



# Senate Environmental Resources and Energy Committee

**Senator Mary Jo White**  
Chairman

*Patrick Henderson, Executive Director*

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To: All Senators

From: Senator Mary Jo White  
Senator Raphael J. Musto

Date: April 24, 2006

Re: UMWA Position on Mercury Emission Reductions

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Recent statements and press releases have led to some confusion regarding the United Mine Workers of America's (UMWA) position on DEP's state mercury rule and Senate Bill 1201.

At the request of the UMWA, we are sharing the attached April 21<sup>st</sup> letter from UMWA President Cecil E. Roberts to Governor Rendell. The letter clearly states the position of UMWA on this issue.

# United Mine Workers of America

CECIL E. ROBERTS  
INTERNATIONAL PRESIDENT



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April 21, 2006

Honorable Edward G. Rendell  
225 Main Capitol Building  
Harrisburg, Pennsylvania 17120

Dear Governor Rendell:

I am writing to explain the UMWA's opposition to DEP's proposed rule to control mercury emissions from powerplants in the Commonwealth. As you know, the UMWA has joined with the IBEW in support of legislation before the General Assembly (SB 1201, HB 2610) that seeks to require Pennsylvania's participation in EPA's national mercury control program.

EPA's rule requires a 64% reduction of mercury emissions from Pennsylvania generating units by 2010, and an 86% reduction from 1999 emission levels by 2018. This level of control is equivalent to a 94% reduction of mercury contained in the coals burned by Pennsylvania generating units.

The UMWA participated in stakeholder meetings convened by the Pennsylvania DEP to explore a potential Pennsylvania mercury rule more stringent than the EPA rule. In this process, we expressed our support for implementation of the EPA mercury rule, including its national trading program, and our opposition to a more stringent state rule that would prohibit trading.

Our concerns with the DEP's proposed rule relate mainly to its prohibitions on trading, as these would penalize utilities that invest in pollution controls able to exceed regulatory limits. Utilities that over-control their emissions should be able to sell the excess emission allowances resulting from their pollution control investments, as a means to encourage these investments.

We also are concerned that the rule's system of preferences and priorities for plants burning 100% bituminous coal may be vulnerable to legal challenges. While we appreciate DEP's intention to provide a degree of compliance assurance for bituminous coals, we also know from hard experience in the acid rain program that state laws intended to benefit

local coal production can be challenged successfully under the Commerce Clause of the Constitution. We thus cannot rule out the possibility that DEP's rule could fall victim to such a challenge, leaving a regulation that commands 90% controls on a plant-specific basis, with no opportunity for emissions trading.

Meeting a 90% mercury reduction requirement on a plant-by-plant basis can be done in two ways: by installing an expensive scrubber and selective catalytic reduction system at a plant burning bituminous coal, or by using relatively low-cost activated carbon injection technology with western subbituminous coals. In the restructured Pennsylvania utility environment, we are frankly concerned that the DEP rule could backfire in practice, and promote fuel-switching away from Pennsylvania bituminous coals at plants that would use activated carbon injection with subbituminous coals.

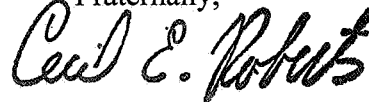
In 2004, the UMWA joined the Pennsylvania Coal Association in support of DEP's position opposing EPA's generous allocation of mercury allowances to subbituminous and lignite coals. We viewed EPA's method for allocating additional mercury allowances to these coals as unfair, because they discriminated against Pennsylvania and other bituminous coals. We have maintained this opposition by filing suit against EPA, in litigation pending before the U.S. Court of Appeals for the DC Circuit. If successful, our action would provide Pennsylvania with additional mercury allowances, lessening the burden of the EPA rule on Pennsylvania consumers.

We remain of the view, however, that the mercury allowance trading program offers one of the most effective means to "level the playing field" among different coals, and to prevent the premature shutdown of smaller and older powerplants that may not be economical to retrofit with scrubbers.

Based on U.S. EPA's mercury deposition modeling studies, we are not able to determine any material environmental benefit from a state mercury rule that prohibits trading. We understand that DEP has not performed any modeling of its own to support its proposed rule.

For these reasons, the UMWA hopes that you will take appropriate action to ensure that Pennsylvania coal miners do not suffer at the expense of a well-intentioned, but potentially counterproductive state mercury rule.

Fraternally,

A handwritten signature in black ink that reads "Cecil E. Roberts". The signature is written in a cursive, slightly slanted style.

Cecil E. Roberts

cc: Honorable Kathleen A. McGinty  
Daniel J. Kane, International Secretary-Treasurer  
Ed Yankovich, International District 2 Vice President  
Terry Osborne, At-Large International Vice President