



Senate Environmental Resources and Energy Committee

Senator Mary Jo White
Chairman

Patrick Henderson, Executive Director

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February 7, 2007

The Honorable Kathleen A. McGinty, Chairperson
Environmental Quality Board
16th Floor Rachel Carson Building
Harrisburg, PA 17105

Dear Chairperson McGinty:

We currently have before the Senate Environmental Resources and Energy Committee Governor Rendell's final mercury emission reduction regulation.

When this committee voted unanimously on October 18, 2006 to extend its review of the regulation, it did so with the understanding that we would work to achieve a consensus on the issue. It is clear, however, that there is not a desire from the Administration to reach an acceptable compromise at this time.

Under the Regulatory Review Act, the Committee has the option of reporting a disapproval resolution within 10 days. Such action would prohibit the Department from publishing the regulation for 30 calendar or 10 legislative days, whichever is longer. Further, Senate approval of the resolution would prohibit publication for an additional 30 calendar or 10 legislative days. We are confident that there is more than sufficient support to do both.

However, we have concluded that doing so would be unproductive. We will instead pursue a different course of action. Consequently, the final mercury regulation will be "deemed approved" on February 10, 2007. You may seek publication of the regulation in the *Pennsylvania Bulletin* after this date. This decision shall not be construed or portrayed by the Administration as Committee approval based on its merits. Indeed, the Committee's objections are both numerous and well-documented.

We also intend to introduce and advance legislation that will contain the following three primary components:

- Require a 90% mercury emission reduction from each EGU in PA (consistent with DEP's rule)

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- Establish a 2015 compliance deadline (consistent with DEP's rule)
- Permit EGUs to utilize the federal allowance trading program once they achieve a 90% mercury emission reduction (approximately 30 states have authorized trading)

Unfortunately, this process has severely strained the credibility of the Department and undermines the ability to work cooperatively on future legislative issues. Moreover, failure to remedy the shortcomings in the final mercury rule now will only increase the necessity to revise the regulation in the next Administration.

Sincerely,

Mary Jo White, Chairman
Senate Environmental Resources
& Energy Committee

Raphael J. Musto, Democratic Chairman
Senate Environmental Resources
& Energy Committee

[February 1, 2007: Senator White Corrects DEP on Regulatory Review Law](#)