



STATE OF NEW MEXICO
GOVERNOR BILL RICHARDSON



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For Immediate Release

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Federal Appeals Court Upholds States' Lawsuit against EPA Rule Allowing Lax Mercury Emissions Controls for Power Plants

*New Mexico along with 17 other States and Entities Sued EPA Over Power Plant Emissions
Policy*

(Santa Fe, NM) A federal Court of Appeals upheld a lawsuit filed by New Mexico and 17 other states and entities that alleged a U.S. Environmental Protection Agency rule was harmful to citizens and the environment because it would have exempted power plants from strict mercury emissions limits. New Jersey led the lawsuit.

The U.S. Court of Appeals for the District of Columbia Circuit on Friday ruled the EPA violated the Clean Air Act by adopting a cap-and-trade rule that allowed oil and coal-fired power plants to purchase credits to cover excessive emissions rather than installing pollution controls.

“This is another example of the courts’ rejecting a backward Bush Administration policy that would have endangered citizens and polluted the environment,” Governor Richardson said. “The ruling will ensure the protection of the environment from mercury emissions from power plants that would have posed grave health threats for children and others and the environmental citizens, especially pregnant women and young children.”

“New Mexico — along with other states — fought the EPA’s trading program that would have given power plants a pass to pollute the environment,” said New Mexico Environment Department Secretary Ron Curry. “New Mexico took a step further in January by passing regulations for New Mexico that will require new power plants to reduce mercury emissions by at least 90 percent.”

New Mexico will continue to advocate for the strictest possible controls on mercury emissions from power plants.

Mercury is a dangerous neurotoxin proven to cause a variety of developmental neurological abnormalities in babies and young children, including delayed developmental milestones, cerebral palsy, reduced neurological test scores and delays and deficits in learning abilities.

New Jersey led the government coalition that filed the lawsuit that included California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New York,

Pennsylvania Department of Environmental Protection, Rhode Island, Vermont, Wisconsin and the City of Baltimore. The lawsuit also included a number of environmental organizations, including Earthjustice.

The court ruled EPA must protect the environment by setting strict limits on mercury emissions from all power plants. The rule would have allowed coal-fired power plants to buy credits to offset mercury emissions instead of installing their own mercury emissions controls.

States and other entities opposed to the program asserted it would result in hot spots of mercury contamination around many power plants, which would not be required to install additional pollution controls.

Governor Richardson has been vigilant in reducing mercury emissions. New Mexico filed comments on the federal proposal, filed the lawsuit with other states against the federal trading program and pursued legislation to allow New Mexico to be more stringent than the federal program. Governor Richardson signed House Bill 318 last year that allowed the New Mexico Environmental Improvement Board to adopt the stricter mercury regulations for new power plants.

New Mexico has the highest mercury emissions from power plants in the western U.S. at more than one ton annually. The air monitor in New Mexico in 2005 showed the highest level of mercury for all U.S. monitor stations. Fifteen percent of American women of child bearing-age have blood mercury levels sufficient to increase the risk of adverse health effects, especially lower IQs, in their children.

The state Department of Health estimated in 2004 that 30,000 women of childbearing age in New Mexico had elevated levels of mercury in their blood and that 4,000 newborns are at risk for neurological deficits in New Mexico annually.

In 2000, the Clinton Administration required Maximum Achievable Control Technology from coal fired power plants. The Bush Administration reversed that decision and proposed instead the trading program that the Court struck down today.

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