



UJAE Unions for Jobs And the Environment

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Comments of the Unions for Jobs and the Environment On the Notice of Proposed Rulemaking Regarding the Proposed Mercury Rulemaking Docket OAR-2002-0056 June 29, 2004

Member Unions

Brotherhood of Locomotive
Engineers

International Brotherhood
of Boilermakers,
Iron Ship Builders,
Blacksmiths, Forgers
and Helpers

International Brotherhood
of Electrical Workers

International Brotherhood
of Teamsters

Marine Engineers Beneficial
Association

Transportation • Communications
International Union

United Food and Commercial
Workers International Union

United Mine Workers
of America

United Transportation Union

Utility Workers Union
of America

Unions for Jobs & the Environment (UJAE) is pleased to offer these comments in response to the EPA's 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, as proposed in the January 30, 2004, Federal Register.

About UJAE

UJAE is a partnership of the Brotherhood of Locomotive Engineers; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Teamsters; Marine Engineers Beneficial Association; Transportation – Communications International Union; United Food and Commercial Workers; United Mine Workers of America; United Transportation Union; and the Utility Workers Union of America. We are bound together in our desire for a cleaner, healthier environment -- and for good, high-quality domestic jobs.

President

Bill Cunningham

Why We Care

UJAE members mine, process, transport, treat, manage and combust domestically-produced coals, and assemble, operate and maintain the complex equipment required to convert that coal into electricity. They also help capture and control its multiple emissions. Additionally, UJAE unions work extensively with electric transmission and distribution systems, and through the linkages to the building and construction trades, reach even to the points of final consumption of electric energy. From coal-seam to steam turbines, through emissions control devices, UJAE members have a vital role and interest in EPA's mercury rulemaking.

Too Many Jobs Already Have Been Lost

Coal-fired electricity producers already have reduced emissions significantly, and at great economic cost. Thousands of coal-mining and related jobs have been lost as a consequence of fuel-switching in response to the acid rain provisions of Title IV. Coal production in major eastern coal-producing states declined by more than 113 million annual tons between 1990 and 2000 causing the loss of more than 30,000 coal mining jobs, mostly due to switching from higher to lower sulfur coal in order to comply with Title IV acid rain requirements. Meeting cleaner environmental standards is important to the American public, but alternative methods for

meeting new requirements should be examined in terms of their job consequences. Unfortunately, too little attention has been paid to workers in making policy in the past.

Mercury Emissions Have Been Falling

A great deal of progress in reducing mercury depositions has been made over the past 50 years. From a peak reached in the 1950s, mercury deposition was reduced by half through the 1980s. Mercury emissions continued to fall rapidly in the decade of the 1990s. In 1993, U.S. yearly emissions totaled about 242 tons. By the end of the decade, emissions had declined to less than 160 tons per year.

Viewing EPA's Proposal in Perspective

Nationally, U.S. coal combustion emissions are estimated to account for 48 tons of atmospheric mercury emissions.¹ This is roughly one-third of total U.S. mercury emissions, while the U.S. consumes 1.1 billion tons of coal each year.² From these figures, the difficult task of controlling mercury can be put in perspective. EPA seeks to capture a chemically stable element that accounts for four millionths of a percent (0.000004363%) of the total fuel stock. Initially, the Agency's emission trading proposals would reduce about 14 tons of mercury – or 1.3 millionths of a percent (0.0000011272%) of the fuel. Ultimately, EPA seeks to reduce 33 tons – or 3 millionths of a percent (0.000003%) of the fuel input to the electric generation sector.

UJAE does not contest the necessity of controlling mercury emissions. However, we are saying that the task at hand is nothing short of extraordinary – and that policy-makers need to be aware of the colossal haystack within which a comparatively minute needle lurks. Capturing and controlling mercury emissions will be extraordinarily difficult and expensive, and sufficient time must be given for the development and installation of mercury control technology. The regulations also must recognize the difficulty in measuring such minute concentrations of emissions.

We believe UJAE's suggestions, outlined below, can enhance the likelihood of successfully meeting this challenge. However, UJAE continues to believe that Congress can and should bring additional clarity to America's Clean Air statutes. Such an initiative would:

- Lay out regulatory certainty which we recognize as an essential predicate to job creation;
- Make clear what is required to further clean America's air; and
- Avoid or at least diminish litigation, that unless addressed, risks impeding implementation of meaningful emissions reductions.

Break the 'Regulatory Vise' & Unleash America's Workers

Existing control requirements have already significantly reduced emissions of mercury and criteria pollutants from coal-based powerplants. However, a myriad of countervailing regulatory requirements have been promulgated over time. Together, these have congealed into a 'regulatory vise' that exacts duplicative, complex and unnecessary costs from the American economy. Alternatively, an integrated legislative solution can offer a policy approach that pares needless red tape, improves our environment and grows jobs. EPA's current proposals to cut

¹ http://www.tva.gov/environment/air/ontheair/merc_stand.htm

² <http://www.house.gov/commerce/hearings/03142001-94/Roberts129.htm>

power plant emissions of sulfur, nitrogen and mercury emissions are a less than ideal alternative to thoughtfully-crafted multi-pollutant legislation.

UJAE recognizes that Congress has yet to enact multi-emissions legislation. EPA has attempted to fill this breach by proposing the Clean Air Interstate AirRule (CAIR) requiring power plants outside the West to reduce SO₂ and NO_x emissions, and a national rule to reduce mercury emissions from coal-fired power plants. These comments address only the proposed mercury rule; we have previously commented on the CAIR proposal.

In the context of the proposed mercury rulemaking, UJAE believes it is important to credit early reductions, revisit the treatment of specific types of coal, and consider actions that states might make that would reduce the effectiveness of a cap-and-trade program.

Credit Early Reductions

There are no provisions in the proposed emission trading rules that permit crediting mercury reductions achieved before the control program begins in 2010. UJAE believes that a mechanism should be created to credit early mercury reductions that are achieved ahead of this date. We also believe additional national benefits will be gleaned if credit for early mercury reductions can be coupled with additional early SO₂ reductions in the CAIR proposal.

UJAE believes such credit should be provided for reductions achieved from the installation and/or modification of emission or combustion control technologies. Examples could include the early installation and operation of scrubbers, SCR, activated carbon injection and any other mercury-reducing technologies. We do not believe credit should be available for reductions required under federal regulations.

Credit for early mercury reductions could provide additional incentive for early installation of scrubbers. If combined with available SO₂ allowances, a credit for early mercury reductions could form an effective incentive to accelerate installation and deployment of scrubbers well in advance of 2010, and could help avoid an implementation crunch as we approach that date. This approach would spread-out and better sustain workforce opportunities. UJAE shares the concerns of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, which has cautioned that there are real concerns about available manpower. Credit for early mercury reductions could help alleviate worker shortages, and would be a step in the right direction.

Revisit Treatment of Specific Coals

The mining and use of bituminous coal profoundly affect many states' economies. These activities directly employ hundreds of thousands of UJAE members; help ensure that U.S. energy costs stay beneficially low and competitive, and reduce the need to send more of America's energy dollars overseas.

EPA's mercury rulemaking envisions the use of emission limits and/or allocation factors that would favor sub-bituminous over bituminous coal. We believe this is wrong. Any legislative or regulatory proposal **must not unduly burden the use of any type of coal**, and thereby one (or more) region of the country over another. Unfortunately, the MACT component of EPA's mercury rulemaking appears to do just that.

Specifically, fuel-switching to sub-bituminous coal appears to qualify as an acceptable control option under EPA's mercury MACT. This may actually contribute to increased mercury emissions while potentially jeopardizing the market for, and thereby severely reducing employment in, the bituminous coal sector.

Additionally, EPA has proposed unreasonably stringent emission limits for new generating units affected by the MACT process. These limits threaten the viability and ultimate use of eastern bituminous coal. The proposed rate for new units is significantly tougher than the already tough standard for power plants utilizing bituminous coal. UJAE believes EPA should provide new source emission limits that can be met by all types of U.S. coals using commercially demonstrated emission control technologies.

The States

UJAE believes that a national emission trading program with broad participation offers the surest path to uniform and consistent implementation, and the most significant environmental benefits. The plant-by-plant MACT alternative would disrupt national coal markets, and could lead to the closure of dozens of smaller and older electric generating units, with significant loss of jobs.

The effectiveness of a cap-and-trade program would erode if states could unilaterally reject or circumvent EPA's final rulemaking. EPA should create incentives for states to enter the program. For example, EPA could grant states flexibility on allowance allocations without jeopardizing the broader rulemaking. We are dubious that state-level allowance auctions would be feasible. States are also more likely to participate in a trading program if EPA creates an expedited review and approval process.

Conclusions

UJAE is keenly interested in EPA's proposed mercury rule. We believe the rule can be improved by enhancing regulatory certainty and crediting early reductions achieved through technologies, while defusing workforce shortages in 2010. Additionally, UJAE encourages EPA to avoid internecine conflict between states, and to secure their active participation in a broad national program.

If these actions are taken, the regulatory framework for mercury emissions reductions will be clearer, and employers will begin to implement these requirements. If done in a reasoned fashion over the next 10 to 15 years, sufficient time will be available for the development and demonstration of cost-effective mercury control technologies. The working men and women of UJAE are ready for this awesome challenge. Such an approach would minimize fuel switching and maximize direct and indirect job creation. While UJAE prefers a legislative approach to resolving these issues, if our concerns are thoughtfully addressed, we would see the mercury rule as a warranted step in the right direction.

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