

Testimony of Senator Russell Feingold
Democratic Policy Committee Hearing on Mercury Emissions Policy
July 9, 2004

Mr. Chairman, mercury contamination is a critical environmental health issue. I commend you for hosting this very important hearing. I have serious reservations about the Environmental Protection Agency's proposed Utility Mercury Reductions Rule, which was announced on December 15, 2003. This rule is inadequate to protect citizens from the hazards of mercury emissions. On April 1, 2004, I joined nearly half of the Senate in requesting that the Administration propose a new mercury rule for public comment so that a legally defensible final rule to reduce utility air toxics emissions at each electric generating unit can be promulgated by March 15, 2005.

Over 700,000 Americans commented on the proposed mercury rulemaking. The need for stringent mercury controls has never been more urgent, as EPA's own scientists have discovered that twice as many American children are born at risk from mercury exposure as previously thought. The EPA recently released a report stating that 1 out of every 6 women of child-bearing age has so much mercury in the her blood it would pose a risk to a developing fetus. Mercury is a neurotoxin and mercury exposure can cause a wide range of neurological problems and developmental delays.

Mercury emissions have contaminated ten million acres of lakes and 400,000 miles of streams across the country. Every one of the 15,057 lakes in my home state of Wisconsin is under a mercury-related warning. On June 29, 2004, the state of Wisconsin joined 11 other states in urging the Administration to scrap the proposed mercury rule. On June 22, 2004, the Wisconsin Wildlife Federation, the Wisconsin Waterfowl Association, Trout Unlimited of Wisconsin, and over 100 other Wisconsin-based hunting and fishing groups wrote to EPA to express their concerns about the need for mercury regulations that are truly protective. Anglers are also warned against eating the fish they catch because of widespread mercury contamination. Furthermore, mounting evidence indicates that mercury causes reproductive problems in wildfowl populations, such as loons and mallard ducks.

Clean air and water are critical to our health. Pollution control technology exists to limit mercury emissions and to help us get rid of mercury from our rivers, lakes, streams, and wildlife – and ultimately, our bodies.

The current proposed rulemaking on mercury emissions fall far short of what the law requires, and fails to protect the health of our children and our environment. The current cap and trade emissions proposals are not sufficient to protect Americans from the hazards of mercury pollution. Such a trading program would result in "hot spots" by not requiring companies to control emissions at the source. Instead, companies would be able to buy their way out of compliance. Although such trading programs have worked with other contaminants, in the case of mercury, hot spots of this neurotoxin will result near plants that have purchased mercury credits from cleaner burning plants. We will see highly toxic areas peppered throughout each state instead of across-the-board emissions reduction at each site.

In addition to the mercury emissions trading policy, I am also troubled by how this rule was drafted. On June 3, 2004, I, along with 24 other Senators, asked President Bush to give Congress assurances that mercury science would not politicized. I wrote this letter after the *New York Times* reported that the White House officials improperly altered mercury regulations to downplay the health risks of mercury exposure. I am also concerned about accounts indicating that excerpts from utility lobbyists' memoranda to EPA officials were used verbatim in the proposed rule. I still have not received a response from the Administration to my letter, but I think there should be widespread agreement that mercury science should not be politicized. We need to make sure that the process of drafting the rule is conducted in the open and that peoples' health, not political considerations, is the driving force behind this regulation.

Thank you for holding this important hearing. I look forward to hearing more from the experts on this issue, including those state environmental enforcement officials who experience this problem firsthand.