeline. Quite bluntly, the proposed action does not sufficiently protect our nation's children. The neurological effects of mercury on fetuses, infants, and children are a particular concern and need to be more directly addressed in this ruling.

EPA has proven that significant mercury emission reductions can occur under explicit rules. Medical and municipal waste incinerator operators are to be commended for reducing mercury from these large industrial sources by 90 percent. Mercury emissions from medical and municipal incinerators dropped from 50 tons to 2 tons and 42 tons to 4 tons respectively between 1990 and 1999. Such reductions are a practical example of effective implementation of a mercury reduction strategy.

Similarly effective approaches can be applied now to the utility industry. Mercury emissions and public health importance cannot be adequately addressed by simply relying on reduced mercury emissions as a side benefit achieved by a rule that is designed to reduce emissions of sulfur dioxide and nitrogen oxide.

I'm testifying at today's hearing to support immediate reductions in allowable mercury emissions and to discourage the EPA's proposal to allow cap-and-trade as a method to control global mercury emissions.

There's no doubt that mercury is toxic to humans and that our children are among the most vulnerable to its damage. Over the past century, millions of pounds of mercury has been released into the atmospheric. These releases have been

deposited onto the soil and water bodies of our nation. Much of this mercury has found its way into our surface water and accumulated there where it is converted to the highly toxic methylmercury form which then bioconcentrates in highly prized fresh water fish.

This pollution and conversion to methylmercury has had a devastating cumulative effect in Wisconsin's environment and represents a threat to the public health of Wisconsin citizens. Tighter restrictions on mercury releases are needed to protect air quality in Wisconsin and to prevent further accumulation of mercury contamination in our more than 15,000 lakes, rivers, streams, wetlands.

Today all of Wisconsin's fresh water bodies are under a mercury advisory to limit the consumption of fish. Many of the 49 million fish that will be harvested from Wisconsin waters this year are not safe for people to eat.

Currently women of child-bearing age and children under the age of 15 are advised not to eat large sport fish such as walleye, northern pike, and bass more than once a month or panfish like bluegill and crappie more than once a week. In addition, men are warned not to eat walleye, northern pike, and other large predator species more than once a week.

Unfortunately, many fishermen are unaware of this advisory where the temptation to consume these tasty fish is too great, and they choose to ignore the advice. The sad consequences are that our office received telephone calls from such residents who have been diagnosed by their doctors as having high mercury blood levels that can be directly traced to their consumption of mercury-laden fish which they caught from Wisconsin waters.

Over the past two decades, we have seen the emergence of new methods and programs that are aimed at reducing mercury releases into the environment. Many communities and school districts throughout the nation already implemented mercury reduction programs. Mercury-containing thermometers and other consumer products can no longer be sold in Ashland, Wisconsin. Most mercury-containing trash is now

being sent to a recycling facility instead of to a local landfill.

Controlling mercury emissions from coal-fired power plants, the largest single source of mercury to our lakes and rivers, is the last big step necessary to protect the public's health. Such control is becoming more feasible as the technology improves and costs diminish. Tighter restrictions will be an important addition to the U.S. EPA's overall mercury reduction program and will help to prevent further degradation to Wisconsin's fresh water bodies, preserve our fishing and outdoor heritage.

Particulate matter, nitrogen oxide, and ozone threaten the health of more than a million Wisconsin residents. Each year, asthma and other respiratory diseases that are exacerbated by these pollutants claim the lives of hundreds of our most vulnerable citizens, our children and elderly. The southeastern region of our state bears the brunt of this public health burden.

The eastern region of Wisconsin is heavily impacted by ozone and nitrogen oxide emissions that enter Wisconsin from distant regions.

Wisconsin has no control over these pollutants, yet our citizens and industries continue to suffer the health and economic impacts they cause. Our citizens have been advised to stay indoors and encouraged to car pool due to the exceedances of the ozone standard, yet studies have shown that much of the ozone that burns the eyes and inflames the lungs of our citizens is a result of pollution emitted from power plants located hundreds of miles away.

Wisconsin is powerless to reduce its formation and must rely on our federal partners to do that for us.

Please consider the fight of citizens of Wisconsin as you move forward to finalize these rules. On behalf of the citizens of Wisconsin, I urge you to take immediate steps to reduce the emissions of mercury, particulates, nitrogen oxide, and ozone-forming pollutants into our atmosphere and to disallow the use of trading to bring polluters into compliance. We need real changes, not a numbers game that can disparately impact local communities.

From our perspective as Wisconsin's lead agency for public health, it is clear that the most effective way to regulate global and regional air quality is at the federal level. What can be done locally has mostly already been done or is underway. It is imperative that U.S. EPA take swift and meaningful action to protect our water, our air, the health of the all U.S. citizens. National change cannot occur at the single state level.

Finally, we would request an integrated analysis from EPA to explicitly describe whether emissions reductions under either of these proposals are the most public health and child protective, timely, and cost effective possible.

Thank you for this opportunity to comment on the proposed rules.

CHAIRMAN WEHRUM: Thank you, Dr. Anderson.

Jackie Schomer.

JACKIE SCHOMER: Good morning.

CHAIRMAN WEHRUM: Good morning.

JACKIE SCHOMER: Thank you for the opportunity to be here today. I guess I'll start by saying that I'm not a scientist or a doctor or a political activist. I'm only here to speak on behalf of myself and my environment.

I'm here because I'm a citizen of the United States of America, and I'm deeply concerned and troubled by the EPA's most recent proposed regulations of mercury emissions. I'm here because I'm a mother and for the future of my children in the generations yet to come, and I'm here because I'm a woman living with a chronic neurological illness that has no cure and no current known cause.

My name is Jacqueline Kay Schomer, and I'm here to tell you a story, my story, and how I believe I and many others became ill with neurological and immunological related illnesses due to heavy metal pollutions including mercury that were released into our air, water, and soil by the industries surrounding our homes in the 1970s.

When I was three years old, the age that my son is today, I moved with my family to Kankakee, Illinois, a small town located 60 miles south of here. It was 1969

and my mom and dad were in their mid 30s as I am today. They had four daughters of which I'm the youngest, and we were what most Americans would consider a traditional family. My mother was a stay-at-home mom. My father worked as an executive for the local newspaper, the Kankakee Daily Journal.

Our new home was part of a multi-phased single-family housing development in a new subdivision of Kankakee called Gracefield. Gracefield was built on farmland, and today is still surrounded by the same fields it was surrounded by 30 years ago.

From the time I was small, I was aware that our home, our schools, our parks and recreation areas were all large farm and estate owned land by the late governor of Illinois, Len Small. Incidentally, the Small family owned the Kankakee Daily Journal where my father worked which is how we found our way to Gracefield.

Our neighborhood was friendly, clean, and safe with lots of young families and children of all ages. We were within walking distance to our schools, our junior high, our high school, several parks and a new park district with an in-ground pool and a skating rink.

Our home was also within walking distance to a major battery manufacturing plant, a nationally recognized appliance manufacturing company that at one time doubled as an ammunitions plant and a foundry. Not so wonderful, these facilities were located within a few blocks of my home.

For reasons we never fully understood, the final phases of our subdivision were not completed. Perhaps further development plans were curbed because of the recession that hit in the early '80s or perhaps it was because of the terrible flooding our neighborhood used to incur with heavy rains. Flooded basements, streets full of top soil, the run-off of the surrounding farmland and manufacturing facilities would fill the streets and yards. I can remember wading in the streets knee high and if it got high enough, we'd actually pull out our rafts. We didn't know better then, but we do now.

In the mid '70s, a run-off drain was added by the city to the southwest corner of

our development which alleviated the problems to some degree but never completely. Our neighborhood was surrounded and surrounding land northwest and southwest were higher than our neighborhood so normally they were flooded.

Growing up, this same field, often cursed by the adults was an unlimited source of inspiration and creativity for me and my friends. Daily we were in the fields to play hide and seek in the corn, search for caterpillars and other bugs, or create make believe excavations in search of arrow heads and fossils churned up by the farmer's plow.

All the parents complained about black dirt constantly in their windowsills and in our homes from wind storms, but the kids didn't pay attention to that. What I remember most is having a close-knit community that enveloped my life like a safety blanket.

Other than the typical childhood bumps and bruises, I significantly remember recurring illnesses. I remember frequently getting bloody noses for no apparent reason at all, quarterly bouts of strep throat and upper respiratory illnesses, being soaked in ice water baths to break dangerously high fevers, and on more than one occasion rushed to the emergency room in the middle of the night. Also unusually frustrating at this time was a chronic insomnia that set in at the age of six.

In December of 1979, I said good-bye to my childhood home and relocated with my parents to Ohio. Though I remained in touch with my old friends periodically, it would be more than a decade before we'd be brought back together for reasons we'd never imagined.

Various health problems followed me to Ohio where experts continued to have trouble diagnosing or explaining a reason for my symptoms. The first serious problem I recall was three years after I left Kankakee when I lost sight in my left eye. I was diagnosed with having optic neuritis, swelling of the optic nerve, which cut off my sight. No explanation as to why it happened was given. And though today it is well known that optic neuritis is often a precipitator to developing MS, it was not known in

1983.

Again, during the late '80s and early '90s, I experienced a variety of unusual symptoms experts couldn't initially explain. Among them: Blurred and double vision, general weakness and fatigue, numbness in my arms and legs, and inability to lift my feet when I walked causing me to stumble and often fall down. These symptoms would come and go in waves.

After 18 months of persistently trying to find out what was wrong with me, I was given an MRI and given a diagnosis of probable MS.

In 1991 my husband and I relocated to Chicago. When back in Illinois, I soon learned a close childhood friend of mine from Kankakee who lived on my block had been diagnosed with epilepsy in 1983, the same year that I had developed optic neuritis. We half-heartedly joked that it must have been something in the damn cornfields.

A year later, another close friend who lived directly across the street from me on Cheryl Lane was experiencing numbness in his hands, and MS was raised as a possibility to him. The symptoms subsided and he went on with his life. Three years ago, I received a call from my best friend and he too has MS. So now there were three.

Eighteen months ago, I learned of four more childhood acquaintances, now in their mid 30s and lived on the street behind me who have been diagnosed with MS, epilepsy, and sisters with fibromyalgia and chronic fatigue syndrome.

I decided to make a few more phone calls and learned of another two people that were sick from my childhood neighborhood; again, one with MS, and one with epilepsy.

While talking to these friends and/or their parents, I learned of former neighbors that were of my parents' generation that had had strokes, brain aneurysms, cancers, early onset Alzheimer's, heart disease, severe allergies and arthritis. I learned that my old next door neighbor's mother survived a brain aneurysm only to have her life taken

by cancer a few years later or was it the other way around? I'm losing track. It's becoming difficult to keep track of all this.

Another friend's dad from my block nearly died of blood vessels bursting in his head in the late '80s, and I learned that the man who bought our home 24 years ago suffered a massive stroke in his early 40s that has left him seriously impaired in speech and mobility. His wife, I was told, has just been diagnosed with lupus.

All of these illnesses when looked at independently might not seem out of the norm in our society today where chronic, unexplained illnesses are becoming more common. But taken collectively, however, in this one neighborhood, this is frightening.

As I said, no one is paying me to do this research, nor am I here to tell anyone else's story but my own, which is why I won't disclose the names of the families I'm discussing right now. This is the first time I've gone public with this, with my story.

However, there is so much research that I've gathered about our neighborhood, the companies that surrounded us in the early '70s before emission regulations of heavy metal pollutants were being enforced. Significant amounts of heavy metals including mercury were present in the environment everywhere we turned.

The 1950s and '60s were a remarkable industrial growth period for Kankakee. Thanks to the ending of the war, a need and supply demand and two politically powerful native born Kankakeeans and former governors, Samuel Shapiro, and former Governor George Ryan, who was then a state representative, Kankakee was put on the map as attracting leading industrial manufacturers creating thousands of jobs for the area.

According to the book *Days Gone By*, the manufacturers within the city limits and my home were General Foods; Valspar who made paint and lacquer; Roper Appliances, formerly Florence Gas Stove that doubled as an ammunition plant during World War II; Gould National Battery, also known as Exide; Mortell Company which made insulating materials; General Mills Company; north of Kankakee was

Bradley Manufacturing Company; Koehler Manufacturing Company; Armstrong Cork Company; Amour and Company; and Joseph Turk Manufacturing Company which made metal furniture. In the south of Kankakee, the largest industries were Sun Chemical, which made dies and inks, and AO Smith Company, makers of permaglass water heaters as well as Armstrong.

Scientists are finding more and more prevalence of illness and birth defects connected to heavy metal exposure, especially mercury. Those that earlier last year it was reported in the Chicago Tribune that an unprecedented three-year study was getting underway for MS clusters suspected in the communities of Paw Paw, Savannah, Morrison, DePue, and Lewiston, Illinois.

Reporting my initial findings with these researchers came too late for Kankakee to be involved in this study, but it is my hope that that research will aid in my own research and vice versa.

CHAIRMAN WEHRUM: If you could try to wrap up.

JACKIE SCHOMER: Sure.

As a mother, a citizen, and as a person living with a chronic neurological illness, I strongly appeal to the Environmental Protection Agency for the return of the original position on mercury emissions and continue as previously planned for an annual mercury reduction of 90 percent in five years instead of allowing reclassification of mercury for the market based cap-and-trade directive catering mostly to the special interests of our country's largest polluters.

Thirteen years ago to today, the course of my life changed when I was told I have MS. Though I may look fine to you sitting here, I could give a laundry list of daily pills, problems, symptoms and fears I have, but that is not what today is about. The cause of MS remains unknown and like too many of the other illnesses I mentioned, there is no cure. What if the cure to so many illnesses is ridding pollutions from our environment?

The unconvincing proposal released January 30 by the EPA and the Bush

Administration diminishes the EPA's credibility as being a protector for the citizens of this country and should therefore be revised immediately to reflect again the importance and significance of the mercury study report delivered to Congress only a few years ago.

When we know better, we have a responsibility to do better. In terms of mercury, we certainly know better. Now is the time to do better. I ask that the Environmental Protection Agency do better. Thank you.

CHAIRMAN WEHRUM: Thank you very much.

Next we have Attorney General Peg Lautenschlager from the State of Wisconsin.

CHAIRMAN WEHRUM: Are you two together?

ATTORNEY GENERAL LAUTENSCHLAGER: Yes. I'll make an introduction.

CHAIRMAN WEHRUM: Thank you for coming today.

ATTORNEY GENERAL LAUTENSCHLAGER: Thank you for having me.

Good morning. My name is Peg Lautenschlager. I'm Wisconsin's Attorney General. I'm accompanied here today by Assistant Attorney General Tom Dawson who is our environmental protection unit director.

First let me thank you for the opportunity to testify on a matter of serious importance to me and the citizens of the State of Wisconsin which include our children, families, the elderly and the infirm.

Because I have only ten minutes to speak to you, I will deviate from the longer written testimony that I requested be placed into the record of these proceedings.

As Wisconsin's chief law enforcement officer, my duties include enforcement of our state's air pollution control laws including provisions of the Clean Air Act delegated to Wisconsin to administer and enforce.

The strength of my law enforcement authority to protect Wisconsin's citizens is only as strong as the law itself. Thus what the federal government does or does not

do by enacting federal air pollution control laws directly affects my ability as Attorney General to deliver the protections our citizens both expect and deserve.

The federal government has had no mercury emissions control rules per se and now proposes rules that are too little too late. While some mercury is incidentally captured in fly ash and by our air pollution treatment processes, that removal is far from what can be technically and economically removed.

Even if Wisconsin enacted the toughest mercury control laws in the nation, it could not address out of state sources of mercury falling in Wisconsin, and it could skew the economic playing field that Wisconsin utilities require in order to remain economically competitive in the national energy economy. Accordingly, the toughest national mercury emissions rules we can afford must be enacted.

That is why I'm here to say the proposed mercury rules are woefully inadequate and why they must be strengthened. Although I'm here as an elected official of the State of Wisconsin to express the interests of our citizens in controlling the pollution of our environment by this highly poisonous element, I believe I speak for many of our counterparts in other states and for all people who are concerned about public health, environmental and economic consequences of mercury pollution by coal-fired power plants and other facilities. I believe Wisconsin represents one typical example of the interests all states have in controlling these pollution sources.

No one doubts the indispensable value of electrical power to our economy, to human health and welfare, and to the quality of life we all too often take for granted including power generated from coal-fired plants.

At the same time, however, there is no longer any doubt about the serious health and environmental harms being caused by mercury emissions from these plants and the need to impose the most stringent controls on those emissions that can be afforded and in full compliance with intent and letter of the Clean Air Act. The rules being proposed by EPA do not do that. We can and must afford our citizens better protections than the EPA proposed rules provide.

Both EPA and Wisconsin DNR have found that mercury air emissions from major electric utilities significantly contribute to mercury entering water bodies and ultimately fish, wildlife, and people.

The DNR has found that atmospheric mercury deposition has contaminated nearly all of the state's 15,000 lakes and 57,000 miles of rivers and streams. This contamination has resulted in many statewide fish consumption advisory. Of course, mercury also effects both fish-eating birds and mammals, and frankly, these animals can't read or follow the fish advisories.

Mercury is a potent neurotoxin that crosses both the blood-brain and placental barriers. Mercury poses a health and wildlife risk for those that consume mercury-contaminated fish. Children in developing fetuses are most at risk from the effects of mercury exposure and the U.S. EPA has determined that children born to women with blood concentrations above 5.8 parts per billion are at increased risks of adverse health effects. About 8 percent of the women of child-bearing age had at least 5.8 parts per billion of mercury in their blood in 1999 and 2000.

The total number of people who fish in Wisconsin on an annual basis is 1.8 million. Eating the fish they catch is popular for Wisconsin anglers. Mean fish consumption in Wisconsin is 42 meals a year compared to 36 meals of fish per year in the United States.

Most importantly, our state has 11 Indian tribes and a Hmong community that because of their culture consume greater amounts of fish. Members of Indian tribes in Wisconsin average 75 meals of fish per year, an amount that is more than double the national average.

Poor people tend to angle and consume more fish as a cheap protein source. The full human health and economic consequences of toxic mercury affects our children and our other citizens is not known. This does not, however, make it any less real.

I also share the DNR's concern with the important economic consequences

associated with a potential reduction of recreation and tourism activities due to mercury contamination. Each year the DNR sells approximately 1.5 million fishing licenses -- a million of them are to our residents -- resulting in approximately 1.1 billion in revenues to our state.

Adding sales of food, lodging, gasoline, sporting equipment related to fishing, we have a total yearly economic impact of approximately \$2.1 billion statewide. The sports fishing industry accounts for approximately 30,500 jobs in the state this year.

The DNR is concerned that the continual listing of fish consumption advisories could cause a decrease in recreation and tourism and have a direct economic impact on our state. I believe these impacts on Wisconsin are no different in nature than those on the citizens' environments and the economies of other states.

According to EPA's rule background information, coal-fired plants emitted an average of 48 tons of mercury in 1999. EPA's proposed rule alternatives aim to reduce mercury emissions to 34 tons annually by 2010 representing a 29 percent reduction of 1999 levels and a 70 percent reduction by 2018. This is unacceptable. The EPA rules unacceptably delay mercury emissions controls and fall far short of what's cost effective and technically achievable.

First, it is both technically and economically feasible to achieve far greater mercury reductions than the EPA rules afford. According to EPA's own report, the commercially available techniques in use today with some coal-fired plants are achieving 91 percent mercury emissions reductions over uncontrolled levels and doing so cost effectively.

According to the same EPA report, the estimated cost of achieving 80 to 90 percent reductions in mercury emissions are .03 to 1.9 mills per kilowatt hour. For a typical household consuming 770 kilowatt hours per month, this comes to be between two cents and a \$1.46 a month. These figures are consistent with Wisconsin's DNR

estimates. This is not too much to ask to pay for significantly safer fish, healthier wildlife, and cleaner environment.

Second, we have good reason to believe that stronger regulations will make a real difference. We can reasonably expect that reductions in mercury emissions can and will result in significantly reduced levels of mercury in fish and wildlife and can result in lifting some fish advisories.

The Wisconsin DNR predicted that mercury emission reductions contained in its own proposed mercury rule would result in reduced levels of mercury in fish and wildlife.

According to the Florida Department of Environmental Protection, mercury concentrations found in fish and wading birds in America's Everglades dropped by 60 to 70 percent. The drastic reductions are directly linked to the installation of technology that reduced mercury emissions from industries in south Florida by 100 fold in the last two decades. Significant reductions in concentrations led the department of health to downgrade fish consumption advisories in central and northern areas of the Everglades in 2003.

Third, we have had serious reservations about the legality of EPA's regulatory alternatives because they propose mercury reductions that represent less than the maximum reductions that would be required under the Clean Air Act, Section 112, NESHAP program or other sections of the Clean Air Act.

Under the NESHAP provision, EPA is required to regulate hazardous air pollution emissions by imposing the maximum achievable control technology for control of hazardous air pollutions. We are concerned that the reductions proposed by the EPA Clean Air Act, Section 112 do not represent the maximum achievable control technology. Rather these alternatives appear more to represent the minimum control technology that some sectors of the power industry are willing to accept.

Having properly concluded that these mercury emissions ought to be regulated under Section 112 of the Act by applying MACT standards, it is our view that the

EPA may be legally constrained from taking a different, less restrictive approach to the regulation of mercury emissions. Media reports indicate that the EPA know it is proceeding on shaky legal ground.

Last December 30, the Washington Post quoted an advisor to Administrator Leavitt as conceding: "Sure, there's concerns about legal problems with this approach, but that doesn't mean you shouldn't try it and that it doesn't have value."

We do not believe anyone is well served by an administrative agency's creative attempts to rewrite the laws that Congress has written. Most importantly here, doing so prolongs the day when we might finally provide significant health benefits to our citizens and especially to our children who will continue to face the risks of devastating neurological illnesses until the "necessary and appropriate" actions EPA once acknowledged are finally taken.

EPA's duty is to implement the will of Congress, not to shortcut, distort or circumvent it by rule making process which does not include democratic protections found in the normal legislative process. I do not believe it even serves the regulated community well to adopt rules which face an uncertain and I would submit unpromising fate in our courts.

We would much prefer to work with EPA to adopt the strongest mercury control rules feasible than to question the legality of weak and inadequate rules.

For all of these reasons, not the least of which is the health and the environment of our children and future generations, we urge EPA in the strongest terms to enact economically feasible mercury emissions control standards and rules that obtain the greatest mercury reductions in the shortest possible time.

Thank you.

CHAIRMAN WEHRUM: Thank you very much.

Next up, Lieutenant Governor Pat Quinn, State of Illinois.

LIEUTENANT GOVERNOR QUINN: Thank you very much. I appreciate the opportunity to testify before your group today, and we welcome you to the City of

Chicago and the State of Illinois, the land of Lincoln.

I think it is a very important proceeding that we are involved in today that involves the health and welfare of all of our citizens, particularly our younger citizens and our women in Illinois and across our country who are pregnant. I think it's a very important responsibility of the Environmental Protection Agency to carry out its fundamental duty to protect our environment.

As Lieutenant Governor of Illinois, I'm chairman of the Illinois River Coordinating Council which oversees the welfare of the Illinois River which is one of the mighty rivers of the world, but it also covers all the tributaries of the Illinois rivers, so rivers such as the Fox River, the Chicago River, the DesPlaines River and many other rivers that flow into the Illinois are part of our jurisdiction.

Also Governor Blagojevich in our state has named me to the Great Lakes Commission which oversees the welfare of the Great Lakes of our country. There are eight states and two Canadian provinces that are part of the Great Lakes Commission, and there's a great deal of concern about the health of Lake Michigan and all of the Great Lakes.

So this proceeding today dealing with mercury is exceptionally important to the rivers in Illinois and to our great Lake Michigan as well as all the Great Lakes.

Also in our state constitution, unlike just about every state in the union, we have an express right to a healthful environment. It's a fundamental right in the Illinois constitution which was written and ratified in 1970. So it's a rather modern constitution.

During that constitutional convention, there was a great deal of concern about the environment. Indeed the Illinois constitutional convention occurred about the same time that the federal Environmental Protection Agency was born itself. So if you hark it back a third of a century when our country had Earth Day and many efforts to protect the environment, Illinois citizens went so far as to put into our constitution a fundamental right to a healthful environment. In our constitution it say this is the duty

not just of government bureaucracies and agencies of government, but rather it's the duty of every citizen to uphold the right to a healthful environment.

So today as a citizen as well as an elected official on behalf of all the people of Illinois, I'm here to urge the EPA not to adopt the very relaxed rule that's being proposed with respect to mercury. Whether it gets into our air or our water, mercury is a toxin that's exceptionally dangerous. I think we should treat mercury much as our country treated lead with respect to its dangers particularly for young children.

In our city today, we still have paint that contains lead in it and causes harm to children. The view was to eliminate lead. I think that should be our goal with respect to mercury, to try and reduce it, eliminate it as quickly as we can. And the timetable under the proposed rule that's been issued or promulgated by EPA for our review is too relaxed, too lenient, too slow, and doesn't accomplish the goal of eliminating mercury as quickly as possible. I think the approach to lead of elimination should apply also to mercury.

In the area of mercury, I particularly have great concern -- and I listened carefully to the comments of the Attorney General of Wisconsin. I think she touched upon many of the issues that concern us in the State of Illinois. But one thing I would like to emphasize is our state, according to the morning paper, is seventh in the union with respect to mercury emissions; 5,967 pounds in the most recent year that statistics are available.

So this is a serious problem particularly for Illinois which has a lot of coal-fired power plants. And we are concerned about the fact that if the plan goes forward as currently proposed by EPA for a cap-and-trade system, that our state will become a toxic hot spot. That in order to comply with the EPA rules, utility companies and others may trade credits and so on and adopt a system which leaves us with very high levels of mercury that companies that have high emissions find ways by trading credits to avoid reducing mercury emissions to as low a level as possible.

So we're very skeptical that the cap-and-trade system which may have had

some success in the area of sulfur dioxide, acid rain, is not applicable to a toxic substance like mercury and particularly states like Illinois which have heavy emissions. And the estimates are that two-thirds or so of the mercury emissions fall within the local area of that particular state that we will become a toxic hot spot for mercury.

So what we prefer in our state, and I think all of the witnesses prefer, is a strong national standard with respect to mercury emissions; far stronger than the one proposed by the pending rule.

And indeed looking at the work of the scientists of the Environmental Protection Agency and the order of the Court that this be accomplished as quickly as possible to set a goal of the year 2008 to accomplish significant 90 percent reductions in mercury emissions by adopting the kind of technology that is available, that is feasible.

Our country right now is seeing a great loss of jobs to foreign countries, the so-called out-sourcing of jobs. One way to retain jobs right here in our country is to invest in technology, in technology that limits pollution, that finds good jobs in that area, and by adopting a strong and tough rule that doesn't give lenient standards to those who are emitting mercury in today's environment; but rather saying to them within a rather short period of time, within four years, we're going to reduce mercury by up to 90 percent. I think that not only will be good for our environment, it's good for economy. It will force the industries affected to make the appropriate investment across the country, not only in some states, but in every state to accomplish a strong environmental goal.

I happened to be going to college back in the time early '70s when the EPA both at the state and federal level was being put together. I can remember the first Earth Day in Washington DC where I went to college and the great promise that the Environmental Protection Agency would be a voice for citizens who individually on their own could hardly take on the powerful industries and lobbyists that oftentimes are brought to bear to continue the status quo.

I think that we are relying today a third of a century later on the EPA, the

Environmental Protection Agency, to live out the words of your great oath to truly protect the air we breathe and the water we drink and bathe in, and that's why this rule becomes so important.

In particular, the cap-and-trade proposal is not suitable for this particular toxin. We urge you to strongly reconsider that, adopt a very strong national rule. That is what the State of Illinois and our environmental protection agency and its director advocate. But if you fail to do that, we may have no choice but to exercise our state right to a healthful environment and to try and adopt rules that go beyond the lenient standards that you're considering today.

We hope that doesn't occur. We'd much rather work together with our Midwestern and Great Lakes neighbors in Wisconsin and Michigan and State of Minnesota and Pennsylvania and Indiana to make sure that we do have a standard that all of us can be proud of that doesn't endanger the health of the fish in our state.

Our statewide Wisconsin has a fish advisory. Every body of water is affected by this. We have Lake Michigan, the Illinois River that connects the great Lake Michigan to the great river Mississippi, and we have to not take our waterways for granted. Instead we need to be stewards of the environment. By adopting the strongest rule possible, going back to the drawing board, rejecting the ruling you have before you, and instead adopting a much stronger rule, that is really what's in the interest of the healthful environment of our state.

I appreciate the opportunity to be here.

CHAIRMAN WEHRUM: Thank you for taking time from your very busy schedule to be here. We are indeed happy to be in your state.

LIEUTENANT GOVERNOR QUINN: Thank you.

MS. DUNHAM: The next couple people on the list, Marjorie Ettliger, are you here? Great. If you could come to the table. I'm going to call the next person too, Lionel Trepanier, Lionel?

Okay, Marjorie.

MARJORIE ETTLINGER: I'm Marjorie Ettlenger and I'm testifying from the League of Women Voters and the Lake Michigan Interleague Group, and I thank you very much for this opportunity to join my voice to the very eloquent ones that have come ahead.

The League of Women Voters has long supported the conservation and protection of natural resources. We have urged that the control of pollution of these resources should be managed in the manner that would preserve the physical, chemical, and biological integrity of the ecosystems and protect public health.

The Lake Michigan Interleague Group is composed of members of the leagues in the Great Lakes basin. It studies environmental issues that affect the health of the lakes.

The League of Women Voters has been a strong supporter of the Clean Air Act and its protections of public health. It has expressed strong concern about the new EPA proposal that would allow power plants to continue polluting our air and water with 34 tons of mercury each year.

As cited by the Physicians for Social Responsibility, the new EPA's rule would postpone mercury reductions from power plants until 2018 or beyond. This would allow as much as 650,000 pounds of excess mercury to be released into the atmosphere. The proposed rule would remove mercury released from power plants from the EPA list of hazardous air pollutants.

There are existing rules. The maximum achievable control technology standards should be enforced by EPA. This would require a 90 percent reduction of mercury emissions by 2007. In addition, MACT is technology driven with constant improvements built in over time.

The EPA's Children Health Protection Advisory Committee found that the mercury proposal does not sufficiently protect our children. This is the first time that this committee has ever formally objected to an EPA proposed rule-making for its failure to protect children's health.

Children, infants, and women of child-bearing age are particularly vulnerable to mercury exposure. Mercury can harm prenatal development and impair children's cognitive growth and emotional development.

It is unacceptable that EPA's proposal allows power plants to pump up excessive mercury for another 15 years contaminating our air, water, food, and affecting children adversely.

According to the Centers for Disease Control Prevention, 8 percent of American women of child-bearing age have dangerously elevated mercury levels from eating polluted fish. Samples they have collected have shown that the average level of mercury in umbilical cord blood is 1.7 times higher than the level in the mother's blood.

Infants and children are particularly vulnerable to methylmercury because their nervous systems are still developing. Methylmercury is formed when mercury in the air falls into water, making a potent form of a toxin that becomes more concentrated as it moves up the food chain.

John Fialka in the Wall Street Journal of January 30 of this year states that two outside panels of air pollution experts have warned the Bush Administration that proposed rules to reduce power plant emission but allow emissions trading among companies could create hot spots with concentrations of mercury and other toxic substances particularly harmful to children.

With these concerns in mind, we urge you to implement stronger standards to control air and water pollution now.

Thank you very much.

MS. DUNHAM: Thank you.

Is Lionel Trepanier in the room?

The next couple people we have on our list is Carey Hamilton and John Raffensperger. John, are you here? If you could come sit at the table too.

CAREY HAMILTON: Thank you. My name is Carey Hamilton, and I'm here

today to comment on the mercury rule. I'm representing Save the Dunes Council whose mission is to preserve, protect, and restore Indiana dunes and all natural resources in northwest Indiana's Lake Michigan watershed for an enhanced quality of life. Quality of life first and foremost requires good health. Unfortunately, according to the Adult Institute report from 2000, the southern Great Lakes areas is predicted to have one of the highest rates of mercury deposition in the United States.

We know the significant health facts caused by mercury exposure. We've heard that approximately 60,000 children may be born in the U.S. each year with neurological problems due to mercury exposure in the womb, and we know that nearly five million American women of child-bearing age have mercury levels in their blood above EPA state levels. And many other folks have stated more health facts more eloquently than I could, so I'll leave it at that.

Are these full costs of citizens' exposure to mercury considered or do we just know the cost to the power industry of investing in technologies that will ultimately make our children healthier.

According to the NRDC, EPA previously determined that an 80 percent drop in emissions would cost the power industry less than 1 percent of its annual revenues. That is an overly burdensome investment in our children's health.

Why not set the highest standard for reducing mercury emissions that EPA believed was required by law just four years ago? Requiring maximum achievable control technologies by 2008 will improve the quality of life in northwest Indiana and help secure our region's economic viability in the future.

In addition, a hazardous air pollutant with such toxic impacts on public health should not be part of a trading program that potentially leave whole areas with little real mercury reductions.

As a mother and as a member of the board of the Save the Dunes Council, I am deeply disturbed by this proposal to roll back a rule crucial to improving public health. We urge the U.S. EPA to impose MACT standards on the power industry by 2008,

thus improving public health and the environment as the Clean Air Act intended.

Thank you.

MS. DUNHAM: Thank you very much.

JOHN RAFFENSPERGER: I'm John Raffensperger. I'm here to ask the EPA to include the brains of unborn children as part of the environment. I practice pediatric surgery in Chicago for 40 years. During that time, I have seen increased incidence of birth defects and childhood cancer.

When I was a young surgeon at the Cook County Hospital in 1950s and 1960s, I helped treat dozens of children suffering from blood poisoning. When they were in coma or had convulsions, we took out great big pieces of their skull to try to reduce their intracranial pressure, and all that happened being has rapidly dividing specialized cells that are particularly sensitive to neurotoxins such as mercury, lead, and PCBs. The concentration of methylmercury in a umbilical cord blood is 70 percent higher than in maternal blood and easily passes to the placenta into the circulation of the fetus. Furthermore, it traverses the blood-brain barrier which partially protects older and adults from cerebral toxicity. In the developing brain, small concentrations of mercury causes a diffuse alteration of cellular function, inhibits protein synthesis, damages DNA, and disrupts cell division.

But even worse, mercury as well as PCBs are excreted in mother's milk so that the damage continues even after birth. Can there be any worse health hazard to our nation's children? This is a worldwide phenomenon.

In both the Seychelles Island just east of Africa and the Faroe Islands north of Scotland, there has been extensive studies of children born to mothers who consume fish. Every study has shown a correlation between impaired hearing, poor attention, deficits in speech and memory with prenatal mercury exposure.

In our animal studies, four-month-old rats and 60-day-old monkeys who have been exposed to intrauterine mercury demonstrated impaired behavior in visual recognition. Autopsies on this animals demonstrate a smaller brain, dilated ventricles,

and distorted cellular arteries.

Sadly, there's synergism between mercury and PCBs. Children born to mothers who consumed fish contaminated with PCBs and mercury from Lake Ontario performed poorly on every psychomotor test.

During the recent Mad Cow episode, a government spokesman claimed that our food supply was safe. Does everybody remember that? How can that be when the FDA regularly warns women of child-bearing age to limit their intake of mercury-contaminated fish.

In my own practice, I witnessed the increasing incidence of children with minimal brain damage often diagnosed as the attention deficit disorder, learning disability, behavior disorders, and autism. These children are alienated from their peers. They do poorly in the classroom. They require special education. They're at risk for drug abuse and delinquency.

Families of these children pay a high price for medical services, educational and psychiatric health, and the increased stress on the family often results in divorce. These terrible disorders may well be the results of increasing environmental pollution for mercury and other neurotoxins. We also have to ask how many other children who appear to be normal have lost a few points of their intelligent quotient as a result of industrial pollution.

Adults are not immune to the effects of eating mercury-contaminated mercury. In San Francisco patients with elevated levels of mercury reported muscle weakness, hair loss, abdominal pain, and muscle stiffness. All of these symptoms correlated with increased mercury levels.

Up to 320,000 babies are at risk each year to suffer brain damage from mercury. This is a terrible human toll. An administration which claims to be compassionate expresses great concern for family values and which vows to leave no child behind can do everything in its power to prevent the damage to unborn infants caused by neurotoxic chemicals.

Rather than establishing safe levels for mercury, PCBs or pesticides, EPA should insist on the elimination of these highly dangerous substances from our planet.

A government that can afford to have a war in Iraq, that can send a Rover to Mars should certainly be able to build the technology to protect our environment.

MS. DUNHAM: Thank you very much.

Next up we have Ellen Rendulich.

Next person after Ellen is Andy Knott. Andy, are you here? Okay, great.

ELLEN RENDULICH: Hi. I'm with Citizens Against Ruining the Environment, CARE. We're a grass roots organization in Lockport, Illinois.

CARE finds it appalling that local citizens must come before the U.S. EPA to beg for health and environmental justice. It is also our expectation that you'll listen to the people and not to the polluting industries and their lobbyists.

Many of us live within the fall zone from a grandfathered coal-fired power plant in Romeoville. We also have a plant approximately eight miles to the south as well as two coal plants in Chicago approximately 15 to 30 miles to our east. Needless to say, asthma and lung diseases are prevalent in our immediate area.

As you know, the governor has approved several new plants to be built in Illinois utilizing Illinois coal which is known to have extremely high sulfur content.

CARE has attended several public hearings in protest of inferior pollution control standards for coal-fired power plants as well as a public hearing for the facility.

We often hear comments from the EPA -- from the IEPA that there's a shortage of money and that they are under staffed. The IEPA also reverts to the U.S. EPA for programs and answers.

The U.S. EPA has been aware of mercury since 1971 and has basically did nothing but create public awareness of the dangerous. In 1998 your committee stated that it was appropriate and necessary to justify regulating power plants emissions caps. The study showed that mercury pollution causes severe health defects.

That was over 30 years ago. It's our understanding that in 2001 the EPA estimated that coal-fired power plants could achieve an average of 90 percent mercury reduction under maximum achievable control technology in approximately eight years. Had that concept been active, we would have five years left to a 90 percent mercury reduction.

Now you are considering another extension for mercury emissions for the year 2018. CARE believes that this is outrageous. Do you have any idea of how many people have suffered, how many lives have been lost due to the extensions? Is there any wonder that medical insurance rates have increased; neurotoxins, asthma, lung disease?

My sister-in-law died of emphysema. Babies, children, and seniors in our neighborhood including my husband and I use inhalers. Why? Why is the question. Why?

Approximately 300,000 children are born with each year with a heightened risk for neurological problems related to mercury exposure. Is there a necessity for more neuroscientists and neurologists in 2004 than in previous years?

When studies prove and for that matter even insinuate that industries such as coal power plants are creating harmful health environmental impacts, why would there be any hesitation as to the immediate establishment of the most stringent regulations and the most current technology available including pilot programs.

It's CARE's belief that the price of higher pollution control standards and costs of this technology to the coal-fired industry has an impact on your decisions. Is it better to have higher medical insurance rates at the cost of human health and/or life?

If it's money, then the coal industry as well as any polluting industry must realize that that is the cost of doing business. Can a price be put on health or on our environment? The cost of pollution controls should not be taken into consideration.

We have many other concerns, one of which is how averaging in combination with credits affect the environment. We have been told by the IEPA that averaging

credits are not used for problems where are there potential local impacts. We would like to know how local impacts can possibly be avoided.

CARE is requesting that, number one, immediate action be taken on mercury; number two, the most stringent regulations for mercury be applicable as required by the Clean Air Act; number three, maximum standards for pollution controls be implemented for mercury, sulfur dioxide, and nitrogen oxide releases; number four, CARE also requests a complete toxic air quality study that would encompass communities such as Lockport that are within close proximity to these facilities and similar polluting industries.

Thank you for the opportunity to voice our concerns, and we truly hope that you listen to the people.

MS. DUNHAM: Thank you very much.

Mr. Knott.

ANDY KNOTT: My name is Andy Knott. I'm the air and energy policy director for the Hoosier Environmental Council or HEC. HEC is Indiana's largest environmental advocacy organization with over 25,000 individual members.

The Hoosier Environmental Council strongly opposes EPA's proposal to gut its process for regulating mercury which also amounts to a violation of the Clean Air Act.

Indiana is both a perpetrator and a victim of power plant pollution including mercury pollution. 97 percent of Indiana's electricity comes from coal-fired power. Indiana's mercury emissions are ranked fourth in the nation. Of the Midwest states, Indiana is second only to Ohio in mercury power plant emissions.

As a result of this assault, the Indiana State Department of Health has imposed a general statewide fish consumption advisory as well as dozens more specific advisories for several species of fish. Similar advisories exist in many other states in the nation as you know.

Hoosiers and all U.S. citizens deserve better than this. And technologically feasible reductions are readily available in proven technology to reduce 90 percent of

power plant mercury emissions. In fact, several states are moving forward with their own rules to require a 90 percent mercury reduction from power plants.

Such reductions would also bring quick results. Recent studies in Wisconsin and Florida prove that emission decreases lead to near term reductions of mercury in fish and wildlife. In Wisconsin a 10 percent reduction in deposition resulted in a 5 percent reduction in mercury in fish in one year. In Florida a large reduction in deposition resulted in a 60 percent reduction in some species of fish and wading birds over a four-year period.

The Clean Air Act requires EPA to develop a maximum achievable control technology or MACT requirement that is equivalent to the average of the top 12 percent of power plants in the U.S. Instead EPA has proposed emission limits that in some cases would be 17 times higher than what a true MACT standard would require.

EPA's process appeared to be moving down a path that would have led to an adequate mercury MACT rule for power plants, but that process was hijacked at the last minute by politics. It is no coincidence that EPA's proposal closely resembles President Bush's power plant pollution plan which is labeled with the outrageous moniker of Clear Skies Initiative. If George Orwell were alive, I don't know if he would be embarrassed by or jealous of this administration's attempt to mislead.

Instead of issuing a MACT rule that complies with Clean Air Act, EPA has proposed three options: Number one, a weak 30 percent MACT under Section 112 of the Act; two, a weak cap-and-trade program under Section 112; number three, a cap-and-trade program under Section 111 of the Clean Air Act that would give us a 30 percent reduction by 2010 and a 70 percent reduction by 2018 that would result in a nationwide 15 ton cap. Even this level of reduction would not likely be met until the year 2030 according to EPA models.

The result would be seven times more mercury emitted than under a Clean Air

Act compliant MACT or 300 additional tons between the year 2008 and 2018 alone. The Clean Air Act compliant MACT rule would result in a 90 percent reduction or a five ton nationwide cap by 2008, and EPA's proposal to allow trading would result in hot spots of mercury deposition.

EPA cannot justify the inherent inequities and environmental justice flaws that allowing emissions trading of a toxic substance would create. In short, EPA's proposals are ill advised, inadequate, and illegal.

In closing my testimony on the mercury rule, I will paraphrase Robert F. Kennedy, Jr. who spoke last fall at the HEC's 20th anniversary dinner. He said something to this effect. When a father can no longer take his son on a time-honored fishing trip where they can bring home their catch for the family to eat and enjoy because power plants are allowed to spew uncontrolled mercury into the atmosphere, then something is wrong in America.

The Hoosier Environmental Council calls on the Bush Administration to stop wreaking havoc on our children's health and our environment. EPA should abandon its three options for controlling mercury from power plants because they do not provide the protections Americans deserve and are granted under the Clean Air Act. EPA must bring forth a MACT standard that complies with the Clean Air Act and protects public health. A five ton nationwide cap by 2008 will accomplish these goals.

Now I would like to comment on EPA's proposed Interstate Air Quality Rule for sulfur dioxide and nitrogen oxides. I'll refer to it as the transport rule.

Sulfur and nitrogen fine particle pollution from power plants, commonly called soot, shortens the lives of more than 30,000 Americans every year. More people die as a result of the pollution from these dirty power plants every year than from drunk driving, which is just under 17,000 people a year, or homicides, which is just under 18,000 people a year. Ozone smog is also responsible for hundreds of thousands of asthma attacks, hospitalizations, and lesser symptoms each year.

In Indiana it is estimated that over a thousand people die prematurely every year due to fine particle pollution from power plants. Over 600 total hospitalizations and over 20,000 asthma attacks are also caused by this pollution in Indiana.

To address these problems, EPA issued a new fine particle air quality standard that must be met by the year 2009.

While EPA's proposed transport rules are a good first step, they do not go fast enough or far enough to allow states to achieve air quality standard by the end of this decade. For example, the rules do not fully come into effect until 2015 or six years after the soot must be cleaned up under the new health standard representing six extra years of clean-up and thousands of unnecessary premature deaths.

EPA's transport rule should be designed to help states comply with the new fine particle health standard and not leave states in the lurch searching for additional reductions.

Hoosier Environmental Council calls on EPA to require reductions of NO_x and SO₂ so the states can actually meet the Clean Air Act's clean-up deadlines. Specifically to help states meet the new fine particle health standard, the transport rule should require that annual sulfur dioxide emissions not exceed 2 million tons per year nationally by the year 2009.

Thank you for this opportunity to comment on both EPA's proposed mercury and transport rules.

MS. DUNHAM: Thank you very much.

Next on our list we have Katherine Duck and also Indra Frank. If you both could come to the table.

KATHERINE DUCK: My name is Katherine Duck. I'm with Indiana Interfaith Environmental Task Force, and I'm a Catholic Christian.

The way we view creation changed forever after the first photos of the earth as seen from the moon were released. After we glimpsed this splendid azure orb glittering against the vast blackness of space, we began to look at the earth as a

sacrament of grace, rather than just a place to build a house, construct a factory, or play a game of football.

Environmental justice has captured the imaginations and energies of religious people who believe that the earth is God's holy ground, not human kind's playground; and that we are not only consumers of earth's resources, we are also stewards of this great gift.

Faith groups have passed resolutions, made public statements, and educated our congregations about ways to protect and preserve our fragile island home and its inhabitants.

One of the faith community's highest priorities is protecting the health and well-being of earth's citizens. The potent neurotoxin mercury interferes with the development and function of the central nervous system. Exposure of pregnant women and children, women of child-bearing age to mercury can cause permanent brain damage to the fetus, infant, and young children. Chronic exposure to mercury can permanently damage the brain and kidneys at any age.

A recent report states that well over half a million infants in a 12-month period between 1999 and 2000 had blood mercury levels higher than EPA's recommended standard. That number is over twice as high as expected.

Many of mercury's victims are poor and unable to bear the cost of treating mercury-related illnesses. This is unacceptable to those of us who embrace the religious tenet that we should care for the least of these.

People of faith are deeply concerned about the health hazard mercury poses, and we are committed to requiring electric utilities to control power plant mercury emissions. We are asking EPA not to bow to powerful well-funded industry representatives instead of protecting our nation's health.

Our lives and the lives of our children depend on what we do now today in this room. We believe it is vital that we act responsibly and faithfully to protect millions of people from mercury's ill affects.

When people of every faith, color, creed, and political persuasion hold hands in solidarity, it is easy to embrace the image that the kinship of heaven and earth is so close it be viewed from a photograph. It is time to save earth for heaven's sake.

Thank you.

MS. DUNHAM: Thank you very much.

INDRA FRANK: I am Dr. Indra Frank. I'm here as a concerned citizen and as a physician. I received my M.D. from Johns Hopkins University, then specialized in pathology. I served as a pathologist in the United States Air Force for four years before entering private practice five years ago. I currently practice pathology in Indianapolis, Indiana.

I began studying the problem of environmental contamination by mercury last fall while I was working on a project to rid the medical laboratory where I worked of mercury-containing reagents. I learned that the mercury from our lab was being incinerated and that incineration of mercury-containing compounds releases mercury into the atmosphere. Once in the atmosphere, mercury returns to the earth with precipitation and winds up in surface waters. Microbes converts mercury in the waters to methylmercury which is a particularly toxic form of mercury. Methylmercury accumulates up the food chain so that fish can have methylmercury concentrations up to 1,000 times higher in the surrounding water.

In Indiana all bodies of fresh water are under fish consumption advisories because the fish are contaminated with mercury and/or PCBs.

When contaminated fish is consumed, the methylmercury is readily absorbed, and it is toxic to the kidneys and brain. Infants, children, and fetuses are particularly sensitive to mercury because their physiologic systems are still developing.

In a study published in 1997, 1,022 children in the Faroe Islands off the coast of Scotland were tested for mercury levels in their blood at birth, a measure of their exposure in utero. The diet in the Faroe Islands tends to be very high in fish and, therefore, a source of mercury.

At age seven these children were given a battery of neurobehavioral tests. The level of mercury at birth correlated with performance on those tests. The higher the mercury level at birth, the poorer the child's performance, particularly in tests of attention, memory and language.

Those same children were studied again at age 14, and the results were just published in the February issue of the Journal of Pediatrics. In this later study, signal transmission in the brain was measured using brainstem auditory evoked potentials.

The latency of electrical transmission was significantly increased in children with higher intrauterine exposure to mercury. In other words, the children's exposure to mercury in the womb had a lasting effect on signaling in their brains. In this same group of children, mercury exposures also affected blood pressure regulation.

The mercury content in the mother's hair at the time they gave birth was also examined in the Faroe Island study. The children of mothers with hair mercury of 10 to 20 micrograms per gram were compared with the mothers who had hair mercury below 3 micrograms per gram. The children whose mothers had higher hair mercury had mild, detectable decrements in motor function, language, and memory compared with those with lower mercury.

Hair mercury of 10 to 20 micrograms per gram of hair is currently considered the safe limit for pregnant women. This study illustrated how detrimental effects can be detectable even at mercury levels which are currently considered safe.

Another study from New Zealand looked at scholastic and psychological tests in 237 six and seven year olds and correlated that with their mother's hair mercury level during pregnancy. Poorer scores on many of the tests were significantly correlated with mercury levels.

The Faroe Islands and New Zealand studies along with other data were used by the National Academy of Sciences in this country to establish a reference dose or safe limit for exposure to methylmercury of 0.1 micrograms per kilogram per day, and I believe that is also now the EPA's safe limit.

According to an article published in June of 2001 in Consumers Reports canned tuna off the grocery store shelf has between 0.16 and 0.31 parts per million of methylmercury. And if the math is done, it turns out that a 132-pound women could exceed her weekly limit for methylmercury by eating as little as five ounces of tuna. The EPA has established a safe limit for blood mercury levels of 5.8 micrograms per liter.

In 2002 the Centers for Disease Control published a study showing that 8 percent of women in the United States of child-bearing age exceed that limit. These women are at risk for having babies with detrimental neurological effects of mercury as demonstrated in the studies already mentioned.

When I began, I mentioned that my own education on mercury in the environment began with an attempt to cut mercury use in the medical lab where I worked. I was successful in that effort. I found a substitute for a mercury reagent that could be used without compromising patient care and thus eliminated approximately seven pounds of mercury waste per year.

My lab is not alone in trying to eliminate mercury. Many medical labs across the country are working to eliminate the use of mercury. Part of this effort stems from a program created by the American Hospital Association and the U.S. Environmental Protection Agency known as Hospitals for a Healthy Environment.

The programs calls for the elimination of all mercury from medical waste by 2005. Elimination of medical mercury waste by this EPA sponsored program would be beneficial since it is estimated that medical sources contribute as much as 10 to 15 percent of mercury contamination in the environment.

However, coal-fired power plants are estimated to contribute 33 percent of environmental contamination, but the EPA is now proposing that they reduce their mercury output by only 30 percent until 2018 when they should achieve a 70 percent reduction. A 90 percent in mercury emission from coal-fired power plants is achievable now in the short term if maximum achievable control technologies are used.

Currently U.S. power plants emit approximately 50 tons of mercury per year. Every year that this continues another 50 tons of mercury are added to our air, water, and fish.

With the proposed reduction, it would still be 34 tons of mercury every year. Inevitably this will lead to higher proportions of U.S. women with blood levels exceeding the safe limits and increasing numbers of infants at risk for neurologic deficits.

Power plant emissions of mercury can be and should be reduced as much as is technologically feasible in the name of preserving public health.

I respectfully request that the EPA require that coal-fired power plants reduce mercury emissions 90 percent or more using current maximum achievable control technology.

I further request that the EPA abandon the proposed cap-and-trade system so that mercury reductions apply uniformly and no community has to suffer higher mercury emissions than others.

I appreciate the opportunity to make this presentation.

The sources of data that I have used in the presentation are cited on my printed testimony.

MS. DUNHAM: Thank you very much.

Is Lisa Yee in the room? Whenever you're ready.

LISA YEE: Thank you. Thank you for allowing me to testify today. My name is Lisa Yee, and I'm actually a student up at Lake Forest College. I'm also a Sierra Club member which has helped me become involved with mercury emission levels in Illinois.

Growing up I have always admired the EPA for their cause and their actions and their protection of people. And in this busy world, I've always believed that EPA would always protect me.

When I heard about mercury emissions, I was very, and I'm concerned about

the mercury levels in Illinois for a number of reasons. Illinois has the highest number of power plants, and each of those sites need to care for waste in a proper manner. Hazardous materials, especially mercury, causes great harm to the human body and developing babies.

More importantly, Illinois has the capacity and technology to reduce 90 percent of mercury emissions from power plants. To protect Illinois inhabitants, mercury emissions should be reduced immediately to ensure this harmful substance causes no further damage.

This problem is of urgent concern because power plants are major emitters of hazardous air pollution which means that each plant emits more than ten tons per year of hazardous air pollutant or 25 tons per year of all the hazardous air pollutants listed in the Clean Air Act. Coal-fired plants spew approximately 48 tons of mercury each year, a very unsafe level.

Coal-burning power plants are the single largest source of mercury pollution in the U.S. and are responsible for 33 percent of the total mercury emissions from all man-made sources nationwide. Mercury is a powerful and harmful substance, and emissions at these levels are frightening.

Mercury has potential for great harm even in small amounts. It is a potent neurotoxin that falls out from the power plants smokestack emissions into our water bodies and on land near the air emissions source. It changes its chemical character and accumulates in the food chain.

There are numerous warnings that caution fish consumption because of high chemical and mercury levels. Forty-five states and territories had fish advisories in 2002, and the advisories for mercury have increased 138 percent from 1993 to 2002. Damage can extend to the brain and nervous system and can lead to developmental neurological disorders such as cerebral palsy, delayed onset of walking and talking, and learning disabilities. This type of damage is especially harmful to children.

The EPA recently estimated that one in six women of child-bearing age have

mercury levels in their blood high enough to put their babies at risk. This means approximately 630,000 newborns are at risk each year. EPA has also reported that approximately 600,000 infants are born each year with blood mercury levels higher than 5.8 parts per billion, the EPA level of concern. After birth, young children who ingest mercury, either breast milk or contaminated foods, remain especially susceptible to the pollutant's neurotoxic effects because their brains are still in a period of rapid development. As people live longer, emissions such as mercury can be harmful and damaging especially with prolonged exposure.

I mean, not anytime soon, but I know as a potential mother, I'm very concerned that I don't exactly know all the time what literature is available for what types of fish are harmful for my body, and my parents have never really implemented any sort of fear in eating fish. It's really disturbing to see how this really can affect people in a very harmful way.

And I think what's even more disturbing is that we do have the technology to reduce the mercury pollution by 90 percent or more. And all we need is for the Bush Administration to enforce laws, but they proposed a plan that would permit three times more mercury pollution than strict enforcement of what the Clean Air Act allows and for decades longer.

I was also very disappointed in the other room they mentioned that there hasn't really been another cost-benefit analysis of any other plan, just of the plan that Bush has imposed.

2 o'clock.

(Whereupon, a lunch break was taken, after which the following proceedings were had:)

CHAIRMAN WEHRUM: I have a list of folks purportedly ready to talk, and we're ready to listen so let's get started here. We have four folks on the list.

Again, just to kind of review some of the ground rules. Anyone who is here

who wants to speak, we will accommodate you. What you need to do is talk with the folks at the table outside the back doors and they will sign you up.

Folks have ten minutes to speak. We'll ask that you stick to that if at all possible. We have a fancy little lighting gizmo up here that will flash a yellow light at you when you have a few minutes left and a red light when your time is up.

In terms of the speaking so that we can hear what you're saying and more importantly record what you're saying, please pull the microphone in front of you when you're speaking. Keep it four inches in front of you and speak clearly if you can.

With that, we call folks up two at a time. That's our preference just to try to expedite the process, and we would ask that after the first person speaks, if you just stay put for the duration of the second speaker and then both folks can pick up and leave at that time. That's not actually how it worked this morning. I won't hold you to that.

First two, Lee Francis and Sarah Welch.

The floor is yours.

LEE FRANCIS: Good afternoon and thank you very much for the opportunity to testify on the issue of environmental mercury and public health this afternoon. My name is Lee Francis. I'm a physician in primary care practice at a large community health center here in Chicago where I also serve as the medical director.

I'm here representing Physicians for Social responsibility, a national nonprofit organization representing nearly 30,000 physicians, nurses, scientists, healthcare professionals, and other concerned citizens devoted to the elimination of nuclear and other weapons of mass destruction, the achievement of a healthy sustainable environment, and the reduction of violence and its causes. I served as president of the organization in the year 2002.

As a healthcare professional with training in public health, I'm concerned that the American public is not adequately protected from exposures to mercury in the

environment.

Scientific findings indicate that mercury is a significant threat to the fetus, infants, and young children. Exposure to methylmercury, the highly toxic form of organic mercury found in our environment and food may adversely affect reproduction and a variety of organ systems including the cardiovascular system and in particular the brain and central nervous system.

The developing brain is more susceptible to methylmercury than our adults brains, and it is most sensitive while in utero. Methylmercury crosses the placenta easily, and readily penetrates the fetal brain. It is also secreted in breast milk; although the contribution of methylmercury exposure through lactation is not yet fully understood.

High dose exposures to methylmercury during fetal development can result in low birth weight, small head circumference, severe mental retardation, cerebral palsy, deafness, blindness, and seizures. Recent epidemiological studies have shown that children exposed to moderate or low levels of mercury before birth may also experience neurologic and developmental impairment. Outcomes may include delayed walking, delayed speech, and decreased performance on tests of attention, fine motor function, language, visuospatial abilities, and memory. Recently, electrical activity of the heartbeats and brains of children exposed to mercury in early development have been documented. These data would seem to confirm fears that developmental damage to children from mercury is permanent.

The U.S. Environmental Protection Agency is derived a quote/unquote safe level for mercury in the human body of 5.8 micrograms per liter of blood and a reference dose of 0.2 micrograms per kilogram of body weight per day. The National Academy of Science has endorsed the EPA's RfD, calling it a scientifically appropriate level for the protection of public health.

The American public is exposed to methylmercury at unacceptable levels. Mercury released from various industrial sources eventually deposits in water bodies

where it is converted to methylmercury through microbiologic action and accumulates in many edible fish species.

Most Americans' exposure to methylmercury comes through contaminated fish. Virtually all fresh water and ocean fish and shellfish are contaminated to various degrees, and the range of methylmercury levels commonly found in these foods include some that pose a health risk to the public.

The Centers for Disease Control and Prevention found a year ago in January 2002 that yearly 8 percent of women in America of child-bearing ages, ages 16 to 49, are exposed to levels of mercury that exceed the EPA's RfD considered safe for a fetus.

Using 2000 census figures to extrapolate across the entire U.S. population, this could mean as many as 300,000 newborns each year are at risk of serious congenital, neurological and developmental impairment.

The American public is not adequately protected from mercury pollution. Available data suggests that human activities have increased the level of mercury in the atmosphere by roughly a factor of 3, average deposition rates by a factor of 1.5 to 3, and deposition near industrial areas by a factor of 2 to 10.

Major identified sources of mercury pollution in the United States include coal-fired power plant, industrial boilers, municipal and medical waste incinerators, and chlorine manufacturing and or chlor-alkali facilities.

While mercury emissions from various sources may be transported long distances in the atmosphere, local mercury sources play an important role in local pollution. Draft EPA modeling indicates that mercury hot spots within the United States locations where mercury deposition is highest, local mercury emission sources within a state can be the dominant source of deposition.

In addition, a recent ten-year study by the State of Florida points to the importance of local mercury pollution sources and the feasibility of measures to protect public health. In fact, in that study strict emission limits applied to the

incinerators in southern Florida were found to produce emission reductions of 99 percent and corresponding reductions in mercury levels in Everglades fish of 60 percent and other wildlife as well.

As states have recognized the problem posed by mercury in their waters and develop and improve monitoring processes, public health warnings designed to minimize the public's exposure to methylmercury contained in fish and shellfish have increased dramatically. State fish consumption advisories for mercury are up from 899 advisories in 1993 to 2,140 advisories in 2002. More than 12 million lake acres are affected and 473 river miles are affected in 44 states that are under advisories.

Illinois has issued a statewide advisory for predator fish in Illinois waters due to methylmercury contamination, and Illinois is the sixth highest emitter of mercury among states.

At the federal level, however, consumption guidelines from the EPA and the FDA have been fragmented, incomplete, and sometimes contradictory. In July 2002 and again in December 2003, the FDA's own Food Advisory Committee called existing federal guidelines insufficient to protect public health and vulnerable populations.

Our nation's leaders need to do more to protect public health from mercury. Under Section 112 of the Clean Air Act, toxic substances such as mercury must be controlled to emission levels achievable by maximum achievable control technologies.

Two years ago, EPA estimated that under MACT standard, 90 percent mercury reductions were achievable from the electricity-generated industry using existing commercially available technologies, thereby by bringing mercury emissions down to nearly five tons per year by 2008.

The EPA's cap-and-trade proposal for coal-fired power plants would allow almost seven times more mercury through the year 2010 compared to a stronger standard and three times more mercury through the year 2018 as a result of

cap-and-trade.

The excess mercury released into the environment as a result of cap-and-trade is equivalent to one gram of elemental mercury for every man, woman, and child in the United States. In addition, the cap-and-trade proposal threatens to create toxic hot spots in some communities.

Although our regional administrator for EPA has stated that regulation of mercury emissions is a good thing, on behalf of Physicians for Social Responsibility, I urge the EPA to cut mercury emissions from power plants by 90 percent by 2008.

Along with numerous child and public health experts including the EPA's own, we ask the EPA to make maternal and child health its first priority, reduce utility mercury emissions as much as possible, as quickly as possible.

I have appended 24 references to my written comments, and I thank you very much for your time.

CHAIRMAN WEHRUM: Thank you, Dr. Francis. We appreciate it.

Is Sarah Welch with us?

SARAH WELCH: Thank you.

I would like to thank the EPA for giving us this opportunity to voice our concerns about hazardous air pollutant emissions from power plants, in particular mercury emissions.

My name is Sarah Welch, and I'm here today as a representative of the Izaak Walton League of America. With me today also Joe Highland who is the Illinois State division president for the Izaak Walton League, and we are going to share these comments today.

The Izaak Walton League is a national organization of 50,000 anglers, hunters, and conservationists who are committed to responsible environmental stewardship. Furthermore, sportsmen's groups throughout the Midwest today support my comments. Along with my testimony, I have submitted to EPA a letter signed by the directors of Midwest Sportsmen's Organizations which represents over 400,000

people in the States of Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio asking EPA to strengthen their proposed rule.

Mercury contamination threatens the Midwest's great fishing heritage. Residents in the Midwest share a rich tradition of outdoor recreation centering on our lakes and rivers. We are a region of cabin owners, fishermen, hunters, and outdoor enthusiasts whose lakes and woods are as much a part of who we are as our agricultural, snow, and fall foliage.

If there is one thing we love as much as catching fish, it's eating fish. The fish fry and the shore lunch are beloved traditions in the Midwest. Unless we eliminate mercury pollution from our lakes, streams, and rivers, our children's children may not be able to safely eat fresh bass, walleye, or northern pike, the fish most heavily contaminated.

Mercury contamination is a real threat to Midwest economies. Fishing in the Midwest is more than just a tradition, it's big business. According to the U.S. Fish and Wildlife Service, more than 7.87 million anglers fish in our states and spend more than \$5 billion each year. This includes everything from fishing lures, to special clothing, to food, lodging and transportation for the trips we take. Our region simply cannot afford a contaminated fishery.

But the value of fishing cannot just be measured in dollars. Although less tangible and difficult to quantify, the effects of mercury pollution on an ecosystem can affect the quality of the fishing experience. Some of the main reasons that people fish are to relax, to spend time with family and friends and to be closer to nature. Warnings about eating fish because of mercury contamination detract from this experience.

Unfortunately, the entire Midwest is affected by mercury contamination to such a large extent that state health departments have issued fish consumption advisories specifically for mercury. Indiana, Illinois, Minnesota, Michigan, Ohio, Wisconsin all

have blanket, statewide fish consumption advisories for mercury. In addition, Lake Superior and Lake Michigan have fish consumption advisories because of mercury.

Fish consumption advisories are important because they provide critical information to the public. We cannot, however, rely on fish consumption advisories to solve the problem. We must reduce the contamination at its source.

Catch and release is not just a choice anymore, it is a practice we must observe to safeguard the health of our children and grandchildren.

Mercury contamination does threaten our health. Women of child-bearing age like myself and pregnant women are the most important members of the population in terms of mercury exposure. Methylmercury interferes with the development and function of the nervous system. It poses the greatest hazard to the developing fetus, but children and infants remain sensitive to the effects of mercury because their nervous systems continue to develop until about age 14.

Mercury threatens the health of older fishermen too. New evidence is suggesting that exposure to methylmercury can adversely impact blood pressure regulation, heart rate variability, and heart disease.

JOE HIGHLAND: Can you hear me all right?

CHAIRMAN WEHRUM: Can you announce your name, please.

JOE HIGHLAND: I'm Joe Highland. I have the honor to be Illinois Regional President for the Izaak Walton League of America.

A major source of mercury contamination is coal-fired electric power plants. Each year uncontrolled coal-fired power plants in the U.S. emit nearly 50 tons of mercury into the air. EPA estimates that coal-fired power plants alone account for 42 percent of all the U.S. mercury air emissions.

According to the EPA's toxic release inventory, 23 percent of the nation's coal-fired power plant mercury emissions come from the six states of Indiana, Illinois, Michigan, Minnesota, Ohio, and Wisconsin.

Because mercury does not degrade when released and because the typical coal

plant operates for at least 50 years, the accumulation of mercury released by these plants makes them the most widespread, large scale, long-lived generators of mercury in the U.S. .

After mercury is deposited from the atmosphere, its greatest adverse impact occurs in the aquatic ecosystem. That's been mentioned before, but I think it's worth mentioning again.

In a series of chemical reactions, bacteria in the sediments can convert mercury to methylmercury. Methylmercury is a form of mercury that is especially toxic to humans and wildlife. Fish absorb methylmercury from the water as it passes over their gills and as they feed on other organisms. As larger fish eat smaller fish the way fish do, methylmercury concentrations increase in the bigger fish, a process known as bioaccumulation.

Consequently, larger predator fish usually have higher concentrations of methylmercury from eating smaller contaminated fish. Humans, birds, and other wildlife that eat fish are exposed to mercury in this way.

The point is we can do better. Mercury contamination of fish in our lakes and rivers is a serious concern for our members and their families. However, the current proposal falls far short of what is needed to address this threat.

EPA's mercury MACT proposal fails to accomplish what is mandated by the Clean Air Act for mercury reduction. Further, the alternative new source performance standard proposal is a poor substituted to an adequate mercury MACT standard.

We contend that the proposed mercury MACT rule should require emissions reductions from all coal-fired power plants by 2008 that are equivalent to the level that can be achieved by the most up-to-date pollution controls. Based on data collected by the EPA, that would result in at least a 90 percent reduction in power plant mercury emissions nationwide.

We know that existing plants using the best modern technology can achieve

mercury reductions of up to 90 percent. We've heard that from a number of the people testifying here already. The technology to achieve these reductions is being developed and installed in plants right here in the Midwest.

By contrast, as proposed, EPA's MACT rule will only require an overall 30 percent cut in emissions and that not until 2010 at the earliest.

In addition, most of the reductions will come from power plants that burn eastern bituminous coal while requiring very little emission reductions from power plants that burn western sub-bituminous coal.

As a result, states like Minnesota, Wisconsin, Michigan, and Illinois whose plants use a significant amount of western coal will see even more limited mercury reductions.

Plants in Ohio and Indiana that use mostly eastern bituminous coal would have an incentive to switch to western coal. This could have the perverse effect of potentially increasing local emissions of mercury from plants in Ohio and Indiana. It would also create further strain on the coal industry in the eastern U.S. .

The proposed alternative new source performance standard rule would eventually require deeper reductions, but not for more than a decade, assuming that all goes according to plan, and not to the levels mandated under the MACT approach.

The NSPS alternative also creates different standards for different coal types and allows for some electric utilities to avoid making any mercury reductions by allowing mercury trading.

Treating coal types differently and allowing for trading raises the risk of increasing local emissions, exacerbating the problem of existing mercury hot spots, and creating new mercury hot spots in the Midwest.

The EPA should revise the mercury MACT to meet the Act's obligation to require the most up-to-date pollution controls on all power plants regardless of the type of coal they use and by so doing achieve stringent and rapid reduction in emissions of this toxic pollutant.

The EPA should also reject the alternative NSPS and all mercury trading proposals. These alternatives would cause additional mercury-related health risks through the promotion of pollution trading and would allow unacceptable amounts of mercury pollution to continue.

We respectfully urge the EPA to adopt a rule that maximizes the protection of human health and our fisheries by regulating mercury emissions to the level that we know is technologically feasible and to do so quickly.

Thank you very much.

CHAIRMAN WEHRUM: Thank you.

Next two, Cory Chadwick and John Paul.

CORY CHADWICK: Good afternoon. My name is Cory Chadwick, and I'm the director of the Hamilton County Department of Environmental Services in Cincinnati, Ohio.

I appear today on behalf of the State and Territorial Air Pollution Program Administrators more commonly known as STAPPA and the Association of Local Air Pollution Control Officials known as ALAPCO, which are the national associations representing air pollution control agencies in 53 states and territories in over 165 metropolitan areas across the country. I currently serve as president of ALAPCO.

I am testifying today on two proposed rules that the U.S. Environmental Protection Agency published in the Federal Register on January 30, 2004 which addressed emissions of hazardous air pollutants from utilities and interstate transport of air pollution.

I would like to begin with EPA's proposal to reduce emissions of hazardous air pollutants, primarily mercury, from electric utilities. It is well known that mercury is a powerful neurotoxin that accumulates in the food chain and can cause damage to the brain and nervous system when ingested.

In fact, because of methylmercury contamination, EPA, the Food and Drug Administration, 45 states throughout the country, and other organizations such as

Health Canada have issued fish consumption advisories to the public due to elevated concentrations of mercury.

In view of the dangers associated with exposure to mercury and other hazardous air pollutants, STAPPA and ALAPCO believe it is extremely important that EPA take swift and aggressive steps to reduce emissions of these pollutants from utilities and other source categories.

Unfortunately, for reasons that will be expressed during this testimony, we are extremely dismayed with EPA's proposal to regulate hazardous air pollutants from electric utilities. Accordingly, STAPPA and ALAPCO strongly urge the agency to abandon its proposed strategy and instead develop maximum achievable control technology, MACT standards, with stringent emission limits and expeditious deadlines as required by Section 112(d) of the Clean Air Act.

We have seven major concerns with EPA's proposal. First, the proposed emission limits for mercury are extremely weak. EPA's proposal under Section 111 of the Clean Air Act calls for an interim emissions cap to be achieved by 2010 that, in fact, has not required any additional control of mercury beyond the co-benefits expected from other programs aimed at reducing emissions of sulfur dioxide and nitrogen oxide.

EPA has indicated it expects this interim mercury cap to be set at 34 tons per year. Moreover, while EPA specifies a 15-ton final cap to be achieved in 2018, the agency acknowledges in its proposal that mercury emissions could reach 22 tons or only a 54 percent reduction in 2020 when banking and trading are utilized.

We believe this does not adequately reflect what is technologically feasible and falls far short of what is needed to provide appropriate public health and environmental protection. Instead, STAPPA and ALAPCO recommend emission limits that would result in actual mercury emission reductions between 85 and 90 percent.

Second, we are very concerned that the deadlines in Section 111 proposal are

extremely protracted. While the settlement agreement under which EPA is operating calls for the agency to issue final utility standards for hazardous air pollutants by 2004 with compliance by 2007, EPA's proposal postpones final compliance until 2018, and as mentioned would allow compliance to be delayed even further perhaps for many years due to banking and trading.

We believe this extraordinary delay in compliance is inappropriate and counter to the mandate of the Clean Air Act and the settlement agreement.

Third, STAPPA and ALAPCO are extremely concerned that EPA is proposing on a national basis to allow trading of mercury emissions between utilities. Not only do we question the legality of mercury trading, we are also very concerned that trading could lead to serious hot spot problems around the country. We recommend that EPA abandon this approach.

Fourth, by using Section 111 of the Clean Air Act to regulate mercury and nickel emissions from utilities, EPA has ignored another important statutory obligation under Section 112 of the Clean Air Act.

For instance, EPA is disregarding the mandates to examine other hazardous air pollutants including but not limited to arsenic, chromium, cadmium, dioxin and hydrogen chloride.

In addition, while Section 112 requires EPA to evaluate and address the risks that remain, eight years after the MACT standard is issued, Section 111 circumvents those requirements and does not mandate a further evaluation of residual risk.

Fifth, STAPPA and ALAPCO strongly believe that no justification for EPA to take such a huge legal risk by regulating mercury under Section 111 of the Clean Air Act when Congress clearly intended that mercury, like other hazardous air pollutants, be regulated under Section 112. Adoption of the Section 111 rule will undoubtedly be subject to protracted legal battles which will further delay the protection of public health and the environment.

Sixth, even EPA's proposal under Section 112 is flawed, particularly with

respect to emission limits. The EPA proposal sets MACT levels that would result in national emissions of 34 tons per year, which is clearly not consistent with the legislative mandate for calculating MACT under Section 112.

Astonishingly, these levels are even less stringent than the recommendations made by industry representatives during an EPA sponsored utility MACT development stakeholder process.

Finally, we feel compelled to comment on the process EPA used to develop these proposed standards. STAPPA and ALAPCO representatives were involved in the formal one and a half year Federal Advisory Committee Act, FACA, stakeholder process that EPA sponsored to develop the utility MACT.

The work group consisted of federal, state, local, industrial, and environmental group representatives who thoroughly analyzed all issues related to the regulation of toxic air pollution from utilities.

In its January 30 proposals, EPA completely disregards the stakeholder group's deliberations. For example, during the stakeholder process, the group never considered the possibility of substituting 111 for Section 112. In addition, the FACA work group dismissed the possibility of trading mercury emissions between utilities.

Furthermore, notwithstanding the recommendations of the FACA work group, EPA failed to analyze more stringent control options to reduce mercury emissions.

It is unacceptable that EPA would abandon efforts of the agency's FACA work group and propose a rule that represents such a marked departure from what the stakeholders considered and recommended.

In light of these concerns with EPA's proposed regulation for limiting hazardous air pollution emissions from utilities, STAPPA and ALAPCO strongly urge EPA to abandon its proposed strategy and instead develop final MACT standards with stringent limits as required by Section 112(d) of the Clean Air Act.

We continue to believe that the adoption of MACT standards for utilities is necessary and appropriate to protect public health in the environment.

I will now turn to EPA's rule to reduce interstate transport of fine particulate matter and ozone, also referred to as the Interstate Air Quality Rule.

STAPPA and ALAPCO are pleased that EPA has taken the first step toward addressing interstate transport of air pollution in order to assist states and local jurisdictions in attaining and maintaining the new eight hour and fine particulate matter national ambient air quality standards.

As EPA is aware, states and localities throughout the country face a daunting challenge in developing strategies to clean up their air to achieve these health-based standards.

While EPA has taken an important first step to address this problem, we are still concerned the agency has not done enough. We believe the compliance deadlines are too long, the emissions cap too weak and insufficient number of sources are covered.

Additionally we are troubled that EPA is intending to weaken an important regulatory tool under Section 126 of the Clean Air Act for addressing interstate transport.

With respect to compliance deadlines, STAPPA and ALAPCO are extremely concerned that EPA's proposal allows utilities far too long to comply with air emission obligations; in fact, several years later than when states and localities are required to attain the national ambient air quality standards.

Second, our associations believe the emissions cap established in the transport proposal are not sufficiently stringent. EPA should set tighter caps that reflect the best available control technology. It is critical that EPA set caps appropriately at the onset; otherwise, it will be extremely difficult and far less cost effective for regulatory agencies to impose an additional round of controls on the utility industry in the future.

Finally, we are concerned about the language in the preamble regarding the Section 126 of the Clean Air Act. In the coming weeks, we will continue to evaluate the agency's proposal and develop written technical comments for submittal by the March 30 deadline.

Thank you.

CHAIRMAN WEHRUM: Thank you.

Mr. Paul.

JOHN PAUL: Good afternoon. My name is John Paul, and I'm the supervisor of the Regional Air Pollution Control Agency, a six county local agency in Dayton, Ohio, and I appear before you today to represent RAPCA's views on the two rules.

Members. EPA has an excellent website devoted to the working groups effort. I won't try to read that website citation, but it's in testimony. I delivered the working group's final report and recommendations to EPA in October of 2002.

On behalf of the working group, I would like to ask that all of our work that was presented at our 14 meetings and as is documented very well at the website be entered into the formal docket on the proposed rule.

Based on the working group experience, there are several important recommendations that I want to make, but one point is deserving of special attention. In all of our 14 separate meetings over 18 months, there was never even a hint that EPA was considering an alternative to the 112 MACT process. We held the following as absolutes. These are all quotations from EPA's December 2000 regulatory finding.

EPA found that regulation of HAP emissions from coal and oil-fired utility steam generating units under 112 of the Clean Air Act is appropriate and necessary.

The EPA found that based on the assessment of hazards and risks due to the emissions of HAP from electric utility generated units, mercury is the HAP of greatest concern.

EPA found that regard to the other HAP, arsenic and few other metals are of potential concern for carcinogenic effects, and EPA found that it was possible that future data collection efforts or analyses may identify other HAP of potential concern.

In all the discussions of the working group, we remain focused on the 112 process which, by the way, does not allow for trading of emissions between facilities.

Several times during our working group discussions, the issue of trading came and was quickly put back down again because everybody in the working group agreed that under 112 trading is not an option.

Over the period of our working group meetings, we examined available data on current and projected emissions based on existing controls and stack tests. We heard from researchers who are testing possible control technologies who identified issues and discussed possible solutions with each stakeholder group recommending future control actions.

EPA modeled the impact of some of our early work, but failed to produce promised modeling of the impact of our final recommendations. That remains important to us, and on behalf of the work group I ask that EPA complete the integrated planning model runs and make those results available to the work group and as part of the docket of this rule making proposal.

That's important to us because the different levels of control that we recommended, it really is important for us to know what the impact of those recommended levels were.

For instance, you'll see in here that I'm going to recommend controls which result in national emissions of approximately 8.3 tons per year. I would like to know what the impact of that recommendation is on coal use, on the price of electricity, on natural gas usage; a lot of the questions I know others are interested in as possible impacts.

The 112 -- let me make several recommendations. I have five specific recommendations. Number one, the 112 process should be followed, not 111. EPA's arguments for rescission of the December 2000 finding are not persuasive.

Number two, EPA should specify control levels for mercury emissions which is based on the average of the best performing 12 percent of sources in each subcategory and considered achievable with available technology. RAPCA recommends limits of 90 percent for boilers firing bituminous coals, 80 percent for

sub-bituminous, and 70 percent for lignite.

Based on 1999 coal usage figures, these control levels would result in an overall reduction of mercury emissions of 83 percent with result of national emissions of approximately 8.3 tons per year.

This level is obviously more stringent than EPA's proposal which results in emissions with 34 tons per year. However, I would note that EPA's proposed limits are higher than even that which was recommended by industry as a part of the working group's recommendations.

When we made our final recommendations, I believe the industry recommendations resulted in tons per year between 21 tons per year and 26 tons per year, but the modeling would help to answer that question.

Number three, EPA should also address emissions of the other HAP surrogate emission limits for particulate matter and carbon monoxide to control other heavy metal HAP and products of incomplete combustion.

Number four, trading should not be allowed.

Number five, setting compliance time frames after 12-15-2007 consistent with provisions of Section 112 of the Clean Air Act is reasonable if significant control of mercury is required.

Because we are calling for a facility-by-facility control to be recognized, this represents a big control effort which may require more time than the traditional three-year compliance time period for the MACT process. RAPCA supports control time extensions in accordance with the specifications of the Clean Air Act.

The important point there is that we support that in conjunction with a limit that results in 8.3 tons per year of emissions.

Let me turn briefly to EPA's proposed Interstate Air Quality Rule. Once again, I think EPA should be commended for proposing SO₂ and NO_x controls on utilities. However, once again, we agree with STAPPA and ALAPCO in that we feel the controls need to be more stringent and more timely than what's proposed in this rule.

RAPCA personnel feels strongly that the level of control for SO₂ and NO_x should reflect the best available control technology for the following reasons, and we have three reasons.

Number one, we have looked at the age of the coal-fired utility boilers across the nation. Assuming 30 years would be a reasonable lifetime for a coal-fired utility boiler, we identified 632 boilers 30 years old or older with an additional 196 boilers that are between 20 and 29 years old. Thus by 2014, 828 coal-fired boilers in the United States out of a total of 888 that we believe are operating right now, these 828 will have reached the end of their reasonable lifetime.

These boilers should either undergo life extension, major modifications, or be retired and be replaced by new units. In either case replacement or major modification of the air pollution control should be upgraded to BACT levels.

Thus, we feel proper implementation for the current Clean Air Act resource review requirements would require the installation of BACT controls on these coal-fired boilers over the next ten years.

Second reason the number and extent of counties measuring nonattainment levels for the eight-hour ozone standards and the PM_{2.5} standard is extensive. All the air quality modeling we had seen show that control of utility boilers is one of the measures that's central for attainment of these standards for many of the counties east of the Mississippi.

We also note that the control levels proposed in the transport rule along with other significant reduction measures leave 39 counties in nonattainment 2015. This suggests to us that more stringent controls at utilities are warranted.

Thirdly, EPA modeling in 2001 of more stringent control measures showed a health benefit to cost ratio of 18.4 to 1 in 2020. This suggests to us that more stringent of utilities are warranted given the cost effectiveness of NO_x, SO₂, and particulate controls on these large plants.

The measures analyzed by EPA in 2001 resulted in caps of 1.25 million tons

per year for NO_x in 2012 and 2 million tons per year for SO₂ in 2010, and 5 tons per year for mercury in 2015.

Today's hearing is significant because of each of these proposed rules will impact the utility industry and impose air pollution control limits that will govern utilities for decades.

EPA stands poised to make decisions that will impact the health and welfare of millions of people including many that are not yet born.

EPA has before it the opportunity to save thousands of lives and to improve the environment in a significant manner.

On behalf of the Regional Air Pollution Control Agency and the citizens we serve, I urge EPA to do its best to ensure that these rules are as protective of public health and the environment as possible.

Thank you.

CHAIRMAN WEHRUM: Thank you, gentlemen.

Next two up, David Hetzel or Metzel, I apologize, and Jacob Zausch.

DAVID HETZEL: My name is Dave Hetzel, and I'm speaking as a concerned citizen.

When I was a child, I grew up in a small village in southern Wisconsin. I was in grade school and high school in the '50s and early '60s. The schools were steam heated powered by coal-fired boilers.

I think back on those days now and remember that my mother hung her laundry on outdoor clothes lines even in the wintertime because we did not have a dryer for drying clothes. I remember her complaining about the coal soot that floated down onto the bed sheets and our laundry. I'm sure the soot was only a minor irritation.

However, if we would have known about the effects of mercury pollution at that time, I'm sure we would have questioned the reasonability of burning coal and its effect upon immediate land areas and waterways.

Bringing everything to the present time, we now know the prolonged effects of

mercury contamination. As you know, mercury is a highly toxic chemical with effects on the central nervous system comparable to those of lead.

Exposure to mercury particularly in the womb can cause severe neurological and developmental problems that include poor attention span and delayed language development, impaired memory and vision, problems processing information, and impaired fine motor coordination.

There are many lakes and rivers throughout the United States that are polluted with mercury contaminating fish to the point that consumption should be limited.

Mothers of child-bearing ages have unsafe levels of mercury in their blood. As a result, many children may be born each year with unhealthy levels of mercury.

Power plants are the largest industrial source of mercury in our environment. As you know, mercury emitted from power plant stacks falls into the rain and snow onto the land eventually getting into the waterways and lakes. There the mercury is converted to its toxic form that accumulates in fish and shellfish. Most Americans are exposed to mercury through consumption of these contaminated fish.

In 2002, 45 states issued fish consumption warnings because of unsafe levels of mercury. And in December 2003, the FDA and the EPA issued a joint warning to pregnant women and nursing mothers against certain types of mercury-laden fish.

The unintended exposure to mercury while pregnant may cause serious impairments later in the developing child. As I previously stated, these potential impairments may include neurologic damage resulting in poor performance on neurobehavior tests, particularly on the test of attention, fine motor skills, and language and memory abilities.

According to the National Wildlife Federation, in the United States 1 in 12 women of child-bearing ages, ages between 15 and 44, have mercury levels that exceed those considered safe by the U.S. EPA for a developing child. This amounts to approximately 320,000 babies born each year at risk of developmental problems because of prenatal mercury exposure.

Besides human exposure, mercury can affect the health and population of fish and wildlife. It can harm their central nervous and reproductive systems. Species at risk from mercury pollution include fish-eating birds and mammals. In addition, predatory fish such as walleye are susceptible to adverse reproductive effects from elevated mercury levels.

The mercury problem is very widespread. Again, according the National Wildlife Federation, as of early 2003, 44 organized states and territories had issued fish consumption advisories for one or more species of fish because of mercury contamination.

Mercury is by far the most common pollutant triggering fish consumption advisories in the United States, and the scope of those advisories have been increasing in recent years. In fact, the number of mercury advisories has increased 138 percent from 1993 to 2002. In 2002, mercury advisories covered over 12 million lake areas and 470,000 river miles.

The question is how can we protect people and wildlife from mercury pollution. We must carefully consider the mercury contamination of coal-fired power plants. Stringent emission limits must be set by the EPA using the existing authority under the Clean Air Act. The standards that are set must not be rescinded or modified.

We, the people, cannot afford any reductions or modifications in the Clean Air Act standards. In fact, based on the information we now know about mercury pollution, consideration should be given to strengthen those standards.

Is mercury contamination the legacy we will hand down to our children and eventually their children? I sure hope not and we must not. We can and we must do our part to limit mercury pollution in our rivers and lakes and we must start now.

Thank you.

CHAIRMAN WEHRUM: Thank you.

Jacob Zausch.

JACOB ZAUSCH: Thank you. Ladies and gentlemen, I, Jacob James

Zausch, stand before you today as a concerned citizen, a citizen of Wisconsin, of the United States, and of our planet earth.

According to the Centers for Disease Control, almost 8 percent of the roughly 50 million American women ages 16 to 49 have mercury blood levels exceeding the 5.8 parts per billion standard set by the U.S. EPA. I'm here today because my girlfriend could be one of those women.

The EPA has estimated that as many 630,000 children may be born each year with unhealthy levels of mercury in their blood. I'm here today because my future child may be one of those children.

I live in the City of Cudahy, Wisconsin which is a suburb of Milwaukee. A few miles away is the South Oak Creek power plant which emits the third largest amount of mercury accounting for 12 percent of the state's mercury emissions.

Where does this go? Into our air, into our soil, into Lake Michigan only a few miles away. From there mercury compounds are ingested by fish which are ingested by larger fish which make their way to the diets of many wild animals, but more importantly these fish make their way onto our dinner plate.

I come from an area where Friday night fish fries are a way of life. Levels of mercury in fish are so great that the FDA warns limiting fish intake to once a month in certain areas especially for women who are or want to become pregnant. The fish fries have gone to the way side for my family and me. Sure we can eat fish once a month, but what's the point of putting something in our body that isn't supposed to be there anyway.

Dr. Michael Draney, a professor of natural sciences at the University of Wisconsin Green Bay has taken fish out of his diet altogether because he does not want to contaminate his body with hazardous chemicals and who could blame him.

The action the EPA is proposing states: "Today's proposed amendments to the Clean Air Act, Section 111, would establish a mechanism by which mercury levels from new and existing coal-fired utility units will be kept and specified at nationwide

levels. A first phase cap would become effective in 2010 and the second phase cap in 2018."

The first phase cap will be effective in 2010? By then 3,780,000 children may be born with unhealthy levels of mercury in their system; my sons or daughters, your nieces and nephews, your sisters, brothers, cousins, grandchildren may be one of those. That is why we cannot wait until 2010 to cap these emission levels. They must be done as soon as possible by using the best technology available.

If maximum achievable control technologies had been in place for power plants two years ago, we could have seen a reduction in 90 percent mercury emissions and it's not too late, but we must act now.

The proposed rule for reducing mercury emissions goes on to state: "We believe that such a cap-and-trade approach to limiting mercury emissions is the most cost-effective way to achieve reduction in mercury emissions from the power sector that are needed to protect human health and the environment."

Let me first state that when it comes to improving health, cost effective should not be part of the equation. If you needed open heart surgery, would you go to the most inexpensive doctor? If you needed a brain tumor removed, would you look for a doctor with the cheapest equipment? I would hope not.

People will talk about this cap-and-trade approach creating toxic hot spots meaning certain areas will become more polluted because they can afford to be. Call it what you will, toxic hot spots, a pollution island, or plain economics. Whatever the language, this is environmental injustice plain and simple.

In the past attempts of industries to target urban populations as areas to pollute have been met with little resistance. Coincidence? No. Because these neighborhoods are poor, oftentimes uneducated, and ignorant about environmental affairs, industries, power plants not excluded, will emit higher amounts of pollution.

Since this EPA proposal allows power plants to pollute if they can afford it, who is to say this won't happen for mercury.

Cap-and-trade may decrease the overall amount of mercury emissions, but certain areas may be singled out to carry the burden of increased levels of mercury and that is unjust.

Speaking of environmental injustice, I would like to mention a particular group of people who are at the greatest risk for mercury poisoning from the high levels in fish. I spent the four and a half years studying at the University of Wisconsin, Green Bay. In this time I noticed the tremendous Hmong population that has made Green Bay a home.

Many of these Hmong people are new to the area, carrying a storied culture and little money with them. The main source of food in their diet is fish and seafood. Because money is often tight, they obtain their food by catching it themselves out of local rivers and lakes.

These people are at elevated risk for mercury poisoning simply because of their culture. I can guarantee that if mercury levels were as prevalent in beef as they are in fish, the laws of mercury emissions would be so tough, you could not even buy a thermometer without getting permission from the EPA.

Children born with unsafe levels of mercury in their blood suffer poor attention spans, poor language development, impaired memory, vision, and motor skills along with problems processing information. Adults can suffer from hair loss, fatigue, depression, headaches and difficulty concentrating. That's just low level mercury exposure.

Those who are fortunate enough to avoid high levels of mercury in their bodies and not suffer any adverse health effects are still at risk. They are at risk for paying higher insurance rates, higher taxes, and increased medical costs. Everyone will bear the burden financially if something isn't done to lower mercury levels soon.

Human health is not a partisan issue. I urge you to act quickly and responsibly to reduce the amount of hazardous chemicals in our systems, not by the year 2010 and not with previous technologies, but as soon as possible with the best technology

available.

Thank you.

CHAIRMAN WEHRUM: Thank you very much.

We are going to take a very short break just long enough to allow our court reporters to pass the baton here.

Next up according to my list, and if you're here and you want to come forward, just get yourselves ready. Stephanie Montgomery and Bill Moore. Is Bill here?

If you guys can just make yourself comfortable for a second, we'll do the swap.

(Whereupon, there was a change
of court reporters.)

STEPHANIE MONTGOMERY: Thank you for allowing me to testify today. My name is Stephanie Montgomery, and I'm here as a concerned citizen. I'm a resident of Milwaukee, Wisconsin and a Sierra Club member.

I'm testifying today because I'm concerned about the levels of mercury in our air and water. As a woman who would like to have children in the near future, I'm concerned about the effects of mercury on infants and children. The EPA has estimated that one in six women of childbearing age have mercury levels in their blood high enough to put their babies at risk. I don't know if I'm one of those women.

I'm concerned because while we know that mercury is a neurotoxin and that it causes developmental delays in children and we also know that power plants are the largest industrial source of mercury in our environment, power plants are the only major mercury polluters yet to be regulated under federal clean air standards. We need to implement plans to reduce women and children's exposure to mercury, similar to those that we have implemented to reduce children's exposure to lead.

I'm also concerned about the effects of mercury pollution on tourism and local communities in Wisconsin. Milwaukee residents have a weekly tradition called the

Friday fish fries, and it's not just a fish-eating tradition, but a community-building one. And residents of Milwaukee and communities members, friends, visitors, tourists gather together for fellowship and conversation over fish and chips on Friday evenings. This tradition isn't exclusive to Milwaukee. Door County, Wisconsin has fish boils tradition that's similar. These local community-building traditions could be lost due to mercury contamination and the fear of eating contaminated fish.

Speaking of fish, many Wisconsinites love to fish and enjoy our outdoor places, and many people visit Wisconsin hoping to do the same. Our lakes and rivers are a big draw to our state and bring many visitors to our beautiful state each year who could contribute to local economies. In 2002, over a billion dollars was spent by anglers in our state or from within the state and from without.

My father and grandfather both love to fish, but not only for the sport of it, they also love to fish so they can cook and eat the fish that they catch around the campfire, something that I've done with them for years. And they've been unable to do that at their favorite fishing spots due to mercury contamination, and that's something that my children and grandchildren may be unable to do with their father and their grandfather.

It's my understanding that we have the technology to reduce mercury pollution by 90 percent or more by 2008. However, the EPA proposal for regulation doesn't even come close to requiring 90 percent reduction and would permit three times more mercury pollution than the enforcement of the Clean Air Act allows, for longer.

If we have the technology to reduce mercury pollution and to reduce children's exposure to mercury, the EPA should require these reductions. In my opinion, advisories against eating fish are not enough. We need to reduce the amount of mercury that enters our environment through smokestacks.

It's also my understanding that the EPA proposals also include a cap-and-trade program that will allow industry to buy and sell their right to pollute and may leave some communities or hot spot communities more at risk than others. I feel that

allowing power plants to trade the right to pollute is unacceptable. I don't understand how we can allow power plants or industry to buy and sell the right to pollute our air and water or to bank that right to pollute in the future. And that will affect the health of our communities and will create communities that are greater at risk to mercury contamination.

I think there's a better way. And I would like to urge the EPA to require 90 percent reductions in mercury emissions from all coal-fired power plants ^by ^ buy 2008. If we have the solution to reduce mercury pollution ^now ^ know, we should implement them immediately to protect our communities and especially for our children and eventually for our grandchildren.

That's all I have. Thank you for allowing me to testify today.

CHAIRMAN WEHRUM: Thank you for coming.

Mr. Moore, you have the floor now. Take your time.

BILL MOORE: Thank you.

I'm Bill Moore, father of two grown daughters that my wife and I raised in New Berlin, Wisconsin. I recently retired after spending much of my life in the air. First as a Navy pilot instructing formation flying, and then transferring to the Pacific where I flew on station over the Gulf of Tonkin when not locating and penetrating to the eyes of typhoons. Later, I instructed, flew charter and corporate aircraft and then spent the last 16 years as a captain for a national airline.

When I started flying in the '60s, the air was pretty clear. We could often see for over 200 miles. It was not difficult to identify islands not far away due to the typical cumulus cloud buildup over the land. In the United States, the ceiling of the ground-hugging haze layer averaged 3,000 feet above the ground. Then the Clean Air Act was passed. One could only expect that the objectives of Act would have been attained in the projected time of about 10 years.

But here we are with the air getting dirtier instead of cleaner. The haze that used to top out at 3,000 feet now varies between 7,000 and 15,000 feet with an average at 10,000. As I watched that layer of man-made air garbage creep up over the years, I grew more and more concerned about this country's political will to do what is right. We can create the laws for clean air, but can we make our bureaucracy compel our citizens to follow the laws? ^KEYBOARD()we're ^ were ^ where is our backbone? Where is our foresight? What kind of planet will my grandchildren grow up in?

Ever since my days as an Eagle Scout, I have loved to canoe the waters of Wisconsin, Minnesota, and Ontario. I have participated in, led or guided, many trips from short urban river outings to nine-day wilderness lake-and-portage adventures.

I have taught paddles how to drink straight from pristine waters by catching the runoff from a paddle held over their heads. I have fished those same waters for lake trout, smallmouth bass, walleye, and northern pike followed by filleting them on my paddle, concerned only about whether I can make the fillet boneless or not.

This summer I'll be leading a seven-day wilderness trip again, but I won't be fishing. And if anybody on the trip does fish, it will be because there will be no expectant mothers or children in the group. What a sad change. Even in the wilderness, in its most protected state, is negatively impacted ^by ^ buy man.

And in what name? Economy. Not Thoreau's natural economy, but that affected by man's greed.

It's not economically feasible, they say. I'd say that \$120 billion and over 500 American men and women's lives spent and lost in the Iraq is not economically feasible. I'd say that billions spent on asthma, emphysema, and other pollution-causing lung diseases, not to mention lives changed because of man's desire for dirty energy, is not economically feasible.

I'd say the changed lives of fisherman, pregnancy women, and children because of mercury poisoning or the fear of it is not economically feasible. When, while

paddling, you come upon fishermen along the shore of an urban river or see a line-up on the local pier, chances are those people are not just fishermen. Unless you've ^come ^ couple along and across the rare urban fly-rodder, you're probably looking at a man trying to bring home tonight's dinner.

^now ^ know, if he's lucky, what does he bring home to his wife who's eating for two and little Susie who seldom sees many green vegetables? Maybe an ugly carp, maybe a perch or a little crappie, sunfish or other panfish with just enough methylmercury to cause his developing fetus to be born with birth defects or Susie to develop abnormalities such as attention and language deficits, impaired memory, inability to process and recall information, or impaired visual and motor function.

The problem is that fisherman friend doesn't have a whole lot of choices. Coming home empty-handed is not an option. Other options may not be economically feasible for him. Furthermore, he's probably using only a tiny fraction of the energy created in the power plant that is polluting his fish compared to the suburbanite down the road who can afford to avoid polluted fish.

My daughters have moved to California, a state that has not been afraid to create stronger emissions ^by ^ buy 90 percent, but the technology is available to decrease it by over 99 percent; natural gas, wind, the sun. Economically feasible? The environmental impact statement for WE Energy's new plant, written by the staff of Wisconsin's Public Service Commission and DNR staffs, admits that wind is the least expensive option. And that's not even taking into account the health costs of coal.

Some of said, pollution comes here from Russia and China; let them clean up ^136they're ^ their act first. So then we should abrogate our responsibility so that many of us perceive us -- that so many of us perceive to have as world leaders? Is it appropriate to show the world that the right ^way ^ weigh to tackle our pollution is to point to others and pass the blame? Won't that just encourage them to follow our finger-pointing lead and remind us how we already use 25 percent of the world's energy with only 5 percent of the world's population.

We must grab that lead back from nations who have forged ahead of us environmentally. The EPA often shows good leadership, such as today's news that the EPA has told Wisconsin's DNR to improve its emissions permitting and monitoring. Similarly, the EPA needs to boost its own proposals to levels that are truly healthy, not just environmentally feasible.

Let's redefine environmentally feasible to include the health costs, both to humans and to the other living organisms on the planet. And then add another figure for pain, suffering, and shortened lives. Then add more for future disfigurement and more for beings which can't speak for themselves. All of a sudden, strict standards, seven times more protective than the EPA has proposed, will not only be economically feasible, but surprisingly cheap.

Try putting a monetary value on the love of your spouse or your closest friends, the health of your parents, the education of your children, the strength of your spiritual life. Ask anyone who has lost a family member, a home, or a beloved forest if money received in compensation could ever equal the real value. Dollars can't function as the assigned tokens by which we appraise all that we value in our life. Yet we constantly try to use dollars to describe the quality of life that a beautiful and healthy environment provides us. We can't afford to play this game anymore.

If we can't play the game of putting a figure on all our values, then we might consider playing the what-would-it-cost-to-replace it game. Try to estimate the cost of building any inland lake in our area. Bulldoze the basin, construct the lake bottom, raise all the fish, all the insects, all the birds, all the plants, all the amphibians, all the micro-organisms we can't pronounce, place them all in the right balance, and then hire someone to manage it properly forever.

Pitting economics versus environment never considers that taking care of the natural world is good economics, short term and long term; plain and simple. Without the environment, there is no economy. Every economy is the wholly owned subsidiary of the environment, writes Ray Travers, a forester in Canada. Ma Nature

is the CEO directing our lives whether we want to admit it or not.

There's danger, though, in relying on the argument that good conservation is good commerce. It is, but commercial determinism always leads us down a dark path of no return. Clearly, even more money could be made in the north country if we -- if north country became a clone of Wisconsin Dells or some version thereof. That's the end game where using economic arguments alone will certainly take us.

Quit thinking about regulation making as solely an economic problem. Examine each question in terms of what is ethically and esthetically right as well as what is economically expedient. A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.

Thank you very much.

CHAIRMAN WEHRUM: Next we have Ginger Duiven and Brad Maurer. It's all yours.

GINGER DUIVEN: My name is Ginger Duiven. I'm here today as a concerned citizen from Milwaukee, Wisconsin. I'd like to echo all of the comments made by the four people I rode with here today, Dave, Dave, Bill and Stephanie, because they said what I would like to say in ^a way ^ away that I can't say it.

This is the first time I found the courage and motivation to do something like this. Since 1963, when I was born, we have learned about the world around us. We have learned through trial and error how our species can effect and change our environment for the better and for the worse.

I rode 90 miles today with four strangers to have this chance to tell you that I'm overwhelmed with embarrassment. Why am I embarrassed you might wonder. I am because at this point in time, the year 2004, 26 years after Love Canal, 32 years after Minamata, Japan and the horrific pictures of deformed children after the mercury poisoning of pregnancy women, which I brought a picture for you if you've never seen it, and the -- and 34 years after the Clean Air Act was enacted, we are still in economic denial of the effects of our actions on the world around us.

When will our balance sheets reflect the costs of these health effects, these disabilities? What of the health care costs we will all bear? These miseries we inflict on each other in the name of progress and economic expediency. The tragedy of the commons as outlined by Garrett Hardin in Science Magazine in 1968 replays over and over and over.

As a lifelong resident of the Great Lakes area, I'm overwhelmed with sadness and frustration. **^KEYBOARD()**we're ^ were ^ where is the courage and leadership when it ^comes ^ couples to the health of our people and our environment? Does the balance sheet really reflect a profit when healthcare costs and lost economical resources are considered? How many children need to be hit ^by ^ buy this short-sided car before the community puts up a stoplight?

Courage is a commodity with a patriotic price. It takes courage to stand alone even when we know it's the right thing to do. Patriotism is costly when we need to defend our country's values and beliefs with the tide of economic short-term waves crashing ashore.

I came here to challenge each of you with the position of changing the world to do just that. Change this world for the better. The science is there. The reasoning is sound. Everything lines up except for the political pressure opposing the clear, long-term wisdom of everyone outside the economic machine.

Do you remember, as a child, the first time you heard of the insane injustices of the past? Do you remember how it made you feel? How could they have done that?

I hope you counted how many children will -- whose health will be compromised in utero during the next ten years that this proposal tends to clean up mercury. Can you sleep knowing that your actions here will lead to such sad and preventable outcomes? What about protecting women and children.

I urge you to hear my voice because I'm here representing my women friends and family who are mothers who couldn't make this trip to speak with you today. Please do the right thing ^by ^ buy protecting us from mercury to full extent possible.

Thank you.

CHAIRMAN WEHRUM: If you would like to submit your written testimony, you should do that as well. Anything that's given to us is entered into the record.

Thank you.

BRAD MAURER: Thank you. My name is Brad Maurer. I'm president of the Ohio Smallmouth Alliance. We're an angler organization that's dedicated to promoting and preserving healthy and natural fisheries.

We have a small amount -- a fairly small group, we have approximately 160 members and usually concern ourselves with more local issues or at least not issues that are decided on at a national level, but due to the importance of mercury emissions and its impact on fisheries, we felt it was important for me to make the trip today to make a statement before this hearing.

Since the implementation of the Clean Water Act and Clean Air Act, a great deal of progress has been made in cleaning up our lakes, streams, and rivers. This has brought about a corresponding increase in recreational opportunities that have taken advantage of by many people. In spite of this progress and the billions of dollars that have been spent to achieve it, we found ourselves, as others seated here in 2004, still dealing with the mercury contamination and its threat to the health of the environment and people.

Fishing has been a tradition in the Midwest for generations and sporting groups have been defending the right to fish and conserving fish habitat and other habitats for decades. It's been an important part of family life. It's been a bond between parents and children, and it's very often between grandparents and children too.

Fishing is also important to our businesses. I've heard many figures here today. The one I have is \$5 billion to the economy of six local states.

Sporting groups have worked for years to reduce pollution to protect the health of families and the environment. Today we want to express our concerns over the proposed rule by the U.S. EPA to control mercury emissions from coal-fired power

plants.

As we've heard, at least 19 states are under statewide fish consumption advisories due to widespread mercury contamination. In spite of all our progress, catch and release for many species of fish simply isn't an angler's choice anymore. It's a practice we must observe to safeguard our health and the health of the children. Mercury contamination has taken away the simple and coveted act of taking a few fish home to eat with our families.

As fisherman, and in many cases, as people love to eat fish, we appreciate the consumption advisories for alerting us of the problem of eating fish. Relying on the consumption advisories, however, first of all, does not solve the problem and may not protect everyone who fishes. Surveys of anglers have revealed that many have heard about the advisories, but unfortunately anglers of lower income levels tend to fish more often, eat more of the fish they catch as part of their diet, but they at the same time are generally less aware of the advisories than other anglers.

The current EPA proposal does not accurately address the threat from mercury. Existing plants using the best modern technology can achieve mercury reductions up to 90 percent. We urge the EPA to adequately address our mercury problem by greatly strengthening the proposed mercury rule under Section 112 of the Clean Air Act for plants burning all types of coal.

We further urge the agency to reject the alternative new source performance rule in place of maximum achievable control technology standard. Emissions trading should not be used for toxic buildup.

In our case, Ohio has several power plants that are adjacent to large bodies of water, especially the Ohio river. Further, these plants tend to be old, the old variety, and just the type that are more likely the ones to buy the right to continue to emit larger amounts of mercury than implement new technologies.

We've heard a lot about hot spots today, and what we see down the line in this scenario is that the emissions of mercury will continue to go in our nearby rivers,

especially the Ohio River. I think many other states have similar situations. And continue to pollute our aquatic environment. And little progress, therefore, is likely to be made in spite of the new rules.

In our view, the law clearly states that MACT standards must be used to achieve mercury emission reductions. We further feel that the EPA has underestimated the potential that could be achieved using MACT standards. The technology exists to achieve reductions approaching 90 percent.

Therefore, today on behalf of sportsmen, anglers, families, and the environment, we urge the EPA to scrap the proposed rules on mercury emissions instead to follow the law -- follow the law and enact tough, realistic standards for reducing mercury emissions. Thank you very much.

CHAIRMAN WEHRUM: Thank you.

The next two, Michelle Cleary,
Dan Reidinger.

MICHELLE CLEARY: Thank you for bringing these hearings to Chicago. My name is Michelle Navarre Cleary.

This is the first time I've ever spoken at a public hearing, and I'm not speaking as a member of a group, but as a private citizen. Therefore, I ask your pardon if this testimony does not quite conform to the normal form of such things.

As you can see, I am the mother of two children, Zach and Zora, who are here with me today. I also work full-time as an assistant professor of English. On my desk, I have waiting for me about 50 papers to comment upon, four letters of recommendation to write, a conference paper to prepare, lessons to put together, not to mention bills to pay and Christmas cards still to send out. In short, time is precious in my life.

Yet, I took the time to come here today because I believe in progress. I believe that, when the government identifies a threat to its citizens, they can and should do everything possible to protect those citizens, especially the youngest citizens who are,

as politicians are so fond of pointing out, the future of the country.

Since September 11, 2001, this government has gone to extraordinary lengths to protect Americans from the threat of terrorism. Yet since well before September 11, this same government has known that the mercury emissions from power plants are poisoning Americans everyday and has done next to nothing about it.

In February of 1998, before my daughter was born and when my son was only two, the EPA reported to Congress that of all the toxic air pollutants emitted from power plants, mercury, coming primarily from coal-fired power plants, like the Fisk and Crawford plants in Chicago, quote, posed the greatest concern to public health, end quote. Indeed, the Centers for Disease Control and Prevention has found mercury emissions could be endangering the learning ability of 322,000 children every year.

In 1998, I made sure my son was not exposed to lead paint, but I had no idea that I needed to protect him and eventually the daughter I was carrying from fish laced with mercury. The EPA knew, but did not require local power plants to reduce their mercury emissions.

Three years later in 2001, when my daughter was two and my son was five, the Fisk and Crawford coal plants were still belching mercury with impunity. That year, researchers at the Harvard School of Public Health released a study that found these two plants were responsible for approximately 2,800 asthma attacks, -- my students are missing class because they have to take their children to the emergency room because of these asthma attacks -- 550 emergency room visits, and 41 premature deaths every year.

In 2001, there did seem to be at least the promise of future progress when the EPA said it would work to reduce mercury emissions from power plants by 90 percent by 2008.

A year later, this promise began to ring hollow when instead of working toward this target, the EPA relaxed the new source review provision of the Clean Air Act,

allowing older power plants, like those in Chicago, to delay cleaning up their emissions even as they upgraded other elements of their plants that could increase their emissions of toxic chemicals like mercury.

On December 19, 2003, the Chicago Tribune reported that, quote, Lacking comprehensive data on the effectiveness of new source review, the EPA changed the rule based on anecdotal evidence provided by the four main industries most affected by the Clean Air Act provision, according to a general accounting office report even while a report by EPA consultants found that installing modern pollution controls at 51 plants cited for air-emission violations would each year save more than 4,300 lives and prevent 80,000 asthma attacks, end quote.

Today, my daughter is five, my son is eight, and the coal plants continue to emit mercury just miles from Lake Michigan. The mercury levels in lake fish have induced the Food and Drug Administration, the EPA and the state of Illinois to issue warnings against eating lake fish. Just this month, the Washington Post reported that the EPA has, quote, nearly doubled the estimate of the number of newborn children at risk for health problems because of unsafe mercury levels in their blood. Environmental Protection Agency scientists said yesterday that new research had shown that 630,000 US newborns had unsafe levels of mercury in their blood in 1999-2000, end quote.

Yet, despite this new recognition of the threat mercury poses to America's children, the EPA now proposes to reduce toxic mercury emissions not by 90, but by 70 percent, not by 2008, but by 2018. Moreover, under the cap-and-trade program, the local power plants, located as they are in poor minority communities, are quite likely to not even reduce their emissions to these reduced targets.

This history of delay and weakened regulations is not progress. It is a dangerous and cynical failure of this government to protect the health of its own citizens.

I am here today because I am fed up with this administration's refusal to take

the need to protect and the responsibility to steward the environment seriously. I am here today because I was disgusted when I read in the Washington Post that, quote, portions of the EPA's proposal to regulate mercury generated by electric power plants were copied verbatim from industry lobbying materials, end quote. I am here today because I am tired of my students missing class because their young child had a serious asthma attack and had to be rushed to the hospital.

Most of all, I am here today because I do not want my children to become adults before we make real progress reducing mercury emissions.

I said at the start that I am here as a private individual, but I am not alone. Virtually every friend, neighbor, and colleague I have talked to about these hearings over the past couple of weeks shares my concern.

I challenge you, the Environmental Protection Agency, to live up to your name and work to protect the environment rather than the interests of the energy industry. I challenge you to respect the findings of your own scientists. I challenge you to fulfill your promise to reduce mercury emissions by 90 percent by 2008. I challenge you to strengthen, rather than weaken, the Clean Air Act.

Finally, I challenge you to lead the government in guaranteeing that America's children are as safe from the chemicals spewing out of our own power plants as they are from the threat of chemical attack from abroad.

Thank you.

CHAIRMAN WEHRUM: Thank you.

DAN REIDINGER: Good afternoon. My name is Dan Reidinger. I am a spokesperson for the Edison Electric Institute in Washington DC. I have some good news here. I crossed out most of my oral ^statement ^ at the same time here to try to keep it a little bit brief, and hopefully I can get it under the 10 minutes and will submit a statement for the record. We will submit detailed comments in the future.

Edison Electric Institute, EEI, is the association of U.S. shareholder-owned electric companies, international affiliates and industry associates worldwide. Our

members generate nearly

70 percent of the electricity produced in the United States. EEI members have a crucial interest in the proposed rules which will require hundreds of facilities to install new emission control equipment over the next decade or so at a cumulative cost of tens of billions of dollars.

The electric generation industry realizes the need to further reduce emissions of sulfur dioxide, nitrogen oxides, and mercury. The details of these next steps are crucial if we are to meet these equally important goals; making substantial environmental improvements; minimizing costs to customers and impacts on shareholders; not exacerbating current strains on natural gas supply and price; and continuing reliable electric generation. The realization of these goals is dependent upon the right level of reductions, the timetable for achieving them, and the certainty that will result.

First, we need to build on the substantial progress to date. Emissions of key air pollutants have declined considerably, especially from the electric power sector, even while the nation has consumed more energy and the economy has grown.

In particular, SO₂ emissions from power plants in 2002 were 9 percent lower than in 2000 and 41 percent below 1980 levels. Power plant NO_x emissions also continued a downward trend with a 13 percent reduction from 2000 and a 33 percent decline from 1990 levels. The NO_x reduction will reach 40 percent this year.

Unfortunately, these facts largely have not reached the public. A recent EEI poll showed that 68 percent surveyed believed air quality in the US is worse today than it was 30 years ago. 54 percent predicted air quality in the US would worsen in the future, when, in fact, the opposite in each case is true.

We have made major strides in cutting emissions already, and we will do much more. One way or another, emissions will be reduced by another two-thirds from

current levels over the next decade or so. Emissions rates per ton of coal used will be reduced ^by ^ buy 90 percent from their peaks.

However, it is our belief that the clear skies initiative can deliver some of these benefits with far greater certainty than the proposed rules. Clear skies targets and timetables would be established immediately and costly and time-consuming litigation would be eliminated.

Regarding the proposed interstate air quality and mercury regulations, while EEI is supportive of the underlying policy objective, we have several concerns including the timing, lack of certainty, and the potential lack of flexibility.

A key concern is whether power generators have enough time to install all the control technologies that would be needed to meet the rules emission reduction mandates, especially for reduction requirements imminent in the next half decade. At the same time, these proposals also include several very positive elements and reflect EPA's commitment to achieving quick results while avoiding an inefficient one-size-fits-all approach.

EPA predicts, based on the interstate air quality proposal, that 80 gigawatts of capacity would install either flue gas desulfurization or selective catalytic reduction to reduce SO_2 and NO_x respectively by 2010. EPA also assumes the companies will not implement construction activities until 2007 when the states and EPA finalize requirements, leaving just three years to install technologies on hundreds of generating units. While some companies may be able to achieve this, many others will not.

Another potential timing issue is the possible requirement of mercury reductions that could take place in 2008, two years before the SO_2 and NO_x reductions of the interstate air quality proposal. EPA must harmonize the mercury compliance dates with the deadlines for the SO_2 and NO_x reductions.

EEI also acknowledges EPA's attempts to address the overlapping and inefficient nature of the Clean Air Act for power generators affected under the rules. However, considerable regulator uncertainty will remain until EPA and the states

make a final decision about how the requirements will be implemented, decisions that will not be made until 2007 and beyond. This uncertainty, plus the prospects for litigation, discourage early emission reductions and delay environment improvements.

We encourage EPA to establish a solid, defensible program that includes Clean Air Act streamlining for new source review, section 126 petitions, regional haze and Best Available Retrofit Technology requirements.

With respect to the potential lack of regulatory flexibility, the chief example would be mercury reductions without emissions trading.

We acknowledge the fact that mercury in the human body at high enough levels, can cause adverse neurological and developmental effects in fetuses and children. EEI and its members share the goal of protecting public health and are prepared to make additional reductions in power plant mercury emissions. We want to be sure at the same time that any actions we take that could raise the cost of electricity to consumers brings them commensurate health and environmental benefits.

In its proposal, EPA acknowledges that regulation can both achieve scientifically justified and verifiable mercury reductions and provide electric utilities with flexibility. EEI is evaluating the various mercury control alternatives and recognizes different views among its member companies.

At this time, we do not favor one alternative over another. However, we are concerned about the attacks on market-based emissions trading of mercury. Some critics view emissions trading as buying the right to pollute, expressing concern about local hot spots where emissions could increase as a result of trading.

Many groups accept this logic for mercury and oppose mercury trading due to perceived localized effects on public health. Yet, based on many years of real-world experience, studies of the acid rain allowance trading program conducted by EPA, the environmental group, environment defense, and others demonstrate that trading did not significantly change where sulfate deposition actually occurred. The clear success of the acid rain SO_2 trading program provides evidence to dispel fears about localized

effects.

Several other facts suggest that localized effects will not occur. Mercury emissions from utilities in the US represent only a portion of emissions, less than 10 percent of total North American emissions and about 1 percent of total global emissions. Regulations or legislation will make this small contribution even smaller.

A recent study by Electric Power Research Institute found that reducing power plant generation mercury emissions will produce minimal benefits. A 47 percent cut would yield less than a 1 percent drop in exposure on average. Even drastic cuts in the utility mercury emissions will have a minimal effect on state fish advisories.

Furthermore, most power plant mercury emissions are of the elemental form soon after release and, therefore, enter the global pool instead of depositing nearby. Another fact is that regulations to control SO_2 and NO_x will require the installation of pollution controls that will also capture the forms of mercury that tend to deposit nearby.

Finally, the economics of trading will help to minimize local deposition. The trading of allowances almost always involves large coal-based power plants controlling their emissions more than required and selling allowances to smaller plants.

In conclusion, EEI believes that despite the dramatic decreases in emissions from electric generating sector in recent decades, further cost-effective reductions in emissions may be achieved under the proper framework. Legislation provides the utmost certainty for business and the environment while regulation generally fails to address the overlapping nature of more than a dozen existing air programs. Any new regulations must begin to integrate and streamline these programs.

Further, if the current proposals are to achieve the desired emission reductions at a reasonable cost to the consumer, it is necessary to provide more flexible time frames to feasibly allow the capital investment of tens of billions of dollars.

Finally, there is no scientific or real-world basis for concerns regarding the

development of mercury hot spots via emission trading, hence the most compelling template for further emission reductions continues to be ongoing success of the acid rain program.

Thank you.

CHAIRMAN WEHRUM: Thank you for coming.

Patty Crow and Michael Brill.

PATTY CROW: Good afternoon. My name is Patty Crow. And I am in from Seattle, Washington, and I speak as a community organizer of -- on social economic justice issues. I organize environmental issues along with that. I organize communities across the country, and I know I speak for many people when I express concern that the current proposed EPA standards on mercury do not go far enough to protect public health and that is definitely the priority that we need to have.

Mercury coming from these power plants, obviously it's into our brain and our air, our rivers, our lakes, and oceans, and ultimately gets into our food chain, and that is just unacceptable, especially for women and children who exposure is the hardest by this pollution.

And I am urging you to consider this very carefully and look at the future as that's really what we're building for our kids. We need to do the right thing to really enforce the strongest mercury standards that we possibly can so that our future generations are going to live healthy and productive lives. And that is basically what I have to say today.

Thank you.

CHAIRMAN WEHRUM: Thank you.

And the EPA know the very serious environmental cause of health problems, namely mercury and our trying to significantly postpone action to correct the problem. If the delays they propose are true, there will be serious health consequences for thousands of individuals, mostly innocent fetuses, infants and children, not to mention irreparable damage to the environment.

It's well-known that coal-fired powered plants are the single largest source of mercury pollution in the U.S. i'm sure you've heard this all day long. In addition to causing severe air pollution problems, mercury emissions get into the water source and go on to form a toxic

methylmercury -- go on to cause an -- excuse me. I'm a little nervous.

CHAIRMAN WEHRUM: That's all right. Take your time.

MICHAEL BRILL: Okay -- go on to create a toxic form known as methylmercury.

Human exposure so methylmercury occurs mainly from consumption of fish and shellfish, and mercury effects on humans are very dangerous to say the least.

Some of the facts that I'm sure you've already heard today several times are worth repeating. In other words, that nationally 8 percent of American women or 4.7 million women of childbearing age already have mercury in their blood which are above EPA's ^safe ^ save level. And as a hopeful parent to be, this is very concerning to me. The potential significant public health risks to the fetus in utero with another consuming contaminated shellfish makes me equally concerned.

As you know, there are few of our studies which one of -- one of which is the basis -- which concluded that there are problems, that neurologic deficits, problems can be created which include attention problems, fine motor function problems, problems with language, visual, facial ability; for example, drawing and memory. Methylmercury is also known to cause mental retardation and may be a cause or an increase cause for autism. I could go on and on about the health effects, and I was thinking of doing so, but ^151general ^ again, you'll probably well aware of most of them.

The evidence on mercury and its detrimental effects on humans is well documented. For the protection of all citizens there must be a 90 percent mercury reduction as was actually proposed and promised ^by ^ buy the year 2007. This would at least reduce annual mercury emissions from power plants to five tons

annually ^by ^ buy 2007. Hopefully, it could be zero, but I know that's unrealistic.

President Bush has changed to a new plan to 34 tons a year by 2010 and then 15 tons by 2018 is unacceptable, irresponsible, and morally wrong.

As a physician, I see an enormous amount of suffering. Some of that suffering is a result of genetics, for example, diabetes and heart disease. But others are a result of lifestyle choices. These choices such as use of tobacco, alcohol and drugs, poor diet and lack of exercise are changeable, and as a doctor, I do my best everyday to guide my patients towards a healthy lifestyle.

But in the case of mercury, individual citizens have no power to make a choice that will have an impact on their well-being. Just as a doctor must make the right and ethical decision for his patients, the current administration and its agencies have an obligation to do the same for the health and safety of all its citizens. This is particularly important for the vulnerable individuals like unborn babies, children, and the elderly who cannot protect themselves.

At this point in time, I cannot in good conscience recommend fish intake to any of my female patients of childbearing age. In fact, I myself am decreasing my fish intake to a bare minimum despite the known benefits of omega three fatty acids, and I will provide appropriate information about methylmercury and fish consumption to all my patients so that they can make their own educated decisions. Sadly to say, we may soon have to remove all fish from our menus if mercury emissions are not quickly reduced.

If you cave in to pressure and delay the plans to reduce mercury emissions as soon as possible, there will surely be drastic health consequences on all individuals in ^152think ^ this country and on all future generations. The message from medical providers, health conscious citizens, parents, parents-to-be, public health officials, and those that care about the environment is loud and clear, abide by the previously planned reduction ^by ^ buy the year 2007.

Thank you for listening to what I have to say, and I certainly hope that you do

the right thing for everyone. Thank you.

CHAIRMAN WEHRUM: Thank you, Doctor, nicely done.

MICHAEL BRILL: Thank you.

CHAIRMAN WEHRUM: The next two, Michelle Sommers, Colleen Sarna.

While you're getting ready, I will note, as of about five minutes ago, these two
^153we're ^ were ^ where the last two who have requested time to speak. So if
there is anyone in the audience who would like to speak, I encourage you to do so.
We certainly will have time today to accommodate you.

Michelle.

MICHELLE SOMMERS: My name is Michelle Sommers. I'm from
Indianapolis, Indiana. Thank you for the opportunity to speak, and thank you for
holding the hearing here in Chicago. I have a very brief statement.

The proposed rule -- in 2000, the U.S. EPA determined that mercury is, in fact,
a hazardous toxic air pollutant that should be regulated ^by ^ buy a standard requiring
maximum achievable control technology under Section 112 of the Clean Air Act.
This poison which affects our most vulnerable populations, fetuses, infants, children
under the age of 14, can and does cause learning disabilities, serious and permanent
brain damage, and can even cause death.

EPA's own research has found that the prevalence of mercury in our children's
blood is twice as high as once thought, with well over a half a million infants being
born within a 12-month period measuring mercury levels beyond what is considered
acceptable.

That is why ^it's ^ its so disappointing and frightening to find that the EPA has
weakened its own resolve to protect the American public from this toxic substance to
the best of its ability by requiring maximum achievable control technology which it has
previously deemed appropriate and necessary.

What is even more frightening is the proposal's inclusion of a credit trading
program. While pollution credit trading has been successful with certain air pollutants,

it is not appropriate for an air toxic such as mercury.

Mercury trading would allow some power plants to avoid reducing their mercury emissions at all, potentially creating dangerous mercury hot spots or making existing hot spots even worse. Every person in this country should be protected from unsafe levels of mercury, not just those lucky enough to be located in areas where reductions actually take place.

The proposed rule also creates environmental justice concerns. For example, a recent report states that 78 percent of African Americans live within 30 miles of power plants. With the knowledge that mercury emissions generally fall within 50 miles of the source, African Americans are put at disproportionately higher risk than other populations for mercury poisoning.

In addition, many people in the U.S. still engage in subsistence fishing. These people consume larger amounts of fish from local waters than most Americans and are often unaware or ignore fish advisories for mercury putting them at very high risk. Asian Americans and Native Americans are included in this category.

I strongly oppose the U.S. EPA rule for electric utilities and urge the agency to honor their determination that regulating mercury from each and every power plant in the United States by requiring the maximum achievable control technology that is appropriate and necessary. I also urge the EPA to require a 90 percent reduction in mercury from power plants by 2008.

The agency's own scientists determined two years ago that our existing fleet of power plants can achieve this level of reduction by using existing control technologies. Action to achieve a 90 percent reduction must be taken now to protect public health and future generations.

Thank you.

CHAIRMAN WEHRUM: Thank you.

Ms. Sarna.

COLLEEN SARNA: Thank you for allowing me to testify today. My name is

Colleen Sarna. I live in the Chicago area, and I'm here because I'm concerned about the effects of -- the health impacts of mercury. I'm also a member of the Sierra Club.

A recent study by the Center for Disease Control and Prevention estimates that 1 and 12 women of childbearing age in the U.S. have unsafe levels of mercury in their blood. It's absolutely frightening to think that this is a game of odds, and I can be a woman with unsafe levels of mercury in my blood.

It's also troubling to consider that any toxins in my body, including mercury, are the very first challenges my future children will face. Each year 300,000 children are born with heightened risks for neurological and developmental problems related to mercury exposure. Even more recently, the EPA stated that this is an underestimate and that as many as 630,000 children may be born each year with unhealthy levels of mercury in their blood.

Day to day I try to make choices to reduce my exposure to mercury; namely, by not eating fish. Today, my choice is in your hands, and I'm here to ask you to enforce existing mercury regulations.

The health impacts are just too great not to, considering the most sensitive populations are the developing fetus and children. I look to the Environmental Protection Agency to make the best decision for women and children throughout Illinois, the Midwest, and the United States by rejecting the Bush Administration's weak mercury proposal.

Currently, under Section 112 of the Clean Air Act, toxic substances such as mercury must be controlled to emission levels achievable ^by ^ buy a maximum achievable control technology. Two years ago, the EPA estimated that under a MACT standard, power plants could reduce 90 percent of the mercury from power plants using existing technologies, and ^155think ^ this would bring mercury emissions down roughly five tons ^by ^ buy 2008.

The Bush Administration proposes a much weaker standard in place of the existing standard. The proposed mercury standards are six to seven times less

polluting than emissions rates already achieved ^by ^ buy power plants. Reducing less mercury over a longer period of time while coal-fired power plants are allowed to buy and sell pollution credits creating mercury hot spots is not what I call mercury -- an effective mercury reduction plant.

Given that the technology to dramatically reduce emissions by 90 percent exists today, I see no reason to put off what we can now do in a decade.

Thank you.

CHAIRMAN WEHRUM: Thank you very much, appreciate you coming.

Okay. I have no one else on the list of registered speakers. Is

^156they're ^ there anyone here who has an interest in testifying?

In that case, we're going to recess for the time until we get folks to testify.

By the way, for those who are here for the interest of listening to testimony, we are scheduled to keep the hearing open until 9 o'clock tonight and we intend to do that. So if you know of others who have an interest in speaking, they're welcome to come. We'll be here until 9 o'clock. If there's a rush of folks at the end of the day, we will accommodate them, even if it takes longer than 9 o'clock.

So that's our schedule, and we encourage you to stay with us if you have an interest.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: We have one speaker coming up here in a couple minutes.

Anybody else here that hasn't signed up and has an interest, we'll be happy to accommodate you.

You can take all the time you want to.

SHANE STATEN: Okay. I'm ready.

CHAIRMAN WEHRUM: Okay.

SHANE STATEN: Okay. Well, good afternoon. Thank you for listening to my testimony after I'm sure what has been a pretty long day for you.

My name is Shane Staten, and I speak as a concerned private -- a concerned private citizen, as a member of the Missouri Chapter of the Sierra Club, and as an active volunteer for the Sierra's Club Global Warming and Energy Program.

And while I'm very concerned about the federal government's overall disregard of environmental protection since the current administration came into office, my comments will focus on the proposed utility mercury reductions rule.

I have two main concerns regarding this rule. First, that this rule is being touted as a plan that reduces mercury reductions even though it is a rollback of the Clinton administration's plan to reduce mercury admissions. And, second, that mercury is an inappropriate pollutant to regulate with a cap-and-trade program.

30 years ago, the Clinton administration proposed to regulate mercury as a toxic substance through the use of, quote, maximum achievable technology. The proposed regulations would have resulted in our reduction in mercury emissions of 90 percent by 2008, but now the EPA is proposing to reduce mercury emissions by only 70 percent by 2018. Therefore, increasing future emissions in comparison to the Clinton-era proposal. One estimate indicates that this rollback will result in 300 more tons of mercury deposited in our country over the next 15 years.

In Missouri, it is imperative to take every effort to limit the amount of mercury in the environment as soon as possible. Mercury was one -- Missouri was of 44 states that have recently issued health warnings about eating locally caught fish. In fact, according to the EPA, all of Missouri's rivers and lakes are under a mercury advisory. With Missouri's fishing industry valued at \$745 million annually, you can only imagine the economic disaster that mercury represents to my state.

And according to the EPA, Missouri has 465 power generating facilities that

may be allowed to avoid installing modern pollution controls due to the Bush Administrations weakening of the new source review as part of the clear skies initiative.

This weakening of one of our most important environmental laws will result in the release of more mercury into the environment from antiquated power plants that are significantly older than I am.

Missouri currently has 16 coal-fired power plants, including four in the St. Louis area where I live. According to the American Lung Association and the United States census data, almost 2 million people are exposed to the pollution from these four power plants and an additional half million people south of St. Louis are close to the Rush Island coal-fired plant. That same research indicated that between 364,000 and 459,000 children live within 30 miles of one or more of these plants. Not surprisingly the American Lung Association has stated that asthma rates are increasing in the St. Louis area and across the state.

Missouri is currently reviewing proposals for two huge 850 megawatt coal-fired power plants in the Kansas City area, a new coal burning plant near Springfield, and the largest cement kiln in the country which would also burn coal.

Mercury presents to the people -- mercury presents a threat to the people and environment of Missouri now, and with the impending large increase of mercury emissions, now is the time to act.

My second concern about the utility mercury reductions rule is that mercury is an inappropriate pollutant for a cap-and-trade solution. Some power companies overemphasize the impact of the global pool of mercury in the atmosphere and how much it affects the deposition of mercury in the United States. But the 1997 EPA mercury study report estimated that 66 percent of the mercury deposited in the United States comes from domestic sources. Energy industry estimates, such as those from the Electric Power Resources

Institute, are lower, but they use average deposition figures which are misleading because they do not accurately account for the higher rates of local mercury deposition in specific locations across the country.

The large local impact of mercury emissions is reinforced by the EPA's Office of Water 2003 draft mercury deposition modeling results. This modeling assessment concluded that at mercury hot spots, local emission sources commonly account for 50 to 80 percent of the mercury deposition.

Pollution trading may be successful and appropriate for other pollutants that have a more regional or global impact. However, the local nature of mercury deposition would only lead to intense and dangerous mercury hot spots under the cap-and-trade system of regulation.

Federal regulations have resulted in a 90 percent reduction in mercury emissions from medical waste incinerators and municipal waste combustors, the two main sources of mercury emissions other than coal-burning power plants. There is no reason why the same success could not be achieved by our nation's coal-burning power plants.

The EPA should modify the currently proposed Utility Mercury Reductions Rule to reduce mercury emissions by 90 percent by 2008. The EPA should also not use a cap-and-trade system of regulation for mercury emissions. These changes are consistent with the previous administration's proposal and the mercury reductions are achievable using available pollution-control technology.

Speaking from my own personal perspective, I was shocked to learn that the Center for Disease Control found that 1 and 12 American women of childbearing age has levels of mercury in her blood that could cause developmental and health problems for an unborn child, and that the EPA recently reported that as many as 630,000 babies may be born each year with unhealthy levels of mercury. As a young man looking to start a family in the next few years, I'm terrified by these government findings and I feel the urgent need to speak out.

I, again, want to express my thanks for your openness to my comments. Judging from the list of speakers today and tomorrow, with the notable exception of representatives of the energy industry, the American people are united in their opposition to the proposed rules. Environmentalists, people of faith, physicians, Native Americans government officials, sportsmen, and common citizens are speaking with one voice in their support of a cleaner environment and improved public health.

It seems obvious that the people should be heard and that the proposed rule should be changed to represent the wishes of the public and not those of the energy industry.

Thank you.

CHAIRMAN WEHRUM: Thanks for ^coming ^ coupling.

SHANE STATEN: Thank you very much.

CHAIRMAN WEHRUM: Anyone else with an interest in speaking?

With that, we'll go back into recess. We plan to be here until, at least, 9 o'clock at night and at everybody has a chance to talk.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: We're going to restart, and we have one additional person to testify.

Mary Holms.

MARY HOLMS: I'm Mary homes, and I'm here as a citizen. I've been here all day. I've been here since 9 o'clock a.m. i don't think that I'm going to go over any stats about mercury and what kind of damages it has to different organisms because most of the statistics they used were your own. So I'm sure you're quite aware of what damages it can do.

I do think -- I have been following acid rain for roughly two decades, and I do have to say that, as a citizen who has been following it, you know, I am getting a little

bit frustrated over time because I don't see the progress that I expected to. I mean, 20 years ago, not many people knew about it. It seems to be more and more prevalent.

And I really appreciate everybody who came forward and the fact that you're listening to ^161think ^ this because it bothers me that people are willing to accept this as a way that we live. And I understand that, you ^161now ^ know, what the -- that the EEI was saying about people having the perception that our air is dirtier when, in fact, they have done a lot to clean the air.

However, I'm bothered by the fact that I have two kids, 12 and 14. Several of their friends are on medications for ADD, ADHD. There's 16 kids on the soccer team, six of which have to have inhalers. That was not the case when I was a kid. I knew one kid with asthma, and it was genetic. It was not environmentally caused.

So that's my personal story, but moving on to the one unique statement that I wanted to make here is regarding the MACT, maximum achievable control technology. I really am appealing to you to go back to that, and the reason being is that, first off, it's somewhat of an ambiguous term, as far as I'm concerned. It just says maximum achievable controlled technology. There is a little bit of play in that as far -- as I can see in that acronym.

I understand that this is going to put an extra burden on energy costs and energy companies, but that's even more the reason why I would like you to consider it because it's the kind of industry where it doesn't have direct consumer effect.

I am holding off buying a new car because I don't want to buy a car with old technology. I want a car that I can fit my two big boys in, that runs on a hybrid, and that's another six months off. But I have some sort of a consumer play in that. I can do something directly so that somebody who is selling me a product saying, here this is what the customer wants. That's not true in energy.

In energy I have to take what I'm given as much as I dislike it, and I think about -- I compare it to unleaded gas. You're taking gasoline out of lead. You know, I

remember my dad being -- complaining about the cars not working the way that he wanted them to at the time and remember my brother-in-law who's a mechanic and he was going on and on about how lead cleans the engine as ^it's ^ its working and it couldn't be done. But you know what, we put the regulations in place and they did it. You know, somehow necessity bread invention, and that's what I'm asking you to do. And you're the only tool I've got. So that's what I'm asking you to do.

I think that pretty much ties up what I'm going to say. Hopefully it will put in more eloquent words when I put it in writing and e-mail it to you.

CHAIRMAN WEHRUM: Thank you for ^being ^ can here and thank you for your time in testifying.

While we're at it, anyone else interested in speaking? Okay. We'll go back on a recess.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

GINA LETTIERE: My name is Gina Lettiere, and I represent myself and as many other citizens that are concerned. I'm here today to -- there's a lot of information out there, and I'm here today to remind you to focus on the true costs of this proposed rule.

A plan to implement cap-and-trade, the idea to potentially save money for the coal industry gives them some additional time to implement technology, and that the idea to keep electrical costs down does not include the big picture of overall costs. Technology -- electricity may cost less to the consumer, but we will all pay elsewhere.

In the context of how the federal government values lives, the government applies monetary value to human lives. Therefore, we pay costs related to a society of productive lives that are lost. The cost of healthcare issues related to the neurological and developmental problems, especially in unborn fetuses and young children, reduces society's overall capacity of being productive, thriving, and healthy.

The EPA reported that approximately 600,000 infants are born each year with mercury levels that -- in ^163they're ^ their blood that exceeds our precautionary standards. Allowing emissions of hazardous materials such as mercury to continue puts society at such a high risk. One can see that there are no benefits to ^163think ^ this.

The coal industry has had a reasonable amount of time frame to reduce hazardous air pollution. The idea of EPA altering the status of mercury from a hazardous substance to a common pollution, it will impact society greatly. We have the technology. I also encourage you to cut mercury emissions by 90 percent from all coal power plants.

CHAIRMAN WEHRUM: Thank you very much.

GINA LETTIERE: Thank you.

CHAIRMAN WEHRUM: Thank you for taking the time to come.

GINA LETTIERE: My pleasure.

CHAIRMAN WEHRUM: If you have written comments you would like to submit to the record, we would be happy to take them, and everything that you've said is in the record by way of our court reporter.

GINA LETTIERE: I did submit two copies of what I..

CHAIRMAN WEHRUM: That's great.

My usual request, while we're at it, anybody else?

Okay. We'll go back to recess.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: Okay. First, by identifying yourself and any affiliation you have.

MARGARET MCCLINTOCK: I'm Margaret McClintock. I'm a partner in a consulting firm and archives and library, but I'm here also because neighbors of mine

called me and mentioned that this was going to be taking place. So there were at least four of us who were interested in this.

I'm concerned that cap-and-trade is not going to be as effective as simply capping. I don't believe that once you trade percentage points amongst utilities -- it seems to me that once there's a cap, it should be adhered to overall. The trading just spreads it around and makes it a lot more difficult for the general public at least to understand what's going on, and I think you -- you're going to have a real perception problem if you go ahead with it. There are a number of people who were pretty furious about what's going on in the environment generally and this is a red flag.

Also, downgrading mercury so it is no longer considered as toxic as it was before it seems to me is an extremely poor way to deal with problems that are endangered by mercury. It's also politically suicide, as far as I can see. I don't know why anyone would do that.

From mothers who use thermometers that don't have mercury in them to the general public that's worried about eating salmon because of mercury, it's become a hot issue. It seems to me silly politically to go to create an environment where the government is seen as presenting something that is not in the common good interest of the public.

So I see no reason to do this now, and I particularly see no reason to do it every frankly but I'm not persuaded that it's useful at all but I particularly think this that it's a slap in the face of the general public at this moment.

So I urge you to go back and think this about this a little more. Don't come out with trading initiatives and don't downgrade the toxic quality of our -- or increase the toxicity of our environment. Without doing a great deal of more study. None of this needs to happen this quickly.

Okay. Thank you.

CHAIRMAN WEHRUM: Thank you very much.

MARGARET MCCLINTOCK: You're welcome.

(Whereupon, a break was
taken, after which the following
proceedings were had:)

CHAIRMAN WEHRUM: If you wouldn't mind just starting with your name, spell it for our court reporter, I would appreciate it.

SANDRA BENZEEV: My name is Sandra Benzeev, B-E-N-Z-E-E-V.

CHAIRMAN WEHRUM: Thank you very much.

SANDRA BENZEEV: I mostly came to listen. I wasn't sure I was going to speak. I attended the morning session, and I heard a lot of very important points, a lot of research and statistics that were very important, I don't have any of that to give. But I noticed one thing hadn't been said and I want to make sure it is said.

I would -- I'm 68 years old. I've lived in Chicago all my life. I used to be a meat and potatoes town in a meat and potatoes United States. That's changed quite a bit. And now I'm talking about a young women that I've observed. I have two daughters-in-law. I belong to a health club. I see young women in the health club, and I listen to them talking. And they eat fish, specifically salmon and tuna. It's very important. It's a part of their lifestyle. It's a big change that has happened.

They do this for lots of reasons, I see, and different kinds of women do this. My two daughters-in-law are two different kinds of people. One is a businesswoman and a mother, ones a pasta.

What's left? Eggs. Eggs are supposed to be harmful. Gotten a little less harmful in the research lately, but still harmful. Cheese? Low calorie cheese tastes awful. Not the answer.

What is left, just fish. What kind of fish? Why tuna and salmon? Well, it has the good kind of cholesterol, both of these, tuna and salmon, especially high -- high HDL cholesterol and low in the bad kind of cholesterol. So it's good for you. It washes out the arteries instead of adding the harm to them. It's not high in calories.

It's a good source of protein because it's not high -- these women are nice looking, either slim women or slim who want to be slim. They care about that. Salmon and tuna are not high in calories. It's tastes good too.

What kind of tuna? They usually have white albacore tuna. That's the kind with the mercury. What kind of salmon, farm salmon, the kind with the mercury. Farm salmon is a lot cheaper than Atlantic salmon which is lower in mercury. And that's the kind that most people get in the supermarkets. And it's dangerous.

I heard a doctor speak very well earlier about the fact that cumulatively small amounts of salmon eaten over a time can be very harmful, and she cited to statistics five tenths of a percent or something each time and how much it adds up and how harmful it is. I don't have the statistics myself, but that really influenced me. I think that's very important.

I don't know if you were around in the '50s, but I sure was, and those pictures of the Minamata children that -- children in Northern Japan which were subject to -- I don't know what the cause was, some kind of plant accident that caused tremendous amounts of mercury to be put into the environment. These children being held by their parents all twisted and spastic with their eyes staring out in space. If you see that, you can't forget it ever.

^now ^ know, I don't think that's going to happen. ^it's ^ its not going to be that bad in our life, but even minimal amounts of brain damage, minimal harm, ^it's ^ its going to have a lot of effects in children in school. I heard people say this before, listening, it is very important. We've had problems in our public schools, how to teach children, how to learn. Washington, Boston, Chicago tried everything, don't know what to do. Now it's this no child left behind. Nothing is going to work. If there is brain damage, which reduces the capacity of children to learn, even before birth, ^it's ^ its not going to -- we don't have the money to throw in to schools. We have to get this at the source.

Now, why do I say young women particularly? They try to feed it to their

families too. They care about ^167they're ^ their children. They care about their husbands. They want them to be healthy. For some reason, men in cities don't seem -- my observation, don't seem to eat as much fish as meat. You can't be weaned off of meat. And children eat children's things. Not too much -- but the women eat a -- really live on salmon and tuna. And ^it's ^ its not an -- it would be very difficult to get them weaned off of it.

I think what we really have to do is change the amount of mercury in that by changing the environment. There is no other ^way ^ weigh. So this is my point. It's the one point I want to make, and that that's it. Thank you.

CHAIRMAN WEHRUM: Thank you for coming today and testifying tonight.

We're back in session for anyone who wants to take the time to testify. If not, we're going to recess until someone arrives.

MICHAEL KAYE: May I ask a question?

CHAIRMAN WEHRUM: You may.

MICHAEL KAYE: I was noticing in your discussion of the two proposals, I guess the Section 111 approach for MACT -- Section 112 for MACT versus Section 111 approach for cap-and-trade. You mentioned that MACT will yield a 29 percent reduction in mercury emissions ^by ^ buy 2007. I have three questions on that. What is that based on? Is that currently available technology equipment will only yield a 29 percent reduction ^by ^ buy 2007?

CHAIRMAN WEHRUM: We're going to pause one moment and say, is there anyone here who would like to testify? The object of today's exercise is for us to listen to input that citizens and others have.

So I'm going to put us back in recess, and I will be happy to answer any and all questions you have that I can answer. If you wish to testify at some point, we'll start up the proceeding, and we'll make it official.

MICHAEL KAYE: Then I will make a brief testimony for ^now ^ know.

CHAIRMAN WEHRUM: Okay.

MICHAEL KAYE: I would like to make a proposal.

CHAIRMAN WEHRUM: If you can start by stating your name and any affiliation that you have that you may be representing.

MICHAEL KAYE: My name is Michael B. Kaye, and I have no affiliation. I'm just a regular Joe citizen. I'm an independent computer systems consultant.

I'd like to make a proposal, and that is that, why does the EPA not consider reductions in mercury down to close to zero by 2010 and enforce those emissions rules with an annual fine to the companies who violate it, an annual fine that would start out at that company's profit in a given state in 2004 and rising by 10 percent per year if the company does not comply?

And I was just saying that based on the fact that all of the proposals that I've read to date involve a maximum reduction -- a final reduction down to 15 tons per year and none of them seem to prescribe any sort of reduction beyond 15 tons per year, and I think we need to get both -- arriving at 15 tons per year emissions by 2018 does not achieve the health-based goals, and we need more -- we need stronger -- larger reduction and we need some very solid fees beyond these reduction. Fees that are based on large fines and jail time. And that concludes my current proposals.

CHAIRMAN WEHRUM: Thank you.

MICHAEL KAYE: Thank you.

CHAIRMAN WEHRUM: Appreciate you taking the time.

Is anybody else present that would like to testify?

Okay. We'll go back into recess until we have someone who might want to speak, and we're happy to talk to anyone or answer questions in the meantime.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: So we get it right, if you would state your name and spell it for us and then state any affiliation you're representing and you have 10 minutes.

THOMAS ROBERT HARTMANN: My name is Thomas Robert Hartmann. Hartmann being H-A-R-T-M-A-N-N. And I'm representing myself, and I have to say a family heavily populated by asthmatics, about three-quarters of us. I'm a librarian ^by ^ buy trade. Again, coming to speak for myself and offers in my family who have, you know, the same medical condition I have.

I guess my concern is that, in part, Chicago according to a Tribune magazine article within the last six months, Sunday's Tribune magazine article, Chicago is the asthmatic capital of the United States. We have big problems with asthma. I developed mine when I was 40 years old, so some 14, 15 years ago. My family, extended family is heavy troubled ^by ^ buy it.

So as far as mercury being a poison, my worry is that it somehow will contribute as another air pollutant, another pollutant, to society and other members of my family. To me a poison is a poison, end of sentence. If it's deleterious to people, it ought to be eliminated and not traded off. If electric companies and the like are allowed to promote it and then to trade it off as a way to control it, I'm not sure that, you ^169now ^ know, does help any of us.

If company AB&C, for example, tried to trade off with XY&Z, what happens if XY&Z can't meet their quota and they're over? Do we start trading with companies farther down the road? Does that help me as an asthmatic located in the Chicago area? I don't think so.

I guess that's probably the sum total of it. I just -- again, it has to do with, you know, people are environmentally poisoned, just stop it, not trade it off, not try to sweep it under a rug, not try to hide it with numbers, not anything. Just eliminate it.

It's not a big showing here. I guess people have been in and out. A friend of mine was here a ^169come ^ couple hours ago, so I'm following her. So to me,

there's not a lot of following, people knowing about this. If there were, I will inform people about this, e-mail or whatever, fax. I just think there would be a lot of resistance to this. I can't understand any -- understand trading off as ^a way ^ away of solving anything of trying to help people's health problems.

Thanks. I guess that's kind of my argument. I appreciate being heard.

CHAIRMAN WEHRUM: Thank you. Thank you for ^coming ^ coupling, and thank you for speaking.

THOMAS ROBERT HARTMANN: Thank you.

CHAIRMAN WEHRUM: We'll go back to recess.

(Whereupon, at 9:00 p.m. an adjournment was taken to 8:00 a.m. on February 26, 2004.)

STATE OF ILLINOIS)
) SS:
 COUNTY OF C O O K)

. CHRISTINE M. LUCIANO and BRENDA K. DUFEK, being first duly sworn on oath says that they are court reporters doing business in the City of Chicago; that they reported in shorthand the proceedings given at the taking of said public hearing and that the foregoing is a true and correct transcript of their shorthand notes so taken as aforesaid and contains all the proceedings given at said public hearing.

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PUBLIC MEETING

THE INTERSTATE AIR QUALITY RULE
THE UTILITY MERCURY REDUCTION RULE

February 26, 2004
Continental Room, Chicago Hilton
720 South Michigan Avenue
Chicago, Illinois

VOLUME II

Panel:

Bill Wehrum, Chairman
Sarah Dunham
Joe Paisie

Reported by:

Christine M. Luciano, CSR
Brenda K. Dufek, CSR

SPEAKERS:

Matt Little
Julie Allison Risser
Robert Shimek
Lea Foushee
Kristi Kowal
Blayne Grave
Erin Jorhahl-Redin
Rich Femling
Michael Carey
Philip Gonet
Kathleen Schuler
Dennis Leonard
Mary Kenkel
Karen Truskowski
Rebecca Winkler
Boise D. Jones
Danielle Welliever
Linda Gray Sonner
Leise Jones
Lauren Mansell
Cathy S. Woollums
P. Bruce Hill
Elaine Kittredge
Roger Grissette
Dave Madden
Sandy Justis
James Coursey
John Thompson
Jill DeWitt
Marsha Willhite
Lee Walker
Ajay Goyal
Michelle Gottlieb
Lisa Diment
Ryan Canney
Ariele Llorens
Steve Frankel
Edward Haggard
Renee Cipriano
Michael Grill
Marcia Jimenez
Brian Urbaszewski
David Cugell
Roberta Richardson
Vince Bertolini
Joan Para
Caroline Herzenberg
Kurt Waltzer
Michael B. Kaye
Caitlin Sticco
Andrew Allen
Donna Green

CHAIRMAN WEHRUM: It looks like this morning we have a full dance card here. Everybody is going to have ten minutes to speak. We have a timer here in front of me and there's a little box you can see from the speaker's table. The green light will stay on for eight minutes. When there's two minutes remaining in your time, the yellow light will come on. And when your time is up, the red like will come on. I would ask that you stick to the time limits as best you could.

We're recording the proceedings here. Actually we have a court reporter. So there will be a transcript and everything you say will be put in the record. If you have written materials or any other materials that you would like to submit to the record, we'd be more than happy to take them. So leave them with us so we'll make sure they get put in the record.

We don't allow time blocking which is signing up for time and giving it to somebody else. We're anxious to get in as much as possible. So if you signed up for time, please use it. If you're not interested in using it, give it to somebody else.

Is Matt Little in the room? If you will ^come ^ couple to the table. Julia Allison Risser.

MATT LITTLE: Thanks a lot for letting me testify. I'm testifying on the mercury rule. And I'm one of about a dozen Minnesotans over here that have showed up, taking the trek out here to testify, and the reason why we've come out here is because we didn't get a hearing in Minnesota, even though all our -- a lot of our Senators, house members, legislators, all our groups have asked for it, but anyway.

My name is Matt little, and I'm representing Mercury Free Minnesota which is a coalition of 26 organizations representing indigenous and environmental justice communities, public health officials, and conservation and environmental interests, all working together to reduce mercury in Minnesota.

I'm the clean air coordinator of the Sierra Club Chapter there, and I work

within the coalition of mercury free Minnesota to help reduce mercury in Minnesota and nationwide. And my background includes work in Congress on these issues with Senator Daniel Patrick Moynihan of New York and with the Northwest-Midwest Institute. I also served on the United Nations Environmental Programs Working group on Mercury. I also worked with EPA for two years in the water office in D.C. under John Morhar and those guys.

So mercury free Minnesota is working diligently towards goals of reducing mercury in Minnesota by 90 percent by 2010 from all sources, and in 2020, we're hoping to virtually eliminate man-made mercury emissions. Now, this is a very, you know, aggressive goal that we have that we thought that Clean Air Act could help us achieve with 90 percent reductions in mercury if EPA had only followed the Clean Air Act calculations.

So I've been tracking development of this rule for a bunch of years, and ^it's ^ its really clear to me that politics have really played a role about the other concerns here, including public health, environment, and even the letter of the law. And I just don't understand how a rule -- how else you could explain a rule that started out with EPA considering 90 percent reductions at every single coal plant in the country by 2008 but ended up turning that into a rule that was no mercury control technologies required at any plant until 2018, a rule that would allow some plants to continue beyond 2018 emitting uncontrolled amounts of mercury, and a rule that will certainly end up in the courts.

So let's review the facts. Mercury is a nasty substance, and just last month, of course everyone knows, we learned that twice as many children, 630,000 children are at risk of learning and behavioral disorders from mercury. And this puts one in six women of childbearing age with enough mercury in their blood right ^now ^ know to endanger a developing fetus.

In addition, the EPA and FDA are expanding their advisories on mercury, they're issuing new ^ones ^ once, and 45 states and territories, including Minnesota,

have fish consumption advisories. This all shows that mercury is becoming more of a problem, not less.

The biggest source of mercury emissions, as you know, are coal plants, and even though EPA determined that mercury is the nastiest of the toxic pollutants coming out of coal plants and even though the Clean Air Act says that EPA has to regulate all major sources of mercury, it took a lawsuit from the Sierra Club and the NRDC to get this going and regulate the powerful coal industry.

So while we've been waiting for EPA to regulate mercury from coal plants, they actually require all incinerators across the country to reduce mercury by beyond 90 percent using the same section of the Clean Air Act that we're talking about today and using the same technologies that can reduce mercury at coal plants. So in response to these

90 percent reductions of the incinerators, the Florida Department of Environmental Protection has shown us that mercury in largemouth bass next to incinerators were reduced 60 to 75 percent.

Now, some people may say that incinerator mercury is a bit different than coal mercury, which it is, with roughly 80 percent of mercury from an incinerators falling locally compared to about 50 percent of the coal plant mercury falling locally. But no one can argue that reducing either source of mercury will reduce the mercury in fish. It just it's just common sense.

So the Clean Air Act lays it out really clearly. Mercury is a hazardous air pollutant that must be regulated under a technology based standard called maximum achievable control technology. In 2001, EPA knew this fact, and in a very detailed presentation to the energy industry, they said that under those calculations, we would have 90 percent reductions of mercury from coal plants under this strict rule based on technologies achieved -- that existed back then, 2001, a couple years ago.

Other groups have supported this analysis ^by ^ buy taking the same

calculations. As you know, you take the top 12 best performing sources on mercury. This is the analysis required under the Clean Air Act. And two groups, the Northeast States Coordinated Air Use Management and Clear The Air have released reports that under this calculation, you would get over 90 percent reductions in mercury.

So there's a bunch of vendors of mercury-control technologies who have tested or installed their equipment on coal plants with great success. A couple years ago I had -- we had a meeting in front of the Environment Public Works Committee where we brought in the vendors and they talked about all this, the success they were having and that was a couple years ago.

The Department of Energy has been working with these vendors to test these mercury controls for many years, and even just this year, in the 2005 budget request, they actually said that last year they demonstrated between 70 and 90 percent mercury reductions at coal plants. So why is the Bush Administration asking for only 29 percent reductions in 2010? I don't get it.

Compare the technologies for other power pollutants, this stuff is pretty cheap for mercury. For example, the Iowa DNR is requiring the MidAmerican Council Bluffs Plan in Iowa to control mercury by 83 percent by 2006.

Interestingly enough, this is using the same section of the Clean Air Act provisions that we're talking about here, and it's a really significant number because they're burning -- because of the coal type they're burning. It's subbituminous. And this is the type of coal the EPA and the industry says is impossible to control at significant levels. And the only reason they're getting 83 percent by 2006 is that's when construction is going to be completed. They could have done it today.

And looking at the capital costs for this, MidAmerican is only expecting to spend \$3.3 million on this mercury control the capital costs. You look at the 3.3, compare that to what they're spending on nitrogen oxide technology, 81 million; compared to sulfur dioxide technologies, 70 million. So mercury is pretty cheap in

comparison.

So knowing all this, other states are requiring 90 percent reductions statewide. As you probably know New Jersey released their plan to reduce 90 percent ^by ^ buy 2007, and Connecticut passed their standard, its finalized, that will require 90 percent by July 2008. Massachusetts has a proposal for 95 percent ^by ^ buy 2012.

So other states are requiring 90 percent reductions in the near term, and the Clean Air Act calculations would do the same. How can the Bush Administration get away with reducing mercury by only 29 percent in 2010?

Somehow EPA had determined that it can ignore completely the section of the Clean Air Act that was specifically written for mercury, the word mercury is written in there. It says exactly how you would control it. It was written for mercury. It's Section 112(d), and they think that they ^178being ^ can use a section designed for less hazardous air pollutants, section 111. This is an illegal maneuver which will certainly end up in the courts, which goes against Congress' intent when they wrote the Clean Air Act and wrote the word mercury in that section.

It allows EPA to develop a standard that's not only weak, but it will allow trading of hazardous mercury pollution credits. This will allow dirty power plants to buy these credits and continue to pollute and subject communities who have been disproportionately subjected to toxic pollution for many years from all sorts of sources. And they'll continually have to deal with this toxic pollution beyond the 2018 EPA deadline.

So ^178think ^ this all adds up to the Bush Administration's EPA catering to the interests of the coal industry instead of protecting our health and our environment. Mercury free Minnesota and the tense of thousands of Minnesotans we represent urge EPA to rescind this rule and develop one that not only meets the strict court-appointed deadlines, but aggressively implements the provisions of the Clean Air Act to reduce mercury 90 percent ^by ^ buy 2008.

Congress passed the mercury provisions of the Clean Air Act in 1990. Our families can't wait to weight three decades to start controlling this toxic pollution. With this rule, please prove to Minnesota families that EPA's mission statement, and I quote, to protect human health and to safeguard the natural environment, air, water, and land, upon which life depends, end quote, is not window-dressing, but still a priority of our' nations top environmental agency.

Thank you.

CHAIRMAN WEHRUM: Thank you.

I was remiss in not making introductions this morning. My name is Bill Wehrum. I'm with the EPA's Office of Air and Radiation from Washington D.C. We are the office that is responsible for developing both the interstate air quality rule which is the proposal we're also taking commented today that deals with reduces NO_x from the power sector and also mercury reductions rule which we've heard about this morning and in which many people spoke yesterday, took the time to talk about.

To my right is Joe Paisie. He's also from Office of Air Quality Planning and Standards from North Carolina. He's an air quality expert and other things.

And to my left is Sarah Dunham. She's with our office of Atmospheric Programs and is an expert on trading systems, cap-and-trade, and an expert on the acid rain program and was heavily involved in developing the interstate air quality rule and the trading aspects of our current proposal.

So we're happy to have you this morning and with that, you have the floor.

JULIE RISSER: Thank you.

My name is Julie Risser. I'm a stay-at-home mom. At first, I would really like to thank you for this opportunity to present my opinion about the EPA's proposal for mercury emissions from coal plants.

I'm from Edina, a community more often noted for its affluence than it's activism, yet it has become clear that no individual, no neighborhood can protect

itself from the long-term devastation of shortsighted environmental policy. Like parents everywhere, I am moved to protect my children, and that is what has brought me here today.

Weak policies on coal plant mercury emissions unnecessarily expose my daughters, Helen age eight and Allison age five, to serious risks. Ingesting mercury can cause damage to the brain, the nervous system. It can lead to developmental neurological disorders. My concern grows daily as I educate myself further on the dangers.

I serve fish to my family less frequently. When I buy fish, I go to the store with a card that reminds me which fish are safe to eat and which ones should be avoided due to mercury contamination. And.

I would like to add, this is enabled me to strike up several conversations at the grocery store with friends and neighbors and people I don't even ^180now ^ know who want to ^180now ^ know what that card is about, and invariably they do ask, where does the mercury come from. They know mercury is bad, but in my community that consists of many well-educated people, they are just beginning to find out where it is coming from and coal plants are the primary source.

I worry not just about Helen and Allison but about their offspring. Girls are born with all their eggs from conception to childbearing age. How much mercury will Helen and Allison unknowingly ingest into their bodies? How much damage will it cause their eggs? What birth defects could result from this mercury? If I have a grandchild with a heart problem or learning disability, will I wonder if I did everything in my power to reduce the dangers of mercury poisoning?

This month the Harvard School of Public Health reported findings that mercury exposure in the womb can cause lasting heart damage in children along with well-established impairments to the brain's centers from mobility, vision, memory, and learning.

If current available technology were required on coal plants, mercury emissions

would be reduced from 48 tons per year to 5 tons ^by ^ buy 2007. We know mercury emissions from coal plants cause serious health problems, yet the EPA is proposing plans that will require emissions to be cut only to 34 tons annually by 2018. Unnecessarily pumping hundreds of tons of mercury into our air with the knowledge that it will end up in our water, our fish, and ultimately our bodies is unacceptable.

In January 2004, your agency reported almost one in six newborn Americans maybe exposed to dangerous levels of mercury in the womb. Put that information together with the above-noted Harvard report and it seems inevitable that we will continue to have more and more children born with learning disabilities, neurological damage, and heart problems. And in my community, I volunteer frequently at my child's elementary school. I am amazed at the number of kids who have learning disabilities. It does really seem that we are experiencing an epidemic.

As I understand it, the EPA's argument is that the expense of requiring the best control technology is too great for coal plants to bear. EPA economists estimate that it would cost 40,000 to \$70,000 to remove each pound of mercury. This is a one-time expense. Why don't we spread it out over the years that the coal plants are -- that we're considering allowing them to emit mercury until 2018? I look around this room and I see how beautiful ^it's ^ its decorated. I wonder how much was spent just on the decor here? Probably approaches \$40,000.

On the surface, this appears an onerous amount, but families and loved ones suffering from brain damage and heart disorders would gladly pay that sum to reverse the effects of mercury poisoning. The argument that coal plants cannot afford the available state-of-the-art pollution control technology is hardly compelling. If the coal plants do not cover the costs, who will? Individuals, cities, states, and even our federal government will pick up the tab by having to treat the harm caused by mercury emissions against humans and the environment; health care cost treatment, therapy, educational programs, social services. Perhaps coal plants should pick up the tab for special education programs that the federal government requires states to provide.

Individuals, cities, states, and the federal government in effect end up subsidizing their coal plants. This is a cruel subsidy for it is not just a financial burden, it is an emotion one as well. It is a subsidy that causes people to worry about loved ones unable to function on their own. It is a subsidy that demands elderly people care for adult children when they should be enjoying their golden years. It's a subsidy that requires people abandon their dreams they had for their descendants. It is a subsidy that makes it difficult for people to relax up at the cabin on vacation. Parents wonder whether to allow their children to eat the fish they catch.

When I was growing up, my grandfather took us to the boundary waters every summer. And when I saw Lake Agnes has a mercury warning, I was just heartbroken. I would love -- if I could pay you 40 grand for the experience of taking my children to the boundary waters so that they could catch a northern like I did when I was a child and cook it over a camp fire and enjoy it without fear, I would gladly turn ^182offer ^ over that money to you today.

And finally, it is a subsidy that robs our cities, states, and nation of incredible human potential.

Regulations are a necessary part of supporting children's health and promoting our nations financial well-being. The office of management and budget issued a report at the end of September 2003 that revealed an examination of 107 major rules finalized over the last ten years, found quantifiable benefits of between \$146 billion and \$230 billion compared with the cost 36 billion to 42 billion.

Of particular interest was the finding that just four clean air rules administered ^by ^ buy the EPA, all challenged at one time other another ^by ^ buy industry, accounted for a big chunk of the benefits.

While countries around the world take steps to reduce dependence on coal, the Bush Administration insists on increasing fossil fuel dependence regardless of the human cost. While other countries convert coal plants to natural gas and invest in

wind technology, we build more coal plants and pump more mercury into the air.

Other countries can get beyond partisan agendas to protect the environment. In Ontario, Canada's most populous province, the three major political parties agreed early in 2003 on the phase-out of the province's five largest coal-fired power plants by 2015.

Historically, America's leaders have been champions of our nation's health and environment. Teddy Roosevelt said, the Nation behaves well if it treats the natural resources as assets which must be turned over to the next generation increased and unimpaired in value. I got this quote off the GOP website. I would like to believe that Roosevelt's conviction lives on in the stated mission of the EPA to protect human health and safeguard the natural environment. But actions do speak louder than words.

And as I sit here hoping to say the right thing, the sentence that will encourage you to require coal plants to use state-of-the-art pollution control technology, I have to admit I am worried. The proposals you have on the table are concessions to powerful energy industry contributors. They are not the visions of leaders. Perhaps the problem is that the majority of Americans do not realize the perils of coal plant mercury emissions. It is difficult for the average person to understand that coal plants emit mercury into the air and that the mercury ends up in the fish we consume.

And actually I was explaining this just the other day, okay, and to a woman, a very well-educated mother who has a degree in law, and she didn't realize that coal plants were a problem in Minnesota. She thought that was out in Pittsburgh. No, I had to say, no, it's not. And when I started becoming educated in this whole process, I didn't think coal plants were a problem until I sat down and started looking and realizing how many coal plants we've got in Minnesota and the devastation that they cause.

But this lack of understanding on behalf of the general public, it should not be taken as an opportunity to ignore a serious threat to our nation's environment

and the health of citizens. Without a change of courage and conscience, future generations will look back at this era of energy policy as the era of irresponsibility.

And I understand, we've been going down this path for a long, long time. It is going to be hard to turn around. It is going to take courage. It is going to take a tremendous amount of confidence, and it is going to take a lot of hard effort, but it has to happen. As a mom and a citizen, I will do my part to stop this from happening. And what I mean by that is allowing the coal plants to continue to emit without putting on the highest control technology. I will inform as many people as I can about the hazards of mercury emissions.

Let us all who have come together in this room agree to do everything in our power to reduce coal plant mercury emissions. It is a moral imperative. We are a great nation. Let us become the leader in pollution control. Let us add achieving the highest quality of air to our list of great accomplishments. Require coal plants to use the best pollution control devices. Today's Americans are worth it as our future generations of Americans. Why can we be investing in companies that create pollution control technology? I see the red light has ^come ^ couple on.

CHAIRMAN WEHRUM: Thank you very much.

Robert Shimek and Lea Foushee.

ROBERT SHIMEK: My name is Robert Shimek. I'm a Special Projects Coordinator for the Indigenous Environmental Network headquartered in Bemidji, Minnesota.

Good morning and thank you for the opportunity to share some thoughts about the proposed rule for mercury emissions from coal-burning power plants. I would like to begin by offering a story about an incident that happened to me on the White Earth Reservation in Northern Minnesota in 1996.

I was netting in the fall of the year with another reservation member Winona LaDuke. We were fishing on Round Lake for tulibee, a fish commonly caught during that time of the year, then smoked and consumed. Because of some problems

associated with my fishing partner's ability to keep up with the tremendous work load involved with this type of activity, I ended up firing her and getting a new fishing partner.

My new partner and I picked up the net and moved it to a new location on a different part of lake. In this new location, the tulibee fishing was good, but in addition to the tulibeas, we were catching anywhere from one to three large northern pike a day. We continued to fish in this location for about a week. When I say large northern pike, I'm talking about pike that were in the range of 12 to 20 pounds in weight. As it turned out, my partner did not like northern pike so I ended up with the most of it.

Now, it's important to understand I love fried northern pike. As we were getting all these fish, I was very jubilant and celebratory knowing that I was going to be able to eat one of my favorite foods for an extended period of time.

So I proceeded to enjoy this fish three times a day for about a week, a week and a half after we first started catching them. I had fried northern pike for breakfast, lunch, and dinner. I gave ^some ^ sum of them away to other family members and people in the community, but I kept the biggest portion for myself.

In retrospect, it was probably fortunate that my two young sons, then age 10 and 12, who ^185we're ^ were ^ where living with me at the time, did not share in my enthusiasm for fried northern pike.

About a -- after about a week and a half of these -- eating these fish three times a day, I decided to cut down my allowance to one meal a day in the interest of making my supply last longer. Approximately two weeks after that, I decided to, again, reduce my allocation, this time down to several times a week. It was during this time that I first started experiencing some tingling sensations in my left hand and arm. Initially I didn't ^think ^ this anything of it. I thought perhaps I had a little bit of a pinched nerve or muscle strain and that it would go away with time.

As I kept eating this fish, the numbness and the tingling that started off in my left

hand and arm spread to my other arm and into my feet and legs and I also developed a speech impediment. By this time, I was beginning to wonder if I had some type of a more serious health problem. It even crossed my mind that perhaps I had some kind of small stroke.

Because Winona LaDuke was my boss at the time and because I had recently fired her from fishing, I did not go to her and explain the problem or ask for some time off to see if I could recover or even to go see a doctor. It was also apparent that if I was very deliberate with all of my actions and all I -- all my words, I could appear to function quite normally. But you have to understand that in order for me to have the appearance of being normal, I had to think through every action before moving. For me to pick up a cup of water was a very deliberate process. To walk was a very deliberate process, and it was particularly difficult in the ground was uneven because I had to reduced sensation in my feet and legs.

I could also speak quite normally, but again, I had to think through every word before it was pronounced -- before I pronounced it, think through every sentence to make sure it was complete and that it conveyed the thought that I had intended. I also curtailed a lot of activity and conversation in the interest of covering up the problems I was experiencing.

Eventually, I ran out of northern pike. I had thoroughly enjoyed the fishing process as well as the consumption of some of the bounty of our beautiful land and waters and very much looked forward to doing it again next year.

Approximately one and a half to two months if I was very deliberate with all of my actions and all I -- all my words, I could appear to function quite normally. But you have to understand that in order for me to have the appearance of being normal, I had to think through every action before moving. For me to pick up a cup of water was a very deliberate process. To walk was a very deliberate process, and it was particularly difficult in the ground was uneven because I had to reduced sensation in my feet and legs.

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Approximately one and a half to two months after I finally ran out of northern pike, I began to experience a decreased level of physical and speaking problems. By this time, of course, I had thoroughly assimilated the practice of deliberating thinking through my actions and my words. My life was somewhat easier by then.

Then I noticed that slowly the numbness and the tingling in my arms and legs were going away. The diminishing of the symptoms went on for a couple of more months and eventually were nearly gone. I thought how lucky I was that the stroke or whatever it was that had caused these problems had gone away on its own and that I could resume living life as I had prior to this incident with one exception, I still had a little bit of a speech impediment.

By the time the majority of the symptoms had dissipated, it was late spring of 1997, and I had decided that I no longer wanted to work for my current employer. I took about four months off and was still in the process of regrouping and reorganizing myself from working for Winona when I got a call from Tom Goldtooth who is the executive director of the Indigenous Environment Network headquartered in Northern Minnesota.

IEN was involved in a mercury education partnership project with the goal of providing education to indigenous people in Minnesota on the hazards of fish consumption and the related mercury contamination. Because of my previous community organizing and experience, I was contacted, and I agreed to finish this

mercury education project, though I knew relatively little about the specifics of mercury contamination in fish.

In order to educate myself, I read what was the equivalent of approximately two bushels of printed information on mercury contamination, its sources, and its human and ecological health effects. In the course of reviewing all of this information, I came across one piece of literature that described in great detail symptoms of mercury poisoning in humans.

As I read through it, I was stunned. Many of the symptoms that I had experienced during and after I ate all those large northern pike out of Round Lake on the White Earth Reservation were, in fact, symptoms of mercury contamination. It was only then that I realized that I had overdosed on mercury contaminated fish on the home waters of my reservation. It was also then that I realized what a huge problem we had before us in trying to educate Indians about the dangers of eating fish from their lake.

Because of the work I was involved in, I thought I was pretty well-informed of many of the social and environmental issues at the time and, yet, I knew very little about the dangers of mercury contamination. I knew many others shared my lack of information and were also unaware of the dangers facing them from mercury.

I finished the mercury education project and went on to become involved in other projects with IEN and continue to do so today as a special projects coordinator. Mercury pollution from coal-burning power plants is the largest source of mercury pollution in the U.S. it is incumbent on all of us to do our very best to ensure what happened to me could never happen to anyone again ever.

The current proposal to reduce mercury emissions by 70 percent from its current level is not adequate. With the prospect of new coal-burning power plants coming on line, even with clean coal technology, mercury emissions will not be reduced from new sources. In the long-term, overall emissions will not be dramatically reduced.

90 percent cuts in mercury emissions all across the board are more realistic if we are ever going to get to a point ^KEYBOARD()we're ^ were ^ where we can lift consumption advisories in Minnesota and elsewhere.

Where I live on the White Earth Reservation, many Indian people fish because we have to. We do not fish recreationally or as a sport. We fish in order to stretch the food dollars. We fish for cultural and ceremonial purposes, and we fish because it is our treaty reserved and inherent right to do so.

It is imperative that the U.S. EPA live up to its trust responsibility to protect our land, to protect our water, and to protect our resources so that we can continue to enjoy the benefits and resources that our ancestors envisioned and that the United States of America promised to protect.

CHAIRMAN WEHRUM: Thank you very much.

Lea Foushee.

LEA FOUSHEE: Good morning. My name is Lea Foushee. I'm speaking today on behalf of the Northern American Water Office and Indigenous Women's Mercury Investigation.

Mercury contamination in Minnesota is not a new issue. It's been a problem for 30 years. It's been a political nightmare for many. It goes up and down from one administration to the next. It should not be a political decision, should not be. Because if it is, we will never see resolution of the problem. The human cost and the corporate right will always command the top dollar, and the poor and indigenous people and other people of color that rely on it for subsistence will always lose. It's a matter of genocide, ladies and gentlemen, a matter of genocide.

And in no case, and I'm quoting human rights article one, part one, section two of the international covenant on economic social and cultural live, in no case may the people be deprived of its own means of subsistence. If we cannot eat the fish, if we cannot eat the fish, what will we eat, if it's our culture and our spiritual practice? I grew up eating fish every week, every week; more man once a week. I cannot eat

those same fish ^now ^ know. Cannot eat those same fish.

I am advised by our health department that if I want to eat fish every week, I should eat sunfish, though not culturally preferred, not culturally preferred. Those are the ones you would more or less throw back.

I see others are southeast Asian immigrants. We have over 60,000 southeast immigrants in Minnesota, and they also are a fish-eating people, but they catch the bottom feeders, the carps, and they have not just the mercury but also the doxidans and the PCBs.

And I read with some interest, inside EPA for February, and it said that this particular rule does not include an environmental justice analysis and that you consider all peoples when you're looking at making this rule, and I challenge you to document that you look at all peoples. Because historically that is not been the practice in this country and it has been documented over and over and over that you do not look at the disadvantaged. You do not look at the impacts on indigenous people because you simply don't care. You simply don't care. Because if you did, we would not be in this situation that we are in today. We would still be able to eat the fish that we have historically, for millennia, been able to eat.

Now the problem not ^being ^ can able to eat fish is that fish is a complete protein. You do not need to supplement it with other proteins in other sources, and you can eat a small portion, a four-ounce portion, and get most of your daily requirements of protein. And if you're an impoverished community or impoverished culture or peoples, this means a lot. This means a lot.

Because if any of you have ever gone fishing, the law is not always with you. You can't always get enough that you could contemplate having a large supply in your freezer for a long period of time. You might just get enough for that one particular day. And so to be able to eat a small portion happens to be a real blessing. And we need those blessings when we have ceremonies and we celebrate, you have this

shared among all. The catch ^come ^ couples in, it's shared among all, young, old, alike. ^it's ^ its not -- ^it's ^ its not -- you don't go to the EPA and say, well, can we serve this fish to our community today. Everybody eats it.

And so ^it's ^ its not a question of whether or not there's a substitute. There's is no substitute. No substitute for this. Are we going to go and get tuna fish? That has the same problem. That has the same problem. I have to tell my son that he can't have tuna fish sandwich. If he eats a tuna fish sandwich, he can't eat fish again for the rest of the month.

So what does he have to eat instead, mad cow beef? Is that a substitute. Chronic waste disease seen in deer? We have an environmental problem here. The EPA simply isn't standing up to its charter, it's responsibility. It has let the industrial corporate control the agenda and we ask you to consider the survival of mother earth and all the future generations.

As an indigenous woman, it is my responsibility to think of the next coming generations using the wisdom of the previous generations. I cannot say that the EPA is doing that. It's not obvious to me when you continuously listen to the coal industry concerned about their bottom line. I know that you are not thinking in the future. Because soon young women like Sarah Dunham won't be able to have a child that's healthy, and her children certainly may not be able to.

My grandson has autism. We ^think ^ this that ^it's ^ its mercury related. The thought of that three-year-old child eating mercury contaminated fish or tuna fish or other mercury contamination sources makes the whole, whole thing really personal for me. And it's hard to not really, really hate. Hate doesn't really solve the problem. But there will be a time of reckoning for the corporate polluter. There will be. What goes around comes around.

Now, in Minnesota, we export \$6 billion, that's a B, for coal and nuclear fuels. It's a question of local economic development for us to change our energy habits. We don't need coal and nuclear. We have rich wind regime. We have solar. We have

bio-macs that could make that renewable energy a commodity. And if we waste over half of our electricity that we produce, ^it's ^ its no wonder that we have coal and nuclear because we simply have no respect for the actual resources that we use.

It's clear to me that it's politics because in the 1980s we had an EPA laboratory in Duluth very much involved in acid rain and mercury contamination, Dr. Gary Glass, during the Regan/Gore/Bush era, and poor Dr. Glass was black-listed. He had laboratory taken away. He had countless mercury studies hidden and any number of what I would call illegal, unethical and actual criminal activities on the part of the federal government.

This is not appropriate in a democracy. I ^offer ^ over to you that we are not in a democracy.

CHAIRMAN WEHRUM: I'm sorry. If you would wrap up in a minute, I'd appreciate it.

LEA FOUSHEE: One more thing about your Doctor -- I don't know how she pronounces her last name.

CHAIRMAN WEHRUM: Mahafe.

LEA FOUSHEE: Mahafe. In her slide show, she refers to people that are at risk from eating fish and -- contaminated with mercury, she referred to them as women over the age of 30, Asians, and people of some color, island ethnicity. If she's referring to North America as turtle island, then I would except that, but I dare say that was not what she had in mind. This is documentation, in my opinion, that they do not consider the indigenous people of North America as a significant population, nation of peoples at risk from this substance, and they are not considering us. And I ask you to reconsider who you include in ^192you're ^ your most at-risk populations because you are required to. You are required to. And environmental justice analysis must be done. Must be done.

And I thank you for your time.

CHAIRMAN WEHRUM: Thank you very much.

Up next Kristi Kowal, Blayne Grave, and Erin Jordahl.

After this panel, if you want to get ready, Rich Femling and Michael Carey.

KRISTI KOWAL: I am Kristi Kowal, and I'm here with the Northstar Chapter of the Sierra Club. I work on the air -- clean air committee. As I was preparing for my testimony today, I was, ^193offer ^ over the last few weeks, I've been jotting down my ideas and organizing my thoughts so I can explain why I oppose the mercury ruling.

And as part of that research, I decided to contact my brother since he's an experienced fisherman. I asked him if he has heard anything regarding mercury and if he has seen any effects, and the reality of the issue with contamination became very apparent to me as he described -- as he described what he's seen with the fish. He's seen walleye and other fish with red sores, unusual bumps, and strange growths.

As I heard this, I had a gut-wrenching feeling of being overwhelmed with disbelief and shock. That is how I justified to my family the importance of me coming to Chicago for a two-day trip to testify to the EPA.

I oppose the latest ruling regarding the schedule for mercury, sulfur dioxide, and nitrogen oxide are pollution cleanup. I believe delaying any clean up beyond 2008 is totally insufficient. My fear is that, if the proposed schedule is implemented, severe damage to aquatic life, water fowl, and other species that consume fish will occur. Delaying any air emission cleanup until 2018 is dangerous and irresponsible.

I have several reasons for my feelings regarding this insufficient ruling. I grew up in rural Minnesota where fishing and swimming were part of our daily lives. Back then, we never had any concerns, and we were not educated about rationing how much of our catch we could safely eat. ^now ^ know that I have learned of the dangers of mercury contamination, I closely monitor how much fish, how often, and what type of fish I can serve at our family meals.

My brother Tim an avid fisherman has introduced his family to the joys of fishing, and he's often accompanied by his two sons. Tim has fished in hundreds of

lakes and he ^now ^ know rarely fishes in Minnesota lakes due to their contamination and pollution. He has a lot of frustration in finding clean lakes to fish in because many of the smaller lakes are not even tested for mercury and the information available for larger lakes is so outdated. He said the lakes in Southern Minnesota are so polluted from mercury and PCBs that it's pathetic.

He has noticed walleyes and multiple other fish with red sores, bumps, and strange growths. Commonly the younger fish have the sores and the older fish are very sick. Fish in Lake Madison don't even look normal. Lakes in Northern Minnesota are extremely polluted with mercury. These days Tim travels to South Dakota where he has found some cleaner lakes and fish. I find this to be very sad; that in the state of 10,000 plus lakes, there are very few lakes fit to fish in.

With all this said, I wondered why does Tim even bother fishing. For Tim fishing is important because he enjoys the outdoors so much that it relaxes him for the stresses of running two businesses. There are so many great things about how fishing has become a passion of Tim and his family. They share quality time together, talking and relaxing without the distractions often encountered in the home. He is raising a family that would rather actually fish than watch TV.

Fishing has been also a blessing for his wife Jane because she gets a little break for herself while Tim and the boys are out fishing. Being a mother I know that this time alone is crucial to reducing the stress of our jobs and household chores.

There are many families in rural Minnesota that live like this and have these same passions. I'm a strong believer that the children who develop a passion such as fishing early in life will survive their teenage years much better. Without these positive influences, many youth go through troublesome and challenging times during their teenage years.

I wonder how sadly people's lives will be impacted when the fish are so contaminated that they can no longer reproduce. I'm sorrowful that our contaminated lakes have caused the disease of aquatic life and it has begun to affect several aspects

of the food chain including us.

I'm also very concerned about mercury toxins in our fish from a nutritional standpoint. Five years ago I was suffering from some chronic health problems that could not be cured ^by ^ buy traditional medicine. I began to research my health problems on my own and learned that diet changes would help me to recover. I also began seeing a nutritionist to help in my recovery and to establish a healthy diet.

One of the first things she recommended was that I start taking omega three supplements. At that point, I did not really understand how omega three fatty acids tied to my health. I just ^followed ^ fold her orders. Since then, I have read many articles and books on the subject and now understand that the omega threes found in salmon, sardines, tuna, red snapper, halibut, herring, and cod are important for maintaining good health. Grass-fed beef and free-range poultry are also good sources of these important fatty acids, but healthy fish needs to be included in our diet for the variety and economical benefits they ^195offer ^ over.

Often children, including my son Dustin, dislike many of the other foods that contain omega three fatty acids such as walnuts, avocados, and flax, but they do like the taste of fish. Incorporating foods with omega threes into our diets is very important because when our diet is deficient of the omega threes, we continually crave fatty foods.

Consuming proper levels of omega threes is absolutely essential for human health. Obesity in our nation is now at epidemic proportions and a major contributor to this problem. Our modern diets only contain 20 percent of the omega threes that were in people's diet a hundreds years ago. ^by ^ buy carefully monitoring that our children's diets have adequate levels of omega threes, they will not have to deal with these issues as they age. I also learned that omega three fatty acids have therapeutic benefits and are crucial for people suffering from chronic health problems.

Most of us are not well-informed on the dangers of devastating -- dangers and devastation caused ^by ^ buy mercury pollution. A preschool teacher in my

neighborhood and ^some ^ sum close friends of mine just learned of the problems caused by mercury pollution when I discussed my trip to Chicago with them. They immediately agreed that, if the technology exists to prevent emissions from coal plants, then it should be done. As citizens and consumers, we really don't understand why there should be any delay to clean up and prevent the devastating air emissions.

We would willingly pay any utility surcharges that are needed to cover the cost of clean up since our lifestyles and electrical consumption are contributing factors to the environmental devastation that is incurred. We want to take responsibility for our share in this clean up effort.

The time has come for us to join forces to clean up the mercury and air pollutants now before it is too late. We have the tools and the resources to accomplish this. Approving the mercury rule will have catastrophic circumstances; species extinction, human disease and deformities, and a polluted planet.

There is no excuse for the Bush Administration's latest mercury rulings. EPA, please fulfill your obligations and deny it. The advantage of cutting mercury emissions from power plants by 90 percent by 2008 is enormous; species preservation, clean air, clean water, and human health.

Thank you.

CHAIRMAN WEHRUM: Thank you. If you have a written testimony, you should feel free to give us a copy. We'll make sure that goes into the record. And that holds true for anyone else.

BLAYNE GRAVE: Thank you for this opportunity to testify. My name is Blayne Grave, and I'm an environmental studies and natural resources major at the University of Minnesota. As an environmental studies major, I take a special interest in what is going on with the environmental policy in our country.

This proposal on mercury reduction is especially alarming to me. I fail to understand how the Bush Administration could possibly find it acceptable to put the

life -- put the health of American citizens at risk to save coal plants money.

The technology exists today to reduce mercury emissions ^by ^ buy 90 percent. Why then are we only getting a 70 percent reduction a decade after the Clean Air Act specified? This means that three times more mercury will be spewed into our environment endangering the health of our families, fish, birds, and mammals. Perhaps the cost of the degradation to these things should be considered when deciding how economically feasible it is to implement mercury control procedures. Too often externalities of environmental policy decisions are not accounted for. In any case, the cost of mercury control is relatively inexpensive, especially when compared to sulfur and nitrogen dioxide control.

Furthermore, I want to be able to eat fish without having to worry about what damage I may be causing to myself or later on to children I may want to have. As it stands right now, I can only eat

5.6 ounces of canned light tuna a week. This is an out poor. This is assuming that every can of tuna has the average amount of mercury. Think isn't a full can of tuna. And this is assuming I eat no other seafood that week. However, the FDA recommended eating 12 ounces a week of a variety of fish. This means I cannot safely eat the recommended amount of fish per week due to mercury.

The Environmental Protection Agency should require that this rule be implemented under the maximum available control technology intended ^by ^ buy the Clean Air Act which would result in 90 percent reductions by 2008. The sooner reductions are implemented, the sooner our fish will be safe to eat.

Thank you.

ERIN JORDAHL-REDLIN: Good morning. Thank you for this opportunity to make comments about the EPA's mercury emissions reduction proposal for coal-fired power plants.

My name is Erin Jordahl-Redlin, and I'm speaking here today's on behalf of Clean Water Action Alliance of Minnesota. Clean Water Action Alliance Minnesota,

with over 52,000 members statewide, is a state chapter of Clean Air Actions. We work to ensure that Minnesota has clean and safe water now and for generations to come. We promote the fundamental policies needed to improve the quality of our water and our lives. We work in alliance to address environmental, social, and economic justice issues arising from environmental problems. We foster active citizen leadership and organize affected communities to create political institutions that preserve and enhance our shared environmental legacy.

As part of our work to promote the fundamental policies needed to improve the quality of our water and our lives, we oppose the mercury reduction scheme as currently proposed and urge the EPA to rescind it. We urge the EPA to replace this inadequate proposal with one that aggressively implements the provisions of the Clean Air Act to reduce mercury 90 percent of the year 2008.

Let's start briefly with some of the information that's already been given on the environmental and health effects of mercury. One-third of a gram of mercury per year is enough to contaminate all the fish in a 25-acre lake. Bioaccumulation of mercury up the food chain has resulted in fish consumption advisories in 43 states. Consumption of mercury-contaminated fish is especially harmful to children, developing fetuses, subsistence fishing populations, and populations for whom fish consumption is culturally important.

Just last month, the EPA updated the number of women and children affected by mercury emissions. During the same time period in which the EPA was favoring a weak mercury reduction proposal over a stronger proposal that was supported by the Clinton Administration and former EPA Administrator Whitman, the agency was releasing data that shows that twice as many newborn babies may be exposed to dangerous levels of mercury in the womb as was previously thought. If the job of the EPA is truly to protect human health and to safeguard the natural environment upon which life depends, this proposal appears to be a gross negligence of duty.

Which leads to another example of irresponsibility on the part of the EPA.

Coal-fired power plants are the country's largest unregulated source of toxic mercury. Fortunately, the EPA is legally required under the Clean Air Act to reduce mercury emissions to the maximum extent possible ^by ^ buy 2008.

In 2001, the EPA admitted that using maximum achievable control technology standards to enforce the Clean Air Act could cut power plant mercury pollution ^by ^ buy nearly 90 percent, about 48 tons per year today to about 5 tons by 2008. The EPA has also stated that estimated costs for mercury control are similar to the costs associated with technologies currently used at power plants to control nitrogen oxide pollution.

But armed with the information that coal-fired power plants are the largest emitters of mercury and that cost-effective technology exists to reduce this mercury pollution ^by ^ buy 90 percent, what did the EPA choose to do? Put forward a mercury reduction proposal that would adequately protect public health, no. Instead the EPA proposed three options for mercury reduction, none of which comes close requiring 90 percent reductions, and two of which would allow permit trading. Instead of 5 tons by 2008, the EPA proposes to reduce power plant mercury 34 tons by 2010 and 15 tons ^by ^ buy 2018.

Besides allowing more mercury to be emitted for a longer period of time than under a strong MACT-based rule, the EPA proposal threatens communities across the U.S. with the possibility of toxic hot spots. Because mercury is a toxic and accumulative pollutant with more localized effects, the cap-and-trade model used by the EPA to reduce sulfur dioxide emissions cannot easily be applied to mercury without the risk that some communities will be burdened with dangerously high levels of toxic mercury pollution.

It's time for the EPA to examine whether the proposals it puts forth carry out its responsibilities to protect human health and to safeguard the natural environment upon which life depends. The EPA had made a prior determination that power plants must be regulated according to MACT standards, using the best technology available. But

the EPA has backed away from this strong proposal, preferring a far weaker option which treats mercury emissions from coal-fired power plants as a nonhazardous air pollutant. How can an air pollutant which affects as many as 630,000 children born each year and which can cause severe and neurological developmental problems be considered nonhazardous?

Concerns about the mercury reduction proposal cannot be attributed to pessimistic environmentalists or overprotective parents. Pick up a newspaper recently and you are likely to read about the inadequacies of this mercury proposal. In Minnesota alone, the mercury reduction proposal has been covered in many papers including the Minneapolis Star Tribune, St. Paul Pioneer Press, St. Cloud Times, Crookston Daily Times, Mankato Daily Times, Duluth News Tribune, and the Rochester Post Bulletin. Add to this the coverage in major papers like the New York Times, Wall Street Journal, the LA Times, and the Chicago Tribune, and it's apparent that an ever-growing number of Americans oppose this proposal.

The mercury reduction proposal is out of sync with the EPA's responsibility to protect human health, but Clean Water Action Alliance of Minnesota hopes that the EPA will reexamine its mission and take mercury pollution seriously as the many people who traveled from around the Midwest to be in Chicago now to comment on this inadequate proposal. People from most parts of the U.S. were denied to make comments in person on ^200think ^ this proposal since the EPA only scheduled public hearings in North Carolina, Pennsylvania, and Illinois.

So those of us who were able to be here must make our points heard again and again. Mercury from coal-fired power plants must be controlled to emission levels achievable by MACT and such controls must be in place no later than three years after the regulations are finalized. Rules must be put in ^place ^ plays to reduce mercury emissions from power plants from 48 tons per year to 5 tons per years by 2008.

Thank you ^200general ^ again for this opportunity to comment. It's my hope

that the EPA rescinds the current proposals and develops plans to adequately
 Minnesota Department of Health has issued a public warning against eating this fish.
 Currently, the recommendation is a healthy adult should not consume more than one
 meal of walleye a week, and children under the age of 15 and women who are
 pregnant are advised not to eat more than one meal per month of this desired fish.

Because of the mercury's ability to bioaccumulate in organisms, I'm fearful that
 the proposed mercury reduction ^by ^ buy 70 percent ^by ^ buy two 2018 will not
 prevent a serious problem to the sport fishing industry. This contaminant biomagnifies
 at each level of the food chain and, therefore, makes larger fish substantially more
 toxic.

In Minnesota, the fishing season opener in May is a huge ritual and its largely
 pursued fish is the northern pike and walleye. And many anglers will not continue this
 activity if they fee their catch is not ^safe ^ save to eat. Pan fish are lower on the food
 chain and, therefore, less toxic, but it is a less desirable fish for the anglers to pursue.
 And the season is open year round and not -- therefore, eliminating the angler ritual
 that often trumps mother's day.

A divers group of concerned citizens requested that the Minnesota Department
 of Natural Resource place health advisories at a few strategic public fishing accesses.
 The DNR declined the request because they felt it might discourage people from
 fishing there. Thus, confirming my fear that a serious problem exists for the sport
 fishing industry.

Coal-burning power plants are the single largest contributor of mercury
 emissions in our state, emitting 43 percent of the total mercury contamination. The
 encouraging factor is there is a current technology that could eliminate 90 percent of
 this highly toxic pollutant at a relatively low cost. Studies have shown that it will only
 cost approximately one-fiftieth of one cent per kilowatt hour to achieve this reduction
 of mercury pollution.

Rose Creek Anglers does not carry much ^201wait ^ weight in the industry

sector, but on behalf of the sport fishing tradition, I would like to ask for your consideration of reducing this extremely toxic substance at an aggressive rate. Our organization, along with many other conservation organizations, feel that 90 percent reduction in the current emissions, mercury emissions should be made within ten years.

And, once again, I would like to thank you for this time to testify.

CHAIRMAN WEHRUM: Thanks for coming.

MICHAEL CAREY: Good morning. My name is Michael Carey. I am the president of the Ohio Coal Association. We are the trade organization that represents Ohio's coal producing companies. We're the folks that actually take it out of the ground.

Our association exists in part because we represent roughly 26,000 Ohioans. We're committed to mining, producing our 250-year nationwide reserve. The coal industry is a major employer in our state and provider of many high-wage jobs, many of these jobs are located in Appalachia, Ohio, the southeastern part of our state.

The coal industry also contributes substantially to the local tax base and provides a competitive resource base for the electric-generating industry within our state. Additionally, a recent study by the world renowned firm of Platts Research and Consulting/RDI Group reported that the total economic benefit of coal production in the state of Ohio is estimated to be \$3 billion a year.

Therefore, on behalf of the Ohio Coal Association, I'm here to testify on the U.S. EPA proposed mercury emissions standards which actually threaten Ohio's bituminous coal industry and would possibly put it in peril. If the EPA moves forward with its proposed maximum achievable technology, MACT, limits the mercury rule could amount to not only a costly regulatory mandate, but it may be setting the mercury emission standard that simply could not be achieved by the utilities using Ohio or bituminous coals.

Further, the current subcategorization approach detailed in the proposed rule is

unfair because it creates an imbalance that makes bituminous coal virtually noncompetitive with subbituminous coal from the Powder River Basin of Wyoming and Montana. It places the national mercury reduction burden fully on the shoulders of the bituminous coal produce -- or user.

The concept of subcategorization by coal rank can only be fair if it will not result in a transfer of huge amounts of economic wealth from bituminous coal to subbituminous coal regions. The proposed three to one emission reduction advantage these rules hand to the subbituminous coal clearly sets up a cheaper, fuel switching compliance option or many utilities currently burning bituminous coal; an option that could actually allow these facilities to emit more mercury than they may be currently emitting. This concern also applies to the proposed Section 112 cap-and-trade option contained in the rules.

The scientific data which the above standard is based is unfounded and highly unrepresented of real world conditions. For example, in its mercury Information Collection Request, ICR, the EPA only tested 80 of the nations 1,140 power plants. The majority of this data has been shown to fall outside the reasonable limits of experimental accuracy and precision. At the very best, the ICR emission data are indicative of a very limited snapshot of emission from a few units taken over a very short period of time. This cannot possibly account for the wide variability of coals and the processing conditions encompassed ^by ^ buy the nations fleet of power plants.

The outcome of the EPA's proposed rule would be devastating to the bituminous coal industry. The imbalance created by the subcategorization limits and its fuel switching potential will promote the transfer of huge amounts of economic benefit and wealth from bituminous coal regions to subbituminous coal regions with the potential to disrupt this nation's coal and electric power markets. And of most importance to my members and my association, the proposed emission standards have the potential to devastate Ohio's coal industry. And I would say all of

Appalachian coal industry.

Therefore, on behalf of the Ohio Coal Association, I ask the EPA to reconsider the proposed mercury emission standard and that any future regulations be based on substantially validated empirical data that recognizes the variabilities in coal and mercury reduction process, and more importantly, that maintain a level playing field for all coal ranks.

Thank you for your time and consideration of my testimony. I'd be happy to answer any questions.

CHAIRMAN WEHRUM: Thank you for coming.

Next up Phil Gonet, Kathleen Schuler. On deck is Dennis Leonard and Linda Sonner.

If you're here and you would like to speak, you need to sign up at the table in the back. Even if you didn't sign up ahead of time, I'm sure we'll be able to accommodate you. We tend to go faster than the schedule might suggest. So feel free to sign up if you'd like to speak your peace here.

PHILIP GONET: Good morning. My name is Phil Gonet, spelled G-O-N-E-T. I'm a president of the Illinois Coal Association. I represent 14 coal producers who operate 15 mines and employ 4,000 workers within the state. In 2003, these companies produce 31 million tons of bituminous coal, mostly used for the production of low cost electricity for utility customers.

I am here today to register opposition to the proposed regulations on mercury emissions. These proposed rules give an unfair advantage to subbituminous coal, and if enacted, could end coal mining in Illinois, which will have a devastating economic impact in several communities in Illinois.

The Clean Air Act amendments of 1990 have had a negative impact on Illinois coal. Instead of installing scrubbers to comply with emission standards, most of this state's utilities have switched to subbituminous coal. Just ten years ago coal production in Illinois was 60 million tons, about twice as much as last year, from 36

mines, using 10,000 workers.

Using a standard from the Penn State University study of 11 jobs created for every one mining job, this reduction in coal production has cost 72,000 jobs within the State of Illinois; a huge economic blow to the state. And by the way, since most of this state's coal-fired utility plants switched to western coal, mercury emissions over that time produced in state have greatly increased. This proposed rule will do nothing about this increase in emission of mercury ^now ^ know or in the future from these plants that switched fuel.

But that's in the past. Today we're not seeking an advantage for Illinois coal. We're only asking for a federal emissions program that puts bituminous and subbituminous coal on a level playing field.

No one can argue against the hazards of the natures of mercury. I would, however, like to cite ^some ^ sum statistics for this proposed regulation in perspective. Mercury in the atmosphere comes from a number of natural and man-made sources. Recent studies have found that between 40 to 70 percent of the mercury deposited in our waterways ^comes ^ couples from outside the United States.

Current U.S. emissions of mercury are estimated at 150 tons with about one-third or 48 tons from power plants. This represents about 1 percent of all mercury emissions worldwide. So we can eliminate all of mercury emissions from power plants, and we will still have 99 percent of the mercury in the atmosphere in the world. But we believe mercury should be reduced.

^by ^ buy any standard or measurement, Illinois is rich in coal. With over 200 billion tons, Illinois has the largest reported bituminous coal reserves in the United States. Coal-bearing Pennsylvanian system rocks underlie about 65 percent of the state including all or part of 86 of the state's 102 counties. Recoverable reserves, coal believed to be technically legally and economically mineable under present methods, are estimated to be between 40 and 50 billion tons. This is enough to

produce energy in the Midwest for hundreds of years.

As America's most abundant and least expensive fuel, coal is critical to the nation's economy. The EPA stated goal in these regulations is to provide the highest degree of mercury control possible while ensuring the safety, affordability, and reliability of the nation's electric supply. I submit that this goal is not achievable under these proposed regulations. Regulations that would not allow Illinois coal to be economically mined. Regulations that will actually allow higher mercury emissions in Illinois.

We believe that the proposed rules are based on flawed data. The last speaker attributed to that. The mercury information collection requests or ICR conducted in 1999 utilized emission tests at only 80 of the nations 140 affected units. We use four criteria to assess the ICR data quality, and only 20 of the 80 ICR tests meet all the criteria. It is inconceivable that such an important standard for controlling a hazardous substance could be developed with such faulty and limited data. Certainly the ICR data do not provide a valid basis for selecting subcategorized emissions limits.

Further, we did an analysis of the first quarter ICR data ^by ^ buy coal rank. The results are shocking. Of the 2,030 subbituminous coal samples 1,233 or 61 percent were below the 5.8 pounds per trillion BTU limit set in the MACT floor. Of the bituminous coal samples, 222 of the total of 7,741 coal sampled were below the MACT floor of 2.0 pounds per trillion BTU, 3 percent. This means that almost two-thirds of the subbituminous coals would require no mercury reduction at all, while 97 percent of bituminous coal would be out of the compliance.

I seriously doubt that Congress intended the EPA to issue a regulation so ill-conceived, a regulation so biased against one class of coal. This mercury regulation must be based on a robust and scientifically defensible database.

In conclusion, we believe that the proposed rules give an unfair advantage to subbituminous coal and put a heavy burden on the bituminous coal to reduce

America's mercury emissions. If the MACT floors are left at the proposed levels, then a substantial majority of all boilers burning subbituminous coal already complies with those limits.

The Illinois Coal Association believes that mercury is a pollutant that must be reduced. We do not believe, however, that pollution rights should be granted to subbituminous coal users just because it is more expensive to control these emissions. Doing so would favor low rank coals in the energy market, thus transferring substantial revenues from bituminous coal producers to subbituminous coal producers with no environmental justification.

On behalf of the Illinois Coal Industry, we request that the EPA create a mercury regulation that puts bituminous and subbituminous goals on a level playing field. Fair regulations combined with advances in clean coal technologies can enable Illinois vast coal reserves to be used to improve economic conditions in Illinois and to help achieve energy independence for our nation while meeting all environmental standards.

Thank you for the opportunity to make these comments on behalf of Illinois Coal.

CHAIRMAN WEHRUM: I have one question.

PHILIP GONET: Sure.

CHAIRMAN WEHRUM: What would be your recommended fix?

PHILIP GONET: We've looked at the data from the ICR, as flawed as it is, and giving the standard deviations of the extrapolations that were made, a 3.0 pounds per trillion BTU level for each coal subbituminous and bituminous we think would be fair and would actually achieve lower mercury emissions than what's stated in the proposed rule.

CHAIRMAN WEHRUM: Thank you.

PHILIP GONET: You're welcome.

KATHLEEN SCHULER: Thank you for the opportunity to present my views

on the EPA's proposed mercury rules for coal plants. My name is Kathleen Schuler. I'm an environmental scientist with the Minneapolis-based Institute for Agriculture and Trade Policy. We're a nonprofit, and we work with rural and urban communities on healthy and safe food systems.

One of our key concerns is the problem of fish contamination. My work includes educating and advising parents and parents-to-be on how to reduce childhood and fetal exposures to environmental toxins. I talked to parents about pesticides, chemicals, and many other things.

Parents can choose not to use pesticides and chemicals. They can change their fish consumption. They can feed their children organic food. They can clean up lead paint and buy safer household products. The one thing that they can't do on their own is to clean up air pollution, and to clean up air pollution requires proactive public policies. Political will and making public health our first priority.

The proposed mercury rules do just the opposite. They illustrate how the power of a few large corporations can outweigh overriding public health interests in cleaning up mercury pollution.

42 percent of the nation's mercury air emissions ^come ^ couple from coal-fired power plants. While other sources of mercury emissions are regulated, coal plants emitting 48 tons of mercury per year remain the largest source of unregulated mercury emissions. Mercury from coal plants, as you know, settles in aquatic areas and is converted to toxic methylmercury. It finds its way into the food chain where it bioaccumulates in fish. Who is at the top of the food chain, a fetus or a breast-feeding infant.

Fish are a healthy source of protein and essential omega three fatty acids and they contribute to healthy brain development in fetuses and growing children. And I wish I could tell a pregnant women to eat all the fish she can to help her baby's brain to develop, but I can't. In fact, I have to advise women to limit their consumption of fish because of mercury contamination.

The Minnesota Department of Health advises women of childbearing age and young children never to eat muskies as well as large walleye and northern pike and to limit consumption of other fish. This is because no lake, river, or stream can escape mercury pollution, nor can the oceans. Even canned tuna, an inexpensive protein source for families of all income levels is contaminated with mercury.

Though many children love to eat tuna fish sandwiches, we must advise parents to limit their child's consumption to no more than one tuna fish sandwich, just the light chunk kind, per week because of mercury contamination.

We know that mercury is a potent neurotoxin and even small amounts can effect developing brains. We know that research has shown that a mother's consumption of too much contaminated fish during pregnancy can contribute to learning or behavior problems in her children. The EPA now estimates that 16 percent of women of childbearing age have body burdens of mercury that could put her offspring at risk for adverse effects on learning and development. This effects about 630,000 children per year. That's double the previous estimate.

We estimate that 17 percent of kids experience some kind of learning or behavior problems, and some portion of these problems are caused ^by ^ buy mercury exposure. What do these subtle health effects cause society? Although, we haven't done a cost analysis of what mercury itself costs us, we can extrapolate from what we ^209now ^ know about lead exposure. Because lead and mercury have similar neurodevelopmental effects on kids, we can draw important lessons about the value of pollution reduction from our experience with lead.

In the 1970s, we bid -- band lead from gasoline and paint products. As a result, the average IQ increased between 3 to 5 points. Researchers have extrapolated increases in productivity and lifetime earnings due to increases in IQ. The estimated economic benefit for each year's cohort of 3.8 million two-year-old children ranges from 110 billion to \$319 billion.

If we take these figures and apply them to the 630,000 babies born to mothers

with elevated mercury body burdens, we can save between 18 and 53 billion nationally each year based on kids exposed to mercury. These savings are paltry compared with additional savings that could be realized with improved social, health, and learning outcomes.

While the economic arguments for mercury reduction are convincing, public health protection is the most compelling reason to address this problem aggressively. I am a member of the American Public Health Association and the Minnesota Public Health Association. Both organizations have passed resolutions recognizing mercury as a human health threat and calling for public policies to reduce mercury pollution. The Minnesota Public Health Association resolution calls for setting statewide goals for phased elimination of mercury emissions and policies that support development of renewable energy.

Congress enacted the Clean Air Act to address rising air pollution levels, yet mercury from coal plants have remained unregulated for more than 30 years. Now that the EPA is finally promulgating the required rules to regulate coal plant mercury emissions, we see that these industries have exercised their considerable influence to achieve yet more relief from regulation.

The mercury rules as currently proposed are considerably weaker than the Clean Air Act, achieving substantial mercury reductions a full ten years later than the law requires them, and that the EPA itself says it's possible with current technology. Remember the potential savings from the 360,000 kids exposed to mercury. If we multiply the 18 to 53 billion ^by ^ buy ten years, that possible ten-year savings could reach 180 to \$530 billion.

As long as coal plants remain virtually unregulated, mercury pollution will continue and there will be little incentive to develop renewable energy sources. Our national energy policy is archaic at best. The United States should have and could have developed more renewable energy sources like solar and wind, allowing our nation to wean off of dependents on fossil fuels and nuclear. Instead we find

ourselves still relying on coal.

In Minnesota, 75 percent of our electricity is generated by coal plants. My organization is part of mercury free Minnesota, which is a coalition working on setting statewide goals to reduce mercury emissions. States can only go so far. Coal plants must be regulated at the federal level in order to effectively curb mercury emissions.

I urge the EPA to rewrite the mercury rules to do three things. One, to regulate mercury as a hazardous air pollutant requiring maximum achievable control technology. Two, to comply with the Clean Air Act requiring 90 percent reduction in mercury emissions by 2008. The current proposal would allow seven times more mercury to be emitted into the environment than the Clean Air Act. And, three, to eliminate any emissions trading provision, instead requiring specific emission reductions from all plants, that is the cap-and-trade proposals would allow mercury hot spots throughout the country.

Some of the previous speakers alluded to the fact that people we're where aware that we couldn't eat the fish because of the mercury, but most people aren't aware of where the mercury comes from. And I think if most citizens in the United States were aware of this, they would be at this table and they would be saying we demand that the EPA regulate mercury. Public health is the top priority and that should be the top priority of the EPA. So I urge you to rewrite the rules to consider those three recommendations.

Thank you.

CHAIRMAN WEHRUM: Thanks.

Next up Dennis Leonard and Linda Sonner. On deck are Mary Kenkel and Karen Truskowski. Is Linda Sonner in the room? Is Mary Kenkel ready to speak?

DENNIS LEONARD: Good morning. My name is Dennis Leonard. I represent the Detroit Edison Company. For the record, Detroit Edison supports the comments presented at this public hearing by the Edison Electric Institute and concurs that multi-pollutant legislation, such as Clear Skies, is the preferred approach

over the rule making ^being ^ can discussed.

My comments today will be limited largely to the issue of mercury hot spots. This is an important issue because EPA has solicited comments on whether the flexibility normally associated with the cap-and-trade program should be constrained ^by ^ buy concerns over hot spots. It is also important because the electric utility industry has been misconstrued as causing hot spots. In my brief remarks today, I will explain why power plant emissions are not causing mercury hot spots.

The EPA has defined hot spots as places where local deposition has been so elevated ^by ^ buy power plant emissions that there is the potential for large increases in methylmercury concentrations in fish in the affected area and ultimately humans that might be consuming those fish. Without a large increase in mercury deposition, there will not be a large increase in methylmercury concentration in either fish or humans. A fundamental issue then is whether power plants cause large increases in deposition.

EPA in 1997 in its utility report to Congress postulated, through the use of computer models, how such increases might occur at both local and regional levels. EPA, however, acknowledged that it had a low level of confidence in its computer models and their predictions of deposition levels resulting from power plant emissions. EPA has also acknowledged that actual data at one power plant that was intensively studied at the time of the utility report to Congress showed there was no local increase in deposition. That was through actual data as opposed to computer models.

Since that time, the United States Geologic Survey has established a nationwide mercury deposition network. The actual data shows a far different pattern of deposition than predicted by computer models. Mercury deposition levels in states like Minnesota that are upwind of almost all power plants are no different than levels in Pennsylvania which is downwind of the greatest concentration of coal-fired power plants in the country.

Concentrations of mercury in rainfall were the same along the California coastline in 2000 and 2001 as they were in Pennsylvania. Likewise, mercury

concentrations and rainfall along the Washington coastline in 2000 and 2001 were similar to those observed in New York.

Computer model predictions found in figure 5-8 of Volume three of the 1997 EPA report to Congress, in contrast, forecast several times higher mercury concentrations in rainfall in the east than in the west. The computer model predicts states downwind of power plants to have a much higher mercury concentration in rainfall than states like California, Washington, and Minnesota that are upwind of power plants. But the actual data shows no difference between upwind and downwind states.

Since that time, other studies have taken place. In 2003, EPA commissioned Battelle to analyze trends in actual, as opposed to computer modeled, mercury deposition over the last six years, the time period over which incinerator controls were enacted. Contrary to expectations, the incinerator controls -- contrary to the expectations that incinerator controls would result in decreased deposition, Battelle concluded that there was, quote, likely no discernible trend in mean mercury deposition at these 19 sites and, quote, no apparent trend in mercury deposition at 15 Great Lakes sites in 1996 to 2001.

This is interesting data, computer -- considering the emissions were the largest combined source of oxidized mercury in the previous years. And by incinerator, I mean, in combination of medical waste and general refuse.

The absence of any discernible observed impact at the power plants identified in EPA's 1997 report to Congress on utilities was corroborated by a second study of an actual deposition study around a large coal-fired power plant in Maryland by Eric Prestbo of Frontier Geoscience. Again, the absence of any substantial increases downwind of a power plant was confirmed by collecting actual data.

Lastly, EPRI, in their recent testimony before Congress, has documented the importance of global sources of mercury and their role in controlling deposition levels in most of the United States. Global sources are now generally understood to have

far more impact on U.S. deposition levels than we previously believed.

What has emerged from monitoring natural mercury deposition is a far different picture than predicted ^by ^ buy many of the computer models. Actual data demonstrates that power plants do not significantly affect deposition. Hot spots should now be seen to simply be artifacts of the first generation of computer models rather than real occurrences.

Detroit Edison has been one of the electric utilities that helped fund research in this area. Through its research partners, Detroit Edison will be commenting in more detail on this issue. We will be describing how computer models can be improved and the importance of making policy decisions based on accurate data. We will be further demonstrating that power plants do not cause hot spots.

Thank you for the opportunity to share our views on the subject.

CHAIRMAN WEHRUM: Can I ask you one question?

DENNIS LEONARD: Yes.

CHAIRMAN WEHRUM: Actually two, whether you're familiar the Everglade study and how that fits into the data you've been looking at about actual deposition.

DENNIS LEONARD: We'll have more comment extensively. A brief comment now is the Everglade study represented probably the worst case in the country, three municipal incinerators there had very large emissions of oxidized mercury. The Everglades study consists of three phases. The first ^phase ^ face was preliminary conclusions, had quite a few caveats. Detroit Edison is helping to fund the second phase of that study and will be presenting some of the second phase results to shed some more light on what's happening in the Everglades.

CHAIRMAN WEHRUM: Thank you very much.

Ms. Kenkel.

MARY KENKEL: Good morning. My name is Mary Kenkel, and I'm general manager of federal affairs for Cinergy Corporation headquartered in Cincinnati, Ohio. Cinergy is a Midwest leader in the generation of electricity serving approximately 2

million electric and gas customers in Ohio, Indiana, and Kentucky. This includes 37 coal-fired units that we operate and at least partially own. With more than 90 percent of our power we sell coming from coal-fired units, our customers have a lot of say in these rule makings.

We will be submitting extensive written comments on the proposed rules. We appreciate the opportunity today to share some of our general views.

Let me state from the outset that, since the year 2000, Cinergy has worked with a number of stakeholders from industry, the environmental community, Congress, states, and others to bring some sum sense and certainty to the way weigh in which coal-fired power plants are regulated by buy the Clean Air Act. As the act has been amended over time, it has become riddled with emission requirements that are duplicative, contradictory, costly, and complex. Because of these shortcomings, the law has fallen short of its goal of providing emission reductions in a timely and cost-effective manner.

Increases can be held to a minimum.

Having said that, we also understand the EPA can only do what current law allows and it needs to move forward now with rule makings for mercury, ozone, and particulate matter. We believe EPA has taken a significant step toward trying to find the best, most cost-effective emission reduction solution by aligning the proposed mercury rule with rules for ozone and particulate matter. While aligning these rules by provides less certainty than multi-emissions legislation, a multi-pollutant regulatory approach is far better than the continued reliance on piecemeal programs under current regulations.

EPA's rules will achieve the largest air pollution reductions of any kind not specifically mandated by buy Congress. They will have substantial benefits for public health and the environment. With some refinements, EPA can achieve these air quality benefits, allow state and federal agencies to implement the rules efficiently, and minimize the burden on customers who ultimately pick up the tab.

The proposed mercury rule and IAQR provide highly aggressive targets for the reduction of mercury, SO₂, and NO_x. How does this stack up to what's been done so far? To take a step back from the '90s through 2005, Cinergy alone will have spent more than \$1.7 billion on air pollution rules for SO₂ and NO_x. And while future costs will depend on the found rules, we estimate compliance to be over 1.5 billion, about as much or more than the cost of the earlier reductions. Nationwide emission reductions have come down 50 percent for SO₂, 45 percent for NO_x, and 40 percent for mercury.

In the new proposed rule for a mercury cap-and-trade approach will reduce mercury emissions nationally by 70 percent when fully implemented. In addition, SO₂ and NO_x emissions will be reduced 70 and 65 percent respectfully. And while we agree further emission reductions are necessary, compliance with these aggressive targets will require unprecedented effort on the part of the power generation industry.

That is why we believe that in setting its reduction targets and compliance deadlines, EPA and others need to fully understand the complexities of this new regulatory program and the costs of compliance. The power generation industry, as I said, faces the biggest round emission reductions ever in its history. It also faces substantial uncertainty because power plant mercury controls have yet to be commercially demonstrated. We are keenly aware that some view compliance cost estimates on the part of industry is little more than crying wolf whenever a new regulatory requirement is imposed.

However, let me share an experience that we had in implementing controls under the NO_x SIP call. EPA originally projected that two-thirds of the controls that utilities would use for NO_x SIP call compliance would consist of selective noncatalytic reduction controls, while the remaining one-third would be SCR. EPA also estimated SCR capital costs at about \$60 per kilowatt. But now that companies have installed most of the NO_x controls, we can see that those cost control options, end costs, were miscalculated.

Across the industry, the vast majority of SIP controls have been SCR with few installations of SNCR. In fact, Cinergy needed to install nine SCRs with no SNCR at all in order to achieve required emission reductions. And contrary to estimated compliance costs of \$60 per kilowatt, our actual installed SCR costs were more than double that ^217if anything ^ figure. We urge EPA to carefully assess the lessons learned from regulatory initiatives in the recent past.

We also strongly believe that the proposed rule should provide the framework that allocates the regulatory burden of the new program on a fair and equitable basis. As a low-cost provider of energy in the Midwest, Cinergy relies on bituminous coal as the foundation for its competitive rates. Those competitive rates in turn are a major factor in the long-term economic health of midwestern state economies. We support EPA's goal of achieving substantial reductions. However, in adopting final rules, it is imperative for EPA to avoid or setting rules that result in undue discrimination based on fuel type or unfair economic impacts on particular regions of the country. EPA much ensure that no region or business segment bears a disproportion of burden to make overall emission reductions and that the air qualify benefits of the rules are met on a nationwide basis.

Cinergy supports an integrated approach because it makes sense from an environment standpoint and will ensure consumers that we will make emission reductions in the most cost-effective manner possible. Under a multi-pollutant approach, Cinergy anticipates achieving most of its reductions through the installation of scrubbers, SCRs, or some combination of the two. It will also help us to make most, if not all, of our mercury reductions.

Consequently such a compliance strategy would maximize the health benefits of consumers associated with early reduction of multiple pollutants. However, these capital projects require substantial lead time. Installing one scrubber requires approximately 48 to 54 months, and it is impossible to undertake simultaneous installation of scrubbers on a system-wide basis simply due to the unit having schedule

restrictions.

A scrubber requires about 12 months to select the appropriate technology and establish design criteria; 12 to 18 months for engineering and design; 24 to 30 months for construction and start up. In addition, the time frame for installation, we need approximately 16 months just for the permitting process. These time constraints would be aggravated with hundreds of the 1100 affected power plants potentially installing scrubbers within the same time frame.

Cinergy and other companies experiencing significantly higher costs to comply with NO_x SIP call because of the short time frames for control. The tighter phase one compliance date, the more likely it is that companies would use mercury-only coals that result in stranded costs and utilities would later have to install additional controls to obtain SO₂ and NO_x reductions at a later date. A MACT 2008 deadline would result in not only higher costs but delays of cleaner air.

That is why multi-pollutant cap-and-trade program is the most effective way of achieving substantial emission reductions of not only mercury but also of SO₂ and NO_x in power industry. A cap-and-trade program tells utilities to target reductions in the largest unit where controls would be most cost-effective. It also provides system-wide flexibility necessary to mitigate the risk when we try to innovate control technologies, something that is particularly critical in the mercury control arena.

A MACT standard requiring compliance on a unit-by-unit or even facility-wide basis does not do this. Experience with the SO₂ allowance program under Title IV of the Clean Air Act demonstrates that an efficient cap-and-trade program will effectively deliver emission reductions; in fact, early reductions at the lowest possible cost to utilities and their customers. Let us assure you that the company -- the cap-and-trade program does allow companies to escape emission reductions. It merely allows those reductions to be made in the most efficient manner.

We recognize there is concern about potential mercury hot spots in this kind of program. However, under a cap-and-trade program, the largest emitters will be the

first to be controlled. Consequently, we do not believe that hot spots will actually develop, but if a hot spot were to arise despite these significant reductions, EPA has the ability to address such issues through additional review. But to argue against a cap-and-trade approach, relying solely on the assumption that hot spots may occur, means that you will be discarding all the other environmental benefits of an integrated multi-pollutant program.

An effective cap-and-trade program locks in environmental benefits and to ensure a broad range of compliance options at the lowest cost. We also believe that that kind of program must be consistent with previous trading rules. Trading should be allowed across the broadest interstate region possible. There should be no restrictions on the banking of emissions, and importantly, we believe, that the rules should provide utilities with the incentive to undertake early reduction measures such as year-round operation of SCR which are currently only operated during the summer ozone season.

This will provide immediate NO_x and mercury reduction benefits. In addition, any banked SO₂ and NO_x reductions should be carried forward into the program. We believe that EPA has ample legal authority to implement a cap-and-trade approach under both these rules, and we see compelling reasons for EPA to utilize that approach.

In closing, I will reaffirm that Cinergy supports EPA's efforts to achieve substantial multi-pollutant reductions from the power industry. We appreciate EPA's efforts to align the two regulations in a manner that makes the most environmental and economic sense for the country, and we look forward to providing additional detail in our written comments.

CHAIRMAN WEHRUM: Thank you. Thank you, both.

Did Linda Sonner return yet? Next two up Karen Truskowski and Rebecca Winkler.

KAREN TRUSKOWSKI: I'm Karen Truskowski. I'm the DAMS

coordinator from Illinois, Dental Amalgam Mercury Syndrome.

Mercury is one of the most toxic substances commonly encountered. Mercury is a persistent, bioaccumulative toxin that, according to government agencies, poses a risk to human health, wildlife, and the environment. It is potent neurotoxin that can affect the brain and spinal cord. It can damage the kidneys, liver, lungs, as well as the cardiovascular, endocrine, and immune systems. According to the U.S. Centers for Disease Control, one in ten women in the U.S. already carry enough mercury in their blood to pose a threat of neurological damage to the fetus.

Power plants are a source of mercury pollution, and their mercury emissions should be curtailed or eliminated, definitely not loosened. The EPA should be equally concerned, if not more so, about the disposal of waste from dental mercury. The silver-colored dental fillings are 50 percent mercury. It is a mystery to me why our government still allows mercury amalgam to be placed directly in the body knowing the potential adverse health effects from mercury. I am here today to inform the EPA that dental clinics remain largely unregulated for mercury disposal. Mercury amalgam materials are often rinsed down the drain to a municipal wastewater system or septic system, deposited in biomedical waste containers destined for waste incineration, or placed in the trash that ends up in landfills or municipal incinerators.

Dental offices are the largest single contributor of mercury to wastewater where it poses a threat to fish and humans. Dentists are the third largest user of mercury in the United States. The dental sector uses 44 tons of mercury in 2001, with most released into the environment. According to an EPA study, the majority of U.S. sewerage plants cannot meet the EPA guidelines for mercury discharge into waterways.

A study in Michigan estimated that dental mercury is responsible for 14 percent of mercury discharged to streams. Other EPA and municipal studies found that dental office waste was responsible for similar levels of mercury in lakes, rivers, bays, and streams in other areas throughout the United States. Studies conducted at the

wastewater treatment plant in Minneapolis-St. Paul indicate as much as 95 percent of the mercury load to the treatment plant is released to the atmosphere during sludge incineration with the balance discharged to the Mississippi River.

Mercury amalgam has been determined to be the primary source of mercury in human waste. After releases from dental offices, mercury waste is the second greatest contributor of mercury to waste treatment plants. Accordingly, cremation of those amalgam fillings adds to air emissions, ultimately being deposited onto land and water. Each cremation in the U.S. releases, on average, one gram of mercury to the atmosphere.

The U.S. dental establishment, influenced by the American Dental Association, has consistently resisted efforts to reduce releases of mercury. The ADA refuses to encourage its members to assume responsibility for curtailing dental mercury pollution, opting instead to obstruct initiatives at the state and local levels.

Amalgam use and release by the dental establishment is a significant and persistent source of mercury pollution in the United States must be curtailed. Other industries, including healthcare, have been actively reducing their use of mercury. The dental field has not done so, even though there is absolutely no need for mercury because of the far superior materials now in use.

At the very least, government should require dental clinics to use amalgam separators; initial cost of \$1800 and \$50 a month to operate, and at the very most should ban the use of mercury in dentistry altogether.

REBECCA WINKLER: My name is Rebecca Winkler. I'm speaking as a private citizen of Chicago.

First of all, thank you for giving me the opportunity to speak to you today. In the Declaration of Independence, Thomas Jefferson wrote, whenever any form of government becomes destructive of these ends, life, liberty, and the pursuit of happiness, it is the right of the people to alter it or abolish it and institute new government. It is my hope today that by speaking to you as a private citizen I can

make my small attempt to alter the path I see our government headed towards.

When I first moved to this wonderful city of Chicago from my hometown of Atlanta, Georgia, I was amazed at how clean everything appeared in comparison to it. In Atlanta, I worked on the 27th floor of an office tower with a direct view to the buildings downtown, but could not see those city structures of 90 percent of the summer days due to the horrid air pollution. It was a delight and a relief to be able to see downtown Chicago when heading home from work in the suburbs, no matter what the air temperature outside. Unlike Atlanta, here I can fill up my car with gas during the day if I so choose, and I can make the brief walk to the lake from my home and enjoy a clear view to the horizon.

Unlike my former home, the local news here doesn't warn me to exercise indoors due to poor air quality. I can run along the lake to my heart's content. It was as if pollution no longer had any control over how I lived my life.

I used the words "as if" on purpose because it would only be a matter of months before I would find out that, indeed, pollution does exist in Chicago. Only here it is more subtle and, therefore, much harder to avoid, particularly regarding the pervasiveness of mercury. My first encounter with this subtle beast was a rude one. My friend who had ^grown ^groan up in Chicago was making a visit home and had caught an enormous lake trout with his father n a fishing trip earlier that day. He brought this fish over to my home that evening to show me his recently acquired professional cooking skills.

As a savored the first bite with pleasure, he proceeded to tell me that actually pregnant women and the elderly are advised not to eat the fish that come from Lake Michigan due to the high amounts of toxins, particularly mercury that have been found in them on a regular basis. I nearly choked on that first bite of fish and vowed to make it my last in that moment. For how could I eat something that was known to contain poisonous substances. Furthermore, I wondered how many of our vulnerable population even know that this threat exists.

Upon later examination, I learned that pregnant women who eat fish containing mercury can be exposing their unborn children to the very real possibility of brain damage. Among the numerous harmful and possibly permanent health effects associated with mercury exposure are delays in walking, talking, developing fine motor skills, attention deficit problems, poor memory, and an inability to process and recall information. Very high exposure to mercury even cause mental retardation.

Research shows the level of mercury in the umbilical cord is 1.7 times higher on average than that in the mother's overall blood. It is hard for me to believe that with all the attention our current president creates around other issues that concern protecting fetuses at all costs, namely his stance on abortion, that he would be a proponent of poisoning these unborn children he claims to be working so hard to protect.

As a matter of fact, I've seen research stating that one out of every six women of childbearing age had blood mercury levels exceeding what the EPA considers safe for fetuses. Could I be that one in six? Am I to fear eating the Lake Superior whitefish delicacy at the Four Seasons restaurant, as I did last week, simply due to the fact that our government won't institute the necessary regulations to protect its citizens' health?

Indeed I fear that Bush is rolling back a decade of environmental progress we've been making in our great nation. The Clean Air Act was meant to protect Americans, not put them in harm's way. Current Clean Air Act rules require power plants to reduce mercury emissions by the maximum extent possible, which would result in reductions up to 90 percent in the next three years. 90 percent. The administration's proposal currently dramatically weakens this fundamental health protection, and would actually result in six times more mercury pollution by the end of the decade.

So if what I recently read is true, that the EPA updated its analysis of mercury exposure or women of childbearing age and found that as many as 630,000 babies

born each year are at risk of mercury-related learning and development problems, then we are in big trouble if we are going to have six times more mercury pollution than we currently have by the end of the decade. That is a preposterous number for a country that not only knows the dangerous effects of mercury but also has the power to control how much of it is spewed into our air by targeting one of the primary sources, coal-fired power plants.

Approximately 500 coal-fired power plants nationwide are the largest source of mercury falling into U.S. waterways. I've heard many times already today, each year they spew about 48 tons of mercury into the air; 48 tons. Thinking about that number and letting it sink in is just -- seems astronomical to me. As most of you know, once released from smokestacks, mercury falls to the earth and accumulates in the tissues of people and wildlife.

In 2002, health departments in 43 states issued advisories warning the public to limit or avoid entirely their consumption of locally-caught fish due to the presence of mercury that could potentially threaten public health. Hence my fear to eat any fish coming from any of our Great Lakes is not without cause.

The administration's cap-and-trade approach allows dirty plants to pay for the right to keep polluting. But allowing a plant to keep polluting simply because it can afford to is rubbish, when we think about the known research-supported and proven harmful effects of mercury. Emissions trading will not protect the people and wildlife that live near the source. Under a cap-and-trade proposal, some power plants will clean up their act, but others will continue to pollute and could even increase the amount of mercury they release.

People and wildlife living near these polluters will have no protection. And given the demographics of communities that are located near the worst of these plants, I can assure you that the poor will be the ones to bear the brunt of this burden. Our own Statue of Liberty reads on her pedestal, Give me your tired, your poor, your huddled masses yearning to breathe free. Does the unwritten part of her statement

read, so I can force them to live near mercury plants since that's where they affordable housing for them is? Now, this isn't a tirade about affordable housing or the demographics existing near power plants, but it does illustrate my point that just because a certain power plant can afford to pollute the air with more mercury, it shouldn't be able to do so.

The Bush Administration has a duty to protect us, and I fear that given its environmental track record, it will fall short of fulfilling that duty to the full extent of its powers. Unfortunately for the past three years plus that the Bush Administration has held power, it has become quite apparent to me, the private citizen, where their interest and bedfellows lie, America's boardrooms. I'm afraid that the president is so concerned for corporate interests, where he gets much of his funding, 4.8 million in the year 2000, that he truly could care less about the people who put him in office.

The administration's proposal weakens and delays federal enforcement of clear air regulations. I'm sure you're familiar with the administration's two-phase approach. In the first phase, overall mercury emissions from power plants would drop from 48 tons a year now to 34 tons in the 2010, a 30 percent reduction. Phase two would begin in 2018, when the cap would be lowered to 15 tons annually, for an overall reduction of 70 percent.

Thanks to my membership in the National Wildlife Federation, I know that if the EPA followed the Clean Air Act as it is currently written, power plants would be required to reduce mercury emissions to 5 tons annually by 2008, a 90 percent reduction ten years sooner.

So let's do the math. 630,000 babies are currently born annually who are at risk for mercury-created learning and developmental problems. That means that the Bush Administration is willing to sacrifice the health of potentially 6,300,000 babies. That's enough to make me want to keep my eggs to myself. If the children are, indeed, our future, with those numbers, my friends, we have better make the wiser decision and reject the administration's proposed changes to the mercury laws.

Thank you.

CHAIRMAN WEHRUM: Thank you. We've been going to a couple hours, so we're going to propose a ten-minute recess here so we can all catch our breath. Has Linda Sonner returned to the room? Okay. We will stick to 10 minutes.

The next two up if you want to come to the table is Boise Jones and Danielle Welliever. If you would like to come to the table and set up

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: The floor is yours.

BOISE JONES: My name is Boise Jones. I am a graduate of the department of geography and planning and the department of political science of California State University at Chico. I'm the CEO of Urban Isles Consulting, a firm that consults on environmental justice issues, public policy and economic development. I'm here representing the Environmental Justice Advocates of Minnesota, a coalition of community members and organizations dedicated to addressing issues of environmental justice and health disparities throughout Minnesota.

I'm pretty much a person who studied extremely hard in National Environmental Protection Act, Environmental Air Quality Act, the Endangered Species Act, the omnibus Clean Air and Clean Water Act. I was informed that I would not be cross-examined during this hearing process. I decided to testify ^anyway ^ any way.

I, therefore, presume that the deep-rooted, well thought out overviews of those that have traveled here today from near and far will be marginalized. I am going to go out on a limb and subscribe to the notion that you already know all there is to know about the corporate, political scientific, and ideological ramifications of MACT. In case I'm wrong, I going to submit the following statement for the record.

I have for some time acknowledged that the popular sentiment is man is master over its dominion and that all the resources it can avail itself is both moral and right.

There is this applicable ideology rampant throughout this current administration. Why do corporations have more rights than we do? This roll back of the Clean Air Act, the Endangered Species Act is clearly going to add to the morass. The junk science of the Bush Administration is onerous at best. They have stolen our clean water, our clean air, and we want it back.

Issues of environmental justice are ever present ^now ^ know more than ever. In the land of 10,000 lakes, it has long been recognized that environmental accoutrements on the one hand and toxic waste sites, smelters, and power plants on the other are not uniformly distributed in reference to income group, class, or ethnic communities. On a regional scale as well, there are marked and increasing disparities between those who have access to clean and safe resources and those who do not. Disparities of this nature may be the result of historical circumstances, contemporary economic and trade relations or simply inadequate or inappropriate governmental regulations. Whatever their source, it is clear that a comprehensive grass root approach is needed both to understand and ameliorate these problems.

There has been a lot of attention paid to the environment recently, nationally as well as globally. Poor people have carried the lion's share of the burden for the wanton abuse of our air, our water, and our soil. The specter of environmental racism is ever present in communities where ethnic minorities and American Indians live.

The color of your skin could very well determine your exposure to pollution, contamination, and diminishing quality of life. Black, brown, or red skin means that the chance that you live near a community with uncontrolled waste sites is very high. If you check your pocketbooks and you are wealthy, your neighborhood is probably free of toxic dumps, incinerators, power plants, or steel smelters. But if you are among the nation's poor, you should check your backyard. According to Dr. Robert Bullard, this is an environmental injustice.

There seems to be a connection between race and toxic waste. Researchers, both nationally and regionally agree that there is a relationship between race and

disparate health impacts. Communities with the most commercial hazardous waste facilities have the highest composition of minority residents. Three out of five African-American and Hispanic live in communities with uncontrolled toxic waste sites as do nearly half of Asians/Pacific Islanders and Native Americans. Studies reveal that the number one reason for hospitalization of poor and minority children in major cities in the United States is asthma which is environmentally induced.

We urge all concerned people to be mindful of the fact that there is great cost we all must pay if there is no justice for these disaffected populations. We need healthful sustainable planning where people can live in harmony and for longer periods of time.

We should be working to develop environmental health campaigns and initiatives in the commercial, industrial, and government sector. Development of campaigns in these and other sectors and the strengthening of crosscutting concerns such as children's environmental health, corporate accountability are part of a comprehensive, broad strategy to contribute to the greening of the whole region and the enrichment of our collective health.

We have focused on collaborative projects. In Minneapolis, the focus on mercury contamination and clean air has assisted us to reduce exposure to mercury and to eliminate man-made mercury emissions.

We should continue to compile information on adverse environmental impacts caused by air pollution, soil contamination, and waste disposal problems. Information on the solutions is equally as important to discern and disseminate. We should support lawyers working to strengthen and enforce laws addressing environmental justice issues and to enable lawyers and scientists to share lessons and skills. I remember -- who signed a letter to the Bush Administration urging them to be factual as it relates to science, and we hope whatever we have, the right numbers here, you will realize that people are dying, people are sick.

We should be convening scientists, media strategist and policy experts to design

an information campaign on the precautionary principles, which calls for acting to reduce significant risks to public health, even when scientific knowledge is inconclusive. For instance, studies reveal that people with severe asthma face difficulties medically even when there are acceptable levels of particulate matters present.

We should be testing the targeted group of individuals for levels of toxic chemicals and publicizing the results for scientific evaluation. We should be expanding our influence on granting agencies capacity to support additional grass roots groups addressing environmental health issues in our communities. We should look to ameliorate human and environmental health through the use of nontoxic building materials and practices as well as we should be developing and launching initiatives and campaigns in support of children's environmental health.

Mark Twain once lamented, and I find it apropos, in every lesson get what is in out of it and that is all, lest, ye be like a cat on a hot tin roof. Yee may never sit on a hot roof again, lest ye may never sit again at all. The lessons learned, people are dying. Thank you.

DANIELLE WELLIEVER: Mercury emissions from power plants to 90 percent using maximum achievable control technologies at each power plant. To adopt a lesser standard, extend in any way the time frame for emissions reductions, or create conditions that might lead to mercury hot spots is an issue of justice and of moral concern.

Mercury is an neurotoxin, comparable in its effects to lead. Fetuses, infants, and young children are particularly susceptible to its deleterious effects. Until recently 300,000 children a year were estimated to be at risk from exposure to methylmercury. New research, however, has doubled the estimate. An EPA scientist measuring levels of methylmercury in umbilical cord blood has shown that as many as 630,000 children born each year may be at increased risk of neurological and developmental problems due to mercury.

The primary pathway of exposure to this neurotoxin is through our food supply, the fish and shellfish in our lakes, rivers, and oceans. 43 states have issued fish consumption warnings due to mercury alone, covering over 400,000 miles of rivers and 12 million acres of lakes. Communities whose subsistence or culture is dependent on fish or seafood, and low-income families who depend on tuna or locally caught fish to provide essential nutrients to their families are most dramatically affected by the presence of methylmercury in fish. But eventually we all lose as mercury persists and bioaccumulates in our environment.

We must act now to reduce children's exposure to mercury as we have done to reduce children's exposure to lead. A recent study by the state of Florida, the Environmental Protection Agency and U.S. geological Survey demonstrated a strong correlation between a reduction in the amount of mercury found in largemouth bass and stringent regulations of mercury emissions in Southern Florida and the Everglades from area municipal and medical waste incinerators. Today power plants are the largest emitters of mercury in the United States, yet they have not been regulated as stringently as have municipal and medical waste incinerators.

The EPA proposed rules for regulating mercury fall short of needed protections. If all power plants are not required to meet the same standards, mercury hot spots may occur and, therefore, some populations may be put more at risk than others. Although mercury can stay suspended in the air and travel great distances, the Florida study mentioned earlier points to the local effects.

As the ELCA answers our call to justice, we ask our government to do the same. Justice in our relationships, be they political, economic, social, or environmental, requires that we honor the integrity of creation and strive for fairness within the human family. The 630,000 children who are born each year whose potential may be diminished deserve to be heard and have their interests considered when decisions are made. On their behalf of children, those born and not yet born, we ask you to enact rules that will, by 2008, reduce mercury emissions at all power

plants to 90 percent using maximum achievable control technologies.

Thank you.

CHAIRMAN WEHRUM: Thank you.

Last call is Linda Sonner in the room or is there anyone here who knows her?

Lisa Jones.

LINDA GRAY SONNER: Thank you for allowing me to testify today. My name is Linda Gray Sonner. I am a mother of two grown sons, a member of Sierra Club, and the Illinois Interfaith Council on Climate Change as well as Presbyterians for Restoring Creation, which I am representing today. PRC is Christian ministry affiliated with the Presbyterian Church USA and dedicated to environmental wholeness with social justice.

Today I ^come ^ couple to you to address both the interstate air quality rule and mercury rules of the EPA. The effects of emissions from coal burning power plants in our natural world are devastating. I personally seen what acid rain has done to Mount Mitchell in the Blue Ridge Mountains of North Carolina. Instead of majestic, towering evergreen trees being a habitat for birds and other wildlife, one sees mountain sides of naked skeletons of trees pointing skyward. Such settings are eerily quiet, nearly void of wildlife.

A fellow PRC member who lives in the Shenandoah Valley describes the devastation there. Air pollution has degraded streams to the point where some can barely support life. It has injured plants and made them more susceptible to disease. It is harmed the very soil on which all lives depend. And it has degraded the visibility so that park visitors often cannot see the scenic panoramas for which the Shenandoah is known. All too often high levels of ozone and particulates put park visitors at risk.

What have we done to this wondrous creation? Fisherman enjoy the thrill of the catch, but ^think ^ this twice about eating it. And then there are children, unborn children, innocent victims of mercury poisoning from their mother's own blood. I will not take the time to list the statistics. I thank others for doing that for me today.

My message to you instead is that this reality of poisoning the very world in which we live is an atrocity. It is immoral. There is an old, but wise saying, only a stupid bird fouls its own nest. And as Daniel Quinn warns in his book, *Beyond Civilization*, we can only save the world as a human habitat if we stop our catastrophic onslaught on the community of life, for we depend on the community for our very lives.

In 2002, the Presbyterian Church USA passed a commissioner's resolution on cleaning up power plant pollution, of which a copy is attached, encouraging all Presbyterians to exercise stewardship by urging government officials to support federal policies and multi-pollutant legislation.

So in response to my church's encouragement to speak out, number one, I call on the EPA to require 90 percent reductions in mercury emissions for all coal-fired power plants by 2008. Forget about grandfathering old power plants. They are our worst polluters, emitting ten times as much pollution as modern facilities. Other industries like hospitals and city garbage incinerators have been required to meet that 90 percent standard for over a decade. The EPA should require power companies to do no less.

Number two, I urge the EPA to reject trading mercury emissions. Trading mercury emissions is totally unacceptable. In fact, it's unconscionable. This extremely hazardous pollutant would in effect be relocated in greater concentrations to other communities creating hot spots, transferring misery from one place to another. What sense does it make.

Finally, I call on Americans to share and pursue a vision, a vision of powering this country with clean nonpolluting energy. The technology is there, just wait for us to use it.

In closing, listen to the words of Denise Lovertov: But we have only begun to love the earth. We have only begun to imagine the fullness of life. How could we tire of hope? So much is in bud. How can desire fail? We have only begun to imagine

justice and mercy, only begun to envision how it might be to live as siblings with beast and flower, not as oppressors. We have only begun to know that power that is in us if we would join our solitudes in the communion of struggle. So much is unfolding that must complete its gesture, so much is in bud.

CHAIRMAN WEHRUM: Thank you.

LEISE JONES: Good morning. Thanks for allowing me to testify. My name is Leise Jones. I am with U.S. PIRG and U.S. pIRG is a national consumer and environmental organization, and I work here in our Midwest field office in Chicago.

This year the agency has before it a decision that will have an enormous impact on public health especially for women and children. Your agency is under a settlement agreement to issue final rules to significantly curb mercury emissions from power plants. Unfortunately, the agency has put forth several proposed options that would allow our children to be exposed to far more mercury for a decade longer than what is achievable and required ^by ^ buy the federal Clean Air Act.

Your proposed options are inadequate to protect public health. They fail to implement either the letter or the intent of the Clean Air Act requirements for safeguarding human health against toxic air pollution. On behalf of U.S. pIRG tens of thousands of members across the country, I urge the EPA to reverse this course and reduce power plant mercury air emissions by 90 percent, requiring reductions at each and every power plant ^by ^ buy 2008 using levels reflected by MACT, maximum achievable control technologies.

Mercury is a highly toxic chemical whose effects on the central nervous system are comparable to lead and include sever neurological and developmental problems, such as poor attention span, delayed language development, impaired memory and vision, problems processing information, and impaired fine motor coordination. Children and developing fetuses are especially at risk.

And the largest industrial source of that mercury that contaminates our food supplies is air emissions from the electricity generating industry. Power plants account

for nearly one-quarter of all U.S. emissions. Mercury emitted from power plants smokestacks, and falls in rain and snow onto the land and into water bodies around the power plants. Amazingly power plants are the only major mercury polluters yet to be regulated under federal clean air standards.

Thus, in large part, our nation's mercury problem is due to the fact that while other sources must meet strict emission standards, power plants continue to spew unlimited quantities of mercury into our air, where the rain and snow wash it into our rivers, lakes, ocean, and ultimately into our food chain.

Protecting public health demands that we reduce women and children's mercury exposure by reducing mercury from its largest source, coal-burning power plants. Two years ago the EPA estimated that under a maximum achievable control technology standard, 90 percent of mercury reductions were achievable from the electricity generated industry using existing commercially available technologies, and that would bring mercury emissions down to roughly 5 tons per year ^by ^ buy 2008.

Unfortunately, your three proposed options mark a dramatic departure from the protections afforded by the Clean Air Act. In 2001, your agency estimated coal-fired power plants could achieve a 90 percent reduction ^by ^ buy 2008 under the MACT standard regardless of the type of power plants or the type of coal that was burned. Not only are these emission reductions achievable, but studies indicate that the cost would be comparable to costs for controls for other pollutants. EPA's current proposals, on the other hand, disregards these studies as well as emerging state-of-the-art mercury control technologies. In the end, your proposals allows more than six to seven times more mercury for a decade longer than what your own staff deemed was achievable.

In sum, the proposal regarding mercury emissions from power plants is unacceptable and does not fulfill your obligation under the Clean Air Act. We urge you to go back to the drawing board and draft a new proposal that will require every power plant to install state-of-the-art mercury controls to achieve a nationwide

reduction of 90 percent by 2008.

We urge you to do this with adequate opportunity for public comment and while meeting the terms of the 1998 settlement agreement's December 15, 2004 deadline.

Also, as part of my testimony, I'd like to present you with these comments. ^235think ^ this is a box of comments signed ^by ^ buy citizens, concerned citizens from all parts of the country urging you to go back to the drawing board and propose mercury regulations that will truly protect public health and the environment.

CHAIRMAN WEHRUM: Thank you.

LEISE JONES: I'll leave these here.

CHAIRMAN WEHRUM: If you don't mind, it will be best to take them to the table outside of the room and they will make sure... How many comments?

LEISE JONES: I think nearly 10,000.

CHAIRMAN WEHRUM: Great. Thank you.

Next up Lauren Mansell and Cathy Woollums.

LAUREN MANSELL: Thank you for allowing me to testify this morning. My name is Lauren Mansell, and I'm a concerned private citizen.

I'm concerned that one out of six women of childbearing age have unsafe levels of mercury in their blood. And large amounts of mercury is coming from the coal and electrical companies, power plants, and getting in our water source, fish, and our food supply. I'm not an expert on this issue, but I am, you know, extremely concerned.

If our society has the technology and the means to cut mercury emissions from coal and electric power plants by 90 percent, then I am -- just don't understand why the EPA wouldn't adhere to those standards. I also wonder why a cap-and-trade would be allowed to let ^some ^ sum companies who -- and allowing other companies to sell the credits. To me, there is no issue here. I urge the government and the EPA to protect public health and cutdown mercury emissions to 90 percent.

CHAIRMAN WEHRUM: Thank you.

CATHY WOOLLUMS: Good morning. My name is Cathy Woollums, and

I'm the vice president of Environmental Services for MidAmerican Energy Holdings Company, which is a global energy services provider serving almost 5 million customers worldwide.

MidAmerican's U.S. business platforms subject to EPA regulation includes MidAmerican Energy Company, an Iowa based utility providing regulated gas and electric service; CalEnergy, an independent power producer with facilities in California, New York, Arizona, Texas and Illinois; Kern River Gas Transmission Company, providing natural gas transportation from Wyoming to Southern California; and Northern Natural Gas, an interstate gas transmission pipeline that spans from Texas to the upper Midwest. MidAmerican's electric generating units supply electricity to customers through a diverse portfolio of generating assets, utilizing wind, hydroelectric, natural gas, nuclear, coal, and geothermal resources.

I appreciate the opportunity to present testimony today on both the interstate air quality and mercury rules under consideration by the Environmental Protection Agency. Given the limited amount of time today to provide my testimony, my remarks will be brief and will be supplemented by more extensive written comments in these dockets.

I want to add too that, beyond my corporate responsibilities, I am a mother, and I have two children and I live within three miles of the power plant.

Overall, MidAmerican supports the interstate air quality rule. MidAmerican believes that responsible environmental management, which includes emission reductions, is good business. We believe the proposed rule is consistent with MidAmerican's environmental respect policy.

However, we do continue to prefer the adoption of the Bush Administration's Clear Skies proposal as the primary mechanism to reduce electric generating unit emissions SO₂, NO_x, and mercury. While the interstate air quality rule when coupled with the mercury rule would achieve similar results from an emissions perspective, these two rules are simply that. Rules that can be amended in the future. Given the

significant capital investment and ongoing operating costs that are anticipated to be required under these rules, the uncertainty to the industry created by future rules changes poses a significant concern to affected entities.

Predictability of legal and regulatory requirements allows companies to work with their state utility regulators to develop compliance plans to serve to reduce emissions in accordance with the environmental requirements while minimizing the impact to customers. The environmental requirements cannot and should not be viewed separate and apart from the impacts those requirements have on cost to customers in both the cost they pay for their electric service and the reliability of that service.

In a rate regulated state, such as Iowa, the utility regulators are very diligent in ensuring that regulated entities engage in prudent, lowest cost expenditures for environmental requirements. Perceived voluntary reductions in emissions are scrutinized for their potential impacts on customer rates. In fact, the Iowa statutes require that all emission controls be preapproved ^by ^ buy the utility commission, and it imposes a standard upon utilities to balance energy, economics, and environmental consideration to ensure reasonable rates. This balance of consideration and predictability are critical to companies such as MidAmerican Energy that have implemented a rate freeze that extends to 2010 in the state of Iowa.

While the combined rules would achieve similar emission reductions to Clear Skies, the significant state actions that would be required under the proposed rules deprive both regulated entities and the public of some of the benefits of a consolidated approach. At a time when state budgets are constrained and state environmental programs feel the squeeze of limited resources, the proposed rules would impose significant requirements on the states to implement programs in accordance with the interstate air quality rules.

Rather than having a consistent streamline approach in a national trading scheme and fluid market that that reflects the lowest cost of compliance, the proposed

transport rule leaves many issues subject to state-by-state variability and interpretation that will result in a less efficient and comprehensive program. Additionally, failure to implement the national approach to reduce the emissions will result in economic and air quality disparities in boundary states, including Iowa. We believe that a comprehensive national approach to reducing emissions would be more effective and efficient than the current proposals under consideration.

MidAmerican supports the mandatory inclusion of fossil fuel-fired industrial boilers with a heat input rating greater than 250 million BTUs per hour within the proposed interstate air quality rule. Analysis of Iowa's 2002 annual emission inventory shows that industrial boilers are a significant source of SO₂ and NO_x emissions in the state. Large industrial boilers in Iowa add more than 41,000 tons of SO₂ and almost 16,000 tons of NO_x to the emissions in the state of Iowa contributing to the transport of the state's emission and their impact on other states, despite the fact that Iowa is not a heavy industrial state.

These emissions and their contribution to the impacts in downwind states under the transport rule should not be underestimated. This is particularly important in a states such as Iowa where 61 percent of modeled NO_x transport is associated with mobile source emissions, and 92 percent of the statewide particulate emissions come from area and mobile sources.

With respect to the proposed mercury rules, MidAmerican supports a flexible approach to regulation of mercury that allows companies to achieve emission reductions in a cost-effective manner. While the requirements imposed on coal-fired facilities are more stringent under EPA's proposed alternative approach under Section 111 of the Clean Air Act, MidAmerican supports the flexibility created by this approach. This approach results in greater emission reductions, more certainty, greater environmental and public health benefits at the lowest cost to the American public.

Several of the speakers over the last two days have referenced the coal-fired

facilities, the mercury permit limits in it, and that is one of MidAmerican's facilities. The four-unit facility is currently under construction. Despite the fact that these rules that you're currently considering have not been implemented, MidAmerican stepped up to the plate and agreed to add mercury limits in its permits.

Finally, with respect to the two proposals under consideration today, I would note that the devil is in details and those details will be extremely important. These two proposals provide only the basic foundation for regulations, with supplemental proposals to be issued, that contain additional details on some very basic aspects of implementation and compliance. Some of the details particularly in the interstate air quality rule will not be available until after this public comment period closes. As a consequence, MidAmerican's position regarding these proposed rules may change dramatically depending on the content and outcome of those supplemental proposals.

Again, I appreciate the opportunity to provide you with MidAmerican's perspective on the current proposals under consideration and we look forward to supplementing our comments in our written testimony. Thank you.

CHAIRMAN WEHRUM: Can I ask one question?

CATHY WOOLLUMS: Certainly.

CHAIRMAN WEHRUM: Do you claim those -- or do you achieve necessary reduction through the other controls?

CATHY WOOLLUMS: No, the Council Bluff's unit four will burn western subbituminous coal and we will not be able to achieve the reductions without activating carbon...

CHAIRMAN WEHRUM: Thank you.

Bruce Hill is up next. And currently I don't have anyone else listed to sign up to speak. And if you haven't signed up and you would like to speak, feel free to come forward.

BRUCE HILL: Good morning. My name is Bruce Hill, and I am president of KenAmerican Resources. KenAmerican has an

office in Lexington, Kentucky, and an underground mining operation in Western Kentucky. The mine employs 180 personnel. KenAmerican is one subsidiary of Murray Energy Corporation which comprises five independent subsidiary coal mining companies located in Ohio, Western Pennsylvania, Western Kentucky, and Southern Illinois.

These companies employ over 2300 people in ^some ^ sum of the most economically distressed areas in the United States. These companies mine bituminous coal for sale for the most parts to utility customers for the production of low cost electricity, which drives our U.S. eastern economy. In addition to the 2300 primary jobs, studies by the Pennsylvania State University indicate that up to 11 jobs in our communities are created for every primary mining job. Therefore, our companies account for up to 25,000 jobs.

Today, I speak on behalf of these employees and the entire bituminous coal industry. Without a doubt, the bituminous coal industry, the jobs it produces and the low cost energy that results, are in grave danger of extinction in the event of the proposed mercury emissions standards as put in place in the form resembling those now proposed by the Environmental Protection Agency.

This is not an exaggeration. It's a fact. This is a result of the subcategorization of the coal and the coal rank as opposed ^by ^ buy the EPA. Subcategorization works as a environmental standard that discriminates on the basis of coal types. Subbituminous coal, which is primarily produced in the Powder River Basin of Wyoming and Montana, receives favorable treatment at the expense of the eastern bituminous coal. The discrimination by coal types is accomplished ^by ^ buy providing maximum achievable control technology, MACT, limits which allow 5.8 pounds of mercury per trillion BTUs for subbituminous coal, but which raises the standard for emissions to virtually only one-third of that amount for bituminous coal; that is only 2 pounds of mercury per trillion BTU.

Subbituminous coal which generally has more mercury in it than bituminous

control is, therefore, to be allowed to emit more mercury. This is no scientific -- there is no scientific basis for this discrimination. This is a political result and works in an insidious fashion to transfer wealth from the eastern United States to the western United States. The discriminatory ratio is present not only in the MACT standard, but also in the proposed Section 112 cap-and-trade option as well as Section 111 cap-and-trade option.

The scientific basis for this subcategorization is utterly lacking. For example, EPA mercury Information Collection Request, ICR, conducted in 1999 utilized emission tests at only 80 of the nation's 1140 units. There was only a three-day snapshot, and these units had no mercury specific control technology. Yet, this is to be the basis for a discriminatory standard that, in effect, elevates and gives a tremendous market advantage to one type of coal, subbituminous.

Completely at the expense of the loss of markets for bituminous coal, how can this be? The subcategorization of required mercury emission limitations by coal rank is an insidious, unfair concept that will make bituminous coal virtually noncompetitive with subbituminous coal from the Powder River Basin. That is, electric generating stations will be allowed to emit more mercury using Powder River Basin coal by a ratio of 5.8 versus bituminous coal.

As evidence of the inequities of bituminous coal, I ask that you consider the following statistics: After review of first quarter ICR data by coal rank, it has been revealed that, of the 2037 samples of Powder River Basin coal, a total of 1,233 met the 5.8 pound standard. Therefore, 61 percent of all Powder River Basin coal will be unaffected by the revised standards. On the other hand, of the 7,644 samples of bituminous coal, only 222 samples met the 2 pound level for bituminous coal, a percentage of 2.9 percent.

Not only will this rearrange markets, but also the electric utility will be able to carry the benefits of the ratio for that generating station forwarded into perpetuity, thus maintaining and, in effect, institutionalizing that economic benefit for the Powder River

Basin control.

The entire idea of subcategorization by coal rank will transfer huge amounts of economic benefit and wealth from bituminous coal to subbituminous and lignite rank coals. When the Clean Air Act amendments of 1990 were enacted, the bituminous coals of the east and the midwest did not get the break of subcategorization because they had more sulfur but rather Powder River Basin coal took our markets.

Now, the Powder River Basin producers want to get still another artificial economic and marketing advantage over us. This is inequitable. This is patently unfair. This is politicized issue not supported by common sense or science.

On behalf of the employees of KenAmerican Resources and Murray Energy, the communities in which we operate and the consumers of the electric produced by our coal, we ask the EPA to reconsider the subcategorization of coal by rank and that any regulation of mercury emissions be accomplished based on empirical information and be applied fairly across the industry. Thank you for your attention and consideration.

CHAIRMAN WEHRUM: Thank you.

Is there anyone here who has an interest in speaking?

ELAINE KITTREDGE: I was scheduled for this afternoon.

CHAIRMAN WEHRUM: You're welcome to wait or you're welcome to speak right now.

ELAINE KITTREDGE: My name is Elaine Kittredge, and I'm a private citizen, K-I-T-T-R-E-D-G-E. I came here for my own education and because I care, because I believe in the EPA and the people who really do care enough to give their whole careers to making sure the environment is safe and because I knew I needed to be here and that's it.

But listening to people, it was very apparent to me that in many cases the people who are here are paid to be here. They're basically lobbyists, and not only do

they have their connections in Washington and in the state, but they're taking public time also to give their opinions. I wish there were more public -- more citizens here, but I think people have jobs. They can't be here. And the education media isn't such that people even know you're doing these hearings.

So I would like to mention a few things I picked up that the people who are here from the industry are concerned about their bottom line. They're concerned about their market. They keep talking about a fair playing field, level playing field. They're concerned about the money in their states, they're losing their jobs to the subbituminous coal, and it's basically economics.

I understand that, and you understand that. However, there are the other parts that the EPA has a mandate to protect the environment. You're very knowledgeable. You don't -- the statistics that were brought up here by the industry that you used, they were denigrating about what -- about the statistics that you use. They don't make -- they don't say the words that you don't know what you're doing, but the implication is that the ^way ^ weigh you get your statistics isn't really, isn't really scientific. And I resent that.

I think that statistics can be made to say anything, and I do ^believe ^ belief that you use ^243you're ^ your best abilities. And you're brilliant people, you're not just intelligent. And you care about both the environment and making sure that the standards are possible. They may cost more and then we'll figure out how we'll pay for it, but are -- but the word compromise can be used in two ^ways ^ weighs.

We can compromise ourselves and be compromised, and we also can compromise knowing what's intelligent and what the earth needs and what we need as people. I believe you -- in you. I think the states can't be trusted to regulate the standards I'm a life member of the Sierra Club.

CHAIRMAN WEHRUM: Spell your last name for us, please.

ROGER GRISSETTE: G-R-I-S-S-E-T-T-E.

Thank you very much for allowing me to speak today. I'm Roger Grissette of

Chicago. I'm a retiree with five granddaughters, and I'm a life member of the Sierra Club.

While I appreciate this opportunity to present my views, I must remark that I'm concerned by a shortened comment period and ^by ^ buy limiting hearings to only three cities. You give the appearance of attempting to suppress public comments on this topic. Perhaps you feel there is no need for public input because the decision has already been made. I'd ask to you to please consider extending your period for comments.

I'm in favor of leaving the current rule in place which would require utility plants to establish controls you refer to as maximum achievable control technologies. The current rule establishes an unambiguous target to air and water will contain 90 percent less of the serious developmental toxin ^by ^ buy 2008. The EPA's own studies have shown they're proven solutions to reduce mercury levels now, and across the board implementation of these should begin sooner and not later.

By delaying firm standards for all electric facilities and other mercury sources, you contradict your own warnings about the dangers of mercury. The best performing power plants are already achieving results that are orders of magnitude better than the current MACT standards. The American people deserve and expect clean air and water.

The Bush Administration has proposed changes that would permit far more mercury pollution than strict enforcement of the Clean Air Act allows and potentially for decades longer. These proposed changes include the cap-and-trade program which would allow the power industry to buy and sell the right to pollute. This, by definition, will leave some communities, many here in Illinois, as hot spots that are exposed to more pollution than others.

In reviewing your text of the proposal, your action proposal, it argues that the rule changes would ensure, quote, the steady dependable flow of affordable energy for American consumers and businesses. Most critics of the power industry would

argue just the opposite; that taking utilities off the hook only allows them to further delay the needed downsizing, modernizing, decentralizing electric power generation.

Aging power plants with older technology are less dependable and place huge stress on the high-voltage power distribution grid when they fail.

^please ^ police ^ pleas don't provide this polluting industry with another excuse to delay substantial capital improvements that are needed.

Further, as I review the mission statement of the EPA, I see no requirements for protecting the profits of a laggard industry. On the contrary, EPA's primary purpose is to, quote, ensure that all Americans are protected from risks to human health and the environment where they live, learn, and work.

More than 60 influential scientists including 20 Nobel laureates issued a statement February 18 asserting that the Bush Administration has systematically distorted scientific fact in the service of policy goals on our environment, health and other areas.

The Union of Concerned Scientists report details this and accuses the administration of repeatedly censoring and suppressing reports by its own scientists, stacking advisory committees with unqualified political appointees, disbanding government panels that provide unwanted advice and refusing to seek any independent scientific expertise in many of these cases. Please don't let this happen at the EPA.

The bottom line is, the changes ^being ^ can reviewed today will allow three times more mercury pollution into our air, waterways, and our food, than strict enforcement of current clean air ^laws ^ loss. Since the Clean Air Act was made law in 1970s, air quality has improved in many parts of the U.S., but even after 34 years of progress, more than 136 million people have continued to breathe dirty and unhealthy air. Some, like my granddaughters, will be especially at risk as they approach their childbearing years. We need a policy that will build on the successes of this Act.

The Bush Administration is proposing reckless steps that undermine the Clean Air Act and let old, dirty power plants continue to cause more pollution into the nation's skies. Please don't alter the current language. Instead, I urge you to take all steps needed to enforce the provisions of the current law to protect the air we breathe.

America can and should do better. We've promised, as a nation, to protect our air and water, our forests, and our wildlife. But this administration has defaulted on those promises.

Thank you again for the opportunity to speak with you today.

CHAIRMAN WEHRUM: Thank you. Dave Madden.

DAVE MADDEN: I'm speaking here on behalf of a concerned citizen, and I'm concerned. I have a couple daughters, and I've heard some stories. They may be anecdotal of individuals eating too much tuna, for example, that have gotten severe brain damage; fisherman that eat a lot of fish, native people. Some people eat a lot more than the reference dose is considered safe. And 600,000 infants are damaged that are born each year, suspected to be damaged.

Whether it's subtle or not, the mercury can be cleaned up with existing technologies. It should have been cleaned up years ago. And with a greater emphasis on efficiency standards and renewable energy, we wouldn't have to be burning nearly as much coal as we are right now know. And because it's a persistent toxin, these problems are going to be here with us for years, and it's its basically putting a price tag on brain damage and maybe permanent damage throughout the lifetime of the individual that is ingesting the fish, for example.

And incinerator technology as in municipal or hospital incinerator technology that filters out mercury has been around for years. Inconsistently industries said that they cannot filter out the mercury. It turns out when they're required to achieve those ends, they can do it. And it's basically, once again, putting a price tag on brain damage or intellectual capital loss or whatever you want to call it.

And we're talking about the most vulnerable populations, infants, children. And I think it's really important to emphasize that. And we've seen a history of underfunding as far as persistent toxins, whether they're organic or not, and their effects on individual human beings and wildlife. And I would like to see a greater emphasis on human beings, wildlife, life of the environment as opposed to the almighty dollar.

And the public relations industry, utility executives should be ashamed of themselves, in my opinion, because, say, if we do find definitive proof of individuals suffering from what is considered safe in the future, what if it was their, you know, grandchildren or children, how would they feel? How long do we ^wait ^ weight until we clean our environment or reduce the potential harm especially when talking about persistent toxins? Thank you.

CHAIRMAN WEHRUM: Thank you.

SANDY JUSTIS: Thank you for allowing me to testify today. My name is Sandy Justice, and I'm a mom, a special education teacher, and a church lady. I am speaking today on behalf of the Illinois Interfaith Council on Climate Change.

Before I begin, I would like to request that these two letters be included in the record. This one was signed ^by ^ buy the heads of 39 different Protestant and Jewish denominations in America. This other letter was signed ^by ^ buy the Bishops of the Catholic Church in North America. Both of these letters speak to the necessity of establishing clean energy on our planet. They also represent an aggregate of approximately 130 million people.

My talk today concerns, in part, the grave dangers from coal emissions and mercury to our environment, especially to our children and future generations of Americans.

We are confronted with a new threat to our environment and physical well-being. ^247think ^ this threat ironically stems from the EPA itself. Revised standards, according to the EPA enforcement officers, will create substantial

exemptions for the power industry and would halt investigation at more than 50 power plants owned by 10 different utilities. ^248think ^ this means, friends, that one out of every six women of childbearing age today has enough mercury in her blood to pose a risk to her unborn infant, according to the EPA standards and figures. This result is ^248none ^ known to cause lower intelligence and profound life-long learning problems in children. Yet, the very safeguards we have depended on and that the EPA has said it would enact are ^being ^ can rescinded ^by ^ buy the EPA today.

^please ^ police ^ pleas tell us why after it is has been established ^by ^ buy countless scientific reports that we must have even safer emission standards for health safety. Should we now be witnessing an imminent deregulation of these essential standards? Our foremost concern must always be to do what is best for the environment and future generations. We implore the EPA to share that concern ^now ^ know. The New York Times 2003 captures our feelings well; it is a sad day in America when a coalition of states must go to a federal court to defend the Clean Air Act against the misguided actions of the EPA, a federal agency created to protect the environment.

Do you remember the coal miners used to lower canaries into the mine shafts, and if the canaries were dead when they came up, then the miners knew it wasn't safe to go down themselves? Could this be the depths of our damage? Have we without realizing it substituted our children for canaries?

Children's capacities are formed in their mother's wombs, in infancy and throughout childhood. Original grace is a healing gift, a reality that begins at conception. External influences that shape personality include the environmental poisons that are given to our children perinatally, that is, in the period immediately before and after birth.

According to the new figures reported in the 2/5/04, Scripps Howard News Service, evidence of biological detriment to our own infants ^by ^ buy mercury

poisoning from coal-fired electric power plants is nearly double the previous estimate. That is one out of every six women of childbearing age has enough mercury in ^249they're ^ their blood to pose a risk for her unborn infant to have lowered intelligence and profound life-long learning problems. And the mother's milk, the very milk of human kindness, which is fed to these infants is also infiltrating them with poisonous mercury. These children are truly vulnerable to this oppressive power. We need to empower our environment to do what it is meant to do and does best, be relational, intimate, and healthful. This requires electric utility power companies to give us clean sustainable power. The technology already exists.

The EPA's own panel of experts on children's health lodged a protest with their agency over this proposal this month. The Children's Health Protection Advisory Committee, which includes pediatricians, business people, and scientists, said it was concerned that the agency's plan does not sufficiently protect our nation's children, in a letter to the EPA Administrator Mike Leavitt. While cost effectiveness is important, the priority should be to protect children's health in a timely manner.

Children poisoned by mercury develop risks walking, talking, and learning, even in the way they relate to other people. Being shut up in a body/brain that has these disabilities is a sentence, a life sentence. I work with special education children every day, and I do not ^249now ^ know how many of them ^come ^ couple to me and to the thousands of other special education teachers because of the amount of poisoning. But I do ^249now ^ know in spite of our best efforts to help them and education them, many of these children, through not fall of their own or of ^249they're ^ their parents, will, indeed, be left behind as they grow into adulthood.

According to the New York Times, revised standards create substantial exemptions for the industry and would halt investigation at ore than 50 power plants owned by 10 different utilities, EPA enforcement lawyers say.

Any modification costing up to 20 percent of the unit will be considered routine maintenance, and therefore, exempt from pollution controls, Mr. Spitzer said in a

statement on October 27, 2003, even if plant modification results in much higher levels of air pollution.

The Illinois Interfaith Council does not want the letters EPA to stand for every polluter's advocate. We want the EPA to weigh the costs. The cost of stopping a continuation of 45 tons of mercury per year in our air and waterways is minimal compared to the cost to our society resulting from the capacity taken from more than 630,000 babies per year. Special education problems will not be the only costs because most of these children will need special care throughout their lives. Where is the cost figured in regarding their inability to contribute to our society by the God given potential they were graced with at conception which is now known, with your proposed policies, polluted and taken away from them?

Allowing some power plants to avoid reducing mercury emission by letting plants sell pollution credits to others that fail to meet their own mercury targets means these plants will emit six to seven times more mercury pollution into the air for the next decade. Proportionately six to seven more times. The children are at risk. This is selling out the children. This is a stance that says the canaries are unimportant. Who is benefitting by this? What is the benefit to the ecosystem, to the children?

Each of the talks on mercury with the White House had invited guests, utility representatives. Consumer and health groups were not invited. Here are some of the ramifications of the new proposal. Backpedaling to 29 percent on emission controls by 2007, perhaps 69 percent a few years past 2018. Statewide fish advisories recommending that we do not eat the fish have been in place in several states since before 1995. Benefits the coal industry and utility companies to the detriment of the children. 20 years of accumulation of mercury in our air and waterways that is compounded each year amounting to 45 tons per year.

The EPA has stalled for 13 years on enacting this requirement while study after study substantiates that mercury poisoning is a substantial health risk that doesn't go away. We are lowering the potentials of our gifted for generations. Why would the

EPA give the industry the right to emit mercury when we have banned the use of mercury thermometers in our homes and ^by ^ buy our doctors and nurses. The interfaith people say no. Clean energy is the only viable sustainable option.

Require the power plants to use the existing proven technologies. Stick with the stiffer mercury regulations set up in 2001 by the EPA at 90 percent reduction of mercury. Take a stand and don't back down. Restore the trust in the power the American people gave to the EPA, it truly does stand for environmental Protection Agency, instead of keeping us wondering how much do the children cost.

Our heartfelt action is not alone, but in the fragile, resilient interconnections we share with others, please join us in generating the power that makes and sustains life. There, in the power of heart, we find the sacred mystery that binds us in loving each other fiercely in the face of suffering and pain and that empowers our witness against all powers of oppression and destruction. Thank you.

CHAIRMAN WEHRUM: Thank you.

James Coursey.

JAMES COURSEY: Good afternoon and welcome to Chicago. I am the chair of the government relations subcommittee of the Illinois Council of Trout Unlimited. We of the Illinois Council appreciate the opportunity to address the topic of finalizing the rules for mercury emissions from the nation's oil and coal-fired power plants.

The mission of Trout Unlimited is to conserve, protect and restore North America's cold water fisheries and their watersheds. This July will mark the 25th anniversary of Trout Unlimited which now represents 125,000 members in 500 chapters nationwide. The Illinois Council of Trout Unlimited represents approximately 3,000 TU members in Illinois.

Mercury is listed ^by ^ buy the EPA as one of the 129 priority pollutants. The better-known health impacts of mercury are on the people who eat fish contaminated with it.

Others are providing testimony addressing in greater depth the topic of maternal and child health. This testimony will be an attempt to provide the perspective of at least one segment of the recreational sport fishing community and to let you know that this issue is of vital concern to us.

The council is seriously concerned about mercury, the most prevalent contaminant of aquatic ecosystems in this region. Mercury released into the environment stays there for a very long time. As a constituent in the flesh or food of aquatic organisms, mercury has no known redeeming qualities. The less mercury that aquatic organisms ingest, the better off they are. Perhaps for this reason, there do not appear to be many literature references on concentrations of mercury considered low.

Power plants are one of the largest sources of mercury pollution in the midwest. 23 percent of the nation's coal-fired power plant mercury emissions come from the six states of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. After mercury is deposited from the atmosphere, its greatest adverse impact occurs in the aquatic ecosystem. In a series of chemical reactions, bacteria in the sediments can convert mercury into methylmercury.

Methylmercury is a form of mercury that is especially toxic to humans and wildlife. Fish absorb methylmercury from the water as it passes over their gills and as they feed on other organisms. As large fish eat smaller fish, methylmercury concentrations increase in the bigger fish, a process known as bioaccumulation. Consequently, larger predator fish usually have higher concentrations of methylmercury from eating the smaller contaminated fish. Humans, birds, and other wildlife that eat fish are exposed to mercury in this way.

Furthermore, as this methylmercury accumulates, it has significant health impacts on species occupying aquatic environments. It affects cell development, behavior life history, survival and reproduction. In fish, it is associated with reduced sperm generation, reduced egg deposition, and reduced hatching success. In trout and

salmon, it is also associated with high mortality at the embryonic and larval stages, with growth inhibition, and with delayed onset of life history stages. In short, the mercury humans release into the environment is an ongoing threat to the fish and other wildlife as well as to we humans that share the environment.

Fishing has been a tradition for generations, and sporting groups have been defending the right to fish and conserving fish habitat for decades. It has been an important part of family life and a bond between parents and children. Fishing is also important for our businesses, with sport fishing adding an annual sum of \$5 billion to the economies of the six midwestern states that I mentioned. Nationally that amount approaches \$28 billion.

For many years and with some laudable success, environmental and conservation interests have struggled to reduce known and prevent new anthropogenic sources of environmental mercury. Monitoring suggests the net effect of these efforts has not, however, adequately reduced new input of this contaminant. The remaining industrial sources, among them the coal-fired electrical power generating industry, continue to ubiquitously and incessantly emit unacceptable levels of mercury.

Today, fish and fishermen are at increased and ever increasing risk. For this reason, the Illinois Council of Trout Unlimited is aligned with the entire North American environmental and conservation communities in urging its governments to implement more potent institutional mechanisms to redress the problem.

Mercury contamination of fish in our lakes and rivers is a serious concern for our members and our families, but the current proposal falls far short of what is needed to address this threat. We see that existing plants using the best modern technology can achieve mercury reductions of up to 90 percent. The Clean Air Act requires that the Bush Administration reduce power plant mercury emissions by 90 percent by 2008 and ensure that these reductions occur at each

and every power plant.

The technology to achieve these reductions is being developed and installed in plants right here in the Midwest. We urge the EPA to adequately address our mercury problems by greatly strengthening the proposed mercury rule under Section 112 of the Clean Air Act for plants burning all types of coal. We further urge the agency to reject the alternative new source performance rule in place of a maximum achievable control technology standard, MACT. Proven technology demonstrates that power plants can reduce mercury emission by 90 percent using technologies that exist today, bringing national mercury emissions down from nearly 50 tons per year to only 5 tons per year.

Unfortunately that is not what the EPA proposed. Instead the EPA's proposed mercury standards are not protective of public health, but are instead six to seven times less protective than emission rates already achieved by existing power plants.

EPA's preferred approach furthermore rescinds its prior determination that power plants must be regulated according to the MACT levels and instead proposes a far weaker standard. In effect, this proposal would treat power plants' mercury emissions as nonhazardous air pollution.

Further EPA's proposal would allow some plants to avoid reducing mercury emissions at all by permitting them instead to buy credits from other plants in different locations which have made reductions beyond the goals provided by the rules. When plants are not forced to curb pollution but can buy pollution credits, it increases the chances that there will be toxic hot spots or communities where deposition is more prevalent. It also will likely increase the severity of existing hot spots.

In 1990, Congress directed the EPA administrator to perform a study and report to Congress the hazards to public health reasonably anticipated to occur as a result of emissions by electric utilities. Section 112(n) of the 1990 Clean Air Act amendments mandates that EPA shall regulate electric utility units under this

Section 112 if the administrator finds such regulation is appropriate and necessary after considering the results of the study.

In November 1998, EPA signed a court approved settlement establishing a deadline for the agency to determine by December 2000 whether the regulation of hazardous air pollutants from power plants under Section 112 was, quote, appropriate and necessary, close quote. The settlement was further amended to set a deadline of December 15, 2003 for issuing proposed MACT rules and December 15, 2004 for a final rule.

In December 2000 EPA said that mercury is the hazardous air pollutant, HAP, of greatest concern. It is the hazardous air pollutant of greatest concern. And determined that regulations of HAP emissions from coal- and oil-fired steam generating units under Section 112(c) of the Clean Air Act is appropriate and necessary. Listing of power plants under is 112(c) triggers regulation under 112(d) which requires that all HAPs from sources listed be regulated using a maximum achievable control technologies standard.

The agency has put forward several proposals, none of which provides the degree of public health protections mandated by the Clean Air Act. All of the proposals will allow power plants to emit six to seven times more mercury into our environment compared with what the Act requires and what EPA has determined is achievable using existing technologies.

We, like others, contend that the proposed mercury MACT rule should require emission reductions from all coal-fired power plants by 2008 that are equivalent to the level that can be achieved ^by ^ buy the most up-to-date pollution controls. Based on the data collected ^by ^ buy the EPA, that would result in at least a 90 percent reduction in power plant mercury emissions nationwide.

The EPA should revise the mercury MACT to meet the Act's obligation, to require the most up-to-date pollution controls on all power plants, and ^by ^ buy so doing achieve stringent and rapid reductions in emissions of this toxic pollutant.

Virtually all of our states are under statewide fish consumption advisories due to widespread mercury contamination. Catch and release isn't just a choice anymore, it is a practice we must observe to safeguard the health of our fisheries and watersheds to say nothing of the health of our children and their children.

We respectfully urge the EPA to adopt a rule that maximizes the protection of human health and our fisheries ^by ^ buy regulating mercury emissions to the level that we know is technologically feasible and to do so quickly.

Thank you very much.

CHAIRMAN WEHRUM: Thank you.

I have no one else on my list. Is there anyone in the room that would like to speak? You should feel free to come forward. If you are signed up for a later time and you want to speak now, that's perfectly fine. And if don't you want to, that's okay too. Thank you for coming.

We'll recess until we have speakers. If we don't have anyone in the next 10 minutes or so, we're going to break for lunch and reconvene at 2:00 this afternoon.

(Whereupon, a lunch break was taken, after which the following proceedings were had:)

CHAIRMAN WEHRUM: Folks, we're going to break for lunch. It's about 12:30. We'll reconvene at 2 o'clock.

(Whereupon, a lunch break was taken, after which the following proceedings were had:)

CHAIRMAN WEHRUM: Welcome back. We have a short list of folks who asked for time to speak.

Let me take a quick minute and go through the ground rules again here just so folks who may not have been here this morning know what the drill is.

We ask speakers to come up two at a time, especially if it looks like we're

going to have multiple requests for speakers and that just makes it easier on us and more efficient for us to get speakers in as soon as possible. We'll call you up two at a time. If you'll come to the table right in front of us, make yourself comfortable. If the second speaker or -- the first speaker would ^wait ^ weight until the second speaker is complete before leaving the table, we would appreciate that. And if I can, I will give the folks who are up on the next panel a little bit of warning so you can get your thoughts in order. So I will say who's next on deck.

You'll have 10 minutes to speak. We have a timing system here in front of us that you'll be able to see. If your eyes are good enough, you'll see the time count down. If your eyes are not that good, like mine, you will see color lights. When the green is on , the green light will stay on for the first eight minutes of your testimony. The yellow light will come on for the remaining two minutes of your testimony. And when your time is up, the red light will come on. And we'd appreciate it if you'd try to limit your remarks to the 10 minutes period of time because we've had a busy couple days and a lot of folks who want a chance to speak here.

We are making a record of all who are testifying today, and the court reporter is transcribing everything that you say. If you have written your remarks, feel free to submit them to us or the folks at the table out back. We'll make sure your written remarks get in the record in addition to the transcript. And if you feel you're pressed for time because of the ten-minute limit, don't feel like you have to read everything. Say the things that are most important to you, put the rest of your remarks in the record, and we'll make sure that that gets into the record on their own making.

And because we're transcribing, please put the microphone three or four inches from yourself like I'm doing here, and when you sit down to speak, please identify yourself, identify any affiliation that you have, and anybody that you may be representing here, and spell your name if it's not obvious how your name should be spelled.

First of all, I'd say, if you signed up to speak, the times are approximate, and

we try to do ^258think ^ this on a first come, first serve basis, and we also just keep going as long as people are available. ^258ones ^ once you sign up, try to stick around the room here because we may call you sooner than you might expect. And if you're not ready to speak, just let us know that, and we can certainly ^wait ^ weight.

I think the last ground rule we have here is we'd prefer you not yield time to folks in the sense that we have had times when people try to reserve three or four blocks in the a row and then one person is selected to start making a 30, 40 minute speech. And that's not what we're interested in here. We're interested in having as many different speak.

And lastly, I'll do the introductions again. Organization. We work throughout the country using science, advocacy, and education to improve air quality.

Two staff from the Clean Air Task Force testified at the EPA hearings in North Carolina and Philadelphia yesterday. The first of those was Marsha Keating, the Clean Air Task Force representative to the EPA's electric steam generating units MACT rule making working group. The working group offered the agency a range of recommendations for development of the MACT standards for EPA use in the fall 2003. Ms. Keating presented testimony at the North Carolina hearings on the MACT alternative proposed by the agency in this rule making package.

The second of our staff who testified was Ann Weeks, our litigation director. She testified in Philadelphia about both the mercury rule and the interstate air quality rule.

I will highlight some additional concerns. Furthermore, the Task Force will be providing detailed written comments by the conclusion of the comment period.

I'd like to begin by recognizing that the interstate air qualify rule proposed ^by ^ buy the agency is a good first step towards reducing sulfur dioxide and nitrogen oxide emissions from power plants. We need cuts in these pollutants for two reasons. First, we need cuts to bring many areas in the nation into attainment with PM and ozone air quality standards. Second, we need cuts to reduce over 30,000 premature

deaths that are estimated to occur each year in America as a result of power plants sulfur dioxide and nitrogen oxide pollution.

However, the reductions targeted by the EPA, the air quality rule, need to be more rapid and must be deeper. The agency must set a 1.8 million ton regional sulfur dioxide cap, effective in 2009. It's both necessary and cost effective.

In contrast, the mercury package is not a good step. It's not even a baby step. It's simply a step in the wrong direction. The mercury package the agency proposes contains both the weak MACT standard and an alternative based upon a lenient cap-and-trade system that fails to reduce the mercury to safe levels in a timely manner. The cap-and-trade system should be abandoned, and the MACT standard must be strengthened.

Specifically the cap-and-trade effort would only reduce mercury from a current 48 tons per year to only 34 tons in 2010 and 15 tons by 2018. The banking, the actual date when this 15 ton target could be reached could be much, much later. This time frame provides too little reduction and it provides it too late. Furthermore, trading allows some plants the possibility of avoiding mercury controls entirely, which could create hot spots of high mercury concentration.

The approach that should be adopted by the agency is to regulate MACT provisions of Section 112. The proposed MACT standards found in mercury package, however, are unacceptable.

The emission limits for subbituminous and lignite coals amount to no action levels. What reductions do occur solely through reductions in mercury in bituminous coal-fired power plants. As a result, the agency contemplates only a drop in mercury from 48 tons to 34 tons. A properly crafted MACT standard should target 90 percent mercury removal from all coals. To subcategorize based on coal ton is both unprecedented and bad policy.

I'd like to conclude with a personal story about mercury. My wife and I live in Southern Illinois with our son. Our home is a short walk from Cedar Lake, one of the

first lakes in the state to have mercury restrictions placed on it for fish consumption. We take our four-year-old boy down to the lake in the summer usually after dinner. Last summer my son asked if he could eat a fish from the lake. I said no, it may not be ^safe ^ save. I tried as best I could to a four-year-old to explain what power plants were and how mercury was released and how it got in the fish. He told me that when he grew up, he would clean up power plants so they wouldn't have any mercury. I told him by the time he grew up, we'd have the mercury problem solved.

In retrospect, I was wrong. Not only does this -- the agency's mercury package fail to make serious reductions in mercury within a few years, it fails to do so even by the time my son will become a man. We can and we must do better.

I would urge those of you at the agency to work with these rules every day, to go back and try and make a stronger effort making deeper reductions. Thank you for your consideration.

CHAIRMAN WEHRUM: Thank you very much. Ms. DeWitt.

JILL DEWITT: Thank you. Good afternoon. I'm Jill DeWitt, a member of Kansas City, a 2500 member -- and conservation organization in the Kansas City Metropolitan area and share of burrows conservation committee.

I wish to take this opportunity to comment on EPA's proposed actions to reduce mercury emissions from power plants and the associated interstate air quality rule. We appreciate the agency's intention to reduce mercury, sulfur dioxide, and nitrogen oxide emissions from its sources. However, we are deeply concerned that the proposed actions do not go as far as feasible to reduce mercury emissions from power plants, and thereby, do not sufficiently protect our nation's human and wildlife populations.

Although cost effectiveness is important, the priority should be to protect the immediate and long-term health of people and wildlife in a timely manner. We are also concerned that mercury emissions are not adequately addressed when we're buying unreduced and mercury emissions as a side benefit achieved ^by ^ buy the rule

which, as currently written, is designated to reduce emissions of sulfur dioxide and nitrogen dioxide.

We recognizes that mercury poses a serious health threat to humans and our life and request the EPA elevate consideration of mercury's impact on the health of birds and other wildlife populations in finalizing this rule. Burrows is concerned that the current options may not adequately protect residents and wildlife of up to five new power plants planned within 40 miles of Squaw Creek National Wildlife Refuge and close to natural areas, other local natural areas, we are concerned that the current proposals do not adequately address the problem of local mercury hot spots.

We're aware that according to reports from Kansas City Power and Light's Hawthorne Plant, Wyoming Coal, the type currently being considered for use in the new plants, follows catalyts. The technology does not work. We are aware that recent research indicates that ozone reacts with elemental mercury to form the soluble form. Our area has experienced many ozone exceedences in the past and is expected to exceed guidelines in 2004.

We are concerned that the proposed cap-and-trade program may not adequately address the issue of hot spots and may create new local hot spots for mercury through the cap-and-trade proposal. Rather, this would endanger the health of our region's residents and damage our regular's potential for truism and recreation. Burrows respectfully requests that the EPA establish a rule that would result in the maximum emissions reductions feasible.

We strongly recommend that the EPA create incentive in the rule to stimulate the development of technologies to make those reductions possible. We thank you -- finally, we request that in using existing information, EPA conduct an analysis of technologies, costs, health impacts, and economic benefits before choosing a regulatory option.

We thank you for the time to consider our concerns. We hope to hear from you concerning your actions on our recommendations to evaluate the possibility that

hot spots could result and that regulations be written to ensure that these areas are reduced and no new hot spots are created. Thank you.

CHAIRMAN WEHRUM: Thank you very much.

Marcia Willhite and Lee walker. On deck is Ajay Goyal.

MARCIA WILLHITE: Good afternoon. My name is Marcia Willhite, W-I-L-L-H-I-T-E. I'm the chief of the Bureau of Water at the Illinois EPA, and I'm a member of the Association of State and Interstate Water Pollution Control Administrators. I'm speaking today on behalf of the president and board of ASIWPCA, an organization that represents state and interstate program managers who on a daily basis implement and administer the requirements of the federal Clean Water Act as well as state and regional requirements to protect water quality.

My comments will focus on U.S. EPA's mercury reduction proposal. As you know, the endpoint of interest when controlling air emissions of mercury is contamination of fish tissue that is consumed by humans and wildlife. As you also may be aware, such contamination is widespread in the United States, leading to statewide and water body specific fish consumption advisories in most states. Although, there can be localized contamination or direct discharges of mercury to water bodies, many lakes, rivers, and streams in this country receive a large contribution of mercury from atmospheric deposition.

Since emissions from power plants are easily transported and since the chemistry of mercury can allow long-distance transport, a significant amount of mercury can be contributed from sources outside the watershed of a particular water body.

The Clean Water Act states -- requires states to identify impaired water to determine what reductions in loading need to occur to restore water quality, that is to develop a total maximum daily load or TMBL, and to develop and implement plans to accomplish that restoration. When fish from a water body are so contaminated with mercury that we must advise our citizens to limit their consumption of fish or face

an increased risk of adverse health effects, that water body must be listed as impaired. States are expected to have cleanup plans, that is TMBLs in place and working by 2015.

Mercury air pollution is a regional, national, and global issue that requires solutions of the same scale. However, the obligations of the ASIWPCA members and ultimately U.S. EPA is to solve water quality problems at the watershed level. ^263think ^ this will be impossible for mercury that is contributed from outside the watershed of a particular water body.

An individual state cannot control sources outside its boundaries. The recommendations from the states was that implementation of the strong federal mercury reduction program would be a defensible substitute for watershed by watershed TMBL for mercury. Hence, ASIWPCA has advocated for years, both independently and in conjunction with the environmental council of states or ECOS, for a strong federal mercury reduction program that will reduce mercury air emissions as much as possible as quickly as possible. ASIWPCA is extremely disappointed with the weak proposals that have emerged.

We are puzzled as to why U.S. EPA has on the table the proposals for mercury reductions of 29 percent and 70 percent when states are developing rules requiring 80 percent, 85 percent, even 90 percent control. We are aware of technologies ^being ^ can used ^now ^ know ^by ^ buy operating power plants that provide that level of control.

We are concerned that the time line before controls will be required is so long. Based on the Florida Everglades experience in which stringent controls were applied to incineration sources in the 1990s resulting in a steep decline in fish tissue levels of mercury within last less than a decade. We can conclude that the quicker we start, the quicker the risk to our citizens can be reduced.

A compliant date of 2018 under the Section 111 proposal would be far too late for a state to use the federal mercury rule as a part of the plan to restore an impaired

water body, and we would be looking at 2028 before substantial fish tissue reductions occur in the best of cases. We're talking 25 years before a current public health risk even begins to resolve.

Finally, we are concerned that a cap-and-trade program can lead to hot spots. Again, the Florida Everglades study demonstrates the value of local controls to reduce local impacts when, like in South Florida, the form of emissions tends to deposit locally.

In light of these concerns, ASIWPCA recommends the following: Whichever mercury reduction proposal, U.S. ePA ultimately promulgates, it needs to require the highest reduction feasible. It appears that 85 to 90 percent control is feasible; if U.S. ePA promulgates the Section 111 proposal, the time line needs to be shortened by at least eight years; if U.S. ePA promulgates a cap-and-trade program, make it clear that buying credits is only available to those plants that can demonstrate through modeling that deposition of their mercury emissions is occurring in someone else's backyard and not in local water bodies. If the cap is not substantially lowered below the 15 ton proposal, make it clear that states may permanently retire mercury credits allocated to them rather than permit their use.

Again, ASIWPCA is disappointed that U.S. EPA is not proposing the kind of strong federal mercury reduction program that will result in comparable, reliable, equitable, and sufficient reductions to allow states to minimize the risks to their citizens and fulfill their obligations under the Clean Water Act. U.S. ePA has ultimate statutory responsibility, along with the states, for assuring that better quality standards are achieved and impaired waters are restored in a timely matter.

If the mercury reduction rule of either approach is promulgated as proposed, ASIWPCA is concerned that states and interstates will be unable to provide reasonable assurance, under the Clean Water Act TMBL rule, that water quality standards will be achieved. Instead, U.S. ePA will be looking to the states for a better demonstration and reasonable assurance and states will be forced to develop a

patchwork of varying state-level requirements to solve what is a national-scale water quality problem. Thank you.

CHAIRMAN WEHRUM: Thank you.

LEE WALKER: Good afternoon. My name is Lee H. Walker. I'm director and founder of the New Coalition for Economic and Social Change. I'm a senior fellow at the Heartland Institute located in Chicago.

Thank you for giving me this opportunity to testify on the proposed utility mercury reductions and interstate air quality rules. I am not a scientist. I am, however, somewhat expert in how public policy is made and the unintended impact it can have on the minority and low-income people. I believe this is one such case.

The Bush Administration is proposing dramatic reductions in sulfur dioxide, nitrogen oxide, and mercury from power plants. More, in fact, than health and environmental experts at the Mercatus Center, the Cato Institute, the American Enterprise Institute, and other respected think tanks say is justified in terms of health risks and costs involved. ^by ^ buy trying to reduce the emissions too much too fast, we risk incurring social costs that far outweigh whatever small and hypothetical health benefits we might be aiming for.

The administration is softening the blow by offering to allow emission trading similar to what was done successfully to reduce sulfur emissions at a reasonable price. Emission trading means companies with high costs of reducing emissions can buy emission permits from those with low reduction costs, meaning the required reduction takes place at the lowest cost. It is a good policy. Although in this case, it is being used to reduce costs that are unnecessary in the first place.

Professional environmental advocates say the reductions are not enough and they think emission trading allows some polluters to continue to pollute, harming their neighbors. Note I say professional environmental advocates, because the overwhelming majority of environmentalists know little about this issue and are not participating in the debate. The newsletters and fund-raising letters they receive from

the professional environmental advocates thoroughly misrepresent the issue. I have no sympathy for their claims. I believe they are wrong.

According to the Environmental Protection Agency mercury emissions and their presence in the air are strongly trending downwards, as are all other pollutants, and are expected to keep falling due to technological change and implementation of current standards, even without new legislation. Most of the mercury in the air and in the entering the Great Lakes today comes either from natural sources or from China and other third world countries that burn coal without emission control. More strict standards on power plants in the U.S. obviously will have no effect on those sources and consequently have no effect on air or water quality.

There is little evidence that eating fish and breathing current ambient levels of mercury pose a health threat, even to children and pregnant women. I know this is a controversial assertion, and I have already admitted I'm not a scientist. So for documentation of my claims, I urge you to go to the Heartland Institute website at ww.heartland.org and use our policybot, search for the word mercury. You will find dozens of studies and commentaries exposing the junk science behind the environmental movement's effort to link fossil fuel combustion with mercury emissions and health effects.

So why, really, are environmentalists calling for steep reduction in mercury and other power plants emission? By demanding on unreasonable reductions in mercury, they hope discourage the use of coal and eventually other fossil fuels, such as oil and natural gas, which they think will lead to a Garden of Eden style lower output economy where most of us are poor but in enjoy ourselves or some science fiction style advanced technology -- technology economy where windmills, solar panels, and fuel cells generate all the power we need without a smokestack. Let's get real. Neither scenario is likely to pan out.

What is most likely to happen, indeed, what environmentalists expect will happen, is that energy prices will rise, economic growth will slow, and unemployment

will rise. It is undeniable that when this occurs, black and low income people will be harmed the most.

Energy costs take a bigger bite out of the budgets of low-income folks than after hiring-income folks. So higher energy costs are regressive. Higher emergency costs also means lower economic growth. The American Council for Capital Formation has demonstrated this fact to virtually no rebuttals. And African-Americans and the poor are still the last hired, first fired. So we get hurt a second time.

And manufacturing is particularly affected by higher energy costs because manufacturing requires more energy than the service and high-tech sectors of the economy. Therefore, it makes it more difficult for manufacturers in the U.S. to compete with manufacturers located in other countries.

I have to wonder how many of the people in ^267think ^ this room testifying for more strict environment standards than what the Bush Administration has proposed work in factories. Not many, I'm sure. I see wealthy and white environmentalists advocated a feel-good policy without regard to the impact it would have on people of color, low-income people, and blue-color workers.

The tears they cry for poor people exposed to pollutants are insincere. They are indifferent in this case to the suffering their policies impose on the poor and the black community, just as they are indifferent to the suffering caused by their constant advocacy of higher taxes and more regulation of industry.

They are misusing science and ignoring economics. Consequently, I urge you to reject their call for even more draconian reductions in emissions than the president has proposed. Thank you very much.

CHAIRMAN WEHRUM: Thank you, Mr. Walker.

Ajay Goyal and Michelle Gottlieb.

AJAY GOYAL: My name is Ajay Goyal. My company is Sasy Concrete, and we provide engineering services to the industry which is the cause of all these

emissions which we're trying to address today. I thank you for the opportunity to put in my two wits.

Emissions are hazardous. We all know that. The more emissions we have, the more hazard we have. The less emissions we have, the less hazard we have. It's difficult to say whether emission of zero plus point mega micros per ton or is good or bad. Nobody knows really. So the question is how good is good enough. That is the problem not only which EPA has faced in your industry, but in many other businesses.

The proposal which are based on numbers of so many tons of this and so many tons of that and so many others of that and so many others of that does not recognize a lot it. I'm assuming that these values which have been proposed are based on the Clear Skies Act which was recently proposed. So my comments are based on that I found on the Clear Skies Act.

The Clear Skies Act claims that ^by ^ buy implementing the program, the health benefits are going to be anywhere from 24 to \$113 billion a year, but that's a pretty big number considering that the total revenue of the electrical industry right now is 220 million a year. How good is good enough? So there's a benefit and that obviously supports a ^certain ^ concern cost in the investment. 24 to \$113 billion per year benefit. Supposed an investment of 300 billion to a trillion dollars.

The total electrical industry consisting of over 900,000 megawatts of power plants, leaving aside the nuclear which is 3 million dollars. That's the kind of investment which this benefit can support. Based on the values which you have proposed or want to propose, but I think investment can be 5 or 6 billion a year, something in that range. Not in the region of trillion dollars definitely.

What I'm really saying is this, is that with a trillion dollars, we can revamp the whole electrical industry eliminate -- redo all the power plants to save those \$113 billion a year on health benefits. That is the magnitude of the problem. And that is the magnitude of the money can be put behind it to reduce this to some infinite small

value.

The next is if we have all these health problems which Clear Skies is going to reduce, why we need it. I think the numbers I read off for the \$113 billion we talk about 140,000 deaths or something like that per year, the 14,000 premature deaths, 88 new case of bronchitis, 23,000 nonfatal heart attacks, 30,000 hospitalizations, do we need to ^wait ^ weight to 2020 to bring them down?

Looking at all these issues and the big numbers behind them, we should be providing preferential treatment for zero emissions renewable energy type of technologies which essentially brings emissions down to the zero level. I do not see anything in that direction. In other words, the controls and emissions should be consistent with ALARA, as low as reasonable available technologies.

The cap-and-trade is completely inconsistent with ALARA. It provides a design built in cop out option for irresponsible polluters so they can buy their way out. That doesn't solve the emissions problem. It solves his problem. So somebody who is reducing his emissions and ^being ^ can a responsible citizen, someone else is taking advantage, and ^269think ^ this whole thing, instead of solving an emissions problem, is basically becomes a money hill.

But then the emissions should be a comprehensive issue, looking at, SO₂ NO_x, mercury is not enough. I think there's about two and a half trillion tons of CO₂ -- I can't read the number, two and a half trillion tons of CO₂ which were emitted in the year 2000. SO₂ was 11 million tons. So here we're looking at 11 millions tons and 5 million tons and forgetting the two and a half trillion tons. You need a comprehensive policy which covers everything. The peaceful approach I think just diverts the attention of good actions.

The next issue is regarding the efficiency of these power plants. Putting in a scrubber in an existing coal-fired plant is like retrofitting an old car with something to reduce the pollution. As long as that car is going to be running at five miles per gallon or 20 miles per gallon cars available, it doesn't seem to make sense, but you seem to

be going that ^way ^ weigh. Conversion of coal-fired plants to combined cycles, use of ICT technology, and there are many other technologies available today. While we're talking about 2020, the technologies which we are using today in most of the power plants from a nonemissions point of view are based on the 1950s and 1940s. And yet, we say well fix them, reduce their emissions. I think we need to change the type of power plants we run and the emission also go down ^by ^ buy themselves.

Then the use of fuels also needs to be taken into consideration. Fossil fuels are essentially interchangeable. You have coal, you have natural gas, you have coal gas, and maybe down the ^road ^ rode hydrogen. All that they're trying to do is to boil them, a pound a water -- I think when you take these into account, you will find that the numbers we are trying to propose are much higher than what we can achieve.

The way I see it, the limitations of the proposed actions are -- it does not address the CO2 issue which is the major greenhouse gas. It does not address the benefits of efficient power plants. We still want to provide a Band-Aid on power plants that operate at 35 to 45 percent efficiency rather than the new technology offering 50 to 60 percent efficiency. We have the money. It's hundred billion dollars a year. It does not address extensive use of coal gas which seems to be able to provide low emissions.

In addition the use of coal gas also supports price for natural gas because to make coal gas, which is abundantly available in the United States, you need a two and a half to three dollars billion BTU charge for converting into coal gas. So if tomorrow natural gas goes \$10 a million BTU, coal gas automatically becomes technology.

Your program does not seem to address conservation, and as I mentioned previously, zero emissions relating to power sources. This is the ^way ^ weigh I see your proposal.

In conclusion, I would like to say, when you establish the rules, think of all the deaths and suffering you can eliminate ^by ^ buy reducing and then possibly -- and then possibly eliminating eventually emissions ^by ^ buy and correcting and supporting

newer technologies. Thank you very much.

CHAIRMAN WEHRUM: Thank you.

MICHELLE GOTTLIEB: Hello, my name is Michelle Gottlieb, and I'm speaking today on behalf of Greater Boston Physicians for Social Responsibility, GBPSR. Thank you for the opportunity to testify today on the EPA utility mercury reduction rule. By the way, that should read 2004.

In May 2000, GBPSR released the report, *In Harms Way: Toxic Threats to Child Development*, which summarizes highlights of laboratory, clinical, and epidemiologic research. This body of work suggests that exposure to common chemicals, such as mercury, during windows of vulnerability may contribute to learning and behavior problems in children. The implications are profound and suggest that by preventing the exposure to known and suspected toxicants, we can prevent needless disability.

Based on this report, GBPSR has been conducting training programs around the country for health professionals on preventing toxic threats to child development. Over the past year, we have been working with the Healthy Mothers, Healthy Babies Coalition in Massachusetts to educate the providers, midwives, doulas, childbirth educators, nutritionists, et cetera, who counsel the most vulnerable population of pregnant and breast-feeding women, children, and lower-income families.

During this presentation, I will briefly address the problem of developmental disabilities, review some of the latest information on mercury exposures, and share with you what we have learned from the frontlines of reproductive health care providers who are extremely concerned about mercury contamination of our fish supply.

The problem of developmental disabilities is staggering. 12 million American children are reported to suffer from one or more of these disorders. 5 to 10 percent of children are reported to have a learning disability. In fact, the number of children in special education in the U.S. increased 191 percent between 1977 and 1994.

Autism, once thought of as rare, has become a concern to public health agencies and the public in general.

A review of autism rates reported in the medical literature showed an apparent doubling of prevalence in the past two to three decades, from .05 percent to about .1 percent. Are these increases real? Unfortunately, there is no good way to know with certainty. Surveillance of developmental disabilities is a difficult problem. There is no national database that compiles information on these disorders, although a national monitoring and tracking system is in development. Much of the reported increase is likely to be due to individuals using variable diagnostic criteria as well as improved recognition, treatment, and reporting. However, some is also likely to be the result of a truly increased incidence.

There increasingly is recognition that it is the complex interaction of multiple factors during windows of vulnerability that determines developmental disabilities. These factors including nutrition and chemical exposures, genetic factors, which should not be viewed in isolation, and the social environment. Among the multiple causes of disabilities, toxicant exposures, such as mercury, deserve special scrutiny because they are preventable causes of harm.

Mercury released into the environment is foods are consumed by humans, they likewise accumulate in us. This slide shows an example of how a persistent, bioaccumulating chemical increases in concentration from a low level in the water to higher levels in larger fish to highest levels in people who eat the fish. In this way, contaminants in water may be concentrated more than a million-fold in food consumed by people.

Of particular concern, these bioconcentrated substances are typically passed from mother to fetus and nursing infant at vulnerable periods of development. Because of persistence in bioconcentration, pollutants that are virtually undeterminable in ambient air and water have appeared as global contaminants in the food chain, as well as in human fat, breast milk, and fetal tissues.

The EPA currently defines a safe upper limit for dietary mercury exposure at .1 micrograms per kilogram of body weight per day, a reference dose recently confirmed by the National Academy of Sciences. Exposures above this level pose increasing risks to fetal brain development.

Centers for Disease Control reports that 1 in 12 women, 8 percent, of childbearing age is giving birth to infants with neurological disorders due to mercury exposure in-utero. An exposure assessment in New Jersey, based on dietary surveys, estimates that more than 20 percent of women of reproductive age exceed the limit, suggesting coastal populations may be at higher risk than suggested by the national average.

A November 2002 study surveying 720 upper income patients from a San Francisco internal medicine practice found that of 123 tested for mercury, selected due to higher fish consumption, 89 percent had blood mercury levels exceeding the EPA reference dose.

A woman of reproductive age exceeds EPA's reference dose by eating more than 1.5 ounces of swordfish or tuna steaks or 7 ounces of canned tuna per week, based on average mercury concentrations of 1.0 and .2 microgram mercury per gram of fish respectively. A 20 kilogram child exceeds the safe consumption limit by eating a mere half-ounce of swordfish or tuna steaks per week, or 2.5 ounces of canned tuna per week.

To date, advising people to limit fish consumption has been the primary management strategy to prevent mercury exposure. Between 1993 and 2002, advisories for mercury increased by 138 percent. The FDA now advises pregnant women and women of childbearing age who are likely to become pregnant to avoid eating any swordfish, shark, king mackerel or tilefish. Eleven states now warn pregnant women, and in some cases children, to restrict their consumption of canned tuna to further limit mercury exposure. Unfortunately, information contained in these advisories fails to reach communities for whom subsistence fishing or fish consumption

in general has a great deal of nutritional, social, or economic value. It is also important to keep in mind that these are usually communities of color that already face a slough of environmental injustices on a daily basis.

Nutritionists and medical professionals agree that fish is a very healthy food, in many cases providing neurologic, cardiovascular, and other important health benefits. The need for health professionals to integrate all aspects of the fish consumption equation into their research and to provide patients and the public with clear, consistent information about balancing the health effects of eating contaminated fish with the health benefits of fish consumption in general is an issue of tremendous importance.

A look back on what we've learned about mercury exposure and toxicity over the past few decades provides an important lesson. This graph displays the apparent toxic threshold for mercury as it was identified at various points in time over the past three decades. It illustrates the tendency for apparent toxic thresholds to decline with advancing knowledge.

This exposure level on the right side of the graph are less than 3 percent of the toxic thresholds identified in the initial authorization from the Iraqi epidemic in 1972. It's shown on the left side of the graph. The presence of mercury effects below this level of .85 micrograms per kilogram per day implies that the actual threshold, if one exists, is much lower.

Greater Boston PSR in partnership with the MA statewide Healthy Mothers, Healthy Babies coalition, a collaboration of public and private organizations that has achieved long-standing success providing education on perinatal care is conducting outreach to healthcare providers who serve the most vulnerable populations. Many of these provider groups have had little or no focus on environmental health issues. Our programs are introducing practitioners to this important topic and convey information on pollution and exposures prevention strategies.

In the numerous presentations we've conducted over the past year, this issue of

mercury contamination of fish at on the top of list of concerns for these providers. For example, WIC nutritionists must grapple with the conundrum of providing canned tuna as a low cost source protein while warning them that this tuna is not safe, and that even one can can put a pregnant woman over the acceptable exposure limit. Childbirth educations and midwives inform us that women are confused and scared, and many choose to avoid fish completely, or worse, are overwhelmed and ignore all advisories.

And this issue becomes very personal. During one of my presentations, I looked over and saw one of the attendees, a nurse, in tears. She is not only concerned about what to advise her patients, she is also worried about her past exposures and whether they have played a role in her son's autism.

The providers that care for and counsel the most vulnerable population should be able to promote the healthy consumptions of fish, without being in the difficult position of cautioning against contamination. This will only be accomplished by reducing mercury emissions at the source and preventing fish contamination.

Fortunately this is possible, but only if proactive steps are taken to implement a rule that truly protect public health. EPA's utility mercury rule leaves too much mercury in the air for too long and leaves hundreds of extra tons in the food chain and ultimately in our bodies and those of our children. EPA's analysis in 2001 found that using strong pollution controls, not cap-and-trade, could reduce emissions 90 percent by 2008 from 45 to 5 tons annually. The EPA's current plant won't go below 15 tons and isn't scheduled to get there before 2018 or later.

Cap-and-trade leaves communities open to mercury hot spots, areas where utilities buy compliance rather than reduce local mercury air pollution. EPA's own data suggests that mercury hot spots already exist and aggressive mercury trading could make this problem even worse. Nothing in the rule precludes hot spots. The EPA rule lets polluters off the hook. The Bush and cap-and-trade rule would allow almost seven times more mercury through 2017 or beyond compared to a strong

MACT standard and at least three times the mercury indefinitely.

On behalf of the healthcare providers that GBPSR educates and represents and the women and babies they care for, we call for a rule with strong pollution controls, no cap-and-trade, and prompt implementation of a true maximum achievable standard. Thank you for the opportunity to testify here today.

CHAIRMAN WEHRUM: Thank you.

Next up are Lisa Diment and Ryan Canney.

We're going to take a couple-minute break so we can swap our court reporters here. We'll do one more, and then we'll do the switch here.

LISA DIMENT: Hi. My name is Lisa Diment. And I'm here as a citizen. I'd like to comment both on the interstate air quality rule as well as mercury reduction rule.

For the interstate air quality rule, in order to reduce particulate pollution from the power plants, I would like to comment on the effect that it has on the national park system. By 2020, which is the proposal, it will marginally reduce the air quality. It doesn't go nearly far enough. The 1977 amendment to the Clean Air Act mandated that parks have some clean air in the country.

I first visited Grand Canyon National Park back in 1996. It was beautiful, and I truly enjoyed it. I went back in 2002 to the same spot, and I had noticed that there was a -- more of a haze throughout the park. I thought it was me. But in speaking with local photographers in the area, they said no, in fact, it is becoming more polluted. They don't even bother to go and photograph the Grand Canyon unless there is a storm that has blown out the haze.

So I really haven't gone to many of the national parks in this country. I find it a great source of peace, and it is one of the places where I can go truly enjoy wildlife after leaving here in Chicago. I really think that it is in the nation's best interest to keep our parks clean at least have a resource of visibility to what they used to be in the -- years to go. The only addresses this -- the Illinois -- interstate air quality rule

only addresses power plants and lowers the other sources of the haze-generated pollution. We must also require some sum of the oldest power plants in the industry to install the best retrofit -- best available retrofit technology.

As far as the newly proposed mercury rule, the Clean Air Act requires coal -- coal-fired power plants to install technology to get maximum achievable reduction. By the U.S. EPA -- were available up to 90 percent reduction in the last three years. The administration's two phase approach to begin in 2010 will reduce up to 30 percent with 70 percent reduction occurring in 2018.

The Clean Air Act will get rid of 90 percent of the pollution ten years earlier, mercury pollution. The cap-and-trade is not for the most toxic pollutants. It does nothing to protect the area around the -- around the emission of the mercury. The proposed maximum achievable control technology is weaker than the existing law. Mercury is one of the most toxic and should not be placed in a less stringent category. I believe that rolling back a decade of the progress of toxic reduction for the fish mercury levels is intolerable.

Having lived near a great lake all my life, I have personal interest in think this because of the mercury level of fish at great lakes. Over 40 states in the United States currently have some kind of restriction on their level of fish consumption for various lakes. 14 of these states have restrictions on all of the lakes and streams. I don't think that this is very -- I don't think that this is a good way weigh to maintain our policy on mercury, and obviously from the past studies and past speakers, the effects on mercury is far-ranging.

I think in 1998 the U.S. EPA identified mercury of with greatest concern. It affects fetuses. It affects children of -- it affects adults through their reproduction as well as the cardiovascular abilities. And I urge that the EPA will continue to keep in mind the Clean Air Act as it stood and not creating a weaker standard.

Thank you.

CHAIRMAN WEHRUM: Thank you.

(Whereupon there was a change
of court reporters.)

RYAN CANNEY: Just to make this short and sweet. I'm going to try to stay away from numbers like 1 in 12 women and Section 112 and 630,000 because I'm sure they've been repeated accurately and effectively over these past two days.

My name is Ryan Canney, and I'm with Citizen Action Illinois. On behalf of Citizen Action Illinois, the state's largest public interest organization with a 90 member policy council representing the interests of organized labor, consumer advocates, senior citizens, healthcare advocates, educational leaders, persons with disabilities, conservationists and environmentalists, social workers, and children's health advocates, I would like to submit for the public record our serious concerns and objections with the proposed rule to reduce mercury emissions from power plants.

From our perspective, the risks that mercury pollution exposes the public to far outweigh utility company's desires for flexibility in reducing the mercury emissions.

We are concerned with good public policy, and the delays in mercury reductions outlined in EPA's proposals failed to meet our standards for good public policy. We want to see 90 percent reductions in mercury emissions in the next few years, not a 70 percent cut by 2018. To implement this proposal is unacceptable and if EPA finalizes a mercury cap-and-trade program, their commitment to protecting the public will again come into question.

What we need from the Environmental Protection Agency is a commitment to fight for a healthy and clean environment. Instead, the EPA, under the Bush Administration, seems more intent on fighting to relax environmental standards for polluting industries in the name of more efficiency and more flexibility.

It is our sincere hope that EPA change course and get back to upholding and strengthen a successful environmental policies such as the Clean Air Act.

Thank you.

CHAIRMAN WEHRUM: Thank you. Thank you both.

Ariele Llorens.

ARIELE LLORENS: Good afternoon. My name is Ariele Llorens, and I've lived in the Chicagoland area my entire life.

As a woman, I've always considered having children to be both the greatest privilege and the greatest responsibility that a person could have. This truism does not only apply to mothers in this modern day though. Any woman living now, especially around the Great Lakes cannot afford to begin --

MR. PAISIE: Excuse me.

ARIELE LLORENS: Yes?

MR. PAISIE: Could you move the microphone closer. The court reporter is having trouble hearing you.

ARIELE LLORENS: Good afternoon. My name is Ariele Llorens, and I've lived in the Chicagoland area my entire life.

As a woman, I've always considered having children to be both the greatest privilege and the greatest responsibility that a person could have. This truism does not only apply to mothers in this modern day though. Any women, especially around the Great Lakes, cannot afford to begin concerning themselves with their children at conception, during pregnancy, or after birth. As an individual, I must always be attentive if I'm to have any hope for having a healthy family in the future.

At 21 I'm years away from beginning a family, but I'm constantly aware of what I can or cannot eat or drink for fear of damaging my future children and myself. Not a single waterway in this state is free to eat or drink from.

Statewide we have advisories on fish consumption from mercury bioaccumulation. Not only am I concerned with the impact of public health that this pollution is causing, but I have to live within a system where the representatives that I elect and pay are standing up, not for my quality of life and interests, but for the interests of the companies and individuals that are actually causing me harm.

Think me naive if you will, but I simply cannot understand why I should have to live like this. The laws for mercury regulation are already in place, and we have the technological capabilities to make a difference and clean this toxin from our air and water. All we need is to begin a positive action of mercury towards mercury clean-up by power plants.

I encourage you, the EPA, to follow public interest and your hearts towards a cleaner environment and stop allowing special interests and fat checks to influence your policies.

Thank you for the time.

CHAIRMAN WEHRUM: Thank you.

That was the last person on the list of speakers who had asked for time.

Is there anyone in the room who hasn't signed up and would like to speak or has signed up for a later time and is interested in moving up? The answer is no.

We are going to recess until we have speakers that are ready to testify. Thank you.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: Have a seat and get started at your leisure.

STEVE FRANKEL: My name is Steve Frankel. I would like to thank you for the opportunity to speak to you today. I'm very glad you guys made it to Chicago for these.

When trying to decide what I was going to talk to you about today, I have a lot of different backgrounds. In one aspect of my life I have a Ph.D. in plant biology, in particular plant chemical ecology. You probably had a lot of people speak to you with a lot more technical expertise particularly in human health on effects of mercury. So I decided not to really go that route.

I'm also a member of the Sierra Club, but I figure you had a lot of Sierra Club

and other activists here. I decided not to go that route either.

Instead I wanted to draw on some of the other parts of what I do, so I'm going to talk as a teacher, as somebody who has looked at the history of environmentalism, and also just as a concerned citizen. I figured you can never have too many of those in hearings like this.

To start with, I teach biology at Northeastern Illinois University. One of the classes I teach is an environmental sciences course for nonmajors. We cover a wide range of environmental topics in it.

Last fall and in the class on air pollution, I was talking about various kinds of air pollution. I don't recall which one in particular it was. I think it might be a discussion on sulfur dioxide. I was explaining the health effects on the environment that were caused by some of these various pollutants.

One of my students stopped me and asked me a couple of questions. First question she asked was, do people who are generating this pollution know that it's harming people, it's causing a problem. I said, well, the chemical evidence is out there. We know the effects of some of these pollutants, and so they have to know there is some effect as a result of emitting these.

The second question she asked I couldn't answer very easily. She asked if they know it's causing problems, why are they still emitting them. I tried to explain that the presence of small amounts of chemicals don't necessarily cause problems; that in very low concentrations, they may not be a problem.

This didn't fly so well. They refused to accept that any pollution was okay. I tried to explain that trying to get rid of all of it would cost huge amounts of money, and they also didn't seem to accept that. They were really stuck on the concept though that people were willing to intentionally generate pollutants that could cause damage.

Strangely as I was getting ready to write my notes this morning, I had another session of teaching that class again. This time I was talking about the Food Quality

Protection Act and how it establishes for pesticides a minimum or a maximum cancer risk of one per million people exposed.

Another one of my students stopped me and said you mean they're approving chemicals that could possibly cause cancer. I said, well, it's a very, very, very small risk. We'll talk about how they calculate it. But if you think about the number of people in the country, worst case scenario you're going to get 200 cases of cancer out of this; whereas, by using these pesticides you may be able to provide food for 200,000 people.

Once again, my students didn't like that explanation. They couldn't get past the notion that people would be willingly subjecting other people to hazardous chemicals. Especially they couldn't accept the fact that they were doing it because of economic gain.

I have a feeling that if I was to stop in my class this morning, got them off the subject and said, well, it looks like there's a possibility that we're going to see environmental regulations that are going to allow a few extra tons of mercury into the environment from where they could, I don't think my students would have understood that concept based on what I was hearing.

The next thing I want to talk about is just a little bit of history. Judging by the clock, I'll have to do it kind of quickly. I will skim through this a little bit.

But I wanted to look not at mercury but another chemical and that's lead. If you look back in the history of lead, in particular lead and gasoline, it too is a heavy metal. It too has been shown to cause extreme problems, particularly developmental problems, some of the same things we see going on with mercury.

If we look at the history of it, there has been for quite a while a strong presence, public presence saying that we need to do something that was around before regulation occurred.

I have found a nice quote from the New York Times, and I want to read a little bit of it for you. It says: "Breathing day by day the fine dust from automobiles will

produce chronic lead poisoning on a large scale..." It went on to say that this problem was "... the greatest single question in the field of public health which has ever faced the American public. Perhaps if leaded gasoline kills enough people to impress the public, we may get from Congress a much needed law and appropriation for control of harmful substances other than foods." He went on to say whether the question is whether "commercial interests are to be allowed to subordinate every other considerations of that to that of profit." This was the New York Times talking about lead and gasoline.

Looking at what happened with the government has done, the EPA did completely abandon the use of lead and gasoline on highway vehicles in December of 1995. If we go back further, though, the ground work for that was laid in the 1970s when the EPA set up a stack of regulations that decreased the amount of lead -- the amount of vehicles that were allowed to have lead. So it was a step wise process that over 20 years reduced the amount of lead that was being put into the environment.

I don't think this necessarily is going to be a satisfactory mechanism for controlling pollution for the people who are born or the children who are born with high levels of lead. I don't think they will say, well, at least next year they won't be polluting my children quite as much with the lead coming out of their tail pipes.

But despite that, at least in the '70s and '80s there was progress. If we look back into the '60s, the fight to try to get lead regulated was held up because there was a single person who was in charge of most of the research, Dr. Robert Kehoe. He testified before Congress in 1966 that there were essentially no adverse effects caused by lead on human health. His testimony was shown to be basically wrong a few years later by a number of independent researchers.

It came out later that not only was he the only one doing research, that his research was wrong, but that he was sponsored and paid for by GM, Dupont, and the company that originally introduced the lead, the Alco Corporation.

So looking at that, it's not surprising that the results of 40 years of study found

no adverse health effects. It took outsiders to be able to do the research and find the problem.

If we look at where Dr. Kehoe's dominance over the research came from, it was because the government advocated its responsibility. The surgeon general held a committee in 1926 and decided that we needed more research and set up Dr. Kehoe as the research person.

That takes us back to the New York Times article. It was not written in the 1960s after all the evidence of health problems came out. It was actually written April 22, 1925.

Why am I wasting your time with this?

Seventy-five years went by from when there was a public outcry -- 70 years went by from when there was a public outcry to when people were finally protected against lead. The government took 70 years before it actually did what it should have been doing all along and stopping people from dumping lead into the environment. Instead, it let economic concerns rule the day, and it pushed aside the effects of lead and what the people needed in order to allow industry to continue manufacturing.

Now, as I understand the current proposal looking at mercury now, it establishes a 68 percent reduction in mercury emissions from power plants by the year 2008, which isn't bad. But if my numbers are right, that amounts to a little over 15 tons of mercury that will be emitted into the environment.

The EPA in 2001 gave testimony that using current technology we could reduce the amount of mercury by 90 percent down to around 5 tons of mercury emitted from power plants a year, which means that if these regulations at 68 percent are adopted, we're going to be dumping ten tons of mercury into the environment from power plants each year.

I don't know exactly what that means in terms of human health, but you have to wonder how much damage will ten tons of mercury do if it can be prevented.

I'm sure you've heard all the figures, the numbers, 8 percent of women of

child-bearing age exceed precautionary levels and so on. I'm not going to get into details especially since I don't have time.

I'm just going to ask you to look at what your regulations propose, look at what you could do. You are the EPA. Your job be is to protect the public. I hope that this is not the lead gas situation. I hope that pressure from industry, pressure from the government is not going to prevent the EPA from doing what should be done and cutting as much as possible mercury emissions using the present technology.

I'm teaching my environmental sciences class again this fall. I don't know how long it's going to take before these are closed, but I'm really dreading having to start explaining to my students that we're putting ten tons more mercury into the atmosphere and trying to explain why because I know they're not going to accept it.

Thank you very much.

CHAIRMAN WEHRUM: Thank you for coming. Sorry you were rushed.

STEVE FRANKEL: That's okay.

CHAIRMAN WEHRUM: Edward Haggard.

EDWARD HAGGARD: Hello. I'm here today as a private citizen, not as a member of any group or organization. I'm here today because I'm concerned for the strategic change in EPA's approach to mercury from coal-burning power plants.

Made regulation, they would delay the utilization of mercury reduction technology significantly allowing as many as ten years of ongoing mercury pollution. This would likely be accomplished by moving regulations from Section 112 to the far less rigorous Section 111 of the Clean Air Act.

I'm here today because it concerns me that the EPA which was well on its way to recommending rules that would have required every coal-fired power plant to reduce their mercury emissions by as much as 93 percent within three to four years is now optioning a change of course.

In April 2003, an EPA sponsored utility MACT working group comprised of highly regarded members from the utility industry, environmentalists, and state air

quality officials was abruptly dismantled without clear reason provided to the panel participants. Subsequently, a switch of approach from the anticipated MACT recommendations was initiated.

It is worth the reminder that the EPA's own National Toxics Inventory presents the highest emitter of mercury to the air as being coal-burning power plants, municipal waste combustors, medical waste incinerators, and hazardous waste combustors.

According to the EPA's Mercury White Paper, 60 percent of the mercury deposition comes from domestic human made sources of pollution. Of those, coal-burning power plants are responsible for the significantly greatest proportion of mercury contamination of our domestic ecosystem. The remaining 40 percent come from sources outside of the U.S. .

As these emissions contaminate the land and water, they pollute fish, wildlife, and people. Bioaccumulation occurs in fish and wildlife in its most toxic character, methylmercury. Bioaccumulation, of course, is the accumulation of mercury contaminants in fish and wildlife at a far greater concentration than that of mercury in water.

As of July 2000, 40 states and one territory, American Samoa, have issued consumption advisories for mercury. Thirteen of those states issued advisories for all water bodies in their states, and the other 27 for more than 1900 identified water bodies.

Neurotoxicity is the greatest health concern for mercury exposure. Methylmercury being almost completely absorbed into the bloodstream is distributed to all the tissues of the body including the brain. The unborn and young among us are the most vulnerable.

Try to be articulate.

CHAIRMAN WEHRUM: Thank you for coming.

RENEE CIPRIANO: And I'll keep my distance obviously.

Good afternoon. My name is Renee Cipriano, and I am the director of the

Illinois Environmental Protection Agency. I'm speaking here today on behalf of Governor Rod Blagojevich. I would like to thank the U.S. EPA for the opportunity to present testimony today.

My statements today are intended to highlight the need for aggressive national control program to meet our clean air goals and to point out some of Illinois's grave concerns regarding the shortcomings of the two U.S. EPA proposals that are subject of this public hearing, the Interstate Air Quality Rule and the Mercury Reduction Rule.

Detailed comments on both of these proposals will be filed by the State during the federal register comment period.

The State of Illinois is here today to urge the U.S. EPA to amend its proposed rules in a matter that will provide significant and near term regional reductions of mercury, nitrogen oxides, and sulfur dioxide in order to protect and improve the public health and welfare for decades to come.

There is no doubt among those devoted to the protection of our air and water resources that further reduction of these emissions from power plants is practical, warranted, and long overdue. These rule makings have the potential to significantly and dramatically improve the quality of life for millions of Americans. We ask the U.S. EPA not to compromise its obligations.

Over four million residents of the State of Illinois live in areas that do not meet the national ambient air quality standards for ozone and fine particulate matter. My agency will be required to develop and propose a plan to U.S. EPA that ensures these areas of the state come into attainment of these standards in a timely fashion.

Air pollution measurements clearly show us that high background levels of these pollutants are transported long distances throughout this country. We know that these air quality standards cannot be attained without a strong regional and even national approach to reducing these transported pollutants.

Obviously the magnitude and timing of the reductions put forth in U.S. EPA

proposals will be an important factor in determining the cost effectiveness and ultimate success of the control strategies that Illinois is even now developing.

The federal Interstate Air Quality Rule has been proposed as a means to reduce the impact of transported pollutants to such an extent that states would be virtually precluded from exercising their right to deal with transported pollutants using the current provisions of the Clean Air Act. Consequently, it is imperative that the Interstate Air Quality Rule deliver the air quality improvements that are so very badly needed.

Air quality analysis prepared by U.S. EPA in other contexts that Illinois and many other states will continue to have areas that do not attain the eight-hour ozone in fine particulate matter standards, even after the proposed rule is fully implemented.

Illinois has been working to determine whether the proposed control levels are reasonable and sufficiently stringent. What we have found is that greater reductions in transported pollutants can and should be mandated. This opportunity for additional cost-effective reductions may be sufficient in themselves to help our urbanized areas meet the national air quality standards. U.S. EPA must tighten the rule to the greatest extent feasible.

Even more distressing is the timing of the reductions. They will not occur soon enough for most states to include these reductions in their plans to attain the eight-hour ozone and fine particulate standards by the proposed federal attainment deadlines. Thus reductions that could be achieved from this major source of pollution must be shifted to other sectors where reduction will be smaller and the financial impact less cost effective.

Under Governor Blagojevich's leadership, the Illinois EPA is completing a study to determine the level of sulfur dioxide, nitrogen oxides, and mercury emission reductions from power plants that are appropriate and necessary.

A critical component of this analysis is to determine the cost effectiveness of a state-based pollution control strategy that is not in harmony with the national program

either because such program does not exist or because they are too weak.

Not surprisingly, in a state that has undergone deregulation like Illinois is, there is a significant economic distortion that is created with a market attempts to respond to regulations that are not uniformly applicable to all competitors.

If the Interstate Air Quality Rule rule is promulgated in a form that achieves its true potential, Illinois will be able to ensure the health of its citizens is timely achieved in cost-effective manner.

In further regard to the issue of cost effectiveness and based on our experience with emission trading, we concur with the concept of an interstate trading program to be administered as the Interstate Air Quality Rule. A well designed and properly implemented emission trading program will not only help ensure that emission reductions are cost effective but will actually promote greater emission reductions as more financial resources are directed to sources with the greatest emission reduction potential.

Turning to the Mercury Reduction Rule, as a Great Lakes state, we are very concerned about the high levels of mercury found in fish that populate those waters and other waters of our state.

Sadly, mercury contamination is widespread throughout this state causing fish consumption advisories to be issued for every water body in Illinois. Those citizens of our state that rely on locally caught fish as a primary food source face a major health risk.

Like other states, Illinois is required to develop clean-up plans for waters that are impaired for fish consumption and was counting on strong federal mercury reduction program to help us achieve that goal. However, under U.S. EPA's proposed rule, Illinois is unlikely to realize sufficient reductions in a timely manner to protect our citizens and to meet the Clean Water Act requirements without implementing additional measures to reduce mercury emissions.

The U.S. EPA offers several proposals for mercury reduction. Given the

limited time today, I will simply state that Illinois believes that Section 112(d) of the Clean Air Act would provide for most effective control of mercury emissions as it would require use of maximum achievable control technology.

However, the limits are too lax and must be tightened. While this may present some challenges in regard to achieving the co-benefits of mercury reduction for the control strategies associated with the Interstate Air Quality Rule rule, there is sufficient opportunity for industry to make cost-effective decisions now if they choose. This is the time for the power generation industry to lead the way.

While today we debate the details of the goals, the goals themselves are clear. We must reduce mercury, reduce sulfur dioxide, and reduce nitrogen oxides and protect the health of the consumers and your neighbors.

Now I would like to briefly turn to the question of emission trading from mercury. Although Illinois is a strong supporter of the trading programs included in the approach as part of the Interstate Air Quality Rule, we are not convinced that a trading program is appropriate for mercury. Specifically, we are concerned that local hot spots of elevated mercury may result or worsen especially if the required reduction levels are not sufficiently strict.

Another aspect of the mercury trading program is the allocation of allowances. If U.S. EPA elects to move forward with the trading element, allowances should be given to the states to allocate. States are in the best position to make allowance allocations that protect their environment and address any hot spots or protect critical ecosystems or water bodies.

We are, though, continuing to evaluate this mercury trading in the context of the federal proposals.

An aspect of the mercury reduction rule that is especially alarming is the bifurcated approach it takes to mercury reduction based on coal types. While I acknowledge that removing mercury from some coals is more difficult than others, it seems undeniable that appropriate reductions could and would be achieved from all

coals if such a requirement were adopted.

Our analyses show that power plants burning western or sub-bituminous or lignite coals are not required to take any steps to reduce mercury emissions; while power plants eastern bituminous coal must have one or more control technologies to meet the proposed emission limits.

The results will be to push more power plants to burn western coals or other fossil fuels. Such a result is inconsistent with the Clean Air Act's fuel neutrality and therefore cannot be supported. This was not the approach that U.S. EPA took when controlling sulfur from coal, and it should not be the approach U.S. EPA now takes to reduce mercury.

Moreover, these disproportionate limits do a grave injustice to economies of those states that have reserves of eastern coal and to the competitiveness of those power plants that burn eastern coal.

Furthermore, as I can attest, the impact of such an ill-conceived strategy can be to increase mercury emissions. Since 1999 Illinois has seen a 25 percent increase in power plant mercury emissions due to the switch to sub-bituminous coals in Illinois. This impact has not been reflected in any of U.S. EPA's analysis pertaining to its mercury reduction rule.

I urge U.S. EPA to establish a MACT standard under 112(d) that would be fuel neutral and have tighter limits consistent with the congressional mandate for determining MACT under Section 112.

It is clear that U.S. EPA largely ignored the deliberations of its Federal Advisory Committee Act's stakeholder process wherein, among other recommendations, industry representatives suggested more stringent reductions that are now being proposed.

In conclusion, coal-fired power plants are a major source of air pollutants, but the pollution can be significantly reduced using cost-effective technology that is available now. Further reductions will reap tremendous benefits in terms of human

health and environmental protection.

It is imperative that U.S. EPA promulgate rules that will set the tone and direction for the power plant emission reduction that are long overdue and put this country on a path to better protecting the health of our citizens and its future generations.

To shirk this responsibility in this matter will have devastating consequences that will not be able to be fully compensated through state action alone.

I thank the United States Environmental Protection Agency for the opportunity to provide these comments today, and on behalf of Governor Blagojevich, I thank you all.

CHAIRMAN WEHRUM: Thank you.

Michael Grill.

MICHAEL GRILL: Good afternoon. I'll make this brief. I realize you're coming up towards the end of a long day of testimony.

Let me just say that I believe the EPA provides an invaluable service to the citizens of this country. Unfortunately, over the past three years with the current Bush Administration, the EPA has begun to gain the reputation of an agency that is being defanged.

While I'm not opposed to cap-and-trade systems when attempting to reduce hazardous air pollutants, I'm opposed to delaying their implementation and to dragging them out over far more years than necessary and only to realize a subpar goal.

The goal to which I refer is a 69 percent reduction of current mercury emission from power utilities by 2018. A 69 percent reduction over the course of 14 years may sound substantial; however, considering that the EPA until recently had been indicating much more dramatic reductions to the tune of upwards of 90 percent by 2007, the current proposal would seem almost laughable to the consequences not so severe.

When talking into account that the EPA recently doubled its estimate for the

number of children at risk of neurological damage due to mercury exposure in the womb, one would think and sincerely hope that this current proposal would be subject to drastic and immediate reevaluation with the agency.

However, after reading the fact sheet for the proposed supplemental rule for reducing mercury emissions issued just two days ago, there appeared to be no more stringent actions being proposed; and, in fact, the language seems to have become even weaker indicating that states can choose to participate in a proposed cap-and-trade program.

Also troubling, as an aside, is the finding that in the proposed rules published January 30, at least 12 paragraphs originated almost verbatim from memos written by Latham & Watkins, the law firm representing the utility industry. It is also the former law firm, as I'm sure you know, of assistant administrator and head of the air policy office, Jeffrey Homstead.

This instance looks incompetent at best and incestuous at worst. Unless EPA does revise and tighten its proposed restrictions, it will be given to look more and more like a puppet of industry.

That said, I realize industrial and economic concerns must be addressed along with health and safety concerns. Revenue and profits equal jobs, and jobs are always extremely important, especially given the current economic state. But just as important as power industry jobs are jobs within the fishing industry for commercial and recreational.

Unless the American people see swift action being taken to combat methylmercury build-up and other toxins in the fish we eat, the fishing industry could be seriously harmed.

Taking the above issues into account, I urge the EPA at the very minimum to mandate a 29 percent reduction in current mercury emission levels by 2007 and to increase the final reduction goal to 90 percent by 2018, if not sooner.

Considering that only two years ago EPA scientists estimated that current

technologies could eliminate 90 percent of mercury emissions from power utilities combined with the fact that those same technologies will continue to advance in the coming decade, it should pose no problem for the power industry to meet such a minimum standard over the next 14 years.

Thank you.

CHAIRMAN WEHRUM: Thank you.

I have no one else on my list at the moment. Is there anyone who has signed up for a later time and might want to speak sooner or anyone has showed up who has not signed up and might have an interest in speaking? Okay.

At this point we'll recess until we have someone else interested in speaking.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: Take your time.

MARCIA JIMENEZ: Thank you very much for allowing me to be here this afternoon. My name is Marcia Jimenez. I'm the Commissioner of the City of Chicago's Department of Environment.

I appreciate the opportunity to present the City of Chicago's perspective on the U.S. EPA proposed Interstate Air Quality Rule rule and proposed mercury rule, both of which address air pollution from coal-fired power plants.

I will first offer some general comments on both rules and then some more specific comments on each one.

I want to begin by emphasizing that the City of Chicago strongly supports federal action to reduce air pollution from coal-fired power plants. Calls for federal strategy to achieve multi-pollutant reductions in power plants have been a part of the City's air quality agenda since the late 1990s.

In 2001, in fact, the same call was included as a goal in Mayor Daley's energy plan for the city. It focuses on assuring that reliable, affordable, and clean energy is

available for all Chicago residents and businesses.

A comprehensive federal action to clamp down on power plant pollution is important to the City of Chicago for several reasons. First of all, just over half of the electric power produced in the United States comes from coal-fired power plants, so coal is a very important part of the nation's energy supply.

Yet many of the 1100 existing power plants were built prior to 1977; meaning that they are exempt from the Clean Air Act from meeting modern air pollution standards. As a result, coal-fired power plants are the largest remaining stationary source of air pollution in the United States today.

Federal regulations to control virtually all of the other major sources of air pollution have been adopted in more recent years. The time to do something or do the same thing for the power plants is now.

Secondly, the Chicago metropolitan region does not meet EPA standard for ozone and faces the likelihood of not meeting EPA's new PM2.5 standard.

We work closely with the State of Illinois to carry out federal and state programs to greatly help to improve air quality and public health over all in the city. For example, under Mayor Daley's leadership, we have also launched a host of voluntary, local, and regional programs such as Clean Air Counts that are helping to accelerate the progress of improving air quality in the city.

Without meaningful federal regulations to address the source of air pollution as significant as power plants on a national level, continued progress toward achieving air quality standards will be very challenging.

Third, the City of Chicago is concerned about the impact that air pollution from power plants is having on other natural resources such as on our waterways and the resulting impact that comes about on public health. Lake Michigan and the other Great Lakes and the Chicago River, the Calumet River here in Chicago, as well as the habitat in those waterways are adversely impacted by the deposition of air pollutants into them, especially mercury.

For these reasons, the City of Chicago commends the administration's general commitment to require power plants to reduce emissions of sulfur dioxide, nitrogen oxide, and mercury. That said, however, we are also very concerned with the particular aspects of both the Interstate Air Quality Rule and the mercury rule. In short, we urge the EPA to adopt stronger standards that would apply sooner.

With respect to the EPA's proposed Interstate Air Quality Rule, the city agrees with EPA that power plants should be required to make additional reductions of sulfur dioxide and nitrogen oxides beyond today's levels of those pollutants, and we support EPA proposal to achieve such reductions through a cap-and-trade system which has already proven to be effective in achieving nationwide reductions of such pollutants.

The city's concern with the Interstate Air Quality Rule lies with the particular levels of reduction that the EPA is proposing to require and the time period change that the power plants would be given to make those reductions.

EPA's proposal is unquestionably weaker, we believe, than what is currently required by the Clean Air Act. Under EPA's proposal, power plants would be given until 2018 to make a 70 percent reduction in SO₂ and would be given until 2015 to make a 65 percent reduction in NO_x. The Clean Air Act now requires an 82 percent reduction in SO₂ by 2012 instead of 82 or -- 70 percent by 2018 and a 78 percent reduction in NO_x by 2012.

SO₂ and NO_x are the primary contributors to ozone and PM_{2.5} pollution, the same pollutants that Chicago as well as many other cities and states must aggressively reduce in order to achieve the required progress under federal clean air laws. Our deadlines for making these cuts will occur between 2007 and 2010 time frame.

Giving power plants until 2015 and 2018 to make emission cuts is likely to place a disproportionate burden on other sectors of our economy who may need to make further reductions in emissions and may present a difficulty on them, if not making it impossible. Challenges for the cities and the states to make the required progress under the federal clean air laws will have to be passed onto someone else.

We strongly encourage the EPA to leave current Clean Air Act reduction levels and time frames for SO₂ and NO_x emissions in place and do not oppose adoption of a cap-and-trade system to allow power plants to meet those requirements.

With respect to EPA's proposed mercury rule, the city agrees with EPA's conclusion that the nation's power plants need to achieve major reductions in mercury emissions. Every major industrial source of mercury pollution has been made subject to federal regulation except for coal-fired power plants, leaving the power plants with a distinction of being the largest man-made source of mercury pollution that account for 48 tons or 40 percent of mercury emissions each year.

EPA's preferred approach to regulating mercury will ultimately result in mercury emissions of 15 tons, a 69 percent reduction. While the city supports this level of reduction, I want to be clear about the fact that we have a very strong and very serious concern about EPA's proposal to give the industry until 2018 to achieve these reductions.

From our location on the shores of Lake Michigan, we are well aware of the damage that mercury pollution has inflicted upon the Great Lakes, one of the world's most treasured international resources and on the animal and plant life that live within them.

The increases have occurred increasing -- increased mercury has occurred in fish consumption advisories on the Great Lakes. The EPA's own recent study and analysis concluded that 16 percent of the babies born in the United States this year could have mercury blood levels at or above unsafe levels as a result of pregnant women ingesting fish from mercury-contaminated waters.

Given those statistics, it is difficult to conceive that EPA could propose a rule that allows the industry until 2018, 14 years from now, to achieve the required reductions in mercury emissions.

Of equally serious concern to the city is the EPA's preferred approach for achieving these reductions which is a cap-and-trade system instead of a

plant-by-plant basis. This proposes a very real danger that, for example, power plants in the Midwest region could simply buy credits from power plants in other regions and use the credits to increase their mercury emissions.

While cap-and-trade systems have merits for pollutants like SO_x and NO_x that are transported many miles away from their original source, it is well understood that the same benefits do not apply to mercury pollution which tends to accumulate at or very near its original source.

As local officials, our primary ongoing obligation is to protect the health of our citizens now, not years from now. At the same time, we also have a responsibility now to work towards a long-term sustainability of our city and of the Great Lakes as both a natural and economic resource for our region and for the world.

Chicago is doing just that through Mayor Daley's involvement in other Great Lakes issues and his Great Lakes Cities Initiative.

EPA's preferred time frame and approach to regulating mercury is at odds with our obligations and our goals, and we strongly urge EPA to abandon that proposal.

Instead, we strongly support the alternative approach set forth by EPA, the MACT standard, on which EPA has already done much work. The MACT standard would require reductions in mercury emissions in every plant sufficient to achieve a 29 percent reduction in nationwide emissions by 2007, instead of the 2018. This approach would guarantee real mercury reduction in near term leading to real improvements in public health in the near term also.

Combined with EPA's prediction that the Interstate Air Quality Rule will achieve an incidental 34 percent mercury reduction by 2010, the result would be a 63 percent reduction in mercury emissions by 2010, instead of a 69 percent reduction by 2018. We strongly encourage the EPA to adopt more stringent standards like the MACT standard, not less stringent.

In summary, the City of Chicago is encouraged by EPA's recognition that

aggressive cuts in power plant emissions are needed to improve public health.

We are also hopeful that EPA understands our concern for improving air quality sooner, not later, and recognizes that the current proposed rule making provides an important opportunity to do just that.

We trust the EPA will take our concerns seriously and will act favorably upon our recommendations.

CHAIRMAN WEHRUM: Thank you.

I have no one else on my list. Is there anyone here who has not signed up and would like to speak or anyone who has signed up at a later time who is interested in speaking sooner? In that case we are going to recess until we get a speaker.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: Brian Urbaszewski and David Cugell, if you would like to come to the table, we'll get started when you are ready.

Roberta Richardson, you're on deck.

Does Brian want to join us?

BRIAN URBASZEWSKI: Sorry to make everybody wait. Brian Urbaszewski with the American Lung Association of Metropolitan Chicago. My comments will be pretty brief, and I intend to follow them up with written comments.

I'm only going to speak in regard to the interstate transport rule, not the mercury provisions. I don't know if I'm the only person to do that in these two days, but I suspect it's a small number.

We have huge problems here in Illinois and in the metropolitan Chicago area in particular with unhealthy levels of air pollution. At present we fail to meet both the ozone and PM2.5 standards.

At the same time, asthma has reached alarmingly high levels with recent analysis by the Sinai Health System and Mt. Sinai Hospital released just last month indicating

that some areas of Chicago 25 percent of school age children suffer from asthma.

Under the Clean Air Act, U.S. EPA is supposed to ensure that all areas that fail to attain NAAQS in a reasonable amount of time do so, and this rule as currently formulated will not get us there in the time frame necessary.

Since Illinois EPA is making formal submission to U.S. EPA this month, U.S. EPA plans to announce PM2.5 nonattainment areas by next spring. Metropolitan Chicago therefore should be in attainment with the PM2.5 standard by 2010. Yet based on what's in the material on U.S. EPA's web page regarding the model impact of these rules, this will not be the case in 2010 in Cook County. In 2015, it will still not be the case in Cook County.

The county currently has 5.4 million people, the majority of the population in metropolitan Chicago. Likewise Lake County, Indiana will still not be meeting the ozone standard as far out as 2015. It has the second largest county population in Indiana, nearly a half a million people.

U.S. EPA issued a straw proposal in late 2001 that detailed what reductions would need to occur in order to comply with the requirements of the Clean Air Act; in short, what reductions would be needed to get all the areas in compliance with the NAAQS.

For sulfur dioxide, this would be a nationwide cap of two million pounds 2010. For nitrogen oxides, this was a cap on the order of 1.25 million tons by 2010.

What is being proposed in the transport rule is far less reduction of harmful emissions, and the cuts proposed are also delayed by several years. Emissions caps will be 233 percent higher for SO₂ and 168 percent higher for NO_x initially. And even when fully implemented in 2015, these figures will be 150 percent and 136 percent higher. With trading, that could be delayed even further.

More pollution for a longer period of time will only prolong human suffering and

increased medical expenses.

EPA's own analyses show that the emissions cuts mainly from power plants that have enjoyed decades of subsidies through avoiding modern pollution controls can be made much faster and deeper at minimal additional cost.

We call on EPA to require reductions of nitrogen oxides and sulfur dioxide so that states can actually meet the law's clean-up deadlines.

Specifically, to help states meet the soot lung disease. Those are the people that I see and take care of and feel need help.

You have no doubt heard and just heard and have heard before about the asthma problem, and you're aware that it exists in all major metropolitan centers, not just in the United States, but worldwide for that matter.

But particularly in major metropolitan centers in this country, and as Brian alluded to, the April 16 issue of the New York Times had an article about very high prevalence rate of asthma among impoverished areas and the innercity as high as 25 or 6 percent. That's a daily occurrence here in Chicago. The point being that asthma in certain areas is a very major health problem.

The disease asthma is an intermittent one by definition, and the occurrences and episodes occur as a result of what are known triggers. That may be a severe change in the weather, the change in season with the onset of pollens, but it is also very clearly linked with increases in pollution. And airborne contaminants change rapidly in this area because of prevailing wind affecting the lake and various other reasons.

So the triggers that are partly responsible for asthmatic episodes are clearly defined. And if you monitor emergency room visits because of asthmatic episodes and constituents in the -- adverse air constituents, they track very closely. They don't track immediately, but they track closely.

So the linkage is very clear, and the benefit from reducing the triggers would be immediate and substantial. Although it would certainly not eliminate the disease, but it would be a radical improvement for those who are afflicted and have substantially

economic advantage as well.

In addition to asthma, the impact of polluted air on people with other types of lung disease is quite substantial. Take, for example, people with emphysema or bronchitis, a relative of asthma, if you will, but they are not so lucky. They don't have periods of relative peace and calm and good health. Their breathing is impaired all the time and it gets worse and it gets a little better, and it gets worse and it gets a little better, and the worsening episodes occur in conjunction with recurring infections and with increases in environmental contamination. And we've got to reduce the pollutants that we're subjected to if we're going to have much of an impact on this disease.

I'm often asked in periods of when the ozone is elevated or other levels that are unusually high by local newscasters what we should do, how we could protect ourselves and can they interview one of my patients who has been adversely affected by environmental conditions.

I generally cannot do that because individuals vary so much in their reaction to these contaminations, and it's never -- just because Mr. X does not have any bad effects when the contaminants are high does not exclude or eliminate the relationship between airborne contamination and symptoms in patients with lung disease. Epidemiological grounds which is the most solid evidence you could find, the relationship is very clearcut, even though every one of us knows someone who is adversely affected -- whose lung disease didn't happen to get much worse at a particular time when contamination levels were high.

So I emphasize once again that the epidemiological studies in cities, not just in the United States but over the world has shown a clearcut link with contaminated environments and occurrence of symptoms, hospitalization, and death from lung diseases.

Finally, I would point out that we pay strict attention to the purity of our water supply. We close the beaches when the E. coli level rises just a little bit, far below any real danger of producing disease. As a precautionary note, we close the beaches

so that there will be no risk of anything happening. We should do no less than pay equivalent attention to the purity of the air that we breathe.

Thank you.

CHAIRMAN WEHRUM: I have a comment and question for you. The comment is if you find you're prepared presentation, we'd be more than happy to put that in the record. You can send that to us or e-mail that to us.

My question for you is do you believe there's an increased prevalence of asthma and what do you attribute it to?

DAVID CUGELL: I can't quote you the data, but, yes, I do. I was cautious to say that a clearcut time link is not always able to be established because in one patient it may occur immediately, the next fellow may take a day or two later.

All these studies have adopted various time delays between the occurrence; whether it was a thunderstorm or whatever and the occurrence of health effect, and that varies depending on the studies and primarily on the patient, the type of disease he has, so that it is not always clearly established in a small group, but on a large epidemiologic basis it is.

CHAIRMAN WEHRUM: That's the reason for my question. If you look at the natural scale, statistics at least, emissions of SO₂ has gone down consistently over the past 30 years, emissions of NO_x is down over the past 30 years, and yet I've seen reports that indicate that while that was happening there has been increased prevalence of asthma in the population and it's curious to me that you would see that happening, that inverse result.

DAVID CUGELL: Maybe Brian has some data. I don't have the numbers with me.

MR. URBASZEWSKI: I could just respond. I'm not making the claim -- the Lung Association is not making the claim at this point that elevated levels of air pollution are causing people to develop the disease asthma. We do not know why people develop asthma or get asthma. We don't know the causes. If we did, we'd

be able to find a cure for it.

The fact remains that asthma levels have gone up, the prevalence of asthma. More people have asthma out there. While we have made progress over the last 30 years in improving air quality nationwide, the example I always give is like walking on a treadmill. We're making progress, but we're not going anywhere. We have cleaner air, but we have more people who are sensitive to elevated levels of air pollution.

That's why need to clean up the air according to federal health standards and why we actually push to improve federal health standards as well because we want to see the least number of people affected by elevated levels of air pollution as possible.

DAVID CUGELL: I did not mean to imply for a amount that air pollution causes asthma. Air pollution is a trigger. Asthmatic patients have episodes in response to various triggers. If you're not already an asthmatic, the trigger is irrelevant. Brian explained it much better.

CHAIRMAN WEHRUM: I wasn't suggesting that to be the case. It was just a question that I thought you might be able to address because of your experience.

Thank you both.

Roberta Richardson.

ROBERTA RICHARDSON: I guess it's good that I came early because I get to follow-up with these professionals. I'm a private citizen that is speaking for asthma and against the interstate rule. My name is a Roberta Richardson, and I live in Homewood which is a suburb about 25 miles south of Chicago's loop.

Thank you for giving me this opportunity to express my opinion about proposed changes to the federal Clean Air Act. The Clean Air Act requires that the EPA bring our cities and counties into compliance with basic public health standards for soot and smog pollution before the end of the decade.

The Clean Air Act is a good law. The EPA's proposed changes to the law presented in the Interstate Air Quality Rule are not good. This new rule will protect power plant owners by delaying sulfur and nitrogen reductions by up to five years

while nearly doubling allowable levels of both pollutants.

I'm 62 years old and I have asthma. My son Randy is 42 years old. He was diagnosed with asthma at 18 months and continued treatment into his teens when his symptoms seemed to disappear. His eight-month-old son Tyler already requires a steroid inhalant to treat serious airway constriction.

My daughter Robin who is 40 also has asthma. Her two-and-a-half year old daughter, Ally, hasn't shown symptoms of respiratory illness yet, but she's not out of the woods. Like Robin and I, Ally may develop symptoms after adolescence.

This is my entire family. Five people, four out of five, 80 percent of us already have asthma symptoms. It may sound like a bad case of bad genetics, but strangely enough there was no incidence of respiratory illness in my family before me.

So what happened during my childhood and over the past 60 years that caused my entire family to suffer from this dangerous and debilitating disease? I come from strong pioneer stock. My ancestors on both sides were among the earliest Virginia settlers.

As a teenager, my mother's great-grandmother traveled with her father and sisters to California in a covered wagon settling in the Sierra foothills region. She was 91 years old when she died in 1926.

My dad's people were Texas ranchers, but my grandfather moved his family to Phoenix, Arizona where they lived long and healthy.

I was born in California, but we moved to Phoenix soon at the end of World War II. Although it wasn't the reason we moved to Phoenix, Arizona was being touted then as a respite for people with respiratory difficulties.

No one knew then about smog or the factors that contribute to dangerous ozone levels: Sunshine, blue sky, temperatures over 90 degrees and gentle to no wind. We had plenty of all of that. As you probably know, Phoenix is called the Valley of the Sun. Plus a lot of other factors that dirtied up the air we breathe.

When we first moved there, Phoenix was still a small city surrounded by farms

and ranches. There were cotton fields within a block of my home. I remember waving to the pilots as the crop dusters swung low over my house on their approach to the fields. This was in the late '40s, so they probably were spraying DDT. Of course, DDT was banned in the 1970s because of its deadly effect on the environment especially bald eagles. I don't remember them saying anything about what it did to little girls, however.

Phoenix started to grow in the 1950s, so there always was dust in the air from construction. As more people moved to the valley, more dangerous automobile emissions clouded the hot, dry, windless air. Before Interstate 17 was completed in the 1960s, the main route to Phoenix from the north was just a block from my house.

In addition to cars, there was the ever present construction equipment, power plants, and lawn mowers contributing to the brown cloud that hung over the valley.

Also my dad smoked cigarettes so I breathed a lot of passive smoke. By the time I was a teenager, I coughed constantly from repeated bouts of bronchitis. No matter how much I coughed, I seldom wheezed so my doctors didn't diagnose my illness as asthma until I was in my 40s.

Most doctors now know that asthma takes different forms which may partially account for the dramatic rise in asthma cases since the 1980s.

The CDC reported that in 1999 there were 26.7 million people in the United States diagnosed with asthma sometime in their lives. Between 1980 and 1994, the prevalence of asthma increased 75 percent overall and 74 percent among children five to 14 years of age.

Because asthma now is one of the most common and costly childhood diseases, a great deal of new research has been published in recent years to support the link between high ozone levels and the incidence of respiratory symptoms in children.

California's long-term children's health study has followed about 5,500 children in 12 communities since 1992. Among the findings were that children living in communities with higher concentrations of nitrogen oxides, particulate matters, and

acid vapor have lungs that develop and grow more slowly and are less able to move air through them. This decreased lung development may have permanent, adverse effects in adulthood.

Children who moved away from study communities had increased lung development if the new communities had lower particulate pollution -- they had decreased lung development if the new communities had higher particulate pollution.

Even more disturbing, however, is recent evidence that air pollution induces heritable DNA mutations. Seven years ago, scientists found the herring gulls living near steel mills on the Great Lakes tended to have high DNA mutation rates. These mutations were then transferred to the next generation of gulls increasing the offspring's chances of developing genetic diseases.

Researchers suspected at that time that air pollution was causing the mutations, but they couldn't eliminate other factors such as polluted water or contaminated fish that could also have been responsible.

In December 2002, another team of scientists published a paper indicating that air pollution is indeed the likely culprit behind these mutations. In a controlled environment, the researchers exposed two groups of mice for ten weeks, one about a half mile from a steel mill and the other about 19 miles from the mill. They fed the mice the same diet, gave them bottled water, and tended them the same way. The only difference was the air they breathed.

The offspring from the group housed near the steel mills suffered from up to twice as many mutations as offspring from the rural group and produced 20 percent smaller litters.

Mice and humans are both mammals and share 99 percent of the same genes. There's no reason why human DNA should be immune from the same pollution. So my genes may have been damaged by the pollutants I breathed as a child, and my children and their children inherited those damaged genes.

My eight-month-old grandson Tyler, like the vast majority of people now, lives

in an urban area where he's exposed to air pollution from coal-fired power plants and automobiles. He began treatments for asthmatic symptoms when he was just three months old.

Tyler is all boy and he's ready to take on the world. He already likes watching sports on TV and went to his first Cubs game with his dad last summer. There's no doubt that he will want to play baseball, soccer, and other outdoor sports when he's a little older. He can if we make sure now that the air he breathes is clean and safe.

I strongly urge the EPA not to adopt the Interstate Air Quality Rule. This rule does not go far enough or fast enough. Enforcement of the existing Clean Air Act programs is the best way to protect children and adults from dangerous power plant, sulfur, and nitrogen emissions.

As Americans, clean air should be our birthright as much so as freedom and democracy. That's why I'm here today to help reclaim that birthright for Tyler and other children for generations to come.

Thank you.

CHAIRMAN WEHRUM: Thank you very much.

VINCE BERTOLINI: My name is Vince Bertolini, B-e-r-t-o-l-i-n-i, and I live here in Chicago, and I'm a concerned private citizen. I'm here with some casual notes prepared. I have no formal comments to make, nothing written, but I'm here primarily because I want to register my deep concern about the issue of mercury emissions primarily into our waterways.

I'm an avid boater and fisherman. I spend a lot of time on the Atlantic Coast, on the Pacific Coast, on beautiful pristine rivers in the Midwest, primarily Wisconsin. I fish. I selectively harvest fish which I bring home and prepare for the table. I'm an avid eater of fish that's commercially caught, and I'm very concerned about the pollution of our food stocks and primarily of our fish stocks.

Fish are the last wild source of food that we consume, and its health benefits -- it's known to be an extremely healthy food, low in fat, high in protein. Its health

benefits are being greatly compromised by the amount of the mercury as well as other industrial toxins which are making their way into our fish and into our other food sources.

Aqua-farm fish turns out, as articles I've read recently, turns out not to be a safer way to eat fish because mercury and other toxins are making their way into the food sources that then get processed as concentrated feeding pellets that wind up -- that aqua-farm fish are fed.

I'm concerned about that as well and generally about the global deleterious effects that methylmercury has on the environment; on not only fish, but on plant life, on animals that consume fish. It's clearly a global environmental problem, not simply one that could be remotely addressed by humans not consuming fish which would be a sad way to sort of address the problem in any case.

I wanted to make a couple remarks about fishing. I don't know whether you've had commentators who have talked at all about fishing and boating over the last day and a half that you've been in session, but it's a \$116 billion recreational industry. It's a significant part of the American economy. It's per capita, I believe, the largest recreational activity in the U.S. It's enjoyed by people irrespective of their race, their gender, their ethnicity, their socioeconomic status.

Its economic benefits to the overall economy are seriously jeopardized by pollution, in particular the kind of mercury pollution that I'm concerned about.

But in addition to economic loss, I'm also concerned about cultural loss. There's a rich American cultural tradition going back to the founding of the nation and beyond that has to do with the enjoyment of nature and recreational activities that take place in nature such as sport fishing.

Fishing connects people with the natural world. It gives people an opportunity to appreciate natural beauty. It cultivates an appreciation of conservation and stewardship of natural resources. All of these things I fear would be degraded and lost by methylmercury pollution.

So this is really why I'm here to -- I don't have specific comments to make about the technical aspects of the rule that's being considered, but I strongly urge the EPA to work towards the establishment of the strictest possible standards in limiting mercury emissions that come from coal-fired power plants. And as I understand it, those emissions can be reduced by 90 percent with the excellent technologies, and this is a finding that EPA scientists themselves have come to.

And so I'm hoping that we can save the environment by using those technologies and by reducing those emissions and ultimately by moving towards cleaner and renewable sources of power such as wind and solar.

That's the end of my comments. Thank you very much for hearing me.

CHAIRMAN WEHRUM: Thank you. Appreciate you coming.

JOAN PARA: My name is Joan Para, and I'm here as a private citizen.

CHAIRMAN WEHRUM: Can you spell your name for us, please.

JOAN PARA: P-a-r-a.

CHAIRMAN WEHRUM: Thank you.

JOAN PARA: I live just north of Chicago in Evanston. I've lived here for a long time. I lived in Chicago for a long time. I feel like I belong here.

I am truly a very concerned citizen about all of this. I don't have a lot of technical information. I would like to speak of my sense of things if I may. Others I'm sure have spoken here about the dangers of mercury in fish, dangers to the nervous systems of the unborn and those of infants and young children, and I won't go over those facts.

The Environmental Protection Agency, as I understand it, is considering relaxing the rules on industrial mercury emissions. In this, the agency acts in lieu of a conscious that industry so clearly lax.

Industry driven solely by the bottom line and unfettered by effective rules has spewed pollutants into our air and created abominations like Love Canal. It has turned the lower Mississippi into a sewer and created a dead zone in the Gulf of

Mexico where nothing can live, nothing.

This is not a time when we can afford the luxury of relaxing the rules on mercury emissions or any other environmental pollutant. Mercury will continue to accumulate in our streams, our rivers, our lakes, and oceans. We cannot remove it, at least not at present. We can only slow the rate at which it accumulates.

It is highly important that we do this one thing which can be done; otherwise, where will we be in 15 or 20 years? Taking just this issue of methylmercury in fish, will we tell women in 2020 that they must eat no fish at all during their child-bearing years? I think it's important to think about it.

Thank you.

CHAIRMAN WEHRUM: Thank you for coming.

CAROLINE HERZENBERG: Can you hear me?

CHAIRMAN WEHRUM: Very well, thank you.

CAROLINE HERZENBERG: I had a little trouble with that yesterday, but it seems to have been resolved.

My name is Caroline Herzenberg. I'm a retired physicist and a resident of the Chicago metropolitan area, and I want to thank you all for inviting all of us to come and tell you what our thoughts are on the subject of mercury emissions from power plants.

This short presentation is addressed to EPA's proposed rule making that was introduced in December 2003. I understand that a supplemental rule for reducing mercury emissions from power plants was just introduced on February 24, the day before yesterday, but it only came to my attention this morning, and I've not yet had an opportunity to address this newest supplemental rule.

First, a few points about dangers of mercury pollution. I do want to emphasize from the start that I'm not here to demonize mercury by any means.

Like many people my age, I have a long history with mercury, and a great deal of it is fairly enjoyable. When people my age were kids, mercurochrome was one of

the disinfectants of choice. Everybody used it and little girls even applied it to their lips as a substitute for lipstick, which I guess is kind of an appalling thought now, but that's the way things were in those days.

Kids enjoyed playing with metallic mercury and applying it to copper pennies to see their surfaces change to a silver color.

When I was a graduate student, I worked in the laboratory where a lot of mercury was used for thermometers and barometers and mercury manometers and mercury diffusion pumps.

And this was an old laboratory, and you'd see a good deal of shiny, spilled mercury in the apertures between the floor boards.

So I have many happy recollections of interactions with mercury. That being said, we do need to recognize that mercury is toxic and that sufficiently high exposure to mercury's compounds can be lethal; while less exposure can have deleterious effects.

As indicated in the slide, mercury is a potent neurotoxin that especially threatens the brains and nervous systems of fetuses and young children. It's my understanding that nearly 10 percent of American women have unsafe levels of mercury in their blood putting over 300,000 newborns at risk.

So mercury is a hazardous substance whose emission into the environment should be quite stringently controlled.

A few remarks about sources of mercury pollution. The largest source of uncontrolled mercury pollution into the environment appears to be emissions from power plants. Because of this -- it seems to me the best way to protect our population from mercury pollution is to provide adequate control of emissions from coal-fired power plants especially.

This is one reason for moving to cleaner fuels for power: Clean coal, synthetic fuels, and nuclear power, among others. I strongly advocate the attempts on part of the United States to try to clean up the fuels that we use.

There are a number of other sources of mercury pollution that need to be addressed including emissions from chlorine production plants where mercury is used in the process of production of chlorine, but today mercury emission from power plants is the topic.

Now, this year, as you all know, the Bush Administration is making a decision that can have an enormous impact on public health, particularly the health of women and children. Under an agreement with public health advocates after a number of years of delay, finally by the end of 2004, the EPA must establish rules to reduce mercury emitted by power plants, which as I mentioned earlier, appears to be the largest uncontrolled industrial source of this toxic air pollutant.

The Bush Administration's proposed new regulations regarding mercury pollution have less stringent standards than desirable, delayed implementation, and potential mercury emissions from credit trading among power plants which may lead to local hot spot areas with exceptionally high mercury levels and undesirable outcome.

EPA has proposed, as I just mentioned, less stringent standards for mercury emissions. In December 2000, EPA found that mercury emissions constitute hazardous air pollution requiring the maximum amount of technological achievable reduction.

Great. Many of us applauded this. Seemed like a step in the right direction. I think there's agreement among many people that, in fact, mercury emissions do constitute in a nontechnical sense hazardous air pollution, and that maximum amount of technologically achievable reduction should be applied. Those of us who worked in technology also recommend that a good deal more research go into improving the technology for achieving these ends.

Unfortunately, EPA's proposed new or weaker regulation that was proposed in December would rescind this finding.

The new proposal is also less stringent than was recommended by the majority

of EPA's only panel experts who spend, as I understand it, more than two years addressing these problems.

The other point I wanted to make is that EPA has proposed delayed compliance. Previously EPA staff had reached a determination that requiring maximum achievable mercury emissions reduction would result in a 90 percent cut within three years. That sounds pretty good to me.

However, as of December, EPA's new weaker proposal would give polluters at least 15 years to make these reductions rather than the three years required by law. Now, fifteen years is going to take a bit bite out of the next generation of young children. That's 25 years to a generation. That's a long, long time that we'll be exposing American youngster, American fetuses, American babies to mercury pollution. So it seems to me that emissions reduction within three years would be really much more desirable for health and the environment.

On the subject of emissions trading. EPA's proposed emissions trading might result in local hot spots. There has been some discussion of this in the literature. The new weaker proposal that came out in December would allow some mercury emission sources to avoid controls entirely by letting companies exchange pollution credits from each other.

This plan could leave hot spots with extremely high levels of mercury at various locations throughout the country. The Chicago area has been identified as such a potential hot spot.

I'm not going to go into detail about this. The Chicago Tribune a couple days ago had an article in which there were some diagrams and discussion of sources of mercury emissions in the Chicago area and a discussion of Illinois with respect to other states.

What this means. Well, it seems to me that the EPA's proposed new plan would expose our children to far more mercury far longer than what the agency has said is both achievable and cost effective.

Finally, in regard to next steps, I think the next step that should be taken, the EPA should act to protect our children's health by requiring all power plants to install controls to reduce mercury emissions by 90 percent by 2008. It's my understanding that the Clean Air Act requires these reductions, and I think there's wide agreement among citizens to the effect that this would be the most desirable next step.

I want to thank you for your attention.

CHAIRMAN WEHRUM: Thank you.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CHAIRMAN WEHRUM: Whenever you're ready.

KURT WALTZER: Thank you for the opportunity to testify today. My name is Kurt Waltzer. I'm testifying on behalf of the Ohio Environmental Council. We're a statewide network of environmental, sporting, conservation, and public health organizations with over 3,000 individual members and 120 supporting groups.

Regarding the -- and I should add at this Ohio waterways.

In addition, it isn't just a public health issue for our sporting member groups such as the Ohio Smallmouth Alliance and the League of Ohio Sportsmen, it's really a direct attack on a way of life on our state.

Fishing has been a part of family life in the Midwest and Ohio for generations. The increasing toxic load into our watershed is a burden on families and parents who are trying to extend the values of stewardship and enjoyment of outdoors to their children.

Ohio's power plants are the single largest source of mercury and are responsible of over 50 percent of mercury emissions. Ohio is also the home of innovative pollution control technologies, such as Sorbent Technologies, which is one of the leaders in powder-activated carbon injection technology. This technology, based on industry data, can achieve 90 percent reductions in existing plants and up to 95

percent reduction on new plants.

Under the Clean Air Mercury MACT rule -- under the Clean Air Act, mercury MACT should require emission reductions from all coal-fired power plants by 2008 to levels that are equivalent to what could be achieved by up-to-date or the most modern pollution control technology. However, the proposed rule would require only a 30 percent cut in emissions and in that case not until 2010.

In addition, deeper cuts are going to be required from Ohio's bituminous coal, than for example, say, Wyoming's powder river basin coal. This could incent utilities to switch to powder river basin coal in Ohio, which hasn't occurred yet, and sort of have the perverse effect and potentially increasing mercury emissions from Ohio stacks and further weakening the existing shrunken coal industry in Ohio.

The proposed alternative new source performance standard rule would eventually require deeper reductions but not for more than a decade and not to the levels that we believe are required under the MACT approach. The NSPS alternative also creates different standards for different coal types but also goes further by allowing for mercury trading.

Both of these in combination increase -- further increase the risk of local emissions and exacerbate existing mercury hot spots and also potentially -- and also increase the risk of potentially creating new mercury hot spots in Ohio's waterways.

So we respectfully urge the U.S. EPA to reject the alternative new source performance standards approach, adopt a rule under Section 112 of the Clean Air Act that maximizes the protection of human health and our fisheries by promptly reducing mercury emissions to the level that we know is technologically feasible, at least 90 percent.

The OEC also urges the EPA to strengthen the proposed rule to reduce sulfur dioxide and nitrogen oxides emissions from power plants. This fine particulate pollution hits Ohio hard with an estimated 1900 premature deaths each year according to estimates by Abt Associates, your health benefits analysis firm.

All Ohio's large cities and many important Ohio river communities in our state are facing nonattainment due to fine particulate pollution. These communities are becoming increasingly aware of both the public health and the economic consequences of our poor air quality.

Fine particulate speciation monitoring from Ohio cities, particularly Cincinnati and Columbus, indicate that power plants are responsible for about half of the fine particulate problem in our major cities. It's very likely that along the Ohio river communities it's much higher.

The proposing of this rule is an important first step in helping Ohio communities improve their air quality and meet health standards; however, it is an incomplete step.

The rule would require a 3.2 million ton cap on sulfur dioxide by 2015. However, the U.S. EPA's own modeling shows that many of Ohio's large cities and Ohio river communities would still remain in nonattainment by 2015, five years past the deadline to meet fine particulate standards.

While it's not our contention that power plant clean-up alone can solve Ohio's fine particulate problem, it is the most cost-effective way to get there. U.S. EPA's analysis shows that emission cuts can be made faster and deeper with only minimal additional costs.

The OEC urges the U.S. EPA to adopt a final PM transport rule that will maximize public health protection for Ohioans and provide the greatest assistance possible to our communities' efforts to clean our air. We recommend that the final rule should set a national emissions cap of two million tons per year by year 2009.

That's the extent of my comments. Thanks very much.

CHAIRMAN WEHRUM: Thank you.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

MICHAEL KAYE: My name is Michael B. Kaye, and I have no affiliation.

With respect to the proposal before the EPA at this particular moment, the proposal to use a cap-and-trade program as opposed to MACT program to achieve reductions in mercury emissions, first I want to say the goal of reducing mercury emissions is very laudable. And as presented the cap-and-trade program, since it will yield greater reduction in mercury, is the obvious choice when compared to the MACT program.

I feel, however, that none of these programs go far enough in that -- with particular reference to the coal-fired power plants in Chicago area, these plants have been pumping out toxins for 100 years, and it's high time they stopped. They will protest perhaps that they didn't know how harmful these things were at the beginning, but they certainly do now. In the case of mercury and arsenic, we've known their toxicity for well over 100 years.

These plants have furthermore not lifted a finger to reduce any, that I know of, or substantially any of their emissions, in particular mercury. And, again, it's high time they stopped and stopped completely.

I would like to propose a pretty drastic plan which is that they be obliged to reduce their mercury emissions to zero in five years.

These companies will claim that if they were forced to do this, they would go bankrupt. We've heard these threats before. None of them have ever turned out to be true.

If it were the case that coal-based electrical power production would have to stop and be replaced by renewable source, power production I think that would be a good thing, and this kind of program would give an economic incentive to finding alternate sources of energy. The only way to get industry to find alternate sources of energy is to put an economic incentive behind it. And if they simply cannot make any money by burning coal, then that will encourage, to say the least, to work seriously on other sources.

Conservation is also a good thing to promote, and our local utilities have not

lifted a finger towards conservation. They still give you a great discount on the more power you use.

So I think a program to give five years to reduce mercury emissions to zero would be a -- have a salutary effect in the big picture. Obviously part of the cap-and-trade program I like very much as opposed simply saying you have to buy the most efficient available technology to reduce emissions, simply capping the emissions is a great idea. But capping it at 15 tons is not adequate.

Thank you very much.

CHAIRMAN WEHRUM: Thank you.

(Whereupon, a break was taken,
after which the following
proceedings were had:)

CAITLIN STICCO: Good evening. My name is Caitlin Sticco, C-a-i-t-l-i-n, S-t-i-c-c-o. Thank you for the opportunity to comment today on the proposed utility mercury reduction rule.

Mercury is a toxin that attacks the eyes, kidneys, and central nervous system resulting in a wide variety of neurological disruptions as well as visual impairment, endocrine disruption, and renal failure. Mercury is toxic to developing fetuses and small children at much lower doses than produce symptoms in adults causing neurological damage that may range from retarded development and learning disabilities to symptoms similar to those of cerebral palsy.

Mercury contamination is increasingly widespread and problematic. I'm sure by this time in the comments that you've heard the numbers such as 160 tons of mercury a year, 12 million acres of lakes under advisory and so forth, so I won't repeat them.

I feel it bears repeating, however, that the EPA itself estimates that nearly one quarter of U.S. kids are getting dangerous levels of exposure to mercury and that a recent census by the Centers for Disease Control and Prevention indicates that 8 percent, or 1 in 12 women of child-bearing age in our country, such as myself, have

mercury in their bodies at levels that will endanger the health of a fetus. They estimate that 300,000 babies will be born annually at risk for neurological damage from mercury exposure in the womb.

They noted at the time of this survey that these numbers were much higher than they had expected representing a great increase in mercury contamination from previous measures and that mercury contaminated is now among their top public health concerns.

Nevertheless, the EPA recently proposed that the CDC number is too conservative. They estimate that the number of babies born at risk is closer to 630,000.

While I applaud the EPA for taking steps to finally regulate mercury emissions of power plants, I'm afraid the proposed standards do not meet the requirements of the Clean Air Act, do not adequately protect public health, and do not even meet the EPA's own previous expert recommendations on mercury emissions.

Under Section 112 of the Clean Air Act, toxic substances such as mercury must be controlled to emission levels achievable by maximum achievable control technologies or MACT. It makes perfect sense to any ordinary person that we would use the best technology we have to pollute as little as possible.

Only a few years ago, the EPA estimated that under a MACT standard, we could reduce 90 percent of mercury from power plants using existing technologies by 2008.

Furthermore, in 1999, the EPA estimated that the price tag for installing mercury specific control on those power plants currently without existing capture, which would cut emissions by 70 to 90 percent, would be only \$2.7 billion. They also estimated that these costs might decline by an additional 40 percent.

The utility industry generates \$250 billion in revenue every year, so we are talking a one-time cost that is about 1 percent of the revenue within a year for the industry.

This approach, specific to each power plant, would also cut emissions most where they are worst, helping to eliminate areas of particularly high mercury concentration or hot spots. Looking at the dramatic benefits and low cost of implementing a MACT standard, this is a no-brainer. This is one of those very lucky times when we're not struggling to choose between the economy and the environment. We have these emission reductions within our reach at an affordable cost.

In fact, let's compare the cost of making these changes to the cost of not making them. Let's go back to those children born at greater risk for neurological damage and other effects of mercury poisoning. While we know that increased levels of mercury contamination will likely lead to rising levels of children born with these problems, let's use the conservative CBC number of 300,000 a year.

The cost of educating a child with special needs, according to the National Education Association, is \$9,369 more than educating an average or ordinary child. For 300,000 children, the cost is then more than an additional \$2.8 billion every year for children damaged by mercury.

While that number won't drop right away after mercury emissions are cut, it's clear that over the next decade we would be spending much more on special education for children damaged by mercury than we would spend on a one-time \$2.7 billion installation of mercury capture technology.

That is the cost of education alone. I have not even begun to discuss the much more complicated and varied costs of medical services for neurological damage. To give you a taste, it costs up to \$1200 for one year of Ritalin to treat attention deficit disorder, and it costs about \$500,000 a year for the care of a cerebral palsy patient.

While it is difficult to project the dollar costs of extra medical care and special services for these children, it is impossible to calculate the cost in emotional hardship to their families. It is obvious that we have a moral obligation to do our best to ensure that every child born in this country can claim his or her birthright to health.

In light of this, I'm very disappointed to be commenting on a proposal that will

allow emissions six to seven times less protective than what is achievable according to the EPA itself and what the Clean Air Act requires.

When we can achieve 90 percent reductions, why are we talking about 30 percent reductions? When we can say get it done by 2008, why does this proposal say get it done by 2018, a decade longer than necessary according to the EPA's own panel of experts.

Additionally, the EPA's preferred approach is now nonplant specific. They instead want power plants to be able to buy and trade mercury pollution credits the way they can now buy and trade nonhazardous air pollution credits.

However, the toxic nature of mercury and its tendency to localize make it very different from, say, carbon dioxide, a nontoxic gas which diffuses fairly rapidly in the atmosphere. Thus, in addition to releasing more mercury than necessary overall, this proposal will probably affect areas of high emission much more negatively than others, worsening mercury hot spots.

I find it shocking that the EPA would act against the recommendations of its own panel of experts, who after working for two years on the problem of mercury emissions recommended a much more stringent policy than anything in this proposal. And I think it begs the question, who would benefit from letting our environment fall into this kind of disrepair and endangering the health of so many children.

Among the biggest beneficiaries of this policy would be the nation's largest polluters, the Southern Company, whose executives and lobbyists have raised upwards of \$500,000 for President Bush's 2004 campaign.

Others who have raised collectively more than \$400,000 in campaign funds and whose companies could benefit include the executives of First Energy, the second largest emitter of mercury in Ohio; Burlington Northern, who mine and ship coal; and Union Pacific, who also mine and ship coal.

Texas companies specifically will also benefit from the new rules. Texas plants release more mercury than any other state in the country.

It certainly gives the appearance, if not the reality, that there is a handshake and a wink happening between the Bush Administration's EPA and an industry that may feel that while \$2.7 billion isn't bad, \$900,000 sounds a lot better, even if it forfeits the health of a generation of unborn children.

This appearance is made even worse by the language found on several pages of this proposed rule which is identical to that in memos from energy industry lawyers and a report from a utility organization, West Associates, concerning mercury regulations.

In conclusion, the EPA's mercury plan will expose our children to much more mercury for longer than what the agency has said is achievable and cost effective, what the Clean Air Act requires, and certainly what our conscience tells us is necessary.

I, therefore, recommend to the EPA that they revise their proposal to reflect MACT standards, to cut emissions 90 percent by 2008, and to encourage energy conservation and alternative new sources of energy production that do not create mercury emissions.

Thank you.

CHAIRMAN WEHRUM: Thank you.

The audience has swelled during the presentation.

Is there anyone else here who would care to speak? It's a particularly poignant question because if not, we're going to take an hour and a half dinner break.

Feel free.

ANDREW ALLEN: My name is a Andrew Allen. I moved down near the Fisk power plant not quite two years ago, and I have been supporting Illinois PIRG and a bunch of other groups, wildlife groups, and Illinois PIRG called me to come -- to tell me about this hearing. I tried to read up what I could in the last few days. I've been very busy at work and didn't come to hear what I wanted to hear.

I just felt that I should come -- the other day, a couple days ago I was driving

and passed a big semi that said mercury disposal company of some kind and just like the sign said, I have to come. I don't know why.

But luckily for me, prevailing winds blow the toxins and the smoke from the Fisk power plant away from me. Last night as I went home, I tried to decide if I was going to come here. The winds had shifted and were blowing my way.

I have a son with asthma and didn't really know anything about the Fisk power plant until I moved down there. I also have a young daughter who's eight, and it seems like they've been constantly ill since we moved down there.

I pay exorbitantly high property taxes for schools they can't use because I don't feel safe sending my children there. I would certainly pay a lot of money to have the air cleaned up. I think if we can pay what we can to make war and people for who knows why, I think we have to clean up the air. We don't have a choice.

Yesterday I came to work and people asked. Oh, Ash Wednesday, where did you get your ashes. I said I didn't have to go anywhere. I live near the Fisk plant. I get them all the time.

But it's something we just have to do. There's a choice we have to make while we can.

I walk over to the Chicago River by Ashland every morning on my way to work and once in a while you can see the carps there, but that's about the only life you see in there. And I don't think they'll ever be able to clean that up. It's a horrible mess. I think we have to clean up the air before it gets the same way before we can't do it.

I don't know if you're familiar with one of my favorite books, it's The Lorax by Dr. Seuss. That's a very good book about pollution. I still read that to my kids. You're probably familiar with it.

I think we should absolutely do everything we can no matter what the cost. We have to pay the price. When you can't breathe the air, there's nothing that can bring it back.

That's about it. Thank you.

DONNA GREEN: I'm Donna Green. I'm here representing myself and to talk about the mercury standard, and I'm just very surprised to hear the EPA is considering regulating mercury air emissions as conventional rather than a toxic air pollutant.

To my recollection, EPA has been speaking of mercury as a toxic pollutant for years under -- I can't remember what it's called, persistent bioaccumulative toxic chemicals or whatever program that EPA had. And I know as far as water quality, it's considered so toxic that I think in Illinois the water quality standard is 12 parts per billion. I think it's lower even in other states.

I'm just really surprised that given EPA's concerns -- expressed concerns about mercury in the environment that they proposed such a slow and unambitious schedule for removing mercury from the environment.

In Illinois, at least in large parts of Illinois, I believe the rain actually is 12 parts per trillion water quality standard. I think if EPA is really serious about protecting human health, making our water base safe, it just seems to make sense to be as -- you know, go with the Section 112 -- can't remember, Section 112 hazardous air pollutant approach and the MACT standards to get the maximum achievable goals.

That's it. That's all I have to say.

CHAIRMAN WEHRUM: Thank you for coming. We appreciate it.

Would anyone else like to speak? Is there anyone else out there?

We'll break for dinner. If you're interested in spectating, we'll be back in an hour, 25 minutes, hour and a half. Thanks.

(Whereupon, a dinner break was taken.)

(Whereupon, the public hearing was concluded.)

STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

. CHRISTINE M. LUCIANO and BRENDA K. DUFEK, being first duly sworn on oath says that they are court reporters doing business in the City of Chicago; that she reported in shorthand the proceedings given at the taking of said public hearing and that the foregoing is a true and correct transcript of their shorthand notes so taken as aforesaid and contains all the proceedings given at said public hearing.

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