

**NLWJC - Kagan**

**DPC - Box 030 - Folder 004**

**Health - Mercury**

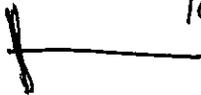
Mbr of Conf objecting

Wellstone

Pallone

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Boxer.



THE WHITE HOUSE

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Health -  
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incl. mercury -

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will wait

PAUL D. WELLSTONE  
MINNESOTA

MINNEAPOLIS TOLL FREE NUMBER:  
1-800-642-6041

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FOREIGN RELATIONS

United States Senate  
WASHINGTON, DC 20510-2303

March 26, 1999

*Paul  
Wedley  
Robert  
Judy*

Honorable Donna Shalala  
Secretary of Health and Human Services  
200 Independence Ave.  
Washington, DC 20201

Dear Secretary Shalala:

I am writing to you to express my very serious concern about the decision that the Department of Health and Human Services is about to finalize on a standard for mercury that is not protective of human health or the environment. I am calling on you to intervene and delay this dangerous decision until the congressionally-mandated National Academy of Science study on mercury exposures is completed next year.

The Department of Health and Human Services is on the verge of making a serious scientific and public policy error concerning the human health impacts of mercury poisonings. Congress has commissioned a study by the National Academy of Sciences on this very issue. Despite this, the Agency for Toxic Substances and Disease Registry (ATSDR) is preparing to release a "Toxicological Profile" for mercury. The release of the profile at this time is of great concern to people in the Great Lakes region who believe the health and safety of their children and themselves are being sacrificed.

I am not alone in describing as 'dangerous' the process by which this exposure level has been set, and also to describe the public health and environmental ramifications if this level is officially adopted by your agency. In February of 1998, three Minnesota agencies, the Department of Health, the Department of Natural Resources, and the Pollution Control Agency sent you a nearly unprecedented joint letter opposing the basis of the standard, the process by which it was set, and the standard itself. I know that health and environmental professionals from many other states and other organizations have also clearly communicated to ATSDR their opposition to this.

I urge you to not commit the serious mistake of adopting this

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standard. Currently, there is tremendous disagreement in the federal agencies and the scientific community over ATSDR's standard and the methodology used to derive it. A dramatic and abrupt increase in the official federal "Safe Level" of exposure for mercury is a very dangerous move—in terms of science, policy, and the protection of public and environmental health—and simply sends the wrong message to the public and to the polluters that mercury is not a problem.

For centuries, mercury's toxicity has been well known, and over the past three decades we have dramatically increased our understanding of how this extremely potent neurotoxin behaves in the environment and how it works in very subtle ways to permanently damage fetuses and young children. Mercury is almost unique among the natural elements in its properties as a persistent bioaccumulative toxic material and we have learned that there is probably no safe level in the environment, since mercury can so readily reconcentrate in the aquatic food chain, which inevitably leads to human and wildlife exposure.

Because of its ability to bioaccumulate in fish, mercury contamination is an environmental justice issue. Subsistence fishers, Native Nations, and minorities engaging in fish-based cultures and life ways will have a higher exposure to mercury through fish consumption. As well, women of childbearing years, young children and the unborn are at risk because of the vulnerability of the developing brain to mercury's toxicity. The effects suffered by these sensitive populations to mercury exposure are irreversible and irreparable. The impacts of mercury emissions on the environment and human health cannot be repaired and take decades to attenuate in the environment.

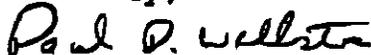
Mercury released into the air because of government policies that are not protective of public health are an attack on the environment and public health of this and future generations. This is why we must do everything possible to reduce mercury emissions and adopt a reference dose that is protective of the most vulnerable among us, including sensitive populations, Native Americans and other minorities who subsist on fish. If we are to be fully protective with our children's health, let us adhere to the precautionary principle and err on the side of caution.

Clearly, no harm will result from a decision to wait for a greater scientific consensus to emerge on such a serious decision that may have repercussions for generations to come—yet considerable confusion and conflict will result from the premature release of ATSDR's mercury standard. I hope that you

will review this situation carefully and consider postponing the release of the ATSDR profile for mercury. Instead, the views and information of ATSDR should be provided to the NAS for consideration in its study.

Thank you for your consideration of my request. Please feel free to contact Kelly Ross of my staff if you need additional information.

Sincerely,



Paul David Wellstone  
United States Senator

cc: Jeffrey P. Koplan  
Centers for Disease Control and Prevention

William Raub, Science Policy Advisor  
Department of Health and Human Services

Honorable George Frampton, Chairman  
Council on Environmental Quality

Honorable Carol M. Browner, Administrator  
Environmental Protection Agency

PATRICK LEAHY  
VERMONT

COMMITTEES:  
AGRICULTURE, NUTRITION, AND  
FORESTRY  
APPROPRIATIONS  
JUDICIARY

# United States Senate

WASHINGTON, DC 20510-4502

March 25, 1999

Honorable Donna E. Shalala  
Secretary of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Shalala:

Mercury pollution from sources such as coal-fired powerplants, solid waste combustion, and large industrial boilers is a serious health concern in Vermont and throughout the country. Forty states have issued freshwater fish consumption advisories for mercury. However, there has been confusion over what is an appropriate safe reference dose for this toxin. Because of different and confusing food and environmental safety standards, Congress requested a study by the National Academy of Sciences (NAS) in the FY 1999 Omnibus Appropriations Bill to recommend a reference dose for mercury. The study commenced in January and will be completed within 18 months.

As NAS is working on this important study, the Agency for Toxic Substances and Disease Registry (ATSDR) is apparently prepared to release its own "Toxicological Profile" for mercury. The release of the ATSDR profile at this time will accomplish little other than engendering additional confusion about the mercury reference dose. I understand that ATSDR may recommend an acceptable level of mercury that is up to four times higher than the level considered safe by the Environmental Protection Agency (EPA). Such a discrepancy between two agencies in a reference dose for a dangerous toxin is worthy of review by the NAS before the "Toxicity Profile" is released. Issuance of the ATSDR "Toxicity Profile" for mercury is potentially both a grave substantive and policy error concerning the human health impacts of mercury pollution.

I hope that you will review this situation and consider postponing the release of the ATSDR profile on mercury. Instead, the views and information of ATSDR should be provided to the NAS for consideration in its study.

- 2 -

Thank you in advance for your assistance. Please do not hesitate to contact me if you need additional information.

Sincerely,



PATRICK LEAHY  
United States Senator

cc: Jeffery P. Koplan, Director  
Centers for Disease Control and Prevention

William Raub, Science Policy Advisor  
Department of Health and Human Services

Honorable George Frampton, Chairman  
Council on Environmental Quality

Honorable Carol M. Browner, Administrator  
Environmental Protection Agency

BARBARA BOXER  
CALIFORNIA

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## United States Senate

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March 26, 1999

The Honorable Donna Shalala  
Secretary of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Dear Secretary Shalala:

I am writing to urge you to postpone the issuance of the Agency of Toxic Substances and Disease Registry (ATSDR) "Toxicological Profile" for mercury until the National Academy of Sciences (NAS) completes its mercury reference dose study requested by Congress in the FY 1999 Omnibus Appropriations bill.

As you know, mercury pollution from coal-fired power plants and other sources is a serious health concern throughout the country. Mercury pollution has led to the issuance of fish advisories in 40 states to prevent the human consumption of contaminated fish. In the face of some uncertainty concerning the safe reference dose for mercury, Congress asked the NAS to study and recommend a safe dose. That study will be complete in 18 months.

Just as we are poised to resolve this uncertainty concerning the safe dose for mercury, however, it is anticipated that ATSDR will establish a reference dose that is up to four times higher than the level considered safe by the U.S. Environmental Protection Agency (EPA). A discrepancy of this magnitude between the two agencies should be resolved based upon the NAS report before a final determination is made by ATSDR.

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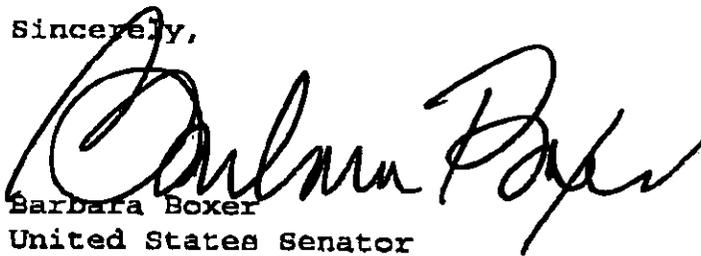
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Both protecting public health and ensuring public confidence in our regulation of mercury requires a definitive answer on the safe level of mercury before ATSDR acts. I thank you in advance for your consideration of my request to delay the ATSDR action until the NAS completes its study.

Sincerely,



Barbara Boxer  
United States Senator

CC: The Honorable Carol Browner  
Administrator, Environmental Protection Agency

Jeffrey P. Koplan  
Centers for Disease Control and Prevention

George Frampton  
Chairman, Council on Environmental Quality

*Kevin Thurn  
Dep Secretary*

March 30, 1999

*Noreen Noone  
Chuck Fox R+D*

MEMORANDUM TO SECRETARY SHALALA  
[UNREVIEWED DRAFT 3/26]

FROM: GEORGE T. FRAMPTON  
NEAL LANE

SUBJECT: HEALTH RISKS OF METHYLMERCURY

*Bill RAUB  
Sec's Science  
Advisor*  
*Chief of Staff.*  
*← had my name on*

Over the past several years, the Council on Environmental Quality (CEQ) and the Office of Science and Technology Policy (OSTP) have worked together to coordinate the work of Federal agencies responsible for research and regulatory programs related to the environmental and public health risks of mercury exposure. We would like to enlist your help in ensuring that we continue on a path in which the Administration's emphasis on sound science and close interagency coordination on mercury is sustained. Specifically, we are requesting that you postpone the release of the revised *Toxicology Profile for Mercury* recently prepared by the Agency for Toxic Substances and Disease Registry (ATSDR) until a new National Academy of Sciences (NAS) study of the health risks of methylmercury is completed next year. The revised Toxicology Profile contains new and less stringent values for the Minimal Risk Level (MRL) for methylmercury. There remains considerable disagreement among agencies that any change in the MRL is appropriate, particularly in advance of the NAS study.

**Background**

Methylmercury is a toxic substance that can seriously impair neurological functions and, at sufficiently high doses, can produce severe nervous system damage and even death. A number of poisoning incidents, including the infamous Minimata poisonings in Japan and several incidents involving ingestion of grain treated with mercury-containing pesticides in Iraq, have illustrated the potential for tragic outcomes from high dose exposures. Methylmercury is also a developmental neurotoxin that can produce neurological impairments in children who suffer prenatal exposure. While overt high dose poisonings are unusual, low level exposures to methylmercury from fish and other seafood in the diet are virtually ubiquitous worldwide. There has been substantial scientific uncertainty about these low level exposures and what level of methylmercury it is safe for people, especially pregnant women and children, to consume.

In the last several years, the results of two new studies that held great promise for resolving the concerns about low dose exposures became available. The Seychelles Islands study looked at about 700 children born to mothers whose diet consists almost entirely of fish. This study found no neurological deficits in Seychellois children despite constant low dose methylmercury exposures. A second new study of a similarly large number of children in the Faeroe Islands, however, did find neurological deficits in children exposed to low levels of methylmercury *in utero*. Although these new studies represent substantial improvements in the relevant science, the contradictory nature of the new results has, unfortunately, helped to prevent resolution of the scientific uncertainties.

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*Interagency Group w/ky has  
on communications  
strategy*

*April 9*

*Interagency  
Process  
Exhaust*

Reliance on the results of the new studies for risk assessment is, therefore, controversial and first became so during the review of EPA's Mercury Study Report to Congress in 1996. CEQ and OSTP insisted that EPA postpone release of the report for nearly two years, despite a statutory deadline, because of criticisms that EPA was not taking the new Seychelles Islands data and other agency views into account. In the end, the Report was released following a recommendation by EPA's Science Advisory Board that both new studies be subjected to more intensive peer review before becoming the basis of new risk calculations. An Interagency Working Group on Mercury, convened under the auspices of the CENR to facilitate review of the EPA Report, developed a peer review workshop to more closely evaluate the new studies.

The promised workshop took place this past November in Raleigh, North Carolina, organized by the Interagency Working Group and hosted by the National Institute for Environmental Health Sciences (NIEHS). The workshop provided an in depth peer review of the Seychelles and Faeroe Islands studies in which five panels of scientists reviewed the data presented by the lead investigators of both studies. Ultimately, the panels judged both studies to reflect sound research, but could not explain the apparent discrepancy between the results of the two studies. The panels submitted a large number of suggestions for additional data analysis and collection. The expert panels' views made clear that despite the strength of the research, there remains considerable uncertainty as to whether these studies would justify any change in current risk assessments or risk management practices. We expect further guidance from the NAS study, which should be completed in 18 months.

In light of this continuing uncertainty, we are very concerned that ATSDR intends to publish its revised Toxicology Profile containing a less stringent MRL at this time. We believe it is premature to develop new risk benchmarks based on data that are not yet completely understood. Furthermore, the fact that ATSDR has changed its method of calculation several times and has produced three different proposed values for the revised MRL (first, 0.5 micrograms/kg body weight, then 0.4, and currently 0.3) strains credibility and makes it appear that their interpretation of the science is highly variable. We are particularly concerned about the lack of support among agency scientists for ATSDR's approach. For example, NIEHS staff have indicated that the ATSDR approach is inconsistent with their own method of calculating the MRL. Clearly, the "right" way to assess risk using the new data is not yet agreed upon. If EPA's views are considered, it becomes clear that interagency consensus on the validity of the new value is absent. It is inevitable that this disagreement on the science will publicly undermine ATSDR's position. Conversely, the ATSDR proposal many prematurely call into question risk benchmarks used by other agencies. Finally, the relaxation of a standard primarily designed to protect children in light of continued scientific uncertainty could severely undermine the faith of the public and health, environmental, and children's advocacy groups in the Administration's commitments to protect children's health and to base its policy decisions on sound science.

### Conclusion

We urge you to postpone publication of the revised Toxicology Profile until all concerned agencies have had the opportunity to review the results of the new NAS study. At the very least, we would like an opportunity to discuss this issue with you and Administrator Browner prior to release of the revised ATSDR document, currently expected within two weeks.