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Environmental Protection Agency
National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units-Reconsideration of Supplemental Finding and Residual Risk and Technology Review Public Hearing
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Thank you for the opportunity to testify. My name is David Coursen and I am speaking on behalf of the Environmental Protection Network, a nonprofit organization of EPA alumni working to protect the agency's progress toward clean air, water, land and climate protections.

EPA's proposal for controlling---or, in this case, **not** controlling---power plant emissions of mercury and other hazardous air pollutants uses faulty information and specious reasoning, misinterprets Supreme Court precedents, and ignores common sense, to reach the conclusion that there is no need to regulate such emissions. The regulation is already in place, and we know it cost far less than predicted, and that it has reduced mercury emissions by 96%. We also know that mercury emissions are harmful and that the equipment to control mercury emissions also reduces emissions of other pollutants, including soot and other fine particles that are extremely harmful to human health. Those reductions, called co-benefits, are no small matter: they provide real, concrete, and quantifiable human health protections that EPA values at between $33 and $90 billion (that's "billion" with a "b."). Those benefits include reducing premature deaths and lowering rates of lung and heart disease and other respiratory conditions, reduced infant mortality, and fewer emergency room visits and lost school and work days.

EPA uses a series of sleights of hand to inflate the costs, hide most of the benefits and then find that the costs are so much higher than the benefits that it is not "appropriate" to regulate.

The centerpiece is a proposal to overturn decades of regulatory practice and ignore basic principles of regulatory economics by cherry picking the benefits it will consider, focusing only on emissions of a target pollutant, and ignoring co-benefits that the regulation is certain to produce. The Supreme Court has looked at the Clean Air Act provisions EPA is interpreting and

concluded that they require a broad look at all the consequences of regulation, including its costs, and, by the same logic, its benefits.

EPA's approach makes no sense. It would be like a doctor examining an X-ray to see if someone has a broken foot and ignoring evidence of cancer because that wasn't what the X- ray was looking for. Or telling someone to quit smoking to avoid cancer without mentioning the enormous benefits to hearts, lungs, and general health. It's just common sense to recognize that you can't make a good decision without understanding all of the likely consequences, not just one or two. That is how individuals and businesses make decisions and, until now, what government agencies have always done.

EPA's proposal to jettison that common sense approach and ignore the largest public health benefits of mercury controls may make sense in the hothouse world of anti-regulatory think tanks, but not in the real world where lung, heart and health problems are real and people depend on clean air to keep their children safe and healthy. Ignoring co-benefits is really just another way of cooking the books, rigging the analysis to protect the corporate bottom line instead of our nation's environment.

It's not as if co-benefits are something novel or unconventional. They are essential to understanding the real environmental impacts of regulatory actions. That is why until now every president at least since Ronald Reagan has considered them on an equal footing with direct benefits. EPA's own cost-benefit guidelines and federal guidelines call for consideration of "all identifiable costs and benefits," and recognize that "consideration of co-benefits, including the co-benefits associated with reduction of particulate matter, is **consistent with standard accounting practices** and has long been required." (emphasis added)

Thus EPA's proposal to dismiss co-benefits would be dubious even if that were the only "unusual" thing EPA were proposing. It is not. EPA uses information that is not current, complete, or reliable. Its proposed conclusion relies solely on predictions of costs made in 2011, rather than the much lower costs industry has actually incurred to comply with the regulations.

It cooks the books even more blatantly in looking at the benefits of reducing mercury. The proposal lists numerous ways mercury harms human health, but dismisses them from its calculation, because the benefits of avoiding those harms have not been "monetized"---reduced to dollar terms---and EPA naturally makes no attempt to do so itself. The only "benefit" it recognizes is a modest reduction in lost IQ points of children of recreational anglers, which it values at $5 to $6 million. And it ignores recent studies of human health benefits that take a broader look at mercury's effects and conclude that the direct benefits of reducing power plant

mercury emissions in the U.S. are likely in the range of several *billion* dollars per year, orders of magnitude larger than the estimate EPA is using.

In sum, EPA's proposed decision is based on unreliable, out-of-date information that overstates costs, and uses a host of tricks to low-ball benefits. Rather than do the work of creating a factual record based on current information, EPA took the shortcut of relying exclusively on the 2011 RIA, which was designed for an entirely different purpose. The failure to develop a proper administrative record is a fundamental procedural error, and the proposal is highly vulnerable on that basis alone. EPA must withdraw the proposal.