

**Statement Of Senator Patrick Leahy  
Democratic Policy Committee Hearing On Bush Administration Enforcement  
Of The Clean Air Act**

February 6, 2004

I want to start by thanking Senator Dorgan for bringing this hearing together under difficult circumstances. After a week wondering about the impact a toxic chemical would have on all of our lives, I think it is appropriate for us to end the week by talking about how other toxic pollutants are affecting the lives of millions across the country every day.

By stealthy executive fiat, by favoritism to powerful energy interests and big polluters in the legislative process, and in its selections for our federal courts, the Bush Administration has focused like a laser beam on rolling back one of the most bipartisan environmental laws of the 20<sup>th</sup> Century, the Clean Air Act.

This has been done at the expense of millions of American who are at greater risk from higher levels of exposure from smog and toxic pollutants like mercury.

These toxics cause serious health problems such as asthma, heart disease and learning disabilities. In today's Post, we see that the EPA has doubled their estimate of newborn children at risk because of high levels of mercury in their blood. One of six pregnant women has higher mercury levels than EPA considers safe. How can EPA move ahead with such dismal air policy in the face of these numbers? You can't find a more blatant example of policy being driven by politics instead of science at EPA. Congress should be spending more time looking at why we are bailing out corporations with annual operating revenues in the billions and squelching cleanup activities.

Instead, the Administration is pulling out all the stops to rollback the Clean Air Act, putting our children at greater risk and costing taxpayers billions of dollars in settlement payments from giant energy corporations. The Bush Administration has used every one of its public relations tactics -- sneaking out bad news on Fridays and around holidays, obscuring the facts, and denying the truth - to try will prevent the American people from noticing that they are opening enormous loopholes throughout the Clean Air Act and handing get out of court free cards to corporate polluters.

Just over a month ago, a court upheld the law by blocking the implementation of the Bush Administration's so-called "New Source Review reforms." These days, it seems like the courts are the American people's only backstop against the Bush environmental rollbacks. The Republican Congress either turns a blind eye to these industry favors or gives them a standing ovation.

Unfortunately, the Bush Administration is still playing a shell game with EPA investigations of NSR violations and playing politics with the NSR cases. The Bush Administration lately has been trying to make itself look "greener."

But greenwash, like whitewash, doesn't stick for long.

Miraculously, after three years in office, they have finally filed their first NSR case. That begs the question of why the Administration has not pressed harder on the 50 pending violations stalled at EPA and numerous case referrals sitting at the Justice Department.

It makes you wonder why they so diligently and strategically pushed NSR changes that would undercut their cases in court right now. One case does not make up for the millions of pounds of toxic pollutants like mercury that will continue to seep into our bodies and our environment because of the Bush NSR rollback.

A year and half ago, Senator Jeffords and I held a joint hearing of the Judiciary and Environment Committees to get the Administration to answer some very basic questions about how their changes to the Clean Air Act would affect public health, current lawsuits and EPA enforcement.

They used the same tactics during that hearing that they have for the past year to deny any public health, environmental or legal impacts of their rollbacks. In fact, the Administration officials flat out denied that their NSR changes would impact pending enforcement or court cases.

We explored their misrepresentations at nomination hearings and again all we got was denial. Their denials are in stark contrast to the press accounts and internal documents that clearly show the Administration's preference for handing out pollution pardons to industry over enforcing the law.

Unfortunately, we see the exact same pattern with the new mercury rollback announced in December. Not only did the Administration deny the real impacts of their mercury proposal by ignoring their own internal analysis, but we now know that they adopted the many parts of the industry proposal verbatim.

Today, we will hear from several witnesses that can give us some real answers to the questions the public is asking and that Congress should be asking about the Administration's attempts to gut the Clean Air Act through strokes of their regulatory pen and through back-door scuttling of their own legal proceedings.