Congress of the United States
Washington, DC 20515

June 23, 2004

Administrator Michael O. Leavitt
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Leavitt,

Over the last several months, your agency has received numerous letters from members of Congress, including from many of the signatories to this letter, urging the Environmental Protection Agency (EPA) to reconsider its proposal for the regulation of airborne mercury emissions.

We appreciate your recognition of the many concerns expressed by the public and by Congress, and we support your subsequent commitment to conduct "additional analysis." We hope that this further review will lead to a stronger final rule.

We remain concerned, however, that the final regulations will nevertheless fail to satisfy the mandates of the Clean Air Act's hazardous air pollutant provisions. As you undertake further study, we urge you again to meet the requirements of federal law and to act decisively in addressing the urgent threat that mercury pollution poses to our nation's public health.

Mercury is a known hazardous air pollutant with serious, well-documented human health and ecological effects. Evidence further indicates that mercury pollution is alarmingly widespread. In February, your own agency doubled its estimate of the number of newborns exposed to unsafe mercury levels, from 320,000 infants a year to 630,000. In March, EPA and the Food and Drug Administration issued a joint advisory warning pregnant women and children to restrict their consumption of certain types of fish because of mercury concerns. Forty-four states have issued warnings that fish caught in their waters are unsafe to eat. The presence of these high levels of mercury in fish has a disproportionate impact on the health of certain ethnic groups who tend to consume more fish than the general population. Even more at risk are certain indigenous groups who rely on subsistence fishing to supply a significant portion of their diet.

Fortunately, aggressive action to control mercury emissions can have significant and rapid ecological and human health benefits. For example, regulatory efforts in Florida to reduce mercury emissions from incinerators and other non-power plant combustion sources have succeeded in substantially lowering the concentration of mercury found in local fish and waterfowl. A study in Wisconsin also found that reduced deposition of mercury produced significantly lower mercury levels in fish.

PRINTED ON RECYCLED PAPER

We believe that significant national reductions in mercury emissions are also attainable at a reasonable cost. Existing technology can control mercury emissions within Clean Air Act deadlines, and full-scale demonstration projects have shown that such technologies can achieve substantial reductions in mercury emissions. EPA's Office of Research and Development also recently released a study finding that existing pollution control technologies can result in greater mercury reductions years sooner than EPA has currently proposed.

We are disappointed by the EPA's continuing failure to take into account both its own analyses and the potential presented by existing technology. We sincerely hope, however, that the further analyses you have pledged to conduct during the extended rule making process will include a thorough review of existing technologies to reduce mercury emissions by the maximum extent achievable. In particular, we urge the EPA to analyze the full range of mercury control options recommended by the stakeholders advisory group and use the appropriate models necessary for conducting a comprehensive analysis.

Once you have completed this review, we call upon you to issue a supplemental proposal and subsequent final rule by the March 15 2005, revised deadline that meet the requirements of section 112 of the Clean Air Act.

We look forward to working with you on this critical issue.

Sincerely,