

United States Senate

WASHINGTON, DC 20510

December 16, 2011

The President
The White House
Washington, DC 20500

Dear Mr. President:

Respectfully, we urge the Administration to finalize the Utility Air Toxics Rule as scheduled on December 16, 2011, and to adhere to the compliance schedule set forth in Section 112 of the Clean Air Act. Our nation has waited far too long for a federal limit on mercury and other hazardous air pollution emitted by power plants.

The electric utility industry has been on notice for a decade that the EPA intended to limit its hazardous air pollution. In 2000, the EPA determined it was “appropriate and necessary” to set hazardous air pollution standards for power plants, based on the serious health effects of this pollution. Power plants are the biggest emitters of mercury, a neurotoxin that can stunt cognitive development in children and infants. Power plants are also significant emitters of toxic metals – for instance, they emit 62% of all such arsenic pollution in the air we breathe – and acid gases such as hydrochloric acid which can cause respiratory tract ailments and fluid buildup in the lungs. The rule is expected to save up to 17,000 lives per year by cutting this pollution.

Plants in 17 states have begun to control for mercury pollution. These projects protect public health, and demonstrate that updating our energy infrastructure triggers investment in new technologies and the creation of tens of thousands of jobs. Consider:

- Constellation invested \$885 million to add environmental controls and a new scrubber to its Brandon Shores facility in Maryland, cutting mercury emissions by 90 percent. This investment created 1,385 jobs at peak construction, and many more jobs manufacturing the clean air technologies;
- PSEG retrofitted two of its coal facilities and installed scrubbers, creating 1,600 construction-related jobs over two years, and 24 permanent jobs; and
- AEP retrofitted one of its coal facilities and created more than 1,000 construction-related jobs building a scrubber, and 40 permanent jobs in operations.

AEP CEO Michael Morris said this year that when a utility retrofits a plant to comply with the Clean Air Act, “jobs are created in the process – no question about that.” Good environmental policy is good economic policy, as the jobs numbers – and the United States’ \$11 billion trade surplus in environmental technologies – demonstrate.

Most electric utilities in this country are ready for this rule. Indeed, operators of half of the fossil fuel electric generation in this country have gone on record on this point. For instance:

- The Chair, President and CEO of Wisconsin Energy noted that, “We really see very little impact on customer electric rates or our capital plan between now and 2015 as a result of all the new EPA regulations that have been proposed”
- The Senior Vice President of Energy Policy at Seminole Electric Cooperative, Inc., indicated that “If the EPA adopts a mercury rule as currently proposed, Seminole would already be meeting the standard.”
- Duke Energy’s CEO noted that “I think three years is doable” as a compliance timeline for the Utility Air Toxics Rule.
- The CEO of PSEG stated that, “We are also well-positioned to meet the anticipated requirements under EPA’s HAPs/MACT regulation, which is scheduled to be issued on December 16. We believe these regulations are long overdue. Our experience shows that it is possible to clean the air, create jobs and power the economy, all at the same time.”

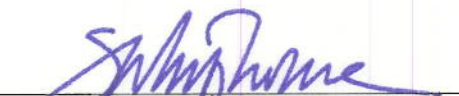
Some utilities, however, are arguing that this rule will compromise their ability to provide reliable service. We do not believe the facts support this argument. Earlier this month, your Department of Energy released a report finding that even under the most conservative assumptions, utilities could comply with both the Transport Rule and the Utility Air Toxics Rule while providing adequate electric power in each region of the country.


Meanwhile, new generation capacity is being built. Over the next four years, utilities are constructing nearly 78 GW of new capacity, including about 38 GW of natural gas. Natural gas prices are dropping rapidly, driving both the construction of new gas-fired plants and the utilization of existing gas capacity. These gas plants are starting to out-compete inefficient coal units on price alone, separate and apart from any Clean Air Act rules.

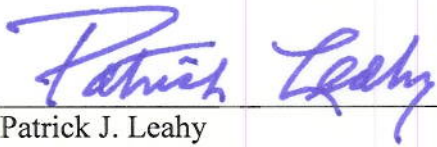
If localized reliability issues emerge, or if a unit needs more time to comply with the Utility Air Toxics Rule, current law and long-standing practice provide off-ramps on a case-by-case basis. Upon request, EPA and the states may grant a unit a fourth year to comply. If the unit needs more time to install controls, or if it plans to retire but needs to stay online to ensure reliability, EPA may enter into legally binding agreements with the utility to provide that necessary time.

Given that so many utilities are well-positioned to comply with the Utility Air Toxics Rule, and the flexibility afforded particular units, there is no reason for an across-the-board delay of this important public health measure. We applaud the work that EPA has undertaken to limit dangerous air pollution from power plants, and urge the Administration’s approval of a final rule to be in place by December 16, 2011.

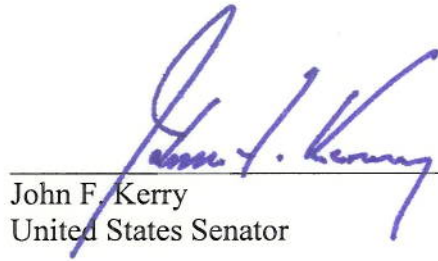
Sincerely,


Sheldon Whitehouse
United States Senator

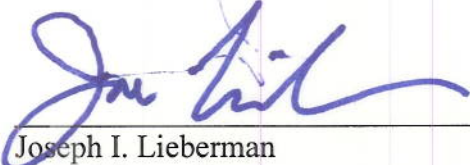

Barbara Boxer
United States Senator



Patrick J. Leahy
United States Senator



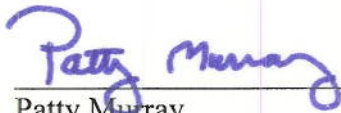
John F. Kerry
United States Senator



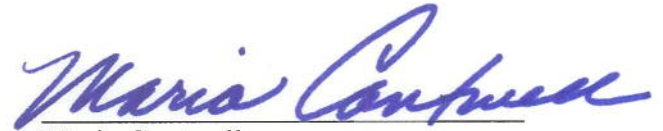
Joseph I. Lieberman
United States Senator



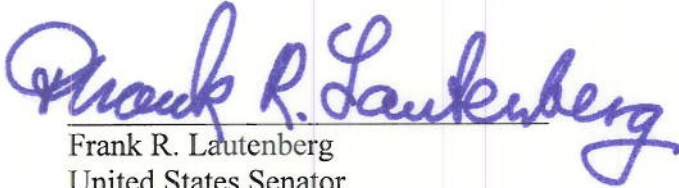
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United States Senator



Patty Murray
United States Senator



Maria Cantwell
United States Senator



Frank R. Lautenberg
United States Senator



Robert Menendez
United States Senator



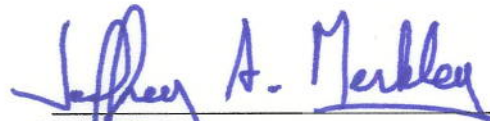
Benjamin L. Cardin
United States Senator



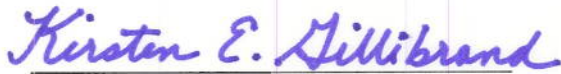
Bernard Sanders
United States Senator



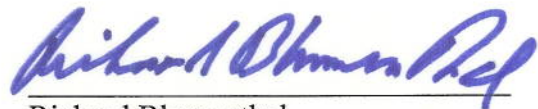
Jeanne Shaheen
United States Senator



Jeff Merkley
United States Senator



Kirsten E. Gillibrand
United States Senator



Richard Blumenthal
United States Senator