EPA's Mercury Rule Statistics Smell Fishy

By Larry Bell

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In a challenge to EPA's Mercury and Air Toxics Standards (MATS) rule, the U.S. Supreme Court is likely to decide in June whether the agency was required to consider cost benefits of draconian power-plant emission standards which are set to go into effect on April 15.

Originally finalized in December 2011, MATS requires coal-and-oil-fired power plants of 25 megawatt or greater capacity to significantly reduce mercury and other air pollutants through the installation of control technologies.

While no rational person favors polluted air, water, or land, several industries and states do take issue with Obama administration cost/ benefit analyses attached to these most expensive new regulations ever.

On one hand the rule requires that approximately 1,400 power plants which account for only 0.3 percent of global mercury emissions emit about 75 percent less beginning in 2016 at an EPA estimated annual cost of $9.6 billion. On the other, EPA's highly hypothetical $37 billion health benefit claim warrants considerable scrutiny.

Take, for example, their whopper of a calculation that about 6 percent of all pregnant women in America eat as much as 300 pounds of lake fish annually which passes mercury from power plants to their unborn children.

This, they assert, results in lowering their children's IQs by an average 0.009 points. Never mind that, as a Cato Institute brief to the Supreme Court points out, the average IQ test has a 5 point error margin.

EPA then goes on to speculate based upon a few cherry-picked Education Department lead-

exposure studies that each IQ point lost will reduce each exposed child's future income potential between $892-$1,958 annually. Writing in The Wall Street Journal, Brian Potts tabulates that when you add these spectacularly speculative benefits all up, EPA's mercury reductions would amount to approximately $6 million. Based upon $9.6 billion cost, this reflects a 1600:1 cost/ benefit ratio.
EPA previously argued to the D.C. Court of Appeals that another $33 billion to $90 billion in "co-benefits" of requiring plants to install technology to remove mercury and particulate pollutants from the emissions stream should also be taken into account.

Yet even EPA has acknowledged that more than 90 percent of those mercury rule co-benefits occur at air-quality levels that are already safe and covered by existing regulations.

As Paul Driessen, a senior policy adviser for the Committee for a Constructive Tomorrow points out: "There is no factual basis for these assertions. To build its case against mercury, the EPA systematically ignored evidence and clinical studies that contradict its regulatory agenda, which is to punish hydrocarbon use."

Driessen notes that "Mercury has always existed naturally in the Earth's environment . . . Mercury is found in air, water, rocks, soil and trees, which absorb it from the environment. This is why our bodies evolved with proteins and antioxidants that help protect us from this and other potential contaminants."

Putting this into a broader perspective, while American coal-burning power plants emit an estimated 41 to 48 tons of mercury per year, U.S. forest fires emit at least 44 tons per year, and cremation of human remains discharges 26 tons.

In stark contrast, Chinese power plants eject about 400 tons, while volcanoes, subsea vents, geysers, and other sources spew out 9,000-10,000 additional tons. U.S. power plants account for less than 0.5 percent of airborne mercury.

All too often EPA refuses to publicly release raw scientific data used to support its rulings, even withholding it from Congress. As Ron Arnold of the Center for Defense of Free Enterprise has observed, agency researchers often do little more than conduct "literature searches" of selected papers and reports that merely summarize results and opinions without ever seeing the underlying data — much less collecting it in the field.

Such misleading and downright deceptive practices openly violate the Information Quality Act, Executive Order 12688, and related Office of Management and Budget guidelines requiring that regulatory agencies provide for full, independent, peer review of all "influential scientific information."

This circumstance has prompted Rep. David Schweikert, R-Ariz., to introduce a bill, HR 4012, the Secret Science Reform Act, to specifically force the EPA to disclose all scientific and technical information before proposing or finalizing any regulation.

Presently however, the D.C. Court has ruled that EPA can found its determination solely upon their assessments of "appropriate and necessary" benefits. So far, based upon oral arguments, Supreme Court Justices Ginsburg, Sotomayor and Kagan seem to agree. On the other side, Chief Justice Roberts expressed skepticism, along with Justices Scalia, Breyer, Alito, and Kennedy.

In reality, that decision, whichever way it goes, will likely have little influence upon EPA's regulatory rampage. At least not so long as they are allowed to base cost/benefit considerations upon fish stories.