

Congress of the United States

Washington, DC 20515

October 14, 2003

The Honorable Michael O. Leavitt
Governor of Utah
Office of the Governor
210 State Capitol
Salt Lake City, UT 84114

Dear Governor Leavitt:

We are writing regarding our concern that EPA is at risk of violating its legal and public commitment to control emissions of mercury and other hazardous air pollutants from power plants by the end of next year. Given the serious public health and environmental harms from this pollution, any further delay in regulation would be unacceptable.

Under a court-approved settlement agreement, EPA is required to propose a regulation establishing emission standards for hazardous air pollutants from electric generating units (electric utility MACT rule) by December 15, 2003. For a “significant” rulemaking, such as this one, EPA must submit a draft of the proposed rule to the Office of Management and Budget (OMB) for interagency review. OMB may, and frequently does, take up to 90 days to complete this review. In numerous public pronouncements, Governor Whitman and other EPA officials have repeatedly promised that EPA will issue the MACT rule proposal by the December 15, 2003, deadline.¹ Yet to our knowledge, EPA has not yet transmitted a draft utility MACT rule proposal to OMB.

We seek your assurance that, if confirmed, you will act to ensure that the drafting and review of the proposed rule are completed on a schedule that will honor the commitments the government has made to propose a rule by December 15, 2003.

We make this request because of the seriousness of this issue. Two major Environmental Protection Agency reports to Congress document how hazardous air pollution from power plants, most notably mercury pollution, contaminates our lakes, streams, and other water bodies, concentrates in fish, and causes serious health risks for pregnant women and children who eat those fish.^{2,3} A Centers for Disease Control and Prevention report in January 2003 found that one in twelve women of childbearing age have mercury levels above EPA’s safe health

¹ See, e.g., Letter from Christine Todd Whitman, Administrator, U.S. EPA, to Rep. Henry A. Waxman (June 27, 2003).

² U.S. EPA, *Mercury Study Report to Congress, Volume I, Executive Summary* (1997) (EPA-452/R-97-003).

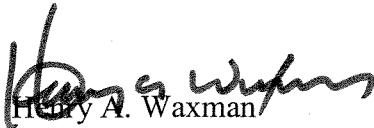
³ U.S. EPA, *Study of Hazardous Air Pollutant Emissions from Electric Utility Steam Generating Units — Final Report to Congress* (Feb. 1998) (453/R-98-004a).

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threshold.⁴ In adults, exposure to unsafe levels of mercury can adversely affect fertility and blood pressure regulation and can contribute to heart-rate variability and heart disease.^{5,6} The problem is nationwide: across the U.S., mercury pollution alone has contaminated 12 million acres of lakes, estuaries and wetlands (30% of the national total) and 473,000 miles of streams, rivers, and coasts (13% of the national total).⁷ As a result, forty-five states and territories have issued fish consumption advisories warning citizens to limit how often they eat certain types of fish, because the fish are contaminated with mercury.⁸

We would appreciate receiving a written response to this letter as soon as possible, given that this is a time-sensitive matter and that the Senate may be considering your nomination in the very near future. Thank you for your attention to this matter.

Sincerely,



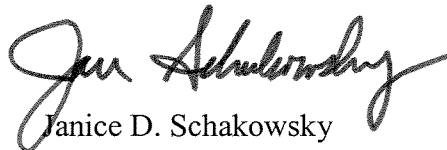
Henry A. Waxman
Member
U.S. House of Representatives



Patrick J. Leahy
Senator
U.S. Senate



Thomas H. Allen
Member
U.S. House of Representatives



Janice D. Schakowsky
Member
U.S. House of Representatives

⁴ Centers for Disease Control, *Second National Report on Human Exposure to Environmental Chemicals* (Jan. 2003).

⁵ C.M. Choy et al., *High Levels of Mercury in Seafood Linked to Infertility*, *BJOG: An International Journal of Obstetrics and Gynecology*, 109:1121-5 (2002).

⁶ National Research Council, *Toxicological Effects of Methylmercury* (2000).

⁷ U.S. EPA, *Update: National Listing of Fish and Wildlife Advisories* (May 2003) (EPA-823-F-03-003).

⁸ *Id.*