

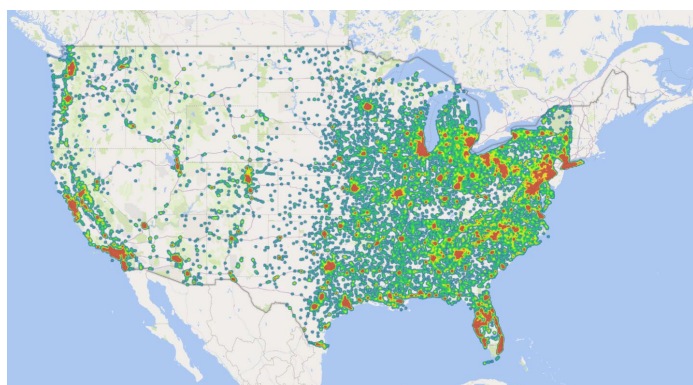


## **THE TESTIMONY OF THE REV.**

### **MITCHELL C. HESCOX**

The United States House of Representatives  
House Oversight and Reform Committee:  
Subcommittee on Environment

February 6, 2020



Over 145,000 pro-life Christians from across the country — including over 94,000 from states that voted for President Trump — called on the Trump Administration to stop their efforts to gut the policy that defends our unborn children from mercury pollution, which can cause irreversible brain damage.

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Testimony of The Rev. Mitchell C. Hescox March 18, 2019

Proposed Revised Supplemental Finding for the Mercury and Air Toxics Standards and Results of the Residual Risk and Technology Review

Agency/Docket Numbers: EPA-HQ-OAR-2018-0794 FRL-9988-93-OAR

RIN: 2060-AT99 Document Number: 2019-00936

### **Appendix 2**

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**The United States House of Representatives  
Committee on Oversight and Reform  
Subcommittee on Environment**

**Hearing on**

**“A Threat to America’s Children: The Trump Administration’s Proposal to Undermine  
Protections from Mercury Air Toxics Standards.”**

February 6, 2020, 2pm EST

**The Testimony of The Rev. Mitchell C. Hescox**

President/C.E.O.

The Evangelical Environmental Network

New Freedom, PA

***We are here for a very simple reason: to defend the right of every child, born and unborn, to fulfill their God-given potential ... All of us here understand an eternal truth: Every child is a precious and sacred gift from God. Together, we must protect, cherish, and defend the dignity and the sanctity of every human life.***

President Donald Trump, January 24, 2020 (2020 March For Life)<sup>1</sup>

This quotation from President Trump at the recent March For Life provides great insights to begin this hearing. While many in our community applaud the President’s actions in certain areas of being pro-life, his administration’s efforts to eliminate over 95 environmental standards<sup>2</sup> questions the sincerity of his commitment to be completely pro-life. If President Trump truly wanted **“to defend the right of every child, born and unborn, to fulfill their God-given potential,”** then his actions must speak louder than his words when it comes to environmental protections, including protecting unborn children from mercury pollution, a highly damaging neurotoxin.

President Trump’s record of destroying environmental health rules threatens every child’s right **to fulfill their God given potential,”** what Jesus called the **“abundant life”** (John 10:10). Jesus was not just referring to a spiritual connection but to a holistic understanding of well-being, of body and soul together. Jesus was especially concerned about vulnerable populations being denied abundant life. **“Jesus said, ‘Let the little children come to me, and do not hinder them, for the kingdom of heaven belongs to such as these.’” (Matthew 19:14)** Our commitment to Jesus Christ compels us to do all we can to protect unborn children from mercury poisoning. It is a pro-life concern, plain and simple.

As evangelical Christians, we believe that all human life is sacred; that each person conceived is of equal and innate value and dignity, and that all human life is worthy of protection. At the Evangelical Environmental Network (EEN) we are pro-life from conception to natural death – a theology we share with the National Association of Evangelicals, but also one we share with Catholic social teaching and the guidance of Pope Francis in his encyclical letter, **Laudato si’** on care for our common home (24 May 2015).

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<sup>1</sup> <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-47th-annual-march-life/>

<sup>2</sup> <https://www.nytimes.com/interactive/2019/climate/trump-environment-rollbacks.html>

In keeping with our commitment to the sanctity of life, well over 3 million pro-life Christians in the past few years have acted in support of our efforts to defend children’s health from pollution’s impacts, including over 145,000 who supplied comments against rolling back the Mercury and Air Toxics Standard (MATS) last year. In addition, over 120 evangelicals sent that message to then Acting EPA Wheeler on December 4, 2018.

We have a moral and Biblical mandate to defend the health of all God’s children, including the estimated 108,000 Americans who die each year from air pollution.<sup>3</sup> From 15,000 to nearly 30,000 preterm births occur due to exposure to PM<sub>2.5</sub> alone, costing approximately \$4.33 billion to the United States economy — with 33% of these children dying at birth or shortly after.<sup>4</sup>

Now consider this moral failure in light of the Palmist’s words:

**For you created my inmost being;  
you knit me together in my mother’s womb.  
<sup>14</sup> I praise you because I am fearfully and wonderfully made;  
your works are wonderful,  
I know that full well. – Psalm 139: 13-14 (NIV)**

Before the Mercury and Air Toxics Standard became law, approximately 1 in 6 children in the United States were born with threatening levels of mercury.<sup>5</sup>

Mercury impairs neurological development, lowers IQ, and is linked to cardiovascular disease and a host of other potential adverse health impacts. Before MATS, in 2008 the IQ loss caused by methylmercury toxicity costs society an average of \$5.1 billion ( \$3.2 of \$8.4 billion).<sup>6</sup> Over 1000 published medical journal articles verify mercury’s health impacts, and no level of mercury in the human body is safe.<sup>7</sup> These adverse conditions result from eating foods containing methylmercury, primarily contaminated fish. Mercury deposition and entrance into the food chain is also well documented, as is the fact that 48% of our domestic mercury sources remain coal-fired utilities.<sup>8</sup> After mercury is emitted from power plants, it is deposited back to the earth where it can be converted to methylmercury, a highly toxic form that magnifies up food chains,

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<sup>3</sup>Christopher W. Tessum, Joshua S. Apte, Andrew L. Goodkind, Nicholas Z. Muller, Kimberley A. Mullins, David A. Paoletta, Stephen Polasky, Nathaniel P. Springer, Sumil K. Thakrar, Julian D. Marshall, and Jason D. Hill. Inequity in consumption of goods and services adds to racial–ethnic disparities in air pollution exposure. *PNAS* March 26, 2019 116 (13) 6001-6006; first published March 11, 2019 <https://doi.org/10.1073/pnas.1818859116>

<sup>4</sup> Teresa M Attina, Russ Hauser, Sheela Sathyanarayana, Patricia A Hunt, Jean-Pierre Bourguignon, John Peterson Myers, Joseph DiGangi, R Thomas Zoeller, Leonardo Trasande, ***Particulate Matter Exposure and Preterm Birth: Estimates of U.S. Attributable Burden and Economic Costs***, *Environ Health Perspect*. 2016 Dec; 124(12): 1913–1918. Published online 2016 Mar 29. doi: [10.1289/ehp.1510810](https://doi.org/10.1289/ehp.1510810).

<sup>5</sup>Mahaffey et al., "Blood Organic Mercury and Dietary Mercury Intake" *Environmental Health Perspectives*, April 2004: p. 112. See also Trasande, et al., "Public Health and Economic Consequences of Methyl Mercury Toxicity to the Developing Brain," *Environmental Health Perspectives*, Vol. 113, No. 5 (May 2005): p. 590.

<sup>6</sup> Trasande, et al, "Public Health and Economic Consequences of Methyl Mercury Toxicity to the Developing Brain."

<sup>7</sup> Grandjean, P. and Bellanger, M. 2017. [Calculation of the disease burden associated with environmental chemical exposures: application of toxicological in health economic estimation](https://doi.org/10.1016/j.chemosphere.2017.05.041)

<sup>8</sup> Streets, D.G., Horowitz, H.M., Lu, Z., Levin, L., Thackray, C.P., Sunderland, E.M., Global And Regional Trends In Mercury Emissions And Concentrations, 2010–2015, *Atmospheric Environment*, <https://doi.org/10.1016/j.atmosenv.2018.12.031>.

reaching concentrations in fish that are 10 to 100 million times greater than concentrations in water.<sup>9</sup>

When it comes to the health impacts of pollution, children are not little adults. Their developing bodies leave them more vulnerable. This is especially true with mercury pollution. The most at risk are unborn children and infants, mainly because the body's natural defense, the blood brain barrier, is not yet fully developed. Pregnant women who consume fish and shellfish contaminated with mercury transmit such mercury to their developing unborn child, and infants can ingest mercury in breast milk. Unlike adults, unborn children have no way to excrete mercury. The toxin just keeps circulating inside their mother's womb increasing their exposure (bioaccumulation). Medical research indicates that mercury in umbilical cord blood is twice that of the mothers' blood.<sup>10</sup> Therefore, even if a mother's blood remains below the "risk level" doses, the unborn child's may not.

And the good news is MATS works! Since EPA's original Regulatory Impact Analysis (2011) mercury pollution from power plants has declined by 85%<sup>11</sup> with 99.9% of coal fired generating in compliance. Women with damaging mercury levels have decreased by at least 34%, and the estimated number of children born in the U.S. each year with prenatal exposure to methylmercury levels that exceed the EPA reference dose has declined by half.<sup>12</sup> This has been accomplished at a fraction of the original estimated cost<sup>13</sup> with over \$418 billion in lifetime benefits from mercury reduction alone (not including those of co-pollutants). These lifetime benefits are much greater than the estimates from the original rule.<sup>14</sup>

However, the work remains incomplete. Mercury fish consumption advisories remain in all 50 states and still at least 200,000 children remain neurologically impacted each year from mercury costing \$4.8 billion per year to our society.<sup>15</sup>

With MATS' proven success in both benefits and compliance costs, why is MATS, and especially the appropriate and necessary finding, under challenge?

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<sup>9</sup> Driscoll, C.T.; Han, Y-J; Chen, C.; Evers, D.; Lambert, K.F.; Holsen, T.; Kamman, N.; and Munson, R. 2007. [Mercury Contamination on Remote Forest and Aquatic Ecosystems in the Northeastern U.S.: Sources, Transformations, and Management Options](#). *BioScience*. 57(1):17-28.

<sup>10</sup> Lederman, et al., "Relation between Cord Blood Mercury Levels and Early Child Development in a World Trade Center Cohort," *Environmental Health Perspectives*, August 2008: p. 1085-1091.

<sup>11</sup> U.S. Environmental Protection Agency. 2018. <https://www.epa.gov/trinationalanalysis/electric-utilities-mercury-releases-2016-tri-national-analysis>.

<sup>12</sup> Rice, G.E.; Hammitt, J.K.; and Evans, J.S. 2010. [A probabilistic characterization of the health benefits of reducing methyl mercury intake in the United States](#). *Environ Sci Technol*. 1;44(13):516-24. DOI:10.1021/es903359u.

<sup>13</sup> Declaration of James E. Staudt, Ph.D. CFA, September 24, 2015, White Stallion Energy Center, et al., v. United States Environmental Protection Agency, Case No. 12-1100 and Summary plus cases, Exhibit 1 Declaration of James E. Staudt, Ph.D., CFA, U.S. Court of Appeals for the District of Columbia.

<sup>14</sup> Streets, D.G.; Horowitz, H.M.; Lu, Z.; Levin, L.; Thackray, C.P.; Sunderland, E.M. [Global, and regional trends in mercury emissions and concentrations, 2010-2015](#). *Atmospheric Environment*. Accepted.

Sunderland, E.M.; Driscoll, Jr., C.T.; Hammitt, J.K.; Grandjean, P.; Evans, J.S.; Blum, J.D.; Chen, C.Y.; Evers, D.C.; Jaffe, D.A.; Mason, R.P.; Goho, S.; Jacobs, W. 2016. [Benefits of Regulating Hazardous Air Pollutants from Coal and Oil-Fired Utilities in the United States](#). *Environmental Science & Technology*. 50 (5), 2117-2120. DOI: 10.1021/acs.est.6b00239.

Amanda Giang and Noelle E. Selin, Benefits of mercury controls for the United States, *Proceedings of the National Academy of Sciences* Dec 2015, 201514395; DOI: 10.1073/pnas.1514395113

<sup>15</sup> Grandjean and Bellanger 2017

The Trump Administration's MATS proposal would reverse EPA's previous finding – a finding the agency has made three separate times -- that it is appropriate and necessary to regulate mercury and other Hazardous Air Pollutants. The finding is the legal prerequisite for issuing MATS, the federal rule that controls these emissions. EPA Administrator Wheeler knows that removing the “appropriate and necessary” prerequisite finding from the rule opens the door for energy developers to pursue lawsuits to overturn the standards, while Wheeler plays Pontius Pilate blaming the court for eliminating the standard.

Administrator Wheeler's former client (while at Faegre Baker Daniels) Bob Murray of Murray Energy outlined the goal of reversing the MATS Standard in his infamous “Action Plan” letter sent to Vice President Mike Pence and other Trump senior officials in March 2017. The letter almost appears as quid pro-quo for numerous campaign and inaugural celebrations donations.

While Administrator Wheeler can claim utilities will not turn off their existing control equipment, he has made no commitment that EPA would continue to enforce compliance with the standard and there is no guarantee that public utility commissions will not choose lower rates over continued mercury controls. Instead, there is every likelihood that this action would open a wide door for increased emissions of this life-threatening toxin.

This potential for regulatory confusion among utilities already in compliance with the rule is why the Edison Electric Institute and other utility groups have written letters to EPA and offered comments against the MATS revision for the Office of Management and Budget's (OMB) review. With 99.9 percent of American utilities already having operational mercury removal systems, and the few that do not awaiting installation, the utilities see a high dollar amount of stranded assets that will not be recoverable if the rule is amended as proposed.

Perhaps the most damaging element of the whole effort, though, is that the proposed changes would exclude co-benefits or ancillary benefits from the rule's cost-benefit analysis. This contradicts guidelines from the Office of Information and Regulatory Affairs (OIRA) to federal agencies issued by the George W. Bush administration in 2003, which state: “Your analysis should look beyond the direct benefits and direct costs of your rule-making and consider any important ancillary benefits and countervailing risks.” When looking at the costs and benefits to society of a regulation, it makes little sense to ignore certain benefits because of how they are labeled. From society's perspective, from the perspective of human health, they're just benefits. If they are excluded in MATS, this would set a very damaging precedent.

Changing the co-benefit standard is what I believe this entire underhanded process represents. In a December 4, 2018 meeting then Acting Administrator Wheeler alluded to his belief that separate rules were needed for different pollutants.

In keeping with this underhanded process, a unique oft repeated untruth became the justification for the MATS rule being re-considered at all. On September 26, 2018, at the Clean Air Act Advisory Committee Meeting, Mr. William Wehrum, then Assistant Administrator of EPA's Office of Air and Radiation, stated the entire MATS review was being undertaken to satisfy the Supreme Court. During a meeting of faith leaders at EPA Headquarters on December 4, 2018, then Acting EPA Administrator Wheeler stated much the same thing as I presented him with a letter from

over 120 evangelical leaders protesting the assumed MATS revision (letter attached). (This same response was reported in the New York Times and elsewhere, including his Senate EPW confirmation hearing.<sup>16</sup>)

Here's the truth. The U.S. Court of Appeals for the D.C. Circuit upheld MATS in its entirety, including the "appropriate and necessary" finding.<sup>17</sup> In *Michigan v. EPA*, 135 S. Ct. 2699 (2015), the Supreme Court ruled that EPA had erred in not considering costs in making the "appropriate and necessary" finding." Writing for the majority, Justice Scalia stated that the Court was not requiring a formal cost-benefit analysis. Instead, the majority expressly left it to the EPA to determine how to take account of costs and make the comparison to benefits. Then the DC Circuit court, without staying MATS, remanded the "appropriate and necessary" finding to the EPA for reconsideration of the costs. The EPA new cost accounting was issued in a supplemental finding in April 2016.<sup>18</sup> In keeping with the Clean Air Act, in promulgating the MATS rule EPA followed the law as written by Congress and interpreted by the Courts – no further action was required.

It was the Trump Administration EPA under the leadership of Wheeler and Wehrum who withdrew the April 2016 Supplemental Finding on February 9, 2019.<sup>19</sup> This MATS revision is categorically not to fulfill a request from the Court, which had been fulfilled three years earlier.

This revised proposal seeks to accomplish a major goal of current EPA leadership, to codify a flawed legal interpretation that forces EPA to be blind to co-benefits. Instead, it is offering a legal interpretation of the Clean Air Act that runs contrary to the design and intent of the Act in order to avoid justifying the costs of air pollution standards under the method the EPA has been using for decades - even if those costs have already been accrued and will be paid off by you and me for years to come.

In effect, they are throwing the health of unborn children under the bus to scuttle co-benefits.

MATS has worked, is saving lives, and is cost effective. The Mercury and Air Toxics Standard needs to be saved. Every parent and grandparent want an abundant life for their children & grandchildren. Allowing MATS to be changed or rolled back is simply morally wrong.

I pray President Trump starts believing his own words and acting on them, that we should "defend the right of every child, born and unborn, to fulfill their God-given potential ...". On that we both agree.

A good start would be to return EPA to its mandated mission, "**To protect human health and the environment**" and put our children's health before special interests and alternative "facts."

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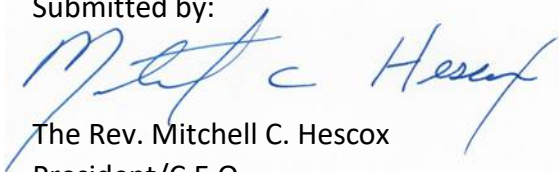
<sup>16</sup> <https://www.nytimes.com/2018/12/28/climate/mercury-coal-pollution-regulations.html>

<sup>17</sup> *White Stallion Energy Ctr., LLC v. EPA*, 748 F.3d 1222 (D.C. Cir. 2014), *rev'd sub nom. Michigan v. EPA*, 135 S. Ct. 2699 (2015).

<sup>18</sup> Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units, 81 Fed. Reg. 24420 (April 25, 2016).

<sup>19</sup> National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review 84 Fed. Reg. 2670 (Feb. 7, 2019).

Submitted by:

A handwritten signature in blue ink that reads "Mitchell C. Hescox". The signature is fluid and cursive, with the first name "Mitchell" being the most prominent part.

The Rev. Mitchell C. Hescox

President/C.E.O.

The Evangelical Environmental Network

February 3, 2020



## **Appendix 1**

# **The Testimony of The Rev. Mitchell C. Hescox**

March 18, 2019

### **Proposed Revised Supplemental Finding for the Mercury and Air Toxics Standards and Results of the Residual Risk and Technology Review**

**Agency/Docket Numbers: EPA-HQ-OAR-2018-0794 FRL-9988-93-OAR**

**RIN: 2060-AT99 Document Number: 2019-00936**

Good Morning. I am the Rev. Mitchell C. Hescox, President/C.E.O. of The Evangelical Environmental Network, New Freedom, PA. As of this morning, we have gathered over 140,000 comments from pro-life Christians across America who oppose any altering of the Mercury and Air Toxics Standard.

As pro-life Christians, we know that every human life is sacred; that each person conceived is of equal and innate value and dignity, and that all human life is worthy of protection. We will, without halting, do all we can to ensure all God's children, both born and unborn, are protected from mercury poisoning.

Before the Mercury Rule became law, 1-in-6 children in the U.S. were born with levels of mercury in their blood high enough to cause irreversible brain damage, as mercury is a highly damaging neurotoxin that is transferable if ingested by a pregnant woman.<sup>1</sup> The success of the current MATS standard has contributed significantly to that number being cut in half.<sup>2</sup> The IQ-related benefits of mercury reduction alone exceed \$4.8 billion annually<sup>3</sup> and compliance with MATS has been achieved for a fraction the original estimated cost.<sup>4</sup>

*Whoever walks in integrity walks securely, but whoever takes crooked paths will be found out. -*

- Proverbs 10:9 (NIV)

Unfortunately, we live in a new world of alternative facts. These alternatives in view of the attempt to revise MATS make this hearing and the revised MATS rulemaking process invalid, if not illegal. As point of order, the

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<sup>1</sup> See Kathryn R. Mahaffey et al., "Blood Organic Mercury and Dietary Mercury Intake: National Health and Nutrition Examination Survey, 1999 and 2000," *Environmental Health Perspectives*, 112, #5 (April 2004): <http://ehp.niehs.nih.gov/members/2003/6587/6587.html>

<sup>2</sup> U.S. Environmental Protection Agency. 2013. EPA-823-R-13-002.

<sup>3</sup> Grandjean, P. and Bellanger, M. 2017. [Calculation of the disease burden associated with environmental chemical exposures: application of toxicological in health economic estimation](#). 16:123. DOI: 10.1186/s12940-017-0340-3.

<sup>4</sup> Declaration of James E. Staudt, Ph.D. CFA, September 24, 2015, White Stallion Energy Center, et al., v. United States Environmental Protection Agency, Case No. 12-1100 and Summary plus cases, Exhibit 1 Declaration of James E. Staudt, Ph.D., CFA, U.S. Court of Appeals for the District of Columbia.

EPA Inspector General should review the below comments that depict at best misstatements or direct attempts at deception by current EPA leadership.

On September 26, 2018, at the Clean Air Act Advisory Committee Meeting, Mr. William Wehrum, Assistant Administrator of EPA's Office of Air and Radiation, stated the entire MATS review was being undertaken to satisfy the Supreme Court. Mr. Andrew Wheeler, on December 4, 2018, then Acting EPA Administrator, during a meeting of faith leaders at EPA Headquarters, stated much the same thing as I presented him with a letter from over 100 evangelical leaders protesting the assumed MATS revision (letter attached).

The U.S. Court of Appeals for the D.C. Circuit upheld MATS in its entirety, including the “appropriate and necessary” finding.<sup>5</sup> In *Michigan v. EPA*, 135 S. Ct. 2699 (2015), the Supreme Court ruled that EPA had erred in not considering costs in making the “appropriate and necessary” finding.” Writing for the majority, Justice Scalia stated that the Court was not requiring a formal cost-benefit analysis. Instead, the majority expressly left it to the EPA to determine how to take account of costs and make the comparison to benefits. Then the DC Circuit court, without staying MATS, remanded the “approximate and necessary” finding to the EPA for reconsideration of the costs. The EPA new cost accounting was issued in a supplemental finding in April 2016.<sup>6</sup> In keeping with the Clean Act Air as revised, EPA in promulgating the MATS rule followed the law as written by Congress and interpreted by the Courts – no further action was required.

It was this EPA under the leadership of now Administrator Wheeler and Assistant Administrator for Air, William Wehrum who withdrew the April 2016 Supplemental Finding on February 9, 2019<sup>7</sup>. This MATS revision is categorically not to fulfill a request from the Court, which had been fulfilled three years earlier.

This revised proposal seeks to accomplish a major goal of current EPA leadership, to codify a flawed legal interpretation that forces EPA to be blind to what are called “co-benefits.” Why else would they not be fully included in this new proposal. Instead, it is offering a legal interpretation of the Clean Air Act that runs contrary to design and intent of the Act in order to avoid justifying the costs of air pollution standards under the method the EPA has been using for decades - even if those costs have already been accrued and will be paid off by you and me for years to come. The Office of Information and Regulatory Affairs (OIRA) guidance to federal agencies issued by the Bush administration in 2003 specifically stated: “Your analysis should look beyond the direct benefits and direct costs of your rule-making and consider any important ancillary benefits and countervailing

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<sup>5</sup>White Stallion Energy Ctr., LLC v. EPA, 748 F.3d 1222 (D.C. Cir. 2014), *rev'd sub nom.* Michigan v. EPA, 135 S. Ct. 2699 (2015).

<sup>6</sup> Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units, 81 Fed. Reg. 24420 (April 25, 2016).

<sup>7</sup> National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review 84 Fed. Reg. 2670 (Feb. 7, 2019).

risks,”<sup>8</sup> which is exactly what EPA did when it considered the full health benefits of MATS control equipment in 2011.

MATS has worked, is saving lives, and is cost effective. The Mercury and Air Toxics Standard needs to be left as is.

Every parent & grandparent wants a quality life for their children & grandchildren. Allowing MATS to be changed or rolled back is simply morally wrong.

*The thief comes only to steal and kill and destroy. I came that they may have life, and have it abundantly.* -John 10:10 (NRSV)

It's past time for EPA to once again walk in integrity and live up to its mission, “**To protect human life and the environment**” and put our children’s health before special interests and alternative facts.

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<sup>8</sup> OMB Circular A-4, Section E, subsection headed “Ancillary Benefits and Countervailing Risks,” September 17, 2003

## **Appendix 2**

December 4, 2018

Andrew Wheeler, Acting Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Dear Acting Administrator Wheeler,

For many years we have worked to protect pregnant mothers and the unborn against exposure to mercury. In 2012 we supported the Environmental Protection Agency's Mercury Rule. Now the EPA is planning on overturning the regulation. We urge you to reconsider this action.

Our commitment to Jesus Christ compels us to do all we can to protect unborn children from mercury poisoning. "Jesus said, 'Let the little children come to me, and do not hinder them, for the kingdom of heaven belongs to such as these.'" (Matthew 19:14) The psalmist wrote, "For you created my inmost being; you knit me together in my mother's womb." (Psalm 139:13)

As evangelical Christians, we believe that all human life is sacred; that each person conceived is of equal and innate value and dignity, and that all human life is worthy of protection.

One of the major laws passed to combat environmental degradation and protect human health is the Clean Air Act, signed into law over 40 years ago by President Richard Nixon, with significant amendments signed by President George H. W. Bush in 1990. The law as amended provides, among other things, for the protection of all people, and especially pregnant mothers and unborn children, from mercury pollution generated by power plants.

Mercury and other heavy metal toxins pass across the mother's placenta and enter the bloodstream of her unborn child. A protective shield around the developing child's brain is not fully formed until the first year of life. Mercury easily crosses into the developing child's brain causing brain damage, developmental disabilities, neurological disorders, lowered intelligence, and learning difficulties.

Opponents of restrictions on mercury pollution argue that the cost of cleaning up our air is too high. We welcome an honest debate about how much our children's health is worth. We believe that our families, and particularly the unborn who are most at risk, deserve protection. We continue to support efforts to safeguard pregnant mothers and our unborn and newborn children from the neurological health risks associated with mercury poisoning.

In proposing to roll back the 2012 mercury regulation, the administration wants to exclude co-benefits and ancillary benefits from any cost-benefit analysis. This contradicts [guidelines](#) to federal agencies issued by the George W. Bush administration in 2003, which states: "Your analysis should look beyond

the direct benefits and direct costs of your rulemaking and consider any important ancillary benefits and countervailing risks.” In the case of the mercury regulation, such co-benefits included the health benefits associated with reducing soot and smog.<sup>9</sup>

When looking at the costs and benefits to society of a regulation, it makes little sense to ignore certain benefits because of how they are labeled. From society’s perspective, from the perspective of human health, they’re just benefits.

We respectfully ask the Trump Administration to reconsider and reverse the decision to allow additional mercury pollution in our air and water.

Sincerely,

Leith Anderson  
President  
National Association of Evangelicals

Mitchell C. Hescoc  
President/C.E.O.  
The Evangelical Environmental Network

Tim Echols  
Commissioner  
Georgia Public Service Commission

Dr. David Stubbs  
Professor of Ethics and Theology  
Western Theological Seminary

Rev. Noah McLaren  
Pastor of Worship & Discipleship  
Graafschap Christian Reformed Church

Rev. Mitchell C. Hescoc  
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Dr. Reginald Smith  
Director  
Offices of Social Justice & Race Relations,  
Christian Reformed Church in North America

Dr. Joseph Kuilema  
Assistant Professor  
Calvin College

Dr. Ron Rienstra  
Professor of Preaching & Worship Arts  
Western Theological Seminary

Dr. David Koetje  
Professor of Biology  
Calvin College

Rev. Kyle Meyaard-Schaap  
National Organizer and Spokesperson  
Young Evangelicals for Climate Action

Rev. Dominic Palacios  
Preaching Pastor  
Harderwyk Ministries

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<sup>9</sup> At the time the mercury regulation was put into effect in 2012, the co-benefits from reducing soot and smog were estimated to be between \$37 billion and \$90 billion per year. Add to that the \$6 billion in benefits from the mercury reductions, and benefits far exceed the estimated \$9.6 billion in costs. But if the co-benefits are not counted, then costs outweigh benefits by approximately \$3.6 billion.

Dr. Rebecca Hays  
Associate Professor, Biology Department  
Eastern University

Dr. David P. Warners  
Professor of Biology  
Calvin College

Rev. Dr. Thomas Boogaart  
Professor of Old Testament  
Western Theological Seminary

Dr. Debra K Rienstra  
Professor of English  
Calvin College

Dr. David L. Dornbos Jr.  
Biology Department Professor and Chair  
Calvin College

Dr. Wendy L. Mercier  
Professor of Exercise Science & Biology  
Eastern University

Rev. Dr. S. Philip Covert  
Pastor of the Susquehanna Annual  
Conference, United Methodist Church  
United Methodist Church

Dr. Lyle Bierma  
Professor of the History of Christianity  
Calvin Theological Seminary

Dr. Robert De Haan  
Professor of Environmental Studies  
Dordt College

Dr. Channon Visscher  
Associate Professor of Chemistry & Planetary  
Sciences  
Dordt College

Dr. Cassandra May  
Assistant Professor of Biology  
Bethel College

Dr. Jeffrey Regier  
Professor of Biology and Department Chair  
Taylor University

Rev. Dr. Mariano Avila  
New Testament Professor  
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Lead Pastor  
Trinity Reformed Church

Rev. Jonathan Gabhart  
Worship Arts Pastor  
Pillar Church

Rev. Dr. Ken Loyer  
Pastor, Spry Church

### Appendix 3

TESTIMONY OF  
THE REVEREND MITCHELL C. HESCOX  
President and CEO Evangelical Environmental Network

“ACHRISTIANPERSPECTIVE ON THE COSTS OF MERCURY TO HUMAN HEALTH AND WELLBEING”

Before the  
ENERGY AND POWER SUBCOMMITTEE  
of  
ENERGY AND COMMERCE COMMITTEE  
U.S. HOUSE OF REPRESENTATIVES FEBRUARY 8, 2012

***Because human life is not a political or economic commodity. And defending life is not a matter of party ... it's about standing on principle.***

***These two founding principles, life, and liberty are intertwined. Together, they form the core of our national character. They comprise the standard by which the world looks to us. When we affirm the dignity of life, we affirm our commitment to freedom. When we don't affirm life ... when life is cheapened or weakened, here or abroad, freedom itself is diminished.***

***– The Honorable John Boehner, Speaker of The House of Representatives,  
March for Life Rally January 23, 2012***

The Honorable Speaker of The House John Boehner's words just two weeks ago at the March for Life rally express values I hold dear, values that help bring me here today. Life, especially protecting our unborn children and infants, should not be a “matter of party,” or, “economic commodity.” Protecting life and providing the opportunity for abundant life must be a matter of principle and morality.

#### Luke 18:15-16 (ESV)

**Now they were bringing even infants to him that he might touch them. And when the disciples saw it, they rebuked them. But Jesus called them to him, saying, "Let the children come to me, and do not hinder them, for to such belongs the kingdom of God."**

Children are a precious gift from God and are among the most vulnerable members of our society. Christian Scripture demands we protect the vulnerable, and yet we gather here today to choose in effect if protecting our unborn children and newborns from mercury pollution from the largest domestic source, coal-burning power plants, is in our national interest and in keeping with our national character. Are we as a nation willing to protect our children or hinder them? Mercury is a neurotoxin whose impacts on unborn and newborn children pose significant costs to them and society. A recent medical paper from the National Institutes of Health stated:

**Mercury is a highly toxic element; there is no known safe level of exposure. Ideally, neither children nor adults should have any mercury in their bodies because it provides no physiological benefit.<sup>1</sup>**

Even slight increases in environmental exposure to mercury may lead to adverse effects on nervous system development.<sup>2</sup> In addition, the American Academy of Pediatrics stated:

**We agree with the strong evidence the EPA provides to support their decision that the proposed rule is both appropriate and necessary to protect public health ....<sup>3</sup>**

In the past year, the National Association of Evangelicals (NAE), The United States Conference of Catholic Bishops (USCCB), and the Evangelical Environmental Network (EEN), have joined together to support a federal mercury standard that would protect our unborn children and infants across the country. Affirming our positions are several documents, including a statement from senior evangelical leaders entitled ***An Evangelical Call To Stop The Poisoning of Our Unborn***, and a letter from the Catholic Bishops' Conference to Environmental Protection Agency (EPA) Administrator Jackson. In the letter, Bishop Blaire stated:

**While there are short-term costs involved in implementing this standard, the health benefits of such a rule outweigh these costs. Therefore, we welcome the EPA's proposal of a national standard to significantly reduce**

**toxic air pollution and call upon our leaders in government and industry to act responsibly, justly, and rapidly to implement such a standard.**

We represent two different Christian traditions; however, we are united to protect life, a sacred gift from God, both before and after birth.

**Psalm 139:13 (ESV)**

***For you formed my inward parts;  
you knitted me together in my mother's womb.***

Anything that threatens and impedes life, especially impacts on the unborn and young children, is contrary to our common beliefs and values and exacts a moral toll on the nation's character.

According to data from the Centers for Disease Control, approximately 1 in 6 children in the United States are born with threatening levels of mercury.<sup>4</sup> Another medical research study places the number of newborns affected at roughly 15%.<sup>5</sup> Mercury impairs neurological development, lowers IQ, and is linked to cardiovascular disease and a host of other potential adverse health impacts. Over 1000 published medical journal articles verify mercury's health impacts.<sup>6</sup> These adverse conditions result from eating foods containing methylmercury, primarily contaminated fish. Mercury deposition and entrance into the food chain is also well documented, as is the fact that 50% of our domestic mercury sources remain coal-fired utilities. The most at risk and vulnerable are unborn children and infants, mainly because the body's natural defense, the blood brain barrier, is not yet fully developed. Pregnant women who consume fish and shellfish contaminated with mercury transmit such mercury to their developing unborn child, and infants can ingest mercury in breast milk. Unlike adults, unborn children have no way to excrete mercury. The toxin just keeps circulating inside their mother's womb increasing their exposure. Medical research indicates that mercury in umbilical cord blood is twice that of the mothers' blood.<sup>7</sup> Therefore, even if a mothers' blood remains below

“risk level” doses, the unborn child’s may not. Mercury poisoning is just not about statistics; it’s about our children.

The threat of mercury is present across our country. According to the latest EPA Toxic Release Inventory, Texas produces approximately 17% of the United States’ mercury emissions from coal-fired utilities, over 11,000 pounds in 2010, an increase over 2009.<sup>8</sup> Using EPA guidelines, 51% percent of North Texas reservoirs had largemouth bass with levels above the recommended mercury limits.<sup>9</sup> Texas is not alone. The 2010 ***Biannual National Listing of Fish Advisories*** states that approximately 17 million acres of lakes and 1.3 million miles of rivers, over 40% of our fresh waters, have mercury advisories, an increase of 1.1% (lakes) and 0.2% (rivers) from 2008.<sup>10</sup> All fifty states have at least one mercury fish consumption advisory. It’s simply not safe to eat locally caught fish in much of the United States, especially if you are a woman who is pregnant or nursing.

As part of his Christian witness, EEN staff member Ben Lowe chooses to live in a low- income community in DuPage County, Illinois. Many of his neighbors regularly fish to provide protein for their families. Ben, an avid angler, reports an event while fishing in the Chicago River. Knowing the river had fish consumption advisories, Ben was about to release his catch, when a man walked up and asked for it, to feed his family. Ben attempted to explain that the fish was full of toxins such as mercury, which would hurt his children. “It’s OK,” the man said, “they need the food.” Ben ended up giving him the fish, but no, it is not OK. Nowhere in America should a family have to choose between eating poison and going hungry.

Ben’s story is not unique. Last spring, we had a family outing to Valley Forge National Historic Park. My daughter-in-law is a photographer, and as we passed a covered bridge, she asked for a photo. We walked around the bridge and right there was a sign posted, “Attention

All Fishermen—No Fish May be Killed or Held in Possession From This Stream.” Just 30 feet away, a man was fishing. Returning home, we went to the Pennsylvania Fish Advisory website and learned mercury and PCBs poisoned the stream. A colleague, Hispanic Pastor Frank Machado, shared how his family once depended on locally caught fish for a source of protein. Now, he is afraid of even taking his sons fishing in Pennsylvania because of the mercury warnings.

Our children pay the greatest cost of mercury pollution. But such costs also accrue to society. One study estimated the base cost for methylmercury toxicity to be \$5.1 billion in 2008, or within a range of \$3.2 of \$8.4 billion.<sup>11</sup> The authors compare the economic benefits of eliminating mercury pollution to the benefits gained from lead regulation:

**Similarly [to lead], great economic savings can be achieved by preventing methylmercury contamination of fish, which is the major source of human exposure to this chemical.<sup>12</sup>**

The EPA’s Mercury and Air Toxics Standard, the so-called “utility-MACT” rule, will cost some \$9.6 billion per year according to the agency.<sup>13</sup> However, the EPA also estimates that for every \$1 spent complying with this rule, society will reap between \$5 and \$9 in return.<sup>14</sup>

Some may point out that the poor will be most affected by higher electric rates. In certain areas, it could add \$7.00 per month to electric bills,<sup>15</sup> with the national average increase \$3 to \$4 per month.<sup>16</sup> Considering that the average electric bill has declined over 20% in real terms since 1980,<sup>17</sup> most Americans, we suggest, would agree that it is worth \$84.00 per year to better protect our children. Nevertheless, for those for whom this might prove a hardship, we are happy to work with private parties and government to ensure that the poor are helped through energy efficiency, public policy, or any number of possibilities.

Small business owners understand the value of health benefits provided by environmental protection. A recently released found the following:

**79% of small business owners support having clean air and water in their community in order to keep their family, employees, and customers healthy, and 61% support standards that move the country towards energy efficiency and clean energy.**<sup>18</sup>

Our Network and those we work with in the faith community, including the National Association of Evangelicals and the United States Conference of Catholic Bishops, are thankful for the recently finalized National Mercury and Air Toxics Standards and their life-affirming protections from mercury, particulates, and acid gases. In a public release after the MATS promulgation, Bishop Stephen Blaire of USCCB stated:

**The U.S. Catholic bishops welcome this important move by the Administration to adopt long-awaited standards to reduce mercury and toxic air pollution from power plants and to protect children's health. In the end it just makes good sense to want to have clean air for our children and families to breathe and for future generations.**

This regulation is a fair and uniform standard to address a powerful threat to our children. As a father and now a grandfather, this is personal. It is also central to the Evangelical Environmental Network's ministry of creation care, because for us creation care is a matter of life. We understand the gift of creation as a sustainable gift empowering and providing for human life.

Exposing children to mercury poisoning in their mothers' wombs, a poisoning that will last a lifetime, is simply wrong. We have it within our means to reduce 90% of the mercury emitted from coal-burning power plants without the fear of diminished electric reliability or job loss and with economic benefits at least five times greater than the cost.

We have waited since the 1990 Clean Air Act Amendments for our country to clean up mercury from the burning of fossil fuels. It is well past time to act—no more delays or special treatment of one industry over another.<sup>19</sup> Let us live up to our nation's character and protect the vulnerable from mercury pollution emitted by coal-burning power plants. We urge this Subcommittee and the entire Congress to protect our children by supporting this regulation. Today's world provides enough threats to our children's future. Let us not endanger our children with a substance we can control. We must protect the weakest in our society, the unborn, from mercury poisoning. As the Psalmist says:

**Psalm 82:3 (ESV)**

**Give justice to the weak and the fatherless; maintain the right of the afflicted and the destitute.**

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<sup>1</sup> Bose-O'Reilly et al., "Mercury Exposure and Children's Health," *Current Problems in Pediatric and Adolescent Health Care*, 2010 September, 186–215. See also National Academy of Sciences, *Toxicological Effects of Methylmercury*, 2000: p. 13-14.

<sup>2</sup> Grandjean et al., "Adverse Effects of Methylmercury: Environmental Research Implementations," *Environmental Health Perspectives*, p. 1137-1145.

<sup>3</sup> <http://www.lungusa.org/get-involved/advocate/advocacy-documents/epa-mercury-other-health.pdf>

<sup>4</sup> Mahaffey et al., "Blood Organic Mercury and Dietary Mercury Intake" *Environmental Health Perspectives*, April 2004: p. 112.

<sup>5</sup> Trasande, et al., "Public Health and Economic Consequences of Methyl Mercury Toxicity to the Developing Brain," *Environmental Health Perspectives*, Vol. 113, No. 5 (May 2005): p. 590.

<sup>6</sup> Grandjean et al., "Adverse Effects of Methylmercury: Environmental Research Implementations," *Environmental Health Perspectives*, p. 1137-1145.

<sup>7</sup> Lederman, et al., "Relation between Cord Blood Mercury Levels and Early Child Development in a World Trade Center Cohort," *Environmental Health Perspectives*, August 2008: p. 1085-1091.

<sup>8</sup> <http://www.epa.gov/mercury/about.htm>.

<sup>9</sup> Drenner, et al., "Landscape-Level Patterns of Mercury Contamination of Fish in North Texas, USA", *Environmental Toxicology and Chemistry*, 2011: p.589.

<sup>10</sup> <http://water.epa.gov/scitech/swguidance/fishshellfish/fishadvisories>.

<sup>11</sup> Trasande et al., "The Staggering Costs Of Environmental Disease In Children, Estimated At \$76.6 Billion In 2008," *Health Affairs*, 2011: p. 863-870.

<sup>12</sup> Ibid.

<sup>13</sup> <http://www.epa.gov/mats/pdfs/20111221MATSimactsfs.pdf>

<sup>14</sup> Ibid.



<sup>15</sup> Evangelical Environmental Network “Mercury and The Unborn Fact Sheet”  
[http://www.creationcare.org/media.php?what=21&c\\_id=8](http://www.creationcare.org/media.php?what=21&c_id=8)

FRANCIS ROONEY  
19TH DISTRICT, FLORIDA

FRANCISROONEY.HOUSE.GOV

COMMITTEE ON FOREIGN AFFAIRS

COMMITTEE ON  
EDUCATION AND THE WORKFORCE

JOINT ECONOMIC COMMITTEE

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April 18, 2019

The Honorable Andrew Wheeler  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Dear Administrator Wheeler,

I write to urge you to withdraw the Environmental Protection Agency's (EPA) December 27, 2018 proposal that undermines the Mercury and Air Toxics Standards (MATS) rule that is already implemented by coal burning plants and utility companies across the nation. Undermining the current MATS rule could jeopardize recent gains in health benefits, especially for our most vulnerable, and creates unnecessary changes in regulations. Additionally, undermining the rule could increase mercury contamination of our food supply, namely fish stock.

The EPA's refusal to monetize indirect benefits and the devaluation of direct benefits in a benefit-cost analysis under the redetermination of "appropriate and necessary" in Clean Air Act section 112(n)(1)(A) is short-sighted and flawed. Such action is likely to erode the rule and roll back years of progress without significant foreseeable benefit to either the utility industry or the general public.

The MATS rule has been implemented by the utility industry nationwide, lowering smog, soot and toxic air pollution dramatically and ushering in cleaner energy. The EPA should not disrupt the nation's power sector with regulatory uncertainty by undermining the commitments they have made and the costs they have incurred to comply with the current MATS rule.

Further, the implementation of this rule protects the health of many of the most vulnerable members of our community. As a pro-life Member of Congress I bring this issue before you for careful consideration as the negative health impacts of mercury exposure, especially to pregnant women, babies and young children are well documented and truly detrimental.

Finally, we must look at the impact mercury exposure has on our food supply. In my state of Florida, methylmercury contamination in fish is well documented. The Florida Department of Health publishes a monthly fish consumption guide. The most recent guide continues to list several freshwater and saltwater fish across the state either as unsafe to eat or safe only when

consumed in extremely limited amounts. Mercury is a long-lasting contaminant that takes years to rid from the ecosystem and to meet consumption safety guidelines. For both economic and health reasons, any threat to the MATS rule may be detrimental. We should not jeopardize the progress that has been made in making our air, water and fish safer.

For all these reasons, I urge you to withdraw this harmful proposal and uphold the EPA's prior determination that it remains "appropriate and necessary" to reduce hazardous air pollution from coal- and oil-fired power plants using the effective tools provided by Congress in section 112 of the Clean Air Act.

Sincerely,

A handwritten signature in blue ink that reads "Francis Rooney". The signature is written in a cursive, slightly slanted style. The first name "Francis" is written above the second name "Rooney", and they are connected by a horizontal line.

Francis Rooney  
Member of Congress

March 21, 2019

Acting Inspector General Charles J. Sheehan  
Environmental Protection Agency  
Office of Inspector General  
1200 Pennsylvania Avenue, N.W. (2410T)  
Washington, DC 20460

Dear Mr. Sheehan, Esquire:

Attached is a copy of my testimony given at the Mercury and Air Toxics Standard Hearing on Monday, March 19, 2019 at EPA Headquarters in Washington, DC.

Below is an excerpted from my testimony:

**Unfortunately, we live in a new world of alternative facts. These alternatives in view of the attempt to revise MATS make this hearing and the revised MATS rulemaking process invalid, if not illegal. As point of order, the EPA Inspector General should review the below comments that depict at best misstatements or direct attempts at deception by current EPA leadership.**

**On September 26, 2018, at the Clean Air Act Advisory Committee Meeting, Mr. William Wehrum, Assistant Administrator of EPA's Office of Air and Radiation, stated the entire MATS review was being undertaken to satisfy the Supreme Court. Mr. Andrew Wheeler, on December 4, 2018, then Acting EPA Administrator, during a meeting of faith leaders at EPA Headquarters, stated much the same thing as I presented him with a letter from over 100 evangelical leaders protesting the assumed MATS revision (letter attached). (This same response was reported in the New Times and elsewhere.)<sup>1</sup>**

**The U.S. Court of Appeals for the D.C. Circuit upheld MATS in its entirety, including the “appropriate and necessary” finding.<sup>2</sup> In Michigan v. EPA, 135 S. Ct. 2699 (2015), the Supreme Court ruled that EPA had erred in not considering costs in making the “appropriate and necessary” finding.” Writing for the majority, Justice Scalia stated that the Court was not requiring a formal cost-benefit analysis. Instead, the majority expressly left it to the EPA to determine how to take account of costs and make the comparison to benefits. Then the DC Circuit court, without staying MATS, remanded the “appropriate and necessary” finding to the EPA for reconsideration of the costs. The EPA new cost accounting was issued in a supplemental**

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<sup>1</sup> <https://www.nytimes.com/2018/12/28/climate/mercury-coal-pollution-regulations.html>

finding in April 2016.<sup>3</sup> In keeping with the Clean Act Air as revised, EPA in promulgating the MATS rule followed the law as written by Congress and interpreted by the Courts – no further action was required.

Mr. Wheeler also made the same reference in his confirmation testimony before the Senate EPW committee.

These statements of why the current EPA is revising the MATS rule by EPA leadership is very troubling. The remarks made numerous times are clearly not factual and from my reference are misleading at best and attempts to deceive in the worst case.

It is my request that your office investigate what are to me falsehoods and a dereliction of their oath of office.

Sincerely;

The Rev. Mitchell C. Hescox  
President/C.E.O.

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<sup>3</sup> Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units, 81 Fed. Reg. 24420 (April 25, 2016).