

Opening Statement of Regina McCarthy
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Subcommittee on Clean Air and Nuclear Safety
Committee on Environment and Public Works
U.S. Senate

Hearing Entitled “Oversight: Review of EPA Regulations Replacing the Clean Air
Interstate Rule (CAIR) and the Clean Air Mercury Rule (CAMR)”
June 30, 2011

Chairman Carper, Ranking Member Barrasso, and members of the subcommittee, I appreciate the opportunity to appear before you today to testify on EPA’s work to replace the Clean Air Interstate Rule (CAIR) and the Clean Air Mercury Rule (CAMR).

When the Administrator spoke to the Board of Directors of the Edison Electric Institute, the message was clear -- “It’s time to start cleaning up.” The Administrator discussed the need to begin investing “now” to reduce emissions of sulfur dioxide, nitrogen oxides and mercury from power plants.

It wasn’t Administrator Jackson though – it was Administrator Leavitt that delivered that message in January of 2004 – more than 7 years ago.

As acknowledged by the title of this hearing, we are not the first Administration to recognize the need to clean up power plants and to issue rules to address that need. In fact, since 1989, when President George H.W. Bush proposed what became the Clean Air Act Amendments of 1990, power plant clean up has been the continuous policy of the U.S. government under two Democratic and two Republican presidents.

Over the years, many power plants have invested in modern pollution controls to reduce their emissions and have contributed to the significant progress this country has made in providing healthy air to our citizens. Many other power plants, however, have delayed the investments that Administrator Leavitt urged them to make.

Effective technologies for controlling SO₂, NO_x and mercury emissions from power plants have been available for years, yet a substantial portion of the coal fleet lacks advanced controls for NO_x, SO₂, or mercury.¹ Although SO₂ scrubbers have been available for more than 35 years, well over a third of the coal capacity has yet to apply SO₂ scrubbers.² Many of these uncontrolled units are small and were built before the Clean Air Act was enacted.

¹ NEEDS v.4.10 PTox Database

http://www.epa.gov/airmarkets/progsregs/epa-ipm/docs/NEEDSv410_PTox.xlsx

² Id.

Elements of the power industry sought for many years to delay the congressional mandate to control toxic air pollution. Meanwhile, more than 50 other industries have complied with federal standards for toxic air emissions. Municipal waste combustors and medical waste incinerators, which were the other two largest sources of mercury, have reduced their emissions by more than 95 percent since 1990. It is time to level the playing field and reduce the public health threat.

Electric power plants today are the country's largest source of SO₂ and of mercury, and the largest stationary source of NO_x. These plants cause smog and fine particle pollution, acid rain, and exposure to mercury and other toxic pollutants, which contribute significantly to a wide variety of public health and environmental problems. At recent air pollution levels, exposure to fine particles from all types of sources, including power plants, is believed to cause between 130,000 and 320,000 premature deaths each year, while smog exposure prematurely ends the lives of an additional 4,700 Americans.³ In other words, 1 in 20 deaths in the U.S. occurs prematurely due to this harmful air pollution. Each year, smog and soot also cause 2.5 million cases of aggravated asthma among children, about 150,000 hospital admissions for respiratory and cardiovascular illness, and nearly 200,000 non-fatal heart attacks.⁴ While past EPA rules for power plants, vehicles, and other sources have made some progress reducing these effects, much more remains to be done.

The last Bush Administration recognized the need to clean up the power sector to address these public health issues. For example, in explaining the need to reduce power plant emissions, Jeff Holmstead, my predecessor, testified to Congress that the Bush Administration plan would “dramatically reduc[e] fine particle pollution caused by SO₂ and NO_x emissions,” and noted that “Of the many air pollutants regulated by EPA, fine particle pollution is perhaps the greatest threat to public health.”⁵ The Bush Administration issued two rules to clean up power plants – the Clean Air Interstate Rule (CAIR) and the Clean Air Mercury Rule (CAMR). The U.S. Court of Appeals for the District of Columbia Circuit, however, held these rules did not meet Clean Air Act requirements and remanded both rules to EPA for revision consistent with the Court's decisions.

To replace these two overturned rules, and, more importantly, to achieve reductions that are long overdue, we will soon be issuing the Clean Air Transport Rule and are on schedule to finalize the Mercury and Air Toxics Standards in November.

We are not pursuing these rules just because the Clean Air Act requires it or because the Court told us to do so. We are pursuing these rules because they will

³ Fann N, Lamson A, Wesson K, Risley D, Anenberg SC, Hubbell BJ. Estimating the National Public Health Burden Associated with Exposure to Ambient PM_{2.5} and Ozone. Risk Analysis; 2011b. doi: 10.1111/j.1539-6924.2011.01630.x

⁴ Id.

⁵ Testimony of Jeffrey Holmstead, Assistant Administrator, U.S. Environmental Protection Agency, Before the Energy and Air Quality Subcommittee, Energy and Commerce Committee, U.S. House of Representatives (May 26, 2005).

dramatically improve public health, they are affordable, and they are technologically achievable.

The Clean Air Transport Rule is designed to help states achieve the health-based ambient air quality standards for ozone and fine particles, more commonly called smog and soot. When finalized, it will require reductions in power plant emissions of NOx and SO2 in the middle and eastern portions of the country. We estimated that the proposed rule would prevent each year between 14,000 and 36,000 premature deaths, avoid hundreds of thousands of illnesses, and prevent nearly two million days when people would otherwise miss work or school.

We have also proposed the Mercury and Air Toxics Standards to control emissions of toxic air pollutants from power plants. In 2016, these standards will reduce emissions of mercury, other toxic metals such as cadmium, nickel and arsenic, and acid gases. Mercury, depending on the form and dose, may cause neurological damage, including lost IQ points, in children who are exposed before birth and is also associated with impacts on children's cognitive thinking, memory, attention, language, and fine motor and visual spatial skills. Metals such as arsenic, chromium, and nickel cause cancer and other health risks. Acid gases cause lung damage and contribute to asthma, bronchitis and other chronic respiratory disease, especially in children and the elderly. Controls for these toxics also will reduce fine particle pollution and prevent:

- 17,000 premature deaths
- 11,000 heart attacks
- 120,000 cases of childhood asthma symptoms
- 11,000 cases of acute bronchitis among children
- 12,000 emergency room visits and hospital admissions
- 850,000 days of work missed due to illness.

Some in industry are calling for us to move quickly on the rules. For example, the Clean Energy Group⁶ recently said, "Needed regulatory certainty will result from EPA's timely implementation of regulations consistent with the Clean Air Act, which is in the best interests of the electric industry, the market, and customers."⁷ Also, the Chairman and CEO of Wisconsin Energy said, "We see very little impact on customer electric rates or our capital plan between now and 2015 as a result of the new EPA regulations."⁸ Similarly, the President of PPL Generation says that his company has a "proactive approach to environmental compliance" that positions them well to comply with the new regulations.⁹ Undoubtedly, you will also hear from some in industry that

⁶ The Clean Energy Group's Clean Air Policy Initiative members include Austin Energy, Avista Corporation, Calpine Corporation, Constellation Energy, Exelon Corporation, National Grid, New York Power Authority, NextEra Energy, PG&E Corporation, Public Service Enterprise Group, Inc., and Seattle City Light.

⁷ Letter to Lisa Jackson, Administrator, EPA, from Michael Bradley, Executive Director of the Clean Energy Group's Clean Air Policy Initiative (June 15, 2011),

http://www.thecleanenergygroup.com/documents/Letter_Jackson_UtilityToxicsRule.pdf

⁸ May 3, 2011 Wisconsin Energy Corporation 1st Quarter 2011 Earnings Call.

⁹ February 4, 2011, PPL 4th Quarter 2010 Earnings Call.

object to these rules. They will claim that electricity rates will increase drastically, reductions are unachievable given multiple rules, the timeframe is too short, or that these regulations will put people out of work.

These rules are affordable. We estimate that, taking into account the combined effect of the proposed Clean Air Transport Rule and the Mercury and Air Toxics Standards, electricity rates will not rise above historic levels, although this will vary by region across the country. Even with increased rates, consumers could see reductions in their electricity bills if certain actions are taken by utilities and federal, state and local governments, such as the timely establishment of appliance efficiency standards and the establishment or expansion of energy efficiency programs for consumers.

The reductions we are requiring are achievable and can be met using controls that are well understood and available. Issuing the two rules in the same timeframe helps provide power companies with the certainty they need to make smart and cost-effective investments in control technology. The rules work together efficiently; controls applied to meet the requirements of one regulation will help meet other obligations.

The standards will allow adequate time for compliance, especially since the industry has known for years that additional requirements were coming -- since well before Administrator Leavitt's talk seven years ago. Industry has moved rapidly to comply with past requirements. For example, they installed an average of 20GW of scrubbers each year between 2008 and 2010. They also added 150 GW of new generating capacity between 2001 and 2003.

The investments in a cleaner energy sector required by these standards will keep people working and create jobs. EPA estimates that the proposed mercury and air toxics rule will support 31,000 job years of short-term construction work and net 9,000 long-term utility jobs.¹⁰ Money spent on pollution controls at power plants provides high quality American jobs in manufacturing steel, cement, and other materials needed to build the pollution control equipment; in creating and assembling control equipment; in installing the equipment; and in operating and maintaining the equipment. And many of these are jobs that cannot be shipped overseas.

Over the last 40 years, the Clean Air Act has provided a success story of which all Americans can be proud. Key air pollutants are down more than 60 percent, while our economy has grown by over 200 percent. According to EPA's peer-reviewed estimates, every dollar we have spent cleaning up the air has given us more than 30 dollars in benefits. The Clean Air Transport Rule and Mercury and Air Toxics Standards continue that success story.

Thank you for the opportunity to testify today. I look forward to your questions.

¹⁰ Regulatory Impact Analysis for the Proposed Toxics (now MATS) Rule, U.S. EPA, March 2011. <http://www.epa.gov/ttn/ecas/regdata/RIAs/ToxicsRuleRIA.pdf>. Last viewed June 23, 2011.