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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

CHILDREN AND YOUTH
COMMERCE
INTERGOVERNMENTAL AFFAIRS
STATE GOVERNMENT
ENVIRONMENTAL RESOURCES & ENERGY,
SECRETARY

November 15, 2006

The Honorable Alvin C. Bush, Chairman
Independent Regulatory Review Commission
Harristown, 2, 14th Floor
333 Market Street
Harrisburg, PA 17101

Dear Commissioner Bush:

We are writing to you to communicate our concerns with the Department of Environmental Protection's mercury regulation, #7-405. We support mercury reductions, and as you may know from the extensive communications that you have received, that is not the issue being debated. At issue is whether the mercury regulation before you is the best way to regulate mercury emission reductions for Pennsylvania. We believe that there is a better approach to regulating mercury emissions that protects public health and the environment without jeopardizing Pennsylvania's coal-fired power plants. Therefore, we ask you to disapprove regulation #7-405 as not being in the interest of all Pennsylvanians.

We introduced House Bill 2610 with overwhelming bi-partisan legislative support, as well the support of the following organizations: United Mine Workers of America (UMWA), International Brotherhood of Electrical Workers (IBEW), Pennsylvania Coal Association, Electric Power Generation Association, Pennsylvania Chamber of Business and Industry, Pennsylvania Chemical Industry Council, Associated Petroleum Industries of Pennsylvania, and the Pennsylvania Manufacturers Association. Since that time, we have attempted to mediate a compromise bill between the affected industry and the Department of Environmental Protection. Unfortunately, industry concessions were not reciprocated by the Department.

We believe that the most recently proposed industry compromise is the best approach for regulating mercury in Pennsylvania. All plants would be required to reduce mercury emissions by 90% by 2015, but could participate in a cap-and-trade program to meet the federal cap, which is above and beyond meeting the 90% requirement.

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We believe that the Commission has an opportunity to bring this issue to resolution and consensus and certainly it was the legislature's intent for the Commission to exercise this role under the Regulatory Review Act [section 2(a)].

We thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "DAVE REED". The letters are in all caps and have a slightly stylized, cursive-like appearance.

Representative Dave Reed

A handwritten signature in blue ink that reads "Tom Tighe". The signature is written in a fluid, cursive style.

Representative Tom Tighe

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2610 Session of
2006

INDEPENDENT REGULATORY
REVIEW COMMISSION

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INTRODUCED BY REED, TIGUE, R. STEVENSON, DALEY, FLICK, B. SMITH, STABACK, BUNT, BLAUM, PHILLIPS, BELARDI, ROSS, ROONEY, GERGELY, ALLEN, ARMSTRONG, BALDWIN, BARRAR, BASTIAN, BELFANTI, BENNINGHOFF, BEYER, BIANCUCCI, BIRMELIN, BOYD, BUXTON, CALTAGIRONE, CAPPELLI, CAUSER, CAWLEY, CIVERA, CLYMER, CORNELL, CREIGHTON, DALLY, DENLINGER, EACHUS, ELLIS, J. EVANS, FICHTER, FLEAGLE, FORCIER, GABIG, GEIST, GINGRICH, GODSHALL, GOOD, GRELL, GRUITZA, HALUSKA, HANNA, HARHART, HARRIS, HASAY, HENNESSEY, HERMAN, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, W. KELLER, KENNEY, KILLION, KOTIK, LaGROTTA, LEH, MAHER, MAITLAND, MANN, MARSICO, MCGILL, McILHATTAN, McNAUGHTON, METCALFE, MICOZZIE, MILLARD, R. MILLER, MUSTIO, NAILOR, NICKOL, PAYNE, PETRONE, PICKETT, PYLE, QUIGLEY, RAPP, RAYMOND, REICHLEY, ROHRER, SATHER, SAYLOR, SEMMEL, S. H. SMITH, SOLOBAY, STAIRS, STERN, T. STEVENSON, STURLA, J. TAYLOR, TRUE, TURZAI, WILT, WOJNAROSKI, WRIGHT, YEWIC, ZUG, CRAHALLA, SONNEY AND CORRIGAN, APRIL 24, 2006

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 24, 2006

AN ACT

- 1 Coordinating plans to reduce mercury emissions from new and
- 2 existing stationary sources in this Commonwealth; imposing
- 3 duties on the Department of Environmental Protection; and
- 4 limiting certain powers of the Environmental Quality Board.
- 5 The General Assembly of the Commonwealth of Pennsylvania
- 6 hereby enacts as follows:
- 7 Section 1. Short title.
- 8 This act shall be known and may be cited as the Clean Air
- 9 Mercury Compliance Act.
- 10 Section 2. Legislative findings.

1 The General Assembly finds as follows:

2 (1) The United States of America is the only nation that
3 has a comprehensive regulatory scheme for controlling mercury
4 emissions from industrial facilities.

5 (2) Emissions from foreign countries such as China and
6 other industrial nations continue to have an adverse impact
7 upon aquatic ecosystems in the United States.

8 (3) Reducing domestic emissions of mercury is in the
9 public interest inasmuch as it will have a beneficial effect
10 on aquatic systems and associated fish and wildlife.

11 (4) The Clean Air Act (69 Stat. 322, 42 U.S.C. § 7401 et
12 seq.) contains a comprehensive regulatory scheme for the
13 control of mercury emissions and other harmful air
14 pollutants.

15 (5) The Clean Air Mercury Rule of the Environmental
16 Protection Agency will achieve by 2018 a reduction in mercury
17 emissions from 1999 emission levels of 70% at electric
18 generating facilities through a two-phase program commencing
19 in 2010 and ultimately reduce the emissions to an annual
20 nationwide level of 15 tons.

21 (6) Imposition of emission controls for electric
22 generating units which are more stringent than those required
23 by the Clean Air Mercury Rule of the Environmental Protection
24 Agency could impair competitiveness of businesses and
25 industries in this Commonwealth, producing an adverse impact
26 on employment, coal production, economic development and
27 family income while having a negligible beneficial effect on
28 the environment.

29 Section 3. Purposes.

30 The purposes of this act are as follows:

1 (1) To achieve by 2018 a reduction in mercury emissions
2 at electric generating facilities of 86% from 1999 emission
3 levels and 94% measured from the coal feed.

4 (2) To provide the citizens of this Commonwealth with
5 the opportunity to participate in a national emissions
6 trading program for mercury which is similar to the cost-
7 effective national acid rain control program enacted in the
8 Clean Air Act Amendments of 1990 (Public Law 101-549, 42
9 U.S.C. § 7401 et seq.).

10 Section 4. Implementation.

11 (a) Department of Environmental Protection.--No later than
12 30 days after the effective date of this section, the Department
13 of Environmental Protection shall publish a notice of proposed
14 rulemaking in the Pennsylvania Bulletin proposing to incorporate
15 by reference the provisions of 40 CFR Pt. 60, Subpt. HHHH
16 (relating to emission guidelines and compliance times for coal-
17 fired electric steam generating units) as published in the May
18 18, 2005, Federal Register into the permitting program referred
19 to in the act of January 8, 1960 (1959 P.L.2119, No.787), known
20 as the Air Pollution Control Act, and into other appropriate
21 programs, if any, under the supervision and control of the
22 Department of Environmental Protection.

23 (b) Environmental Quality Board.--Notwithstanding any other
24 provision of law to the contrary, the Environmental Quality
25 Board shall not have the power to promulgate regulations
26 relating to the control of mercury emissions from coal-fired
27 electric steam generating units which exceed or contravene 40
28 CFR Pt. 60 Subpt. HHHH as published in the May 18, 2005, Federal
29 Register.

30 Section 5. Abrogation.

1 All rules and regulations and parts thereof are abrogated to
2 the extent that they are inconsistent with this act.

3 Section 6. Repeal.

4 All acts and parts of acts are repealed insofar as they are
5 inconsistent with this act.

6 Section 7. Effective date.

7 This act shall take effect immediately.