January 21, 2004

Honorable Michael O. Leavitt
Administrator
USEPA Headquarters
Ariel Rios Building, 1101A
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Dear Honorable Michael O. Leavitt:

I am writing to ask for your help understanding how much the Environmental Protection Agency’s proposed new “cap and trade” program is expected to reduce mercury emissions from power plants. Because mercury is a potent neurotoxin that seriously threatens the environment and human health, the public ought to know how quickly this alternative would reduce these risks.

The reductions EPA claims from its proposal appear to conflict with EPA’s own emissions calculations. EPA estimates that power plants currently release 48 tons of mercury every year. The Agency’s public statements indicate that its cap and trade program would reduce those emissions 70% by 2018, to an annual level of 15 tons. EPA’s own emissions calculations, however, estimate that the proposal will reduce emissions only 38% to 46% by 2020, to somewhere between 26 and 30 tons per year. This conflict between EPA’s public statements and its own data should be reconciled.

EPA Claims a 70% Reduction by 2018:

A fact sheet EPA published on December 15, when the mercury cap and trade proposal was announced, stated: “when fully implemented in 2018, mercury emissions will be reduced by 33 tons.” Likewise, at a speech before the Edison Electric Institute on January 9, you explained that the emissions trading approach would go, “further and faster” than traditional regulation, “reducing mercury by 70 percent over a 15 year period.” These statistics have been reflected in media reports regarding the Administration’s mercury initiative. For example, the Associated Press, in its December 16 story on EPA’s announcement, concluded that, “The result would be a 70 percent reduction – from 48 tons to 15 tons – by 2018, the Agency says.”

EPA’s Emissions Estimates Predict a 38-46% Reduction by 2020:

The EPA’s cap and trade proposal would set a nationwide limit on mercury emissions of 26 tons a year by 2010, and 15 tons a year by 2018. These targets and timetables are identical to those contained in the Administration’s Clear Skies legislation. As with Clear Skies, the December 15 cap and trade proposal allows utilities to buy and sell emission credits, and to “bank” any unused emission allowances for later use. In other words, a utility that “owns” the right to release 1,000 pounds of mercury a year in 2010 but only releases 800 pounds in that same year has the right to add another 200 pounds to its emission entitlement in any later year.
Because some companies are expected to store emission credits for future use, the EPA’s model shows that emissions of mercury are expected to substantially exceed the 15 ton annual cap established for 2018. While these banking mechanisms are of great interest to the power industry and some economists, the public is likely to be more concerned with how much mercury is actually being released to the atmosphere.

EPA’s emissions estimates for Clear Skies which include the same timetables and targets for mercury as the December 15 proposed cap and trade rule, are developed through its Integrated Planning Model, which is available on EPA’s website. The IPM model compares likely emissions under Clear Skies to a “base case,” and includes several variations to take into account regulatory and market uncertainties. The attached table identifies the mercury emissions estimated by the IPM model under each of these scenarios, and the associated percentage decrease from current mercury emission levels.

As the table illustrates, contrary to EPA’s public statements, its mercury cap and trade proposal does not come close to reducing mercury emissions 70 percent by 2018. Indeed, while EPA cautions that emissions projections for later years are less reliable, the model projects that mercury emissions will decline by no more than 52% as late as 2026.

There is no dispute that mercury poses serious threats to aquatic ecosystems and to human health, especially to developing fetuses. Almost every state has issued advisories warning against consumption of certain fish known to be contaminated with mercury. The Center for Disease Control estimates that the one out of every twelve women of childbearing age contains unsafe levels of mercury in their bloodstream.

While acknowledging those risks, EPA says that its cap and trade proposal will reduce mercury emissions “further and faster” than regulatory alternatives that others believe to be more stringent. In the interests of fair debate, I ask that you correct the record, and provide the public with the kind of accurate information it needs to evaluate the merits of EPA’s proposal.

Sincerely,

Eric V. Schaeffer
Director

Enclosure
cc: Jeffrey R. Holmstead (w/enclosure)
    Assistant Administrator
    Office of Air and Radiation
    Environmental Protection Agency

    Daniel Fagin (w/enclosure)
    President
    Society of Environmental Journalists