

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

**INTRA AGENCY MEMORANDUM**

**TO:** File

**FROM:** Mary E. Major  
Environmental Program Manager

**SUBJECT:** Meeting Minutes,–September 29, 2005- Regulatory Ad Hoc Advisory Group Concerning Clean Air Mercury Rule (Rev. F05)

**DATE:** September 30, 2005

**INTRODUCTION**

At 9:30 a.m., September 29, 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 recapping information from the last meeting, announcing that any position papers members want to develop on issues the group is unable to achieve consensus on must be forwarded to the DEQ by Friday, November 4, 2005. (Please note change: previous minutes indicated the 14<sup>th</sup>.)

**Discussion concerning including non-EGUs into the CAMR.**

No consensus was achieved.

The emphasis to have mercury switches removed prior to scrap vehicles entering the waste stream was reinforced by the scrape metal industry representative.

The steel industry will be subject to an upcoming EPA federal MACT, therefore, should not be included in a rule making that was primarily designed for the electricity industry. Not cost effective to set a standard now when the facility will need to meet a different federal standard.

Concern about including all nonEUGs with appropriate standards and cost-benefit

analysis into this rulemaking timeframe-just not possible-particularly with most of the nonEGUs not present at the table.

It was countered that several states had already done the ground work and that information could be used to set standards. In addition the two largest mercury emitters were at the table, therefore, their emissions should be required to be reduced.

The coke industry indicated that the river sampling done by DEQ does not show the facility having an impact. It was also stated that the Jewell coke facility was already meeting MACT for polycyclic organic emissions and that it set the standard for all other facilities in the country.

The current schedule was artificial and that one could take more time and still meet the EPA deadline.

The attempt was made to see if the group could come to consensus on the fact that mercury from non-EGUs was impacting Virginia:

The fact was made that a very small amount of mercury has shut down a government building in Williamsburg and a school in Virginia. This is a very toxic material with very serious health implications especially for women of child bearing years and their unborn children. We don't need additional study; we need to take action to clean up.

EPA has an inhalation standard for mercury of 0.009 micrograms/meter cubed. This could be used as the standard.

Emissions Data for 2003;	
Total Mercury	2,029 lbs
Mercury from EGU :	1,132 lbs
Mercury –non-EGU	897 lbs

Some members were not prepared to begin the discussion with the assumption that non-EGUs needed to be regulated; indicated more specific information about each facility was needed.

Several utility representatives indicated that non-EGUs should not be regulated under this regulation indicating;

- The focus of federal research had been conducted on the utility industry,
- The federal limits were based on EGU data
- Mercury emissions data for non-EGUs is considered to be incomplete as many non-EGU sources are not required to report it

Discussion concerning Alternative 4: a deposition standard

No consensus was achieved.

Very versatile; could include non-EGUs under this approach without specific emission standards for each type of facility

Local sources contribute to local problems; Great Lakes study verified that most of the mercury impact to that region was from local sources

Would require all identified sources to model their impact. Could be done within several weeks: estimate cost of approximately \$10,000 per model

Could use ISC model (or AIRmod which is more appropriate for complex terrain)

Utilities support EPA approach

#### Discussion on definition of "Hot Spot"

No consensus was achieved

Definitions under consideration:

"Hot spots" are defined as areas within the Commonwealth of Virginia where mercury levels in fish tissue are such that the Virginia Department of Health has issued or does issue in the future a fish consumption advisory or fishing restriction.

EPA: "A water body that is a source of consumable fish with methylmercury tissue concentrations, attributable solely to utilities, greater than the EPA's methylmercury water quality criterion of 0.3 mg/kg"

Sullivan (Brookhaven Labs) "For this study, a hot spot was defined as a region in excess of at least five square kilometers in which the soil or vegetation mercury concentrations were elevated by more than two standard deviations above the mean."

"Mercury hot spots are areas of excessively high mercury deposition compared to national or regional averages."

Too much uncertainty associated with deposition modeling

EPA modeling projects that there will only be a few places in the country that won't meet 2/micrograms/sq. meter after CAIR is implemented: not much difference after the implementation of CAMR.

Virginia Department of Health standard of 0.5 ppm in fish tissue is too lax; EPA

standard is 0.3ppm. Florida has seen a dramatic reduction in the number of health advisories issues for fisheries since more stringent local controls have been implemented

Facilities should need to demonstrate compliance with EPA inhalation standard. Any definition of hot spot should contain the following:

Any area around or influenced by a facility in Virginia must demonstrate the ability to meet EPA's chronic inhalation limit of .009mg/meter cubed for Hg in ambient air around the facility.

Virginia air toxic rule is supposed to be protective of human health.

Need to remove the term "consumable" from EPA definition; many fish eaten are smaller than 7" which is the cut-off EPA used.

If remove "consumable" does a facility's holding pond that happens to have fish in it fall under the definition of hot-spot?

EPA definition "attributable to EGUs"...how do you determine that? The assumption is if mercury is found in waterways with no specific source evident nearby, it is attributed to atmospheric deposition

Need some definition if one is going to try to use statewide averaging.

DEQ must do something to address the issue of hot spots in Virginia waterways

Questions about science, health implications; extreme frustration in not being able to find any common ground.

Let health department identify hot spot as a result of fish tissue studies

Any regulation will have the force of law: will require lots of money to comply and could cost lost of money if out of compliance. Issue is too important to rush just any regulation through without much more careful assessment. For example: River has been closed since 1973 due to previous contamination-what is gained by forcing another facility to put additional control on?

Virginia air toxic rule is supposed to be protective of human health. Any definition of hot spot should contain the following: Any area around or influenced by a facility in Virginia must demonstrate the ability to meet EPA's chronic inhalation limit of .009mg/meter cubed for Hg in ambient air around the facility.

#### Discussion of Frustration about Process

Citizens who are not paid (some on fixed income) spend great sums of money and time to try to work with folks that are paid for being at the table: not really trying to work

toward common ground. Very frustrating process.

Repeated comments that more time was need to find consensus on anything; yet no indication of how much time that would be

Virginia public participation system is broken. The process is too important and needs to be done correctly. Citizens need to find a way to work within the process meaningfully. Some states reimburse citizens that participate.

Timeframe for this process was artificial: Let the FIP occur so that we can have adequate time to do it correctly.

Don't believe that people stonewalled the process: These issues are very difficult. It is anticipated that very good information will be forwarded to the board concern all issues discussed.

**INFORMATION TO BE DISCUSSED AT THE NEXT MEETING, OCTOBER 12, 2005**

The group agreed to hold a discussion concerning the implications of trading mercury. Any information that the group desires distributed to other members in preparation for the discussion must be forwarded to DEQ for distribution by October 5, 2005.

TEMPLATES\PROPOSED\AH08  
REG\DEV\F05-AH08-5

Attachments