

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR DIVISION**

INTRA AGENCY MEMORANDUM

TO: File

FROM: Mary E. Major
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SUBJECT: Meeting Minutes,--September 15, 2005- Regulatory Ad Hoc Advisory Group Concerning Clean Air Mercury Rule (Rev. F05)

DATE: September 21, 2005

INTRODUCTION

At 9:30 a.m., September 15, 2005, a meeting of the ad hoc advisory group concerning the Clean Air Mercury Rule (CAMR) was held in the First Floor Conference Room, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. A record of meeting attendees is included as Attachment A.

SUMMARY OF DISCUSSION

The facilitator opened the meeting by announcing that the DEQ would make a request to the Attorney General for a formal opinion regarding the legal authority to trade mercury. No specific timeframe was given on when that opinion would be forthcoming. The group will proceed under the informal opinion that the State Air Pollution Control Board does not have authority to adopt a regulation that would permit the trading of mercury. The facilitator also reviewed the timeframe for submitting the proposed regulation to the SAPCB. Any position papers that members want to develop on issues the group is unable to achieve consensus on must be forwarded to the DEQ by late October-early November if they are to be included in the package of material that is forwarded to the board.

The group discussed pros and cons of the alternatives to trading that had been identified at the last meeting; Alternative 1, Statewide Averaging; Alternative 2, Unit Specific Controls and Alternative 3, Statewide Averaging with Unit Standards. No additional alternatives were identified. The issues reported herewith are not identified as either pro or con as there was not necessarily consensus as to the proper placement of the issues.

Alternative 1: Statewide Averaging

Many of the same issues brought up in the previous committee meeting were readdressed here with no consensus achieved. The statewide averaging proposal was described with the following key points:

Averaging is not trading, nothing legal changes hands

Averaging would affect all units

Averaging would be statewide not within a plant or facility

Statewide baseline basis for cap would be based on the average of 3 highest years between 2000-2004

Issues discussed pertaining to this option included:

Need to guarantee that the cap would be met within the Commonwealth.

Possibility of excess reductions going out of the Commonwealth which in turn provides incentive for over-control.

Question of legality about excess emissions trading out of the Commonwealth given current Attorney's General opinion and Section 112 of Clean Air Act and toxics.

Concern about hot spots: Must consider health implications as well as fish and water concentrations. Need to model to determine which areas are "hot spots".

Averaging is cost effective control relative to unit specific control. EPA web site identifies units and expected type of control per unit. Once controls are installed, costs associated with operating/maintaining controls.

New technologies emerging. There is some question as to when they will be commercially available.

The question was raised :Would controls be placed on older dirtier facilities (often times more costly to retrofit) or would utilities choose to over control at newer-cleaner plants? It was pointed out that the same facilities will be controlled for CAIR program. Some felt that additional reductions are necessary sooner than CAIR.

Impact on jobs: No units shut down as a result of being too costly to control, therefore, no jobs lost. It was mentioned that jobs would be generated as a result of need for pollution control installment, however, it was countered that job loss is permanent if plants are closed; jobs associated with pollution control equipment installation are temporary.

Alternative 2: Adopt Unit Specific Standard

Many of the same issues brought up in the previous committee meeting were

readdressed here with no consensus achieved. The Unit Specific Standard proposal was described with the following key points:

Possible standards include 90% reduction, 3mg/megawatt/hour or 0.6 lbs/trillion BTU.

Issues discussed pertaining to this option included:

Controls required to meet 90% for all units may not be available even though some plants are already meeting 90% control. 90% may not be correct percentage for all facilities.

Need for earlier timeframe for reductions: If using a multi-pollution reduction strategy sources would be granted a longer timeframe.

Legal compliance more assured.

Encourages clean technologies and the addition of jobs associated with new technologies. Some indicated that there would be job losses as a result of excessive cost for controls. Estimated national costs for mercury MACT projected to be \$261 Billion. Unit by unit control less cost efficient to Virginia consumers.

Need expressed to eliminate hot spots: No consensus regarding hot spots. Debate centers around the amount of mercury generated vs. the amount of mercury Virginia receives from non-Virginia sources.

3. Merge state-wide averaging with Unit Standards:

Many of the same issues brought up in the previous committee meeting were readdressed here with no consensus achieved. The statewide averaging with unit standards proposal was described with the following key points:

Require specific reductions for plants in vulnerable or sensitive areas, average others; essentially a merger of the two previous options. The EPA expectations identified in the federal preamble regarding the controls that would be placed on existing units would become obligatory not an option.

Issues discussed pertaining to this option included:

Estimated approximately 75% of the facilities would need unit specific controls. These would be the facilities located within 60 miles of a health advisory for mercury contamination. Rivers are identified for health advisories; however, facilities must be located on rivers. Some advisories are based on previous industrial contamination, not current activity.

Atmospheric deposition data is as vital to the discussion as water discharge data. Need to model facilities for local health impacts. At least 11 facilities were identified as those needing unit specific controls and not eligible for averaging.

Cost of control is excessive for existing facilities to retrofit and still meet power production obligation for ratepayers. American Electric Power estimates 1.5 Billion dollars spent for pollution control in West Virginia alone that will translate to less pollution in Virginia.

Some members commented that this approach has no incentives to go beyond command and control due to inability to trade/sell excess mercury reduction credits.

Disagreement about whether EPA's analysis and final rule for mercury, which allows for interstate trading, adequately addressed the health concerns for people living near the facilities. EPA didn't look at any fish tissue data from Virginia when making its determination for necessary reductions in mercury, therefore, uncertainty concerning needed reductions.

Indication of limited ability for consensus regarding mercury control; Industry adamant about the ability for maximum flexibility, i.e. averaging and/or trading to reduce costs, others concerned that averaging will not address hot spot protection for the Virginia rivers already impacted with mercury health advisories nor will it afford adequate protection for people living near those facilities.

INFORMATION TO BE DISCUSSED AT THE NEXT MEETING, SEPTEMBER 22, 2005

The group was asked to provide a definition of "hot spot" by Tuesday, September, 20th, for discussion at the next meeting.

The group did agree that additional discussion was necessary on the following issues:

Role of Non-EGUs

Not everyone agrees that the emission limits are protective of human health:
Need to identify core issues and also identify which issues are not negotiable.

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Attachments