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EARTHJUSTICE FACT SHEET: SECTION 802 OF THE AMERICAN POWER ACT

The American Power Act’s “Coal-Fueled Fleet Transition Program” is a giveaway to industry that could end up costing American lives.

Opens the door for coal interests to elude, weaken, or repeal health-based controls on toxic and dangerous non-greenhouse gas pollutants that have been controlled by the Clean Air Act for decades.

What it does: Section 802 establishes a task force to be convened 90 days after its passage with representatives from the Environmental Protection Agency, the Department of Energy, the Department of the Treasury, state public utility commissions, other relevant federal, state, and local agencies, the electricity generating sector, and nongovernmental organizations.

This task force would be mandated by statute to review existing Clean Air Act regulation of soot, smog, and toxic air pollution from coal-fired power plants and then to recommend ways to weaken or waive those pollution control requirements in exchange for power plant commitments to close down eventually. Specifically, the bill targets emission control requirements for hazardous air pollutants such as mercury as well as performance standards and new source review requirements that would force clean-up of dirty old plants when they make life-extending improvements.

In effect, this provision contemplates new authorizations to emit deadly pollutants as a reward for coal plant retirements that almost certainly would happen anyway and on a more expeditious schedule under current law.

1. Unnecessary death and suffering would result if polluters are invited to weaken Clean Air Act requirements for non-greenhouse gas pollutants.

- The Clean Air Act’s pollution control requirements for major sources such as coal plants are critically needed to safeguard human health from the well-documented dangers posed by soot (fine particle pollution), smog (ground-level ozone pollution) and air toxics such as mercury.
- Numerous scientific studies have established direct links between particulate pollution exposure and a variety of health problems, including: premature death, heart attacks, irregular heartbeat, chronic bronchitis, aggravated asthma, decreased lung function and increased respiratory symptoms such as coughing or difficulty breathing. These illnesses result in tens of thousands of emergency room visits, hospitalizations, and lost work days each year.
- Fine particle pollution from U.S. coal-fired power plants has been estimated to kill 24,000 people each year, including 2,800 from lung cancer, but thankfully that number is decreasing as coal plants are forced to install modern controls or “scrubbers.”
(Clean Air Task Force Report: Dirty Air, Dirty Power: Mortality and Health Damage Due to Air Pollution from Power Plants)

- Scrubbers alone are projected to reduce these alarming mortality numbers by 90 percent. (*Clean Air Task Force Report: Dirty Air, Dirty Power: Mortality and Health Damage Due to Air Pollution from Power Plants*)
- According to the U.S. EPA, mercury is a neurotoxin that can cause brain development defects in fetuses and impede intellectual development in children. Coal-fired electrical generating units (EGUs) are the country's single biggest polluters and are the largest manmade source of Mercury emissions, accounting for 40 percent nationally.

2. The plants most likely to take advantage of these exemptions are plants that already have enjoyed a "free pass" from pollution control requirements.

- Approximately two-thirds of the nation's electric generating units (boilers) are more than 30 years old, the originally intended life-span of most coal plants.
- This means that the majority of coal-fired boilers now operating were "grandfathered" under the Clean Air Act. In 1977, when Congress passed strengthening amendments, existing coal plants were exempted from the new requirements because industry promised that aging facilities would soon retire. Instead, they have continued to run, in many cases illegally, without modern controls.
- Only a third of all U.S. coal plants have scrubbers. However, this number is going to increase dramatically in response to a suite of forthcoming regulations from EPA. (*U.S. EPA*)
- When it comes to air toxics such as mercury, industry lobbyists secured special status for coal plants. Even after EPA made the determination that these sources are major emitters of hazardous air pollutants that must be regulated under the Clean Air Act's hazardous air pollution program, it took years of litigation to establish a deadline for EPA to set badly needed emission standards. Those standards, which are expected to protect public health while saving tens of billions of dollars in health care costs are due out next year.

3. History shows that requirements to install pollution controls does not push coal generators out of the market and instead yields huge public benefits.

- Over the past five years (between 2004 and 2009), net generation has remained constant, even with a dramatic increase in installation of scrubbers — and corresponding reductions in harmful emissions of sulfur dioxide and more fundamentally dramatic reductions in mortality.
- In 2000, Clean Air Act programs, including those under attack, saved the nation \$500 billion in mortality costs. Without interference, EPA expects that number to go up to \$730 billion this year, and \$1.2 trillion in 2020. (*EPA, Second Section 812 Prospective Analysis, Nov. 2009*)