

it unless we do it in reconciliation. We know we have major bankruptcies coming at us. Regrettably some of them are in the airline industry, maybe even this week. There are rumors about that. We know when people go into bankruptcy, their pension funds go into the PBGC. We know the PBGC has somewhere between a \$30 billion and \$50 billion projected unfunded liability or deficit. If we are going to be able to maintain those accounts so that people who have been planning all their life to receive pensions, if they are in a company that goes bankrupt, still receive some percentage of their pensions rather than get completely wiped out, we have to have a solvent PBGC. So Chairman ENZI and Chairman GRASSLEY have both reported out bills to try to accomplish that and they are using reconciliation to proceed in that direction, and that is very possible. So we need the reconciliation bill to put in place policies which do not address the immediate problem of today, which is obviously the Katrina issue, or the problem even of next year or the year after.

These policies under reconciliation will address 5 years, 10 years, 15 years down the road and address them in a positive way. They are small steps, but they are important steps, and that is why we need to go forward with reconciliation. That is why we have set this date and moved it a month but only a month.

#### KATRINA RELIEF EFFORT

On another issue, and that is the issue of Katrina and how we are funding Katrina and the relief effort, we have now passed two supplementals totaling about \$61 billion. We know we are going to get another supplemental probably within 3 or 4 weeks for another \$50 billion. We also know that moving through the Congress is a whole series of initiatives relative to trying to give relief to the people in the Gulf States, which is the goal of all of us. We recognize that things such as tax packages, such as WERDA, such as the COPS program, we have on this bill—in fact, I think there is an amendment for the COPS program of \$1 billion. There is an amendment dealing with Medicaid which will cost \$4 billion to \$6 billion. There are flood insurance issues. The simple fact is that the cost of this disaster, catastrophe, is going to be huge. The problem we have, as I see it right now—and we are willing to pay that price, by the way. I am perfectly willing to pay whatever is the appropriate price to make sure we give these people an opportunity to rebuild and restore their region in a logical manner. I have suggested that we set up a commission with a single leader along the lines of the Hoover activities in the post-1927 flood where there would be a focal point where all the Federal programs would come together and the money would be distributed in an orderly and planned manner working with the States and the local region. Then we can set up such an au-

thority and put a person on the ground who has a national reputation and knows what he or she is doing and can manage this in a way that is orderly and has a reasonable audit function and reasonable management function so we make sure we get value for the dollars so they are not wasted. We have seen some proposals that would not work and would have wasted money already.

What we are not seeing is that sort of cooperation in the Senate or Congress. We have ideas come from all different sides. We have ideas coming from every committee—we have creative people on every committee—and we have ideas coming from the administration, but there does not appear to be any focal point for management of these ideas so we are prioritizing what we need, how we need it, and where it should come from and where it should go.

We have ideas coming out of one committee that are for flood insurance, or amendments on the floor that already represent \$4 billion to \$10 billion of new spending, or we have ideas coming out of the tax committees or ideas coming out of the appropriating committees. Since everybody wants to respond and respond effectively, there ought to be a management process in the Congress—and in the White House, by the way—that says this is what we prioritize as needed. This is what we want the Congress to move on quickly. Let's take a hard look at what will work and what will not work.

I am sorry we have not seen that yet. As chairman of the Budget Committee, I have been extremely concerned about this because I think we are going to wake up 6 months from now or 3 months from now and realize that a haphazard approach has not been effective either in resolving the problems in the gulf coast or in managing the taxpayers' money effectively.

I am hopeful we will see a little more order in this process. I implore our leadership to give us such order.

I yield the floor.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for 1 hour with the time equally divided between the Senator from Oklahoma, Mr. INHOFE or his designee and the Senator from Nevada, Mr. REID or his designee.

Who yields time? The Senator from Oklahoma.

#### ORDER OF PROCEDURE

Mr. INHOFE. Mr. President, it is my understanding we are going to have 1-hour debate on the motion to proceed and Senator LEAHY and myself are controlling that time. It is acceptable to me, if Senator JEFFORDS would like to be heard at this time, that he be recognized.

The PRESIDING OFFICER. Who yields time to the Senator from Vermont?

Mr. LEAHY. The Senator from Vermont is seeking time? The Senator from Vermont yields such time to the Senator from Vermont as the Senator from Vermont might need.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

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#### DISAPPROVAL OF EPA RULE PROMULGATION

Mr. JEFFORDS. Mr. President, I am pleased to join with my colleague from Vermont, the Senators from Maine, and many other Senators in a bipartisan effort to oppose the administration's mishandling of the Clean Air Act. That is what our resolution of disapproval is about.

We are here because the Bush administration's mercury rule violates the Clean Air Act. This rule is plainly illegal, it is unwise, and it is definitely unhealthy for Americans living downwind of coal-fired powerplants, especially mothers and their soon-to-be-born children.

The administration, with a simple wave of its hands, has used the rules to delay compliance with the mercury control requirements for a decade or longer than the law allows. Our resolution of disapproval is simple enough for even the biggest energy company, and the administration even, to understand. We reject this abuse of the Clean Air Act, and we demand they follow the rules of the land.

The law says: Each and every powerplant unit that emits mercury and other toxic air pollutants must take action to reduce these emissions by using maximum available control technology, or MACT.

The administration could have gone through the appropriate statutory process to delist and exempt their powerplants from regulation, but that is not what they did. Instead, they made up a whole new deregulatory scheme to help out the big energy companies. But the act does not provide them with that authority. They do not have the luxury of ignoring the laws that regular Americans must follow and that Congress wrote to protect the public's health and the environment. This administration is not above the law.

The EPA is allowed to set the MACT standard after considering costs and any nonair quality health and environmental impact and energy requirements. That they could have done. But, instead, the administration chose to violate a settlement agreement. They shut down an advisory commission because they did not like getting scientifically credible answers on mercury controls and costs. The process used to create this rule was flawed and was intended to delay and obstruct any mercury control requirements whatsoever.

In the end, the administration almost wholly adopted the utility industry's proposal on how to regulate mercury emissions. If this is not the proverbial "fox watching the chicken coop," what is? This is not the way the law is supposed to work in America, nor does work in America.

I urge my colleagues, and everyone listening, to support our resolution of disapproval and to support this motion to proceed. We deserve a fair up-or-down vote on the administration's rule that illegally exempts big energy companies from having to reduce toxic air pollution wherever it is emitted.

I yield the floor.

Mr. INHOFE. I ask that we yield 3 minutes to Senator THOMAS.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. THOMAS. Mr. President, I think we deal today with a very interesting and important issue, as a matter of fact. All of us want to do something about mercury and the emissions of mercury. We also want to have electricity, and we want to have it at a reasonable cost. Of course, our efforts now, in terms of energy, are to try to move toward using more and more coal for production because that is the biggest fossil fuel resource we have.

What we have, of course, is a proposal by the administration over a period of time to reduce mercury from this kind of production by as much as 71 percent in the country and to be able to do that in a way which will allow us to continue to use coal and to allow us to continue to do it at the reasonable price that we now have.

What we have done is developed a program to accomplish those important things. We have a regulation, 15 years in the making, which has been designed to allow for the continuation of production, to allow for the reduction over 70 percent in a period of 9 years, and to allow those who have trouble to have some offset sales so the result is a reduction in mercury, which we all want to do, while we continue to produce, which we all want to do.

I think it is a big mistake, after all these efforts that have been made to accomplish all the things we want to accomplish, to say we want to reject that and establish something that is likely to be unworkable over a period of time, plus extremely expensive.

I urge we do not repeal this effort. The opportunity has been there for Congress to work on it. We certainly will. There will be an opportunity to vote on it, if we proceed here as we should, and to be able to say, yes, we want to reduce mercury; yes, we want to continue the production of electricity produced by coal, and we want to be able to do that over a period of time with a reasonable program. That is what we have.

EPA estimates the cost of this at about \$2 billion over this period of time, when what is being proposed is to do a very different thing that costs about \$300 billion.

At any rate, I certainly urge we do not approve this idea of removing this regulation, this program.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. LEAHY. I yield the Senator from Maine 8 minutes.

Ms. COLLINS. Mr. President, I rise today in support of the resolution that would disapprove of the EPA's improperly crafted rule on mercury emissions, a rule that both the Agency's own inspector general, as well as the Government Accountability Office, have criticized.

In the wrong form, mercury is an acutely dangerous toxin that can cause serious neurodevelopmental harm, especially to children and pregnant women. Recent studies indicate that at least one in six women of childbearing age is carrying enough accumulated mercury in her body to pose risk of adverse health effects to her children, should she become pregnant.

Tragically, EPA's own scientists found that some 630,000 infants were born in the United States in the 12-month period from 1999 to 2000 with blood mercury levels higher than what are considered safe. In addition, a new study released last week by the Mount Sinai School of Medicine found that more than 1,500 children are born in the United States every year with mental retardation as a result of mercury exposure.

To see just how toxic mercury is, one does not have to look any farther than my home State of Maine. Every freshwater river, lake, and stream in my State is subject to a mercury advisory warning pregnant women and young children to limit consumption of fish caught in these waters. While this advisory is bad enough for the many anglers who love to fish in Maine's beautiful waters, it is especially difficult for indigenous people, like those of the Penobscot Nation, for whom subsistence fishing is an important part of their culture.

Mercury is dangerous not only to people—and particularly children—but also to wildlife. Let me cite one study conducted by researchers in my own State. The Biodiversity Research Institute in Falmouth, ME, found that mercury concentration in loon eggs increased from Western to Eastern United States. They found that mercury concentration in loon eggs in Maine was dangerously—nearly four times—higher than those found in Alaska where there is not the exposure to mercury from powerplants that we experience in Maine due to the prevailing winds.

Despite the overwhelming hazards of mercury pollution and the fact that coal-fired powerplants are the single largest source of mercury emissions in our country, the EPA inexplicably decided to remove powerplants from the list of mercury sources that must be regulated under the strictest provisions of the Clean Air Act. Instead, the

EPA rule would regulate mercury emissions under a much weaker cap-and-trade program and would give the industry an extra decade to meet even this weaker emissions level. If this rule is allowed to go into effect, powerplants will be free to continue spewing unlimited amounts of toxic mercury into our air until the year 2018.

Both the EPA inspector general and the GAO have severely criticized the EPA rule. The IG found that the EPA conducted analyses in order to justify a predetermined conclusion, did not adequately analyze the impact of this rule on the health of our children, and the EPA was found by the inspector general not to have conducted the appropriate cost-benefit analysis of regulatory alternatives. The GAO found that their cost-effective mercury controls would make it possible to achieve far greater mercury emissions reductions than the EPA rule calls for.

I call on our colleagues to join me—Senator LEAHY, Senator JEFFORDS, Senator SNOWE, and many others—in sending this flawed rule back to the drawing board. EPA's mercury rule is not based on sound science. It does not employ the proper cost-benefit analysis. It will harm human health and the health of our environment, and it simply should not be allowed to go into effect. Our resolution, the Leahy-Collins resolution, would give the EPA the chance to fix these flaws and come back with a rule that would better protect the American people and our Nation's streams, rivers, lakes, air, and wildlife.

I yield the remainder of my time to the Senator from Vermont.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Maine, my friend and neighbor, for her statement.

I see the other Senator from Maine on the floor. I believe she sought 4 minutes. I yield 4 minutes to the Senator from Maine.

Ms. SNOWE. Mr. President, I thank Senator LEAHY for his leadership, as well as Senator COLLINS and Senator JEFFORDS and so many others in bringing forward this resolution of disapproval.

I am here because I happen to believe that the air in Maine, or any part of this country, should not be for sale to the lowest bidder when it comes to our air. Given that the EPA spent over a decade developing the scientific and technological basis for regulating major sources of mercury—dangerous mercury—I am confounded by the failure of its rule to meet either the letter or the intent of the law.

The proposed EPA rule represents a missed opportunity to incorporate the recent research into the health effects of mercury or the recent technological innovations that significantly reduce the levels of mercury emissions. If enacted, the resolution will suspend the first EPA rule that overturns its own

2000 decision and allows powerplants to be delisted as a source of mercury pollution.

Since 2000, research has determined that mercury pollution is more widespread, its effect more pronounced, and methods to reduce it improved. However, the EPA proposal fails to reflect the severity of the situation and allows a weak cap-and-trade system. Under this cap-and-trade rule, many plants will never have to install controls if they choose to simply buy their way out by purchasing allowances from other plants.

The issue of mercury toxins is beyond dollars and cents. Mercury, contained in coal emitted through smokestacks into the atmosphere as the coal is burned, is transported to the air and carried downward for hundreds and hundreds of miles. It is carried by snow and rain back down to Earth into our communities, onto our streets, and around our schools. Inevitably, these toxins pollute our lakes, rivers, and streams. The mercury is then ingested by the fish and, in turn, consumers who eat fish harvested from these freshwater sources. The growing concentration of the amount of mercury has caused a significant problem, not only for Maine's seafood industry but our Nation's.

The EPA issued an advisory about mercury and seafood sales in our country, and since March 2004 sales of tuna, for example, in America have declined by 10 percent. This has resulted in the revenue loss of more than \$150 million to the industry. However, we cannot fault the consumers but, rather, our own failed Government policy.

If EPA had followed the Clean Air Act and retained its 2000 decision, each utility unit would have been required to reduce mercury pollutants by 70 to 90 percent in 2008. I should point out that powerplants are the largest remaining unregulated source of mercury pollution in the United States—accounting for the 90,000 pounds of airborne mercury a year.

EPA's own considerable research on the sources and effects of manmade mercury pollution confirms that mercury emissions are getting worse. To my dismay, the less stringent EPA approach will inevitably fail to protect either the health of our children or Maine's natural resources and the economies that depend on them.

The EPA proposal, at its fundamental level, clearly is delinquent in protecting all Americans equally from the hazards of mercury pollution. Under these guidelines, a powerplant can buy its way out of mercury restrictions and continue to plague the surrounding population. Our commitment to our communities in America should be uniform, and thus our restriction of this neurotoxin should be consistent.

We know for a fact that human ingestion of mercury causes grave neurological damage to young children, infants, and the unborn. Methylmercury is a known neurotoxin and develop-

ment inhibitor in unborn babies. Children and fetuses are most susceptible because mercury can have a damaging effect on developing brains. Reports tell us that nearly 4.9 million women of childbearing age have elevated levels of mercury and that approximately 630,000 children born each year are at risk from mercury-related learning and developmental problems. I find these figures unacceptable. In fact, we all should.

Neurotoxins are not commodities; neurotoxins are poison. I believe that these pollutants and poisons should not be traded in our society but, rather, should be significantly restricted and reduced. It is our duty to enact such a rule.

I hope we will adopt the mercury resolution of disapproval.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I would like to yield 8 minutes to probably the Senator who knows more about air quality and the Clean Air Act than any of the rest of us, the Senator from Ohio, Mr. VOINOVICH.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I rise in strong opposition to this resolution. This represents a continuing saga that started out in 2001 by those of us from the midwestern part of the United States of America with our respected friends from the northeastern part of the United States. I believe everyone should put what we are doing tonight in context; that is, to be effective, this resolution must be passed by the Senate and House and signed by the President.

While the act provides for expedited and privileged procedures in the Senate, there is no such rule in the House. The House will not consider this. The President announced today, if the resolution is passed, that he would veto it. That is where we are.

On March 15, the EPA finalized the Clean Air Mercury Rule and made the United States the first nation in the world to regulate mercury emissions from existing coal-fired powerplants—the first in the world. Through two phases in a “cap-and-trade” program, mercury emissions will be reduced by 70 percent. This is modeled after the Nation's most successful clean air program, the Acid Rain Program. Modeling by the Electric Power Research Institute, an independent nonprofit research organization, shows that the rule will reduce mercury in every State. This is quite amazing, given the nature of mercury.

It is important for my colleagues to understand that all the mercury that is being deposited in the United States doesn't come from the United States. Only 1 percent of the mercury in the world comes from our powerplants in this country. Mercury pollution is a global issue because it travels hundreds of thousands of miles. About 5 percent

of worldwide mercury emissions comes from natural sources, such as oceans and volcanoes. From 1990 to 1999, EPA estimates that U.S. emissions of mercury were reduced by nearly a half, which has been completely offset by increases in emissions from Asia.

The fact is that U.S. powerplants account for a small percentage of worldwide emissions, and most of the mercury deposited in our Nation comes from outside the country and natural sources. Still, the administration has decided to lead with the first-ever Federal regulation of powerplant mercury emissions in the world.

By using the Congressional Review Act, the Senator from Vermont and the resolution's supporters are seeking to topple this regulation that has been nearly 15 years in the making—starting in the Clinton administration—and represents one of the most extensive rulemakings ever conducted for a clean air regulation.

The broader intent of the resolution seems to force EPA to impose a very costly and potentially devastating regulation. Several of the sponsors of Senate Joint Resolution 20 have expressed support for maximum available control technology—called a MACT standard—to reduce mercury emissions from every powerplant by 90 percent within 3 years. Proponents of this approach claim that each powerplant should be able to reduce mercury emissions by at least 90 percent. However, this level of reduction is not currently achievable, and no controlled technology vendor can guarantee the performance of mercury removal technology at this or any other specific level in the future.

According to the independent Energy Information Administration, a MACT standard would have a devastating impact on our Nation because coal plants unable to attain it would be forced to fuel-switch away from coal, which is our most abundant and least costly energy source, to natural gas.

Increased reliance on natural gas for electricity generation will add to the already obscene increase in natural gas costs that our businesses and families are exposed to, including those people who live in the northeastern part of the United States. We have the highest natural gas prices in the developed world, and increased costs have diminished our businesses' competitive position in the global marketplace. We don't live in a cocoon; we live in a global marketplace. The chemical industry's eight-decade run as a major exporter ended in 2003 with a \$19 billion trade surplus in 1997 becoming a \$9.6 billion deficit. These are real jobs.

The impact of a MACT standard has led many groups to express opposition to this resolution, including the American Chemistry Council, American Farm Bureau Federation, Edison Electric Institute, National Mining Association, National Association of Manufacturers, and United Mine Workers of America. It just can't be justified from a cost-benefit point of view.

This is very important. While EPA estimates the cost of its cap-and-trade rule at about \$2 billion, EIA has projected costs as high as \$358 billion for a 90-percent MACT standard.

The public's return for such a regulation is an average increase in national electricity and natural gas prices by 20 percent and additional reduction in U.S. mercury disposition of 2 percent, an almost immeasurable decline in people's exposure to mercury.

I don't understand why people in this country are so bent on doing the "perfect," when you have something that is good and makes sense from a cost-benefit point of view. Given the state of technology and cost of various proposals, the best way to reduce emissions now is by reducing sulphur dioxide and nitrous oxides and getting cost-benefit reductions. Obtaining reductions cost effectively is very important; otherwise, companies may not be able to move forward with other pollution benefits such as integrated gasification combined cycle.

We are moving ahead with the Energy bill and by reducing SO<sub>x</sub> and NO<sub>x</sub> we will do more to reduce mercury than any other proposal out there. I hope my colleagues understand what we are talking about tonight. Whatever happens tonight, it is going nowhere because the President has said he will veto this resolution if it passes.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Vermont.

**MR. LEAHY.** Mr. President, I suppose there are Members who think we are in great shape, the air is clean, no problems whatsoever. The fact is, of course, we have significant mercury in the air that is created in the United States. It tends to occur disproportionately in one part of the United States, the Northeast, making the waters, fish, and air unsafe for children and for pregnant mothers. I will speak more on that as we go along. If this rule would actually help, I would be all for it.

Let's be serious. If we ever wondered what a mercury pollution rule written by the polluters would look like, now we know. This is pretty much it. Some of this rule was copied verbatim, we now find out from some very brave people. It was copied verbatim from the sheets given by the companies most involved in the pollution.

Most Americans have a great deal of trust in the Environmental Protection Agency since it was created during President Nixon's administration. It is very sad, very appalling to see how they have been captured by special interests. It is regrettable the American people and many of their representatives in Congress have been forced to the conclusion that mercury rules have been so mishandled and so co-opted by special interests that this rare effort to override is necessary.

We have a simple choice on mercury pollution. Do we follow the administration and the well-funded special interests who are creating most of the mer-

cury pollution and take several steps backward and thus force the American people to wait at least another decade before cleaning up the toxic mercury spewing out of old powerplants across this country? Do we allow this new rule to allow toxic mercury? So everyone understands what we are talking about, this does not just make the skies darker. This is a substance so harmful that it causes birth defects, IQ loss, and mental retardation. Do we continue to let it poison children and pregnant women, while costing taxpayers billions in health care costs?

Shouldn't we heed the proliferation of warnings our States and the Federal Government have had to give to anglers and women, to the general public, about the consumption of fish—fish caught not from outside our country but in streams and lakes and rivers all across America? Shouldn't that be enough to shame our Government into action?

Should we allow this rule to move forward, the Bush administration's own inspector general says it does not comply with EPA Executive order requirements. Their own inspector general says it does not comply. The Government Accountability Office has said there are major shortcomings in the economic analysis. Or should we uphold the bipartisan work of Republicans and Democrats alike that produced the Clean Air Act, thus protecting the health of pregnant women and children?

The Clean Air Act requires EPA to control each powerplant emission by 2008 at the latest. That is the law of the land. Anything less is more pollution. Instead, the administration has turned the Clean Air Act on its head. And this notwithstanding the two previous administrations, Republican and Democrat, that sought to enforce it.

Now they have revoked an earlier EPA finding that is necessary and appropriate to require these powerplants apply technology to reduce mercury emissions. By revoking the earlier EPA finding and deciding instead to coddle the biggest mercury polluters, the administration is saying it is no longer necessary or appropriate to adequately control mercury emissions. It is an audacious disregard for the health of the American people.

Let's do the rule over. Let's get it right. Look what we have. EPA rules are in orange on the chart and do not meet the clean air requirements. The Clean Air Act is in blue on the chart. That shows how badly they miss it.

This rule is going to allow more mercury into our environment than even the current law. If we leave the current law alone, there would be less mercury in our environment. Instead, the rule gives more pollution for longer than the Clean Air Act allows.

The rule is all the more shameful because of the health damage. EPA's own estimate of the number of newborns at risk of elevated mercury exposure has doubled to 630,000. They also found that

one in six pregnant women has mercury levels in her blood above the EPA-safe threshold. I love to have people stand up and say we are family friendly around here. Family friendly with 630,000 newborns at risk? One in six pregnant women at risk, that is family friendly?

Also, mercury emissions contaminate 10 million acres of lakes and 400,000 miles of streams, which triggers advisories in 45 States warning America's 41 million recreational anglers the fish they catch may not be safe to eat.

One reason the administration has such a lack of candor is the fact we discovered this rule has the polluting industries' fingerprints all over it. Their first proposal for these rules lifted exact text provided by the utility industry lobbyists. Of course, when the lobbyists are shut in and the public is shut out, when the scientific and economic analysis was manipulated and where the public's health was ignored, we get a rule like this.

The Bush administration's own inspector general and the Government Accountability Office criticized almost every aspect of how EPA drafted this rule. Their recommendations to improve it were ignored. So were more than 680,000 public comments, a record for EPA. They produce a rule that will do nothing for at least a decade.

They punted, and in the meantime, the grandfathered powerplants keep putting mercury into our water, into our fish, putting a generation of women at risk. We tell them their health is not important. We are told it is not a family value to put another generation of young kids at risk of learning disabilities. That is what the mercury rules do.

People in the United States will watch what we do in the Senate, how we vote. Will we side with the American people or the big polluters?

The administration's mercury rule is a danger to America's women and children. It is time to do it over and do it right. Listen to the Bush administration's own inspector general. Do it right. I hope we do go with the motion to proceed.

The distinguished Senator from New Jersey is in the Senate and was seeking 2 minutes. I yield 2 minutes to the distinguished Senator from New Jersey.

I am sorry, I withhold.

**MR. INHOFE.** Let him go ahead.

**MR. LEAHY.** I yield 2 minutes to the distinguished Senator from New Jersey.

**MR. LAUTENBERG.** Mr. President, the time is short but certainly the alarm is real.

As I look at this, I am bewildered. I have three daughters. I have been fortunate enough to have 10 grandchildren. I have one son. The most precious assets I have in this world are these 10 little kids. I cannot believe that any Member here, in a face-to-face discussion, would say, We have to protect the ability of the coal powerplant

to continue to emit more mercury into the atmosphere. I cannot believe anyone would take that as a fair exchange. Would you rather make sure our coal-fired powerplants have the right to increase the emissions of mercury or would you rather know that this child who may be in utero has a lesser chance of being affected by the scourge of mercury?

Stated in a publication put out by the National Education Association, small doses of mercury can impair the brain and the developing nervous system. Infants who appear normal during the first few months of life may later display subtle effects, shorter attention span, poorer motor skills, slow language development, problems with visual-spatial ability such as drawing and memory. These children will likely need extra help to keep up in school, possibly remedial classes or special education.

I hope all of our colleagues, who I know feel as strongly about the protection of our people as I do, but for goodness sake, do not ignore those protections by saying we have to make sure that the powerplants do not have to do their part and reduce the emission of more mercury.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I yield 5 minutes to the Senator from Missouri, Senator BOND.

Mr. BOND. Mr. President, I thank the chairman of our committee.

I rise to ask my colleagues in the Senate to think about raising energy costs on American families and workers when we are suffering a significant energy problem. The American people already are struggling with high gasoline prices. The natural gas prices are going to go even higher. Winter is approaching, with heating bills regrettably expected to go through the roof.

This, in my view, is no time to hit our families with even more energy price hikes. To borrow a slogan from the other side, those are not family friendly.

Supporters of using the Congressional Review Act to overturn EPA's new mercury regulation will not mention the higher energy costs they will bring. The problem is, voting for this motion requires an impossible solution. The technology does not exist to accomplish what proponents want. They want to reduce mercury from coal emissions by 90 percent. The administration wants to reduce it by 70 percent. If I had a magic wand, I would be happy to wave it and support a 90-percent reduction. But I don't. And the hard-working workers and vulnerable families in Missouri and all the other States represented here would not be able to take the higher costs that would come with this.

Sponsors claim the technology exists and is used in Europe. But they might not mention the technology is used on municipal waste. The last time I

checked, orange peels and coffee grinds were a little different from coal. Sponsors may say the technology is starting to be pilot tested in the United States. What they are testing it on is Eastern coal, Appalachian coal, not Western coal, which is a different chemical makeup. It may still seem like coal to you and me, but it makes extracting tiny amounts of mercury very difficult. Western coal is used overwhelmingly in Missouri, and many of our Western States do not respond to the same technologies pursued by the motion's sponsors.

Therefore, generators serving my State of Missouri and many other Western coal States would be forced to shut down their coal plants and switch to natural gas to make electricity.

Natural gas prices are three times what they were just a few years ago. Using it to make electricity, one Nobel laureate scientist said, is like burning your antique furniture in your fireplace to heat your home.

Manufacturers and employers who depend upon natural gas for a raw material are outsourcing their operations to China and other low-cost natural gas areas. That means Missouri workers and workers in States of my colleagues who make plastics, automobiles, chemicals, and metals will be losing jobs. Do we want to see even more workers hurt?

Farmers everywhere are already facing high prices for natural-gas-dependent fertilizer. Terrible drought has struck the Midwest's corn and soybean crops. On top of this, the Midwestern barge traffic is crippled by Hurricane Katrina. Do we want to put more burden on the agricultural sector?

Fixed-income seniors have little room in their monthly expenses for higher air-conditioning, power, and heating bills. Do we want to hurt these seniors even more?

Our low-income breadwinners must drive long distances from rural or urban low-cost housing to get to their good-paying jobs. Their gasoline bills have imposed a heavy tax. Do we want to hurt these vulnerable families more?

We all deserve clean air. We need waters free from contamination. We must have food safety. That is why this President imposed the first mercury emissions cuts in our Nation's history. The last administration had to be sued to take action on mercury. Now President Bush is requiring mercury cuts—70 percent cuts for acid-rain-causing sulfur dioxide, 70 percent for smog-causing nitrogen oxides, and 70 percent for mercury.

Under the President's Clear Skies plan imposed by regulation, nearly every American city will return to clean and healthy air. They will achieve Federal air quality standards without having to impose their own State or local regulations, killing jobs and hassling citizens.

We all care about the environment. Together, by defeating this motion, we can protect the environment, protect

family budgets, and protect workers' jobs.

I urge my colleagues to vote no on the underlying resolution. We do not need to disapprove this regulation that would move our environmental cause significantly forward.

I yield the floor.

Mr. FEINGOLD. Mr. President, mercury contamination is a critical environmental health issue. This is why I could not be more disappointed about the Environmental Protection Agency's so-called "Utility Mercury Reductions Rule" which was finalized in March of this year. The rule jeopardizes the health of our citizens, which is why I have cosponsored Senate Joint Resolution 20, a resolution that disapproves of the Administration's fatally flawed mercury rule. I will include for the RECORD a letter signed by 15 States, including Wisconsin, which urges passage of S.J. Res. 20.

The need for stringent mercury controls has never been more urgent. We know that mercury is a neurotoxin and that mercury exposure can cause a wide range of neurological problems and developmental delays. EPA's own scientists have discovered that twice as many American children are born at risk from mercury exposure than previously thought and the EPA has reported that 1 out of every 6 women of child-bearing age has so much mercury in her blood that it poses a risk to a developing fetus. These risks should not be overlooked. We are talking about the increased potential for developmental delays, lowered IQ, and attention and memory problems, as well as learning disabilities. In addition to the obvious and enormous emotional and psychological toll of such problems, a recently released peer-reviewed Mount Sinai School of Medicine study found that mercury-related brain development problems in children cost the United States more than \$2 billion annually. Despite the well-documented health risks posed by mercury emissions, especially to women and children, the administration has moved forward with this flawed rule.

Thirteen million acres of lakes and 760,000 miles of rivers across the country have been contaminated by mercury emissions. In fact, in an attempt to protect their citizens, 45 States across the country have issued fish consumption advisories related to mercury. Anglers are warned against eating the very fish they catch because of widespread mercury contamination. Sadly, every one of the 15,057 lakes in my home State of Wisconsin is under a mercury-related warning, so I understand this problem all too well. And even if Wisconsinites didn't eat the fish they caught inside our State, many of them would still be at risk, according to EPA and Food and Drug Administration warnings, if they decided to consume saltwater species like tuna, shellfish, or swordfish. Given the situation in Wisconsin, I was not surprised when the State joined nine other States earlier this year in a lawsuit to force the

administration to scrap the mercury emissions rule. And still, even in the face of widespread mercury contamination of our streams, rivers, lakes, and even oceans, and outcry from many States, the administration refused to reconsider.

Unless Congress acts to disapprove the administration's rule, reduction in the amount of mercury emitted will be substantially delayed. Under the Clean Air Act, utilities are required to use the maximum available control technology to reduce mercury emissions by 2008. The rule we debate today—and that I hope we void—would turn that clock back by 10 years to 2018 and then wouldn't even achieve a target reduction of 70 percent. A 70 percent reduction would not be met until 12 years later. Clean air and water are critical to every individual's health and we cannot put off meeting our original deadline. Cost effective pollution control technology exists to limit mercury emissions and companies are already moving forward on installing such equipment. We should encourage this innovation and move forward to quickly reduce the health risks we know to be associated with this neurotoxin.

The administration's final mercury rule, with its cap and trade emissions proposal, also falls far short of what the Clean Air Act requires to protect people all across the country. This is in part because, as noted by a National Academy of Sciences study, "hot spots" of mercury are the inevitable result of such a cap and trade program. Companies wouldn't be required to control emissions at their source and could instead simply buy their way out of compliance. Although trading programs may work with other pollutants, it will not work with mercury. This flawed approach will lead to highly toxic areas peppered throughout each state instead of across-the-board emissions reduction at each site.

I am not only disturbed by the substance of the EPA's mercury rule but also by investigations that have determined that the process by which the rule was drafted was badly flawed and by the failure of EPA to consider all available data. First, in conducting its investigation of the mercury rule making process and prior to finalization of the rule, the EPA's Inspector General reported the rule's development was "compromised and, therefore, may not represent the lowest emissions level that could be achieved." Second, and before the rule was finalized, the Governmental Accountability Office issued a report that severely criticized the EPA's rulemaking process, finding that it violated the Agency's own policy, as well as OMB guidance and presidential executive orders. Finally, the EPA chose to ignore a Harvard study, which had been commissioned by the EPA, that demonstrated substantial public health benefits to a more stringent mercury rule. Taken together, the three process problems are unacceptable and cause for serious concern. Dis-

couragingly, even in the face of these reports and data, the administration forged ahead with its flawed rule.

Senate Joint Resolution 20 is the first step in protecting our citizens and the environment from the harm we know follows from mercury emissions. I am saddened that we must take this step, but I hope that we can quickly reverse the administration's rule. Swift action by this body and the House will reassure Americans that we are acting with their well-being in mind, and I urge all of my colleagues to support this important resolution.

I ask unanimous consent to print the letter to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTORNEYS GENERAL AND CHIEF ENVIRONMENTAL OFFICERS FOR THE STATES OF NEW JERSEY, CALIFORNIA, CONNECTICUT, DELAWARE, ILLINOIS, MAINE, MASSACHUSETTS, MINNESOTA, NEW HAMPSHIRE, NEW MEXICO, NEW YORK, PENNSYLVANIA, RHODE ISLAND, VERMONT, WISCONSIN,

September 8, 2005.

DEAR SENATOR: As chief legal and/or environmental enforcement officers for our states, we are writing to express our grave concerns about the Environmental Protection Agency ("EPA") rulemaking regarding mercury emissions from power plants. We urge you to support a bi-partisan joint resolution sponsored by Senators Patrick Leahy and Susan Collins under the Congressional Review Act (S.J. Res. 20), disapproving EPA's attempt to exempt power plants from the stringent control requirements of the hazardous air pollutants section of the Clean Air Act.

In our view, the mercury rules fail to adequately protect the public from harmful mercury emissions from coal-fired power plants, which threaten the health of our nation's children. Significantly, the rules fail to meet the minimum requirements of the Clean Air Act at a time when the threat posed by mercury to public health and the environment is clear. Mercury pollution in our waterways has forced states to issue fish advisories covering more than 13 million acres of our lakes, and 760,000 miles of our rivers. The scope of mercury exposure has led scientists to estimate that up to 600,000 children may be born annually in the United States with neurological problems. These problems require swift and effective regulatory action to limit mercury emissions in the United States.

Section 112 of the Clean Air Act provides the framework for such regulatory action by requiring the maximum achievable level of pollution control on the sources of hazardous air pollutants such as mercury in an expeditious time frame. Unfortunately, EPA's recent rules regulating mercury seek to exempt the single largest U.S. source of mercury, coal-fired power plants from the requirements of section 112. Instead, EPA has promulgated rules that will allow many power plants to avoid any reductions in their mercury emissions, and will prolong the problem of "hot spots" of mercury contamination throughout our nation. The new rules would do little to reduce mercury emissions for decades leaving our most vulnerable citizens, our children, at risk.

The Leahy-Collins resolution is an opportunity for Congress to protect our children and environment by rejecting EPA's attempt to exempt power plants, and their estimated

48 tons of annual mercury emissions, from the clear requirements of the Clean Air Act. EPA's failure to address the threat of mercury as required by the Clean Air Act has forced our states to challenge the new rules in court. In light of the mounting impacts of mercury emissions on public health and the environment, EPA's failure also compels us to request immediate Congressional action on this critical issue. We strongly urge you to vote in support of the Leahy-Collins resolution to require EPA to establish clean air standards that comply with the law and protect public health.

Respectfully submitted,  
Peter C. Harvey, Attorney General, for the State of New Jersey, and on behalf of the State of California: Bill Lockyer, Attorney General; the State of Connecticut: Richard Blumenthal, Attorney General; the State of Delaware: M. Jane Brady, Attorney General; the State of Illinois: Lisa Madigan, Attorney General; the State of Maine: G. Steven Rowe, Attorney General; the Commonwealth of Massachusetts: Thomas F. Reilly, Attorney General; the State of Minnesota: Mike Hatch, Attorney General; the State of New Hampshire: Kelly A. Ayotte, Attorney General; the State of New Mexico: Patricia A. Madrid, Attorney General; the State of New York: Eliot Spitzer, Attorney General; the Commonwealth of Pennsylvania: Department of Environmental Protection, Susan Shinkman, Chief Counsel; the State of Rhode Island: Patrick Lynch, Attorney General; the State of Vermont: William H. Sorrell, Attorney General; the State of Wisconsin: Peggy A. Lautenschlager, Attorney General.

Mr. CORZINE. Mr. President, I rise today to express my outrage that my colleagues and I have to fend off yet another attack on the environment by the Bush administration. I am appalled that instead of taking steps toward improving air quality by implementing stricter CAFE standards, reducing greenhouse gas emissions, and other positive measures, the Bush rule takes a giant step backward.

Indeed, the mercury rule put forth by the Bush administration takes American environmental policy back at least 5 years. In 2000, the Environmental Protection Agency determined that powerplants must be regulated under the Clean Air Act because they are the largest remaining sources of mercury pollution and are, therefore, a public health risk. Up until the spring of 2003, EPA was working toward finalizing an effective regulatory policy to reduce mercury emissions from powerplants by over 90 percent beginning in 2008. But in 2003, the Bush administration reversed course by developing this new rule that exempts powerplants from any regulation under the Clean Air Act. Bowing to industry pressure, the Bush rule will do nothing to reduce emissions for at least a decade and once implemented, will only reduce mercury emissions to approximately one-third of what the Clean Air Act requires. This decision is irresponsible in light of all of the evidence about the dangers of mercury emissions. Mr. President, mercury emissions are continuing to grow and are endangering

the health of American families across the country.

I am proud to say that my State, New Jersey, has taken the helm on reducing its own instate emissions. Last year, New Jersey adopted stringent rules on mercury emissions from coal-fired powerplants, iron and steel melters, and municipal solid waste incinerators. New Jersey's rules set the goal of reducing emissions from instate coal-fired plants by 90 percent by the year 2007. By taking this hard line on mercury, my State will reduce its mercury emissions by over 1,500 pounds of mercury each year.

While New Jersey has implemented this aggressive strategy in the fight to protect the public from mercury exposure, the new Bush administration rule undermines these efforts. More than one-third of mercury deposition in New Jersey comes from out-of-state sources. Instead of allowing more mercury emissions from coal-fired plants, shouldn't the Federal Government be strengthening its laws by requiring States to adopt strict rules similar to New Jersey's? Instead, it is removing powerplants from the list of pollution sources subject to stringent pollution controls under the Federal Clean Air Act. Why does the administration want to undercut States, such as New Jersey, that are making the right decision?

Thankfully, New Jersey has not backed down, and stands by its goal to reduce mercury emissions. In fact, New Jersey spearheaded a multistate lawsuit challenging the EPA's rule delisting powerplants as a source of mercury pollution. Fourteen States have joined New Jersey's challenge to this rule because it violates the Clean Air Act and fails to protect the public adequately from the harmful mercury emissions from coal-fired powerplants.

The health effects of mercury are no secret. Mercury is a known neurotoxin that can cause severe neurological and developmental problems. Developing fetuses and children are the most vulnerable to the effects of mercury contamination. The threat is so severe that the National Academy of Sciences recommends that pregnant and nursing mothers not eat more than 6 ounces of fish per month. Even by EPA's own estimates, more than 600,000 infants are born each year with blood mercury levels higher than 5.8 parts per billion, the EPA level of concern. That is 600,000 children who are at risk of harmful impacts on cognitive thinking, memory, attention, language, and fine motor and visual spatial skills. Some studies indicate that mercury could even be linked to the skyrocketing number of autism cases across the country.

The numbers continue to astonish. Fish from waters in 45 of our 50 States have been declared unsafe to eat as a result of poisoning from mercury. In New Jersey alone, there are mercury consumption advisories for at least one species of fish in almost every body of water in the State.

Knowing these health risks, we cannot be complacent about this new rule. How can we sit back and let powerplants, the Nation's worst mercury polluters, reduce their mercury emissions by such a drastically different rate than what the Clean Air Act requires? This is morally repugnant, irresponsible and just plain wrong.

We have the technology to control mercury emissions—that is not the problem. The problem is that industry does not want to be accountable for the costs of polluting, and the Bush administration is letting them get away with that. Instead, the public will incur the health costs of not reducing emissions. Once again, it is clear that the administration has no problem letting big industry off the hook at the expense of the public's health.

The science is behind us and the technology available to reduce human exposure to mercury. We cannot retreat; we must move forward and protect our Nation's children. I urge my colleagues to support the resolution.

Mrs. BOXER. Mr. President, just over 5 short months ago, the Bush administration finalized a rule that weakens and delays required controls on emissions of mercury from coal- and oil-fired powerplants. We should overturn this rule today.

This vote presents a clear choice: does the United States Senate support protecting the health of millions of children in our nation, or does it support protecting the profits of industries that emit mercury, which poisons our children and environment?

The Bush administration supports the interests of polluting industries. The administration's rule saves the electric industry money, but at a severe cost to public health. The administration has—once again—used the Federal Environmental Protection Agency to protect polluters.

Mercury is a potent poison. Studies show that it may damage the human cardiovascular, endocrine, immune, and respiratory systems. It also harms the nervous systems of developing fetuses. Low levels of mercury exposure in utero can damage a fetus's brain and create long-term injuries, including learning disabilities, poor academic performance, and reduced capacity to do everyday activities like drawing and learning to speak.

Up to 637,000 children are born each year having already been exposed to levels of mercury associated with brain damage.

Just last week, on Sept. 8, 2005, the Center for Children's Health and the Environment, located at Mount Sinai Medical Center, found that more than 1,500 babies suffer from mental retardation due to mercury exposure in utero. In addition to the life-long personal impacts, the study found that the nation loses \$2 billion annually from such injuries.

Forty-five States warn people to reduce or avoid consumption of fish from waterbodies that contain mercury due

to the risk associated with eating these fish. Mercury levels become concentrated in some fish, reaching more than one million times the level of mercury in the water.

Where does this mercury come from? Powerplants are the single largest source of U.S. emissions of mercury, accounting for 44 percent of all such emissions. These powerplants emit 30 percent of the mercury that currently pollutes U.S. waters. Fish contaminated with mercury is the main source of exposure for people in our nation.

The Clean Air Act requires reductions in mercury emissions that are crucial to protect public health. But, the Bush administration has decided to ignore the law.

EPA's rule on coal- and oil-fired powerplants implements slower and weaker requirements than under the Clean Air Act. This ill-advised rule delays reductions for 10 years and allows higher emissions of mercury, compared to the Clean Air Act's requirements. EPA's projected reductions in emissions under the rule do not meet the reductions required by the Clean Air Act. And, in fact, this chart shows the reductions do not even meet what the rule itself calls for.

Why did the EPA get it so wrong?

Well, for starters, EPA used language from utility-industry lawyers—almost word for word—to create the rule.

On September 22, 2004, the Washington Post reported that:

For the third time, environmental advocates discovered passages in the Bush administration's proposal for regulating mercury pollution from power plants that mirror almost word for word portions of memos written by a law firm representing coal-fired power plants. . . . The EPA used nearly identical language in its rule, changing just eight words. In a separate section, the agency used the same italics [the law firm] used in their memo . . .

Let me repeat the last part. The industry memo and the rule that EPA proposed even used the same italics.

What else did EPA do wrong?

The EPA's own inspector general found that senior EPA officials told career EPA staff to produce a rule that allowed 34 tons of annual mercury emissions, rather than to produce a rule that complied with the law.

Let me quote from a 2005 EPA inspector general report that examined EPA's mercury rule:

Evidence indicates that EPA senior management instructed EPA staff to develop a Maximum Achievable Control Technology (MACT) standard for mercury that would result in national emissions of 34 tons annually, instead of basing the standard on an unbiased determination of what the top performing units were achieving in practice.

Again, this bears repeating: Senior EPA officials rigged the rulemaking to allow the power industry to emit a heavy metal that can poison children.

But, it doesn't end there.

Both EPA's inspector general and Congress's Government Accountability Office found that EPA failed to assess all of the public health benefits of reducing mercury. EPA ignored demands

from its own Children's Health Protection Advisory Committee and other public health groups to assess such injuries.

Let me quote from a January 4, 2005 letter that the Advisory Committee wrote to the EPA:

While we are pleased to see that EPA is considering additional external analyses, we note that EPA has not conducted the analysis recommended by [the Children's Health Protection Advisory Committee] . . . Specifically, we asked the Agency to develop 'an integrated analysis with respect to whether emissions reductions under either of these proposals are the most child-protective, timely, and cost-effective,' using existing available data. . . . The [Children's Health Protection Advisory Committee] notes that none of the [EPA's] Principle questions for consideration [of the rule] addresses the importance of healthy child development in assessing a country's economic competitiveness.

The Advisory Committee wrote four letters admonishing the EPA to conduct the needed analysis and increase protections for children.

Did EPA listen? No. EPA unlawfully allowed industry to emit poison, and then turned a blind eye to the injuries suffered by the children who will be hurt most from this decision.

In this rule, EPA chose not to require coal and oil-fired powerplants to make the same types of reductions that medical and municipal waste incinerators have made. These facilities, which emit mercury, have reduced their emissions by 90 percent using the maximum achievable control technologies.

EPA got it wrong by cooking the books, using industry-supplied language, willfully ignoring the most severe public health impacts, and simply refusing to make powerful industries comply with the same rules as other entities.

We must reject EPA's rule to delist these facilities as emitters of hazardous air pollutants. The Senate must join with the religious community, public health advocates, fishermen and hunters, environmental groups and more than a dozen states in opposing this rule.

We must vote to protect public health, not the profits of the power industry.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

Mr. KERRY. Mr. President, I regret having to miss the vote on the Collins-Leahy mercury resolution on the floor today; however, I am in Louisiana delivering supplies to the victims of Hurricane Katrina. It is my understanding that my absence will not affect the outcome of this vote.

The scientific evidence regarding the role that mercury contamination plays in public health and the environment speaks to the importance of this issue. Mercury is a potent neurotoxin harmful to fetuses' and infants' nervous systems. Frighteningly, one in six women of childbearing age in the United States carries enough accumulated

mercury in her body to pose risks of adverse health effects to her children should she become pregnant. But it doesn't end there. A recent study found links between mercury and childhood developmental disabilities such as autism. Forty-five States have fish advisories for mercury warning pregnant women and children to limit their consumption of many fish caught in freshwater. And researchers have warned that mercury is associated with cardiovascular disease in adult men.

Facing this threat to the environment and our public health, the Bush EPA has failed. Whether through effort or error, it has repeatedly taken its lead from regulated industries, overlooked sound science, and put the demands of the special interest ahead of the public interest. EPA has indefensibly purported to overturn its obligation under the Clean Air Act to adopt far more protective mercury regulations by 2008. Simultaneously the Agency has substituted far weaker measures that do not require any specific mercury reductions before 2018, and even then delay the ultimate reductions for an additional decade.

As Members of the Senate, we have a unique opportunity under the Congressional Review Act to send the mercury powerplant rule back to the EPA for a thorough review. Only through a new rulemaking can we hope to develop a scientifically sound proposal that will protect the public health, protect the economy and give the public any confidence in the regulatory process.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I will use leader time, not to use the remaining time Senator LEAHY has.

The PRESIDING OFFICER. The Senator has that right.

Mr. REID. Mr. President, we do not have a lot of rivers in Nevada. We have very few. The little river we love a great deal is called the Carson River. It is a wonderful place to fly fish. But there are signs posted in various places on the Carson River warning of the danger of mercury.

Mercury in Nevada is a problem, as it is in 44 other States. Forty-four States, including Nevada, have warnings urging residents to avoid eating mercury-laden fish caught in lakes, rivers, and streams.

I first want to thank Senators LEAHY and COLLINS for bringing the mercury pollution rule resolution of disapproval to the floor today.

Mercury is a potent neurotoxin that can affect the brain, heart, and immune system. Developing fetuses and children are especially at risk, and even low-level exposure to mercury can cause learning disabilities, developmental delays, and other problems.

Mercury's impact on public health has been well documented. EPA scientists estimate that one in six pregnant women in the United States has enough mercury in her body to put her child at risk. That is too bad.

The Food and Drug Administration has recommended that children and women of childbearing age eat no more than two meals of fish per week and to avoid eating certain fish altogether.

Powerplants are the largest emitter of mercury in the United States, emitting over 40 percent of the total mercury emissions.

On March 29, 2005, the Bush administration issued the final rules that give powerplants a pass on mercury emissions for years, delaying modest reductions until the year 2018.

Every time I hear the Clear Skies Initiative, it reminds me of the book "1984." That is Orwellian. That legislation does everything except clean the air. The American people want air they can breathe that is safe. They want water they can drink. Delaying these reductions until 2018 does not do that.

Earlier this year, the EPA Inspector General and the Government Accountability Office found that the EPA failed to analyze the health impact and ignored scientific evidence to establish a predetermined and less protective mercury rule favored by the Bush administration political appointees.

This is not some partisan harangue. This is from the Inspector General of the Environmental Protection Agency and the Government Accountability Office, the watchdog of this body, the Congress.

Ten States have filed lawsuits against the EPA saying the rules certainly do not go far enough. In addition, thousands of sportsmen's groups—thousands of sportsmen's groups—public health groups, environmental groups, and religious organizations oppose the Bush administration mercury rule.

EPA rules that allow mercury emissions to continue are a danger to public health. This great Nation cannot compromise health simply to protect the financial interests of utilities. That is why we should reject the administration's mercury rules and send the EPA back to the drawing board to write a rule that complies with the law and protects our health.

So I strongly urge my colleagues to vote for the Leahy-Collins mercury rule disapproval resolution. Forty-four States have warnings urging residents to avoid eating mercury-laden fish caught in their rivers, lakes, and streams. Mr. President, that says it all.

The PRESIDING OFFICER. The Senator yields back.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I see the Senator from Delaware is in the Chamber. If he would like to go ahead, it would be acceptable.

Mr. LEAHY. Mr. President, how much time is still available to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 3 minutes. The Senator from Oklahoma has 15 minutes.

Mr. LEAHY. Mr. President, I yield 3 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. I thank my colleague.

Mr. President, others have spoken this evening of the health threat that is posed to our young, the unborn, and to pregnant women. I am not going to belabor those points. They have been well made.

Senator REID mentioned there is a river in his State where you can't eat the fish because of the mercury content. Ironically, last Friday, I was on a river that literally flows through Wilmington, DE. If you ever come up I-95, through Wilmington, up on the train through Wilmington in the Northeast Corridor, you go right by the Christina River. I was out on the Christina River this last weekend with one of our former Governors, Russell Peterson. You can't eat the fish, or at least you shouldn't eat the fish in the Christina River. There are several other rivers in my State which have a similar ban in effect. One of the problems with the fish is they have mercury in them.

One of the problems with the rule the President has suggested, a strict cap-and-trade approach with respect to mercury—the problem I have, the concern I have is, let's say you have a high mercury-emitting powerplant here, and you have a lower one here. If the folks who have the higher emitting plant want to continue to emit a lot of mercury, they can do that under the strict cap-and-trade approach. They can say: We will find a way in another part of the country to reduce mercury emissions and use that to trade off the high-emitting utility.

The problem, for me at least, with a strict cap-and-trade approach is mercury hot spots. Cap and trade is fine, but I think we would be much smarter to have an approach that almost every utility—which is burning whatever fuel it is, coal or some other, to create electricity—that almost everybody would have to reduce to some extent their mercury emissions.

Is it technically feasible? As it turns out, it is. We had in our committee about 2 years ago testimony from companies such as WL Gore that they have the ability to reduce mercury emissions by 40, 50, 60, 70 percent. I just learned from my staff there is an outfit, a Colorado-based company, ADA Environmental, that has been awarded contracts to install new mercury-control technologies in two powerplants being built in the Midwest. I think they are looking for mercury emission reductions by as much as 80 percent.

This is not something we will only be able to do in 2018 or 2017 or 2016. These are emission reductions that are achievable in the next couple of years. It is all well and good we want to reduce emissions in 2018 by 70 percent. We can do better than that. We ought to do better than that.

There is a balance that is achievable. The balance involves reducing the level of mercury emissions and at the same time not causing further spikes in the

price of natural gas. We can do both, and we need to do both.

The rule this administration submitted to us and has promulgated does not do both. We can do better than that. My hope is in our committee we will be able to do that before long.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. INHOFE. Thank you, Mr. President.

First, let me advise everyone where we are right now. We will be having a vote at the conclusion of my remarks on the motion to proceed. Tomorrow there will be actually a vote on the resolution. And tomorrow is the significant vote. There has been a lot of talk about today's motion, but tomorrow's is very significant.

I have to say it appears to me this is highly politically charged, that we would be talking about this at this time. Of course, we have the confirmation of a Supreme Court Justice, as the Senator from Vermont knows. He is very diligently involved in that confirmation process. We have the catastrophe down in Alabama and Mississippi and Louisiana. Yet we are taking time to do this.

I have to ask the question, Is there anyone in this Chamber who believes the President would sign legislation to repeal his own administration's rule? As the Senator from Ohio pointed out, the President has already announced he is going to veto this resolution in the event it passes. So we are not really accomplishing anything.

I have to say, this is hardly the time to discuss overturning an existing clean air regulation that relies on an approach that is proven to be effective. There were sceptics back when acid rain came along as to the cap-and-trade procedure. It has worked; we know that.

Let's look at the economics for a minute. No one has talked about that.

This resolution is intended to force the Environmental Protection Agency to impose a very costly and potentially devastating regulation in place of the existing Clean Air Mercury Rule, which relies on an already well-proven market-based approach, as I just mentioned. The current EPA approach will cut mercury emissions by 70 percent—70 percent—at an estimated cost of \$2 billion. Supporters of this resolution prefer a maximum achievable control technology—MACT—standard which is not nearly as cost effective.

Supporters also want the MACT standard to cut mercury by 90 percent. The independent Energy Information Administration has found that the implementation of a 90-percent MACT standard within 3 years would cost up to \$358 billion. I did not say "million," I said "billion."

The additional \$356 billion of the MACT—which is much more than the current rule will cost—is projected to only reduce mercury deposition in the United States by about 2 percent more

than the current regulation. As we can see from the chart that is behind us, 22-percent higher electricity prices and costs would be \$358 billion.

A 90-percent MACT would have devastating consequences on natural gas supplies which are already in a crisis. According to the EIA, the Energy Information Administration, it could increase by 10 percent the natural gas used by utilities that are forced to fuel switch. The Senator from Ohio talked about the fact they would have to switch from coal to natural gas. I think everyone understands that would happen.

This would also cripple industries that rely on natural gas, such as the chemical industry, which has already lost 90,000 jobs since the year 2000 due in large part to the rising cost of natural gas. We have talked about that on the Senate floor. We discussed that in our committee, the EPW Committee.

This last weekend I was in Lawton, Altus, and Frederick, OK. That is in the far southwestern part of the State. The farmers down there have received through their organizations what would be the increased cost of fertilizer. One of the main components of fertilizer is natural gas. They really cannot take any more hits. So it goes far beyond just the chemical industry.

The most effective, most flexible, and least burdensome way to achieve mercury reduction is to build on the most successful part of the Clean Air Act, the acid rain program. Many Senators resisted the acid rain program, saying there would be hot spots and compliance problems, yet there have been no hot spots and, unlike with most of the Clean Air Act, virtually no enforcement problems. As the senior Senator from Vermont said in 1999:

When we were debating controls for acid rain, we heard a lot about the enormous cost of eliminating sulfur dioxide. But what we learned from the acid rain program is that when you give industry a financial incentive to clean up its act, they will find the cheapest way of doing it.

I think he was correct. That is exactly what the current rule under which we are operating does, the cap and trade, similar to the successful program that was used in acid rain. Moreover, supporters of the resolution that is under consideration assume the cap and trade mercury rule would be replaced with a 90-percent MACT rule. When the EPA first proposed the cap and trade approach last year, it also proposed a MACT approach. The MACT it proposed as complying with the law would only cut mercury emissions by 29 percent—not 90 percent, 29 percent. Yet here we have a rule that cuts mercury by 70 percent, and it costs less because it uses cap and trade. Why would the sponsors of this resolution want to get only a 29-percent reduction in mercury?

Actual deposition and its variety of sources are rarely discussed. Mercury emissions are not exclusive to powerplants. In fact, U.S. powerplants contribute but 1 percent of the global

total, according to Josef Pacyna of the Norwegian Institute of Air Research, as well as the U.S. Environmental Protection Agency. An enormous amount originates in Asia. More than half of mercury emissions are nationally occurring. Given that statistic, mercury will be present in the human bloodstream regardless of whether powerplants are regulated by a cap and trade emissions reduction program or the more costly but less effective MACT standard—or, for that matter, even if all powerplants and manufacturing facilities in the country were to be shut down altogether.

EPA data shows that eliminating U.S. powerplants from the mercury deposition equation would have virtually no effect on reducing actual deposition. Throughout New England, for example, the range of deposition levels would be unchanged. With or without powerplants, deposition levels are between 10 and 15 micrograms per square meter in the overwhelming majority of the area. Where there is a reduction, the amount is negligible.

These four charts created by the EPA using state-of-the-art computer modeling tell the story. As you can see in chart No. 5, throughout the country mercury deposition from all sources ranges from as low as 5 to 10 micrograms, up to more than 20 micrograms per square meter. The next chart, in contrast, shows that powerplants contribute less than 1 microgram per square meter for most of the country, including virtually the entire United States. Nonetheless, it is true that in most of the East, powerplants are responsible for 1 to 10 micrograms per square meter of the deposition. In a small region of the country, they cause as much as 10 to 20 micrograms. That is why the EPA has issued its regulation.

The next chart, however, is revealing. With the EPA's rule, powerplants will contribute less than 1 microgram in the vast majority of the country and less than 5 micrograms anywhere else. Clearly, the EPA rule is effective. Yet despite the effectiveness of the EPA rule, some are advocating overturning a 70-percent emission reduction in the hopes of eking out a slightly greater reduction of 90 percent.

This last chart, No. 8, completes the story. Even if all powerplants in the country were shut down, mercury deposition would be at least 5 to 10 micrograms; that is, if we shut down all powerplants. All we are addressing now is powerplants, and a lot of people are deceived into thinking that powerplants is where you get your problem with mercury. That is not it. One percent of the total is in powerplants. Even if all powerplants in the country were shut down, mercury deposition would be at least 5 to 10 micrograms. In half the country, it is 10 to 15 micrograms. In a significant portion of the country, it ranges from 15 to more than 20 micrograms.

Look at this chart. Now go back to chart 3. It is incredible that some Sen-

ators are willing to roll back EPA's current rule when deposition from powerplants will be negligible compared to other sources. EPA believes we should act now to reduce emissions of mercury from the powerplants so we can achieve the progress you see in chart No. 7. Repealing the section 111 rule would be a step backward in our efforts to regulate mercury emissions from powerplants. It would create enormous uncertainty for the States. Keep in mind that prior to 6 months ago, when the President came out with a cap and trade restriction on mercury, we had no restriction on mercury in powerplants. It was nonexistent. In the absence of the mercury rule, there will be no Federal regulation of mercury from existing powerplants, at least in the foreseeable future. Repealing EPA's rule would roll back the 70-percent reductions required by the agency and eliminate incentives for the development of new mercury-specific control technologies.

It is not appropriate for Congress to address this issue. The very people who claim that EPA acted improperly have asked the DC Circuit Court of Appeals to review the EPA's action to determine if their actions were proper or improper. The court would thoroughly review the legal and factual basis for the EPA's determination. There is no reason for Congress to interfere with this process. Congress can take affirmative action on mercury emissions by passing the Clear Skies legislation.

We went through this. We have been working for 2 years to get the President's Clear Skies legislation passed. Clear Skies legislation mandates a 70-percent reduction in SO<sub>x</sub>, NO<sub>x</sub>, and in mercury. And for some reason those individuals who claim to be concerned about the environment would rather have no mandated reduction at all. We have the opportunity now to do that. Clear Skies cuts mercury emissions from the power section by 70 percent. The President's Clear Skies legislation is a more effective, long-term mechanism to achieve large scale national reductions of not only mercury but sulfur dioxide and nitrogen oxides. Clear Skies legislation applies nationwide and is modeled on the highly successful acid rain program, a program many people have said was not going to work, was not going to be effective. Yet we all now realize it was effective.

We are not talking about just mercury. We are talking about sulfur dioxide, nitrogen oxide. I believe it would be totally irresponsible to somehow roll back the first attempt that we have to regulate mercury in powerplants. Keep in mind, prior to 6 months ago, it was not regulated at all. That is what this is all about.

Tonight is a vote on the motion to proceed. I don't care about the motion to proceed. Let's go ahead and vote in favor of that. Tomorrow is the main vote. That is a significant vote. I think we need to proceed to that vote tomorrow.

I yield back the remainder of my time.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time having been yielded back, morning business is closed.

#### DISAPPROVING A RULE PROMULGATED BY THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY—MOTION TO PROCEED

Mr. INHOFE. Mr. President, I move that the Senate proceed to the consideration of S.J. Res. 20.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on the motion to proceed to S.J. Res. 20 which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 20) disapproving a rule promulgated by the Administrator of the Environmental Protection Agency to delist coal and oil-direct utility units from the source category list under the Clean Air Act.

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to proceed. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Montana (Mr. BURNS), the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. DEMINT), the Senator from Florida (Mr. MARTINEZ), and the Senator from Kansas (Mr. ROBERTS).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from West Virginia (Mr. ROCKEFELLER), are necessarily absent.

The PRESIDING OFFICER (Mr. TAL-ENT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—92

Akaka	Bunning	Cornyn
Alexander	Burr	Corzine
Allard	Byrd	Craig
Allen	Cantwell	Crapo
Baucus	Carper	Dayton
Bayh	Chafee	DeWine
Bennett	Clinton	Dodd
Biden	Coburn	Dole
Bingaman	Cochran	Domenici
Bond	Coleman	Dorgan
Boxer	Collins	Durbin
Brownback	Conrad	Ensign