



# CLEAN WATER ACTION

*Testimony on Mercury Emission Reduction  
to the Pennsylvania Senate Environmental Resources and Energy Committee  
by Myron Arnowitt, Western PA Director, Clean Water Action  
May 2, 2006*

On behalf of Clean Water Action's 80,000 members across Pennsylvania, I would like to thank Senator White and the Committee members for the opportunity to address you today concerning the pressing issue of reducing mercury emissions from coal burning power plants in Pennsylvania. Clean Water Action has urged Pennsylvania to take action on the issue of mercury contamination in our waterways for well over a decade. We are pleased to see that the highest levels of our state government are taking up this issue.

Before I begin, I would like to note that in my capacity as Western Pennsylvania Director for Clean Water Action, I have had more than 10 years of experience working on air pollution regulation, including serving on the Allegheny County Health Department's Regulation Subcommittee which reviews and makes recommendations on all proposed local air pollution regulations. I have helped author new air pollution regulations for Allegheny County, and together with both U.S. Steel and the United Steelworkers (USW), have engaged in a successful consensus process to develop local air pollution regulations that meet environmental, labor, and business concerns.

The fundamental question that the recently introduced legislation, SB 1201, has raised is whether Pennsylvania should only use the federal mercury regulations, or should we allow the state Department of Environmental Protection (DEP) to continue an already begun regulatory process to establish state specific mercury regulations. Clean Water Action opposes use of the federal mercury rules for a number of reasons.

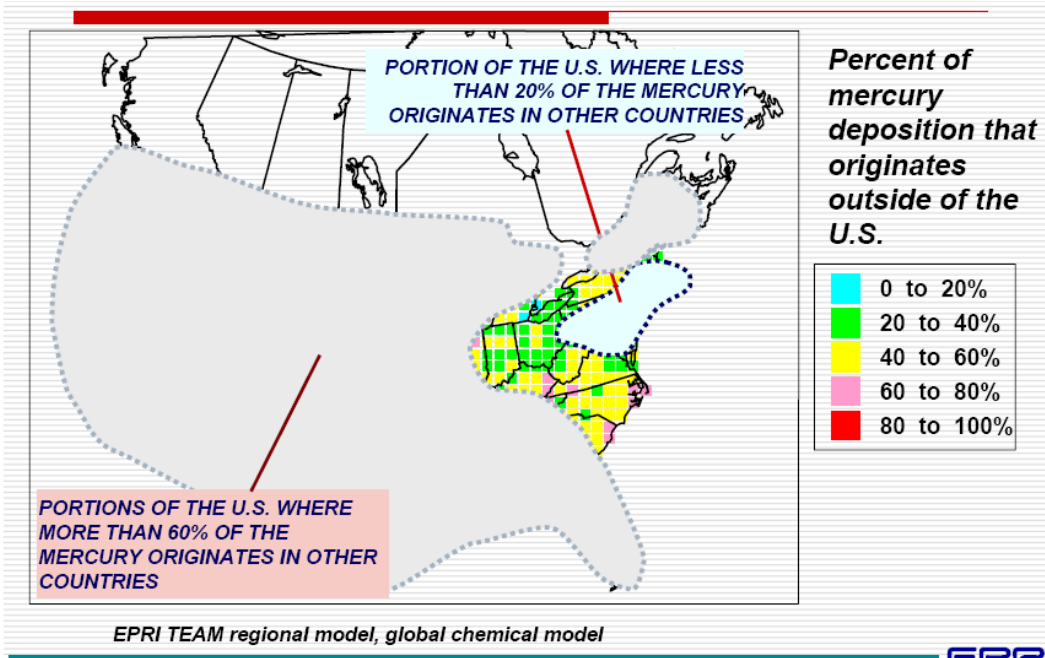
Our first major concern is that the federal rule gives us no guarantees that Pennsylvania power plants will in fact reduce mercury emissions. SB 1201 states that there will be an 86% reduction, however, this is highly misleading. The federal rule does not require an 86% reduction in Pennsylvania, and any statement to that effect is incorrect. Plants in Pennsylvania will have the choice of either reducing emissions, or of buying emission credits from any other plant in the U.S. As a result, while there will be emissions reductions, some may happen in Pennsylvania, some may happen in Texas, some may happen in New Hampshire. Under the federal rule, we simply have no control over where mercury emission reductions will occur nor how much, if any, reductions will occur in our state.

If the power companies would agree to an 86% reduction at Pennsylvania power plants, we would certainly support such an effort. However, these power companies have to date refused to make

any such commitment. The chief reason for utilities to prefer the federal trading system is to avoid making reductions in Pennsylvania. We need a state specific rule with no trading to ensure that we get mercury reductions in Pennsylvania.

To give another example of why trading emission credits for a highly toxic pollutant like mercury is poor public health policy, consider this hypothetical situation. What if the federal government decided to allow oil refineries to trade emission credits for benzene? Benzene is a known human carcinogen that is emitted in large quantities from oil refineries, and a number of Clean Air Act rules have required emission reductions of this hazardous chemical. Instead of reducing their emissions, what if the Sunoco refinery in Philadelphia could buy emission credits from a refinery in Texas that had over complied with the benzene rule? While there may have been a national reduction in emissions, the residents of south Philadelphia would still be exposed to high levels of benzene from the Sunoco refinery. The benefits of the rule would not be felt there; in fact, they would see continued cases of leukemia in their community as a result of this hypothetical trading scenario.

As this example illustrates, trading emission credits could result in dangerous hotspots of mercury exposure. You may have heard industry state that reducing PA emissions would have no effect, because only 1% of global mercury comes from U.S. power plants. However, this is not a relevant statistic for Pennsylvania, as most of the mercury deposited on Pennsylvania is locally, not globally produced. Leonard Levin, Ph.D. for the Electric Power Research Institute (EPRI) presented information to the DEP Mercury Workgroup on October 14, 2005 that indicated that on average less than 20% of mercury deposited on Pennsylvania comes from global sources (i.e. other countries). EPRI's modeling indicates that in some parts of Pennsylvania, the global contribution is less than 10%. Clearly, we must address local sources, and stop discussing what comes from China as it is simply not a factor here. Slide 23 of Dr. Levin's presentation is below for reference.



Dr. Mark Cohen, from the National Oceanic and Atmospheric Administration (NOAA), also presented data to the DEP Mercury Workgroup on November 18, 2005. His work found that 50% of ionic mercury deposits within 300 miles of a mercury source (slide 25). Dr. Levin also cited Dr. Cohen's data in his presentation. Ionic mercury is the form of mercury that unfortunately is highly water soluble, and is easily converted into the toxic methylmercury that contaminates fish. Given that Pennsylvania power plants are now #2 in the U.S. for mercury emissions, clearly a significant amount of mercury emitted by Pennsylvania plants is deposited in the state.

Models aside, there have been several recent studies that have found clear evidence that hotspots can and do occur. Data that has been released from the ongoing EPA study of mercury in rainwater in Steubenville, Ohio found that 67% of the mercury was generated by local or regional coal combustion (within 400 miles). In addition, a recent study of mercury levels in fish in Massachusetts found that fish tissue contamination decreased 32% after emission reductions were enacted for a cluster of nearby incinerators that were the major local source of mercury (*see Boston Globe, April 3, 2006 and the attached study*). Clearly, Pennsylvania could reduce levels of mercury in our fish if we instituted state specific regulations.

Another problem with relying on the federal mercury rule is that the timeline for emissions reductions is far longer than under DEP's proposal. While DEP gives utilities eight years, until 2015, to make reductions, the federal rule lacks clear deadlines for reductions given the use of emissions trading. The non-partisan Congressional Research Service used EPA's data to determine that the federal mercury rule would only provide a 50% emission reduction by 2020, and would not reach the 70% reduction goal until 2030. The federal rule would allow another full generation of Pennsylvania children to be at risk from existing mercury exposure. Further, even if the federal 70% reduction is eventually reached, it still allows three times as much mercury to be emitted as DEP's proposal.

Finally, there are legal uncertainties with relying on the federal mercury rule. SB 1201, if passed, would prohibit any state regulation of mercury emissions. However, if Pennsylvania, or other states, are successful in their legal challenge to the federal mercury rule, we would be left with no regulations at any level of government. While the state could later go back and address this issue, it would mean that many years will have been lost, and further delays before we address any mercury emission reductions. Prohibiting the state from being able to regulate mercury is a dangerous step to take.

While many environmental, public health, and state pollution agencies have objected to the federal mercury rule, has DEP constructed a state rule that ignores industry's concerns about the difficulty in reducing mercury emissions? Our analysis finds that DEP has in fact created a mercury rule for Pennsylvania that balances health and economic concerns, providing great flexibility to industry, compared to other pollution regulations.

First, DEP gives industry eight years to reach a 90% reduction in mercury emissions. Typically, federal rules on sources of hazardous air pollutants, such as mercury, give industries only three years to reach a 90% or greater reduction (i.e. the Maximum Achievable Control Technology or MACT standard). In fact, already a number of industries that are sources of mercury have had to comply with federal MACT standards. These include: municipal waste incinerators, medical waste

incinerators, sewage sludge incinerators, chlorine producers, coke plants, and steel plants. We have yet to see any analysis on why the power industry is incapable of meeting a three year deadline like these other industries, however, DEP chose to give them eight years, a significant extension.

Second, DEP is allowing companies to meet the 90% reduction standard through installation of certain pollution control equipment, not through actual measurement of emissions. This approach “presumes compliance” if the equipment is installed, as opposed to companies having to demonstrate that emission reductions has actually been achieved. Industry will not need to worry about whether their control technology will work as advertised, because DEP will grant them compliance simply for installing the proper equipment. In addition, since some companies are being required to install this equipment to comply with other air pollution rules, DEP is essentially allowing companies to comply with two rules for the price of one. There is no additional burden on these companies to comply with DEP’s mercury rule. Overall, the “presumed compliance” approach by DEP provides great flexibility for industry.

Finally, some companies, most likely the smaller plants, will receive extra allowances from DEP to excuse their lack of compliance with the 90% rule. While the extent of this “extra allowances” program is not known, DEP is clearly looking for ways to help every power plant in PA meet the requirements of the state rule without an undue burden on industry. In summary, we find that DEP’s proposed state mercury rule is oriented to provide public health benefit, but in a flexible approach that provides many benefits to the power industry that other industries have not been granted.

Several concerns have been raised around DEP’s proposed mercury rule, especially the potential for the rule to impact jobs in Pennsylvania. The UMWA has raised the issue that power companies might switch to using western coal as a result of a state mercury rule. As a member of the DEP Mercury Workgroup, I asked the UMWA’s representative to inform the Workgroup of what analysis they had done on job impacts. To date, the UMWA has not provided any analysis on how many Pennsylvania mining jobs would be lost as a result of a state mercury rule.

Interestingly, several power companies reported at DEP’s Mercury Workgroup that they have already started switching their coal supplies to western coal. It is important to note that this coal switching has started before any federal or state mercury rule has come into effect. Clean Water Action is greatly concerned that the PA mercury rule is being used as a scapegoat for an economic trend that power companies are already engaged in. If a state mercury rule is prohibited, there is no evidence that coal switching won’t occur anyways. The result? Fewer coal mining jobs in Pennsylvania, in addition to a polluted environment.

In fact, only the DEP’s mercury rule provides any kind of incentives to burn Pennsylvania coal. The “presumed compliance” option in the rule requires using 100% bituminous coal. You may have heard that Pennsylvania coal is high in mercury content and that requiring mercury emission reductions will hurt local coal mining. However, just the opposite is true. Requiring pollution controls on mercury levels the playing field with lower mercury coal. I have attached an article from the Feb. 11, 2006 issue of the Wheeling News-Register, concerning the temporary shutdown of a CONSOL mine. CONSOL spokesman Tom Hoffman states in the article that he “expected that as other power plants bring scrubbers online in the next few years, demand for Shoemaker’s very

high sulfur, bituminous coal will rise.” Even the coal industry understands that requiring pollution controls is beneficial to mining high pollutant coal. While this example pertains to sulfur content and sulfur scrubbers, we see no reason why the same would not be true of mercury controls.

Finally, we encourage the Committee to analyze the very real economic benefits to Pennsylvania of requiring mercury pollution controls. I have also attached an article from the April 20, 2006 issue of the Pittsburgh Post-Gazette which details the expansion of a 500 job Siemens plant in Westmoreland County that makes air pollution control equipment. Environmental regulation is driving the growth in this job sector, and Pennsylvania is well positioned to take advantage. Requiring mercury controls will mean both manufacturing jobs as well as operating jobs for the equipment once installed.

In conclusion, we encourage the Committee to examine these questions thoroughly before moving forward with the proposed legislation, SB 1201. As we have stated, simply relying on the federal rule will cause ongoing contamination problems for Pennsylvania. If the Committee has ideas for how to improve state mercury regulations, we look forward to hearing your ideas. Clean Water Action strongly supports DEP’s proposed state mercury rule for its health, environmental, and economic benefits. Families all across Pennsylvania are at risk from mercury contamination every time they eat fish caught in our state. The reality is that people with lower incomes are the residents in our state most likely to be eating locally caught fish. It is only fair that we protect every resident, and ensure that we can one day not worry about the hazards of fish contamination.

Saturday, February 11, 2006

Mine Will Lay Off 170  
By MICHELLE BLUM

Nearly 200 area coal miners will be facing layoffs this spring as a result of a downturn in the market for high-sulfur coal, Consol Energy Inc. officials said Friday.

The firm on Friday announced that 170 miners at the Shoemaker mine will be laid off around Wednesday, April 12, when longwall mining production ceases.

"They won't be called back unless the market improves," said Tom Hoffman, vice president of External Affairs for Consol.

But Hoffman said he expected the miners to be back to work by 2009, or perhaps sooner.

Hoffman noted the mine has a contract with American Electric Power to supply coal beginning in 2009. And he said he expected that as other power plants bring scrubbers online in the next few years, demand for Shoemaker's very high sulfur, bituminous coal will rise.

As to how long the miners would be off the job, Hoffman couldn't say. He noted demand for experienced coal miners is high.

"These people being laid off can be called to other mines," Hoffman commented, noting they can refuse those calls.

A shutdown of the Shoemaker mine had been planned for next year as part of a \$200 million project to renovate the facility. The project, which was announced in October, will include replacing the rail hauling system with a belt hauling line, Hoffman said.

"When the belt is completed in 2009, the Shoemaker mine will come back bigger and more efficient," Hoffman predicted.

"It always was the plan for Shoemaker to shut down. We thought it would be in 2008 or 2009. But the new thinking is to take the down time now. As the market improves, we would hope to have the opportunity to bring Shoemaker back online even before the belt line project is done," he said.

"Right now, it's not profitable to run Shoemaker," he said.

The remaining 230 employees will be working on the renovation project and maintaining the facility, Hoffman noted.

## Siemens expanding Upper Burrell plant

Thursday, April 20, 2006

By Rebekah Scott, Pittsburgh Post-Gazette

Four hundred assembly line and office workers stood in the sun and celebrated yesterday as officials from the German electronics and equipment giant Siemens AG told them the news: The company is investing \$7.2 million to expand the former Robicon factory in the Westmoreland County-owned Upper Burrell industrial park.

By March of next year, Siemens will hire another 145 full-time workers, pushing employment to 480, and finish work on a 30,000 square foot facility next door.

"This is a wonderful event, a real success story, an amazing turnaround," said Siemens Energy & Automation Inc. Vice President Gary Rauscher. He recalled that despite a record backlog at the plant in December 2004, the former parent company filed for bankruptcy two months later and ran out of cash.

"We ran out of materials to work with. We had an empty factory standing there and Robicon went on the block as part of the bankruptcy settlement," Mr. Rauscher said.

"By March, we knew Siemens was interested, and by July, we had a new owner ... and off we went!"

Production now is "bursting at the seams," he said, as the little factory rushes to meet demand for controls for huge industrial motors, fans, and pumps that run pollution control systems, mostly in Asia and Europe. Siemens also owns a development lab in nearby Plum.

Pennsylvania offered Siemens several incentives to upgrade the plant, including a \$2.5 million government package that includes low-interest loans and \$300,000 in tax credits.

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*Correction/Clarification: (Published April 27, 2006) A Siemens Energy & Automation Inc. factory that is expanding in Upper Burrell had a record backlog in December 2004, two months before its former owner, Robicon, filed for bankruptcy. This story as originally published on April 20, 2006 gave an incorrect date for the backlog at the maker of controls for motors, fans and pumps in pollution control equipment.*

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