

**EPN Oral Testimony on EPA's Proposed Revocation of the  
2020 Reconsideration and Affirmation of the  
Appropriate and Necessary Supplemental Finding**

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My name is Ellen Kurlansky. I am a former EPA employee and a member of the Environmental Protection Network or EPN. EPN is a group of over 550 former EPA employees who volunteer our time to support sound environmental decision making at EPA and beyond.

EPN applauds EPA's proposed restoration of the finding that it is appropriate and necessary to regulate hazardous air pollutants (HAP) emissions from coal- and oil-fired electric power plants. As EPA said in this notice, the volume of pollution that is reduced by regulating these sources, the harm to public health that would occur if these sources were unregulated, and the availability of controls to reduce these emissions at costs that allow the industry to continue to provide reliable and affordable electricity all support the finding that it is appropriate and necessary to regulate HAP emissions from these sources.

We are also pleased that EPA agrees that the costs of the rule estimated in 2011, 2016, and 2020 were significantly overestimated. As often happens, the regulated industry was able to meet EPA's standards at a much lower capital and operating cost than EPA had originally estimated. In this case, the lower actual cost of the rule was not only the result of the industry using fewer controls, but also their use of less expensive controls to meet the standards: for example, the use of sorbent injection to meet the acid gas standard and improvements in activated carbon making its use for mercury control more efficient.<sup>1</sup>

On the benefit side, EPA has corrected a grave error in the 2020 finding. EPA then had refused to account for the co-benefits of HAP control. Accounting for all the benefits (and disbenefits) of a regulation is not only sound economic practice; it is, simply put, good government. EPA has a responsibility to do its best to account for all the consequences of its actions. Again, we are glad to see that here EPA has acted responsibly and considered the co-benefits of HAP control in making this finding.

There are also some improvements in EPA's handling of mercury benefits. This time, for example, EPA tried to consider the general population, not just recreational anglers, which is a narrow segment. And EPA looked at cardiovascular endpoints. As a result, EPA's calculated value of the direct benefits is greater than it had been. But it is still not fully consistent with the science and, as a result, it still undercounts mercury benefits. We urge you to consider the following examples:

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<sup>1</sup> Andover Technology Partners, Analysis of PM and Hg Emissions and Controls from Coal-Fired Power Plants, August 19, 2021.

[https://www.andoverttechnology.com/wp-content/uploads/2021/08/PM-and-Hg-Controls\\_CAELP\\_20210819.pdf](https://www.andoverttechnology.com/wp-content/uploads/2021/08/PM-and-Hg-Controls_CAELP_20210819.pdf)

1. There are well established modeling tools available that do a good job of predicting mercury transport consistent with what we have been able to measure in real life, including an update to EPA's own model.<sup>2</sup> But the version of the transport model that EPA used for the 2011 regulatory impact analysis and continues to rely on is based on an out-of-date understanding of mercury transport that leads to an underestimate of exposures in the US. We urge you to make a more accurate assessment of actual exposures based on one of the more reliable modeling platforms.
2. You continue to claim that the cardiovascular effects of mercury exposure are “uncertain” based on studies that only look at low and moderate fish consumers. Such studies lack the statistical power to see the impacts on cardiac health, and no conclusion based on them is appropriate. But other relevant research has been done that considers a wide range of exposures, and EPA's work should be informed by such research.
3. We urge you to construct a dose-response for the cardiovascular effects of methylmercury. This was recommended by a panel of experts back in 2011. But the advice was not taken. Instead, you've looked at a threshold response for acute myocardial infarction (MI) and assumed that no one was above the threshold. This is an unrealistic assumption that results in a significant undercounting of exposures. We note also that EPA has only considered acute MI and not all MI or other cardiac disease—yet another factor that led to an undercounting of mercury benefits.

EPA is right: it is appropriate and necessary to regulate HAP emissions from coal- and oil-fired power plants. We applaud this notice. We also recognize that EPA has a lot on its plate and faces resource constraints. But by underestimating mercury benefits EPA has repeatedly given fodder to those who want to jettison the regulation and discredit EPA. A better analysis of the benefits of the rule would allow the public to understand why it is so important that you do what you are rightly doing—controlling HAP emissions from the sector that has the highest HAP emissions in the US.

Thank you for this opportunity to share our thoughts with you.

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<sup>2</sup> Ye, Zhuyun; Mao, Huiting; Driscoll, Charles T.; Wang, Yan; Zhang, Yanxu; Jaegle, Lyatt; Evaluation of CMAQ Coupled With State-of-the-Art Mercury Chemical Mechanism (CMAQ-newHg-BR). *Journal of Advances in Modeling Earth Systems*, March 2018, volume 10, issue 3, pp 668-690.  
<https://ui.adsabs.harvard.edu/abs/2018JAMES.10..668Y/abstract>