November 8, 2004

Michael Leavitt, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C.

RE: Continuing Concerns About Protecting Children From Mercury Emissions

Dear Administrator Leavitt:

The Children's Health Protection Advisory committee (CHPAC) continues to have concerns about the regulation of mercury from coal-fired power plants. Because mercury is a highly toxic substance that is especially harmful to children and pregnant women and because it is technically feasible to significantly reduce mercury emissions from power plants, the CHPAC again strongly recommends that EPA set a utility rule on mercury emissions that achieves much greater protections for children in a shorter timeframe. We appreciate the two letters we received from EPA staff in response to our letters of January 26 and June 8, 2004, and the discussion we had with Steve Johnson at our October 27, 2004 CHPAC meeting. We also appreciate his invitation to evaluate the upcoming release of new information received by EPA in the public comment period, and look forward to discussing with you the issues raised in this letter and the CHPAC's first two letters.

Because our carefully considered concerns about control technology, costs, health benefits and local hot spots were not addressed directly by the Agency, we have met with a variety of experts from inside and outside the Agency in order to learn more about these subjects.

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Based on our discussions, we have come to the following conclusions:

1. **Controls are available to reduce mercury emissions by up to 90 percent in a short timeframe and should be reflected in a national standard.** While we heard a breadth of opinions, in the end we became convinced that these controls are technically feasible. Some of the experts we heard from indicated that more stringent mercury control standards from coal-fired power plants have been adopted by Massachusetts, Wisconsin and Connecticut that require 80 to 95 percent reductions.[1] A national policy would ensure that consistent reductions occur across the nation. Furthermore, recent studies have shown that regulatory policy can be a stimulus for the development of more effective and less costly control technologies.[2]

2. **A more stringent national standard could begin to address the concerns about regional, local and downwind mercury deposition.** Significant data from Florida indicate that changes in atmospheric mercury deposition resulting from regulating mercury emissions from municipal waste combustors and medical waste incinerators have led to a 75 percent decline in the amount of mercury detected in Everglades fish and wildlife.[3] Similar results have been reported in Wisconsin. Scientists have demonstrated that reductions of mercury emissions will show benefits at the local or regional scale within a relatively short period of time.[4] These findings demonstrate that deposition "hot spots" can exist and reveal the importance of a rule that prevents such local and regional areas of concentration.

3. **Moreover, quicker and deeper reductions in mercury emissions will provide important health benefits in a cost effective manner.** Achieving a reduction in mercury will reduce the risk of serious health effects to children. (e.g, impaired learning, motor function, fine language, visual spatial abilities and memory). (See January 26, 2004 letter.) In its initial benefits analysis, EPA only considered the benefits of reduction on particulate matter (PM2.5) resulting from the reductions in SO_2 and NOx emissions associated with the proposed mercury rule. Despite the exclusion of the benefits of reducing the adverse health effects of mercury, EPA's analysis shows that even a partial estimate of economic benefits ($15 billion) is 9 times higher than the total social cost of control ($1.6 billion).

[1] Comparison of Proposed and Final State Mercury Power Plant Rules to EPA Proposals, compiled from published information by Martha Keating, Clean Air Task Force, July 2004.
[2] Presentation to CHPAC Regulatory Policy Work Group October 7, 2004, by Dr. Praveen Amar, Director, Science and Policy, Northeast States Coordinated Air Use Management, entitled, "Role of Regulatory Drivers in Promoting Large-Scale Application of Mercury Control Strategies for Coal-Fired Boilers."
[3] Presentation to CHPAC Regulatory Policy Work Group October 7, 2004, by Tom Atkeson, Mercury Coordinator, Florida State Department of Environmental Protection, entitled, "Mercury in the Environment: Can Controls Be Effective?" (developed by Tom Atkeson, Don Axelrad, and Curtis Pollman).
[4] Ibid.

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> Therefore, in light of the enormous net benefit there is room for a mercury standard that is more protective of children's health.

Protecting children's health should be the central goal – and the most important measure of success – of mercury regulatory policy. Because CHPAC is composed of children's health experts from a variety of sectors, we are uniquely positioned to offer advice and counsel on protecting children's health from mercury risks. This rulemaking process could greatly benefit from increased interaction between the CHPAC and senior agency leadership. Therefore, we welcome Steve Johnson's invitation to further engage on this issue, given sufficient indication from the Agency that our input will be considered. We would like to request a meeting with you and senior agency officials before the end of January 2005.

We believe that EPA must finalize a rule that sets a stringent national standard to adequately protect children, and welcome our further discussions.

Sincerely,

Melanie A. Marty, Ph.D., Chair
Children's Health Protection Advisory Committee

Cc: Rich McKeown, Chief of Staff to Administrator Leavitt
Stephen Johnson, Acting Deputy Administrator
Jeffrey Holmstead, Assistant Administrator, Office of Air and Radiation
Benjamin Grumbles, Acting Assistant Administrator for Water
Barry Breen, Acting Assistant Administrator, OSWER
Judith Ayres, Assistant Administrator, International Affairs
Susan Hazen, Acting Assistant Administrator, OPPTS
Joanne Rodman, Office of Children's Health Protection
Bill Sanders, Acting Director, Office of Children's Health Protection

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Attachment

The experts that CHPAC Panel members met with in September and October included:

- David Foerter and Michael Durham, Institute of Clean Air Companies;
- George Offen, Electric Power Research Institute (EPRI);
- Martha Keating, Clean Air Task Force;
- Praveen Amar, Northeast States Coordinated Air Use Management (NESCAUM); and
- Tom Atkeson, Florida State Department of Environmental Protection.

We also met with EPA staff Bob Wayland and Bill Maxwell from the Office of Air and Radiation.