**TESTIMONY CONCERNING USEPA PROPOSED NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM COAL AND OIL-FIRED ELECTRIC UTILITY STEAM GENERATING UNITS**

**Chicago, Illinois**

**May 24, 2011**

- On behalf of Illinois Attorney General Lisa Madigan, I would like to thank everyone present for the opportunity to offer these comments in support of U.S. EPA's proposed national standard for mercury pollution from power plants.

- In the 1990 Clean Air Act Amendments, Congress mandated that EPA control the emission of toxic air pollutants, including mercury, from significant sources.

- Since then, EPA has taken action to reduce mercury emissions from many high-emitting sources; including over 80 categories of major industrial sources.

- This proposed rule extends those reductions to one of the largest mercury emitting industrial sectors; coal and oil fired power plants.

- This is not to say that EPA has ignored the 1990 mandate to control such emissions.

- On the contrary, EPA has taken significant action on the issue, though not always positive action.

- The 1990 CAA Amendments required EPA to report to Congress on whether the emission of mercury from power plants was harmful to human health or the environment.

- In February, 1998, EPA delivered to Congress the Utility Air Toxics Study, which found that a link does exist between mercury emissions from power plants in the United States and methylmercury in fish and that mercury emissions from [EGUs] may add to the existing environmental burden.

- In December 2000, EPA announced its finding that it was "appropriate and necessary" to regulate coal- and oil-fired electric utilities under section 112 of the Clean Air Act. This finding triggered a requirement for EPA to propose regulations to control these emissions as Hazardous Air Pollutants, by December 15, 2003.

- Unfortunately, the “appropriate and necessary” determination was short lived.

- In 2005, EPA issued the final Clean Air Mercury Rule. This rule delisted EGUs from regulation under Section 112 of the CAA by rescinding the "appropriate and necessary" determination, and replaced it with an illegal and lax "cap and trade" approach to regulating these toxic emissions.

- Through Attorney General Madigan's efforts, Illinois participated fully with a coalition of states and environmental groups in filing with the D.C. Circuit Court of Appeals a Petition to Review the CAMR.

- Illinois also filed extensive comments in favor of reconsideration of the CAMR and questioned US EPA's authority to delist the regulation of hazardous emissions from Power Plants under Section 112 of the CAA.

- EPA ultimately denied reconsideration of this rule and the previously filed Petition for Review proceeded in the D.C. Circuit Court of Appeals.

- In December 2008, the D.C. Circuit Court of Appeals vacated the delisting rule. The Court held that the delisting was unlawful. Section 112 requires EPA to regulate emissions of HAPs. Section 112(n) requires EPA to regulate Power Plants under section 112 when it concludes that doing so is "appropriate and necessary."

- Over a decade has been wasted in the failed attempts to set a standard to protect the environment and public health and, especially the health of those most vulnerable, pregnant women and children.

- That is why the state of Illinois supports the EPA's pending Air Toxics rules.

- When fully implemented, EPA's newly proposed power plant mercury and air toxics standards will provide protection to those most vulnerable members of our communities.

- Attorney General Madigan has been a vigorous proponent of clean coal technology which frankly is at a significant economic disadvantage so long as existing heavily polluting units are allowed to continue operating without upgrading their pollution control equipment.

- Attorney General Madigan applauds this rule, and is ready to stand shoulder to shoulder with EPA in promulgation and implementation of these important safeguards.