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U.S. Proposes Easing Rules on Emissions of Mercury

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WASHINGTON, Dec. 2 — The Bush administration is proposing that mercury emissions from coal-burning power plants should not be regulated in the same way as some of the most toxic air pollutants, reversing a stance on air pollution control taken by the Clinton administration in 2000.

The change in planned regulations for mercury emissions from power plants is summarized in documents from the Environmental Protection Agency and is the first big policy decision by Michael O. Leavitt, who took over as the agency's administrator last month.

The agency is suggesting that mercury emissions be removed from the most stringent regulations of the Clean Air Act that have been used to limit the most toxic air pollutants. Among those are asbestos, chromium and lead, which have been known to cause cancers and neurological disorders.

The administration proposal would make legally mandated mercury regulation fall under a less stringent section of the Clean Air Act that governs pollutants like those that cause smog and acid rain, which are not as toxic to humans. The administration says this would be a more efficient and faster way to reduce mercury in the environment.

The E.P.A. documents were provided to The New York Times by environmental groups that are critical of the latest agency proposals.

Currently mercury emissions from coal-burning power plants are not yet regulated under federal law. These power plants release about 48 tons of mercury into the air each year, or about 40 percent of the total human-caused mercury emissions in the country, the agency estimates.

The upcoming regulations have been the subject of intense lobbying by utilities that argue the rules would force them to switch to more expensive fuels or install costly equipment on power plants to reduce the amount of mercury being spewed into the air.

"If you were to regulate mercury in an overly inflexible way, the result would be substantial fuel switching from coal to natural gas," said Scott Segal, the spokesman for the Electric Reliability Coordinating Council, an industry group formed by some of the largest energy companies. The group welcomed the looser interpretation for mercury. "The Clean Air Act is flexible and pragmatic enough to have different reservoirs or authority for dealing with mercury," Mr. Segal said.

Under the proposal submitted to the White House last week, power plants would be able to buy and sell the rights to emit mercury into the air. A similar trading of emission credits is currently in use to handle sulfur dioxide, the pollutant that is a component of acid rain. In addition, the agency's proposal would push back the effective date of the new regulations to 2010 at the earliest.

Mr. Leavitt argued that a market-based system was an efficient compromise that would reduce mercury emissions in a way that did not place a financial burden on utility companies. "By exploring the alternative, we can gain substantially more progress than under command and control," he said.

Environmental groups criticize the market-based proposal, saying it would allow hot spots of mercury contamination to build up. Mercury, a known neurotoxin, accumulates in the environment and builds up in the tissue of fish and the species, including humans, that eat them. It is considered particularly hazardous for pregnant women because of the developmental effects on fetuses.

"Mercury is a serious public health threat," said Carol M. Browner, who served as E.P.A. administrator under President Bill Clinton. "We were regulating it; we were on track to keep it regulated. This reverses that and puts the public health at risk."

The E.P.A. is facing a deadline of Dec. 15 to release a public proposal to regulate mercury, the result of a legal settlement between the Clinton administration and environmental groups, due to go into effect in December 2007. If the new buying-and-selling of mercury credits proposal is not adopted, the E.P.A. also submitted a regulatory plan under the more stringent rules controlling toxic air pollutants at each power plant.

This is the administration's second major policy shift on power plant regulations in the last month, both of which have come after extensive industry lobbying. In November, E.P.A.'s chief of enforcement, J. P. Suarez, told his staff that the agency would stop pursuing Clean Air Act enforcement cases against coal-burning power plants.