

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR DIVISION
INTRA AGENCY MEMORANDUM**

TO: File

FROM: Mary E. Major
Environmental Program Manager

SUBJECT: Meeting Minutes, August 3, 2006 - Regulatory Ad Hoc Advisory
Group Concerning Clean Air Mercury Rule (Rev. F05)

DATE: August 8, 2006

INTRODUCTION

At 9:00 a.m., August 3, 2006, the ad hoc advisory group concerning the Clean Air Mercury Rule (CAMR) was reconvened and a meeting 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 meeting facilitator reviewed the key areas to be discussed by the group as explained at the July 25, 2006 meeting:

New Unit Set-aside,

Compliance,

§ 10.1-1328 F of the law (Chapters 867 and 920, 2006 Acts of Assembly), and
New Source set aside for renewable and energy efficiency.

Mr. Mann led the discussion on the first issues.

New Unit Set Aside:

Staff discussions with the Environmental Protection Agency Clean Air Markets Division (EPA CAMD) provided understanding as to how new sources will eventually receive allowances from the existing source allocation. All sources with a baseline heat input received an allocation. Existing sources utilize heat input to determine their baseline. Sources operating after 2001 (those defined as new sources) will measure heat output. A new source will need to operate for at least 5 years. The output of the three highest years during that 5 year period will be averaged. A specific formula will be used to convert the averaged output to a baseline heat input. The source will then be eligible for allowances from the

existing source allocation during the next allocation cycle and will no longer need allowances from the new source set aside.

Mr. Mann also stated that EPA had promulgated a new definition for EGU in the June 9, 2006 Federal Register. This was brought to the committee's attention so that they would be aware of the new definition.

Compliance:

Mary Shellabarger, a representative from the EPA CAMD, provided a presentation via conference call about the compliance and tracking system that is envisioned for the mercury program. The presentation is included as attached B. She indicated that the tracking system was under development; however, it is anticipated that it will work very similarly to the NOx tracking system currently used in the NOx SIP Call program with the following key changes:

- Mercury allowances will be issued in pound increments. Under the NOx SIP Call, NOx allowances are issued in ton increments.

- Allowances will be issued on a plant-wide basis. Under the NOx SIP Call, allowances are allocated by unit.

Mr. Mann followed Ms. Shellabarger's presentation and outlined the compliance issues for sources under the new law.

Paragraph D1 of the law applies to sources that emitted more than 900 pounds of mercury in 1999. It specifies that compliance can be demonstrated by ensuring that emissions don't exceed the allowances given in the aggregate to the owners of these sources. Under the state specific rule, these sources will need to meet the Phase 2 compliance requirements for the federal Clean Air Mercury Rule (CAMR) by 2015; all other sources must meet the Phase 2 limits in 2018. The excess allowances (the delta between Phase 1 limits and Phase 2 limits) cannot be used under the state specific rule; however, the excess can be sold under the federal program.

An issue for D1 sources is the following:

An existing source might currently be exempt under the state specific rule because they didn't have emissions in excess of 200 pounds in 1999. If that source were to be purchased by an owner that did have emissions in excess of 200 pounds in 1999, that previously exempt source would be subject to the program.

Paragraph D2 of the law applies to sources that emitted less than 900 pounds but more than 200 pounds of mercury in 1999. It stipulates how to determine compliance using surplus allowances "generated through the installation of

emission controls at a facility located a straight line distance from the border of the Commonwealth of less than or equal to 200 km.” However, this section doesn’t address in-state compliance only to state that sources must meet compliance requirements under federal CAMR. Any allowance from a source located outside of Virginia which is to be used to demonstrate compliance for a source located within Virginia must be retired under the EPA tracking system. It appears that a separate compliance certification or statement will be necessary for the state specific rule.

Another issue pertains to change of ownership of specific sources. An existing source might currently be exempt under the state specific rule because they didn’t have emissions in excess of 200 pounds in 1999. If that source were to be purchased by an owner that did have emissions in excess of 200 pounds in 1999, the previously exempt source would be subject to the program.

§ 10.1-1328 F of the Law

The section “prohibit[s] any electric generating facility within a nonattainment area from meeting its mercury compliance obligations through the purchase of allowances from another facility”. It appears that a facility cannot purchase allowances for compliance but can use allowances from another facility under its ownership. However, it doesn’t specify which compliance obligations; those under the federal CAMR or the state specific rule, or does it apply to both?. Nor does it stipulate that this prohibition shall be done through regulation. This could be accomplished through a permit or order from the Board.

If done by permit or order it provides additional time to address specifically how to accomplish this requirement, particularly if one or more state boarding Virginia do not participate in the federal CAMR and therefore do not have surplus allowances under CAMR.

If done via regulation, the issue of tracking which nonattainment areas within the state is minimized because those changes would happen automatically as the regulations change.

Set aside for Renewable and Energy Efficiency

Paragraph A 4 of §10.1-1328 of the new legislation which addresses the CAIR program states: “ The rules shall include a 5% set-aside of NOx allowances during the first five years of the program and 2% thereafter for new sources, including renewables and energy efficiency projects...”. Paragraphs C, D, E and F deal with mercury and do not mention renewable energy.

Many opinions were voiced concerning the issue of renewables and their role in the mercury program:

Is it intended that renewables be included in the CAMR program as specified in the paragraph A of the law?

The electric grid carries electricity generated by fossil fuels other than coal. Does this create a problem?

If a set aside is created, any allowances not used should be returned to the existing sources.

The public is demanding more energy efficiency and a renewable set aside will foster the development of alternatives.

There is a need to ensure that renewable energy is defined properly so that it isn't in conflict with other areas of the code.

These issues will need to be addressed as the regulatory process moves forward.

No Future Meetings are scheduled.

TEMPLATES\PROPOSED\AH08
REG\DEV\F05-SS-AH08-3
Attachments

Attachment A
Ad Hoc Meeting
August 3, 2006
Attendees

Cale Jaffee:	Southern Environmental Law Center
Daniel Holmes:	Piedmont Environmental Council
Timothy P. Mallan:	Appalachian Power
Jeff Novotny:	Appalachian Power
John Heard:	Virginia Coal Association
Richard R. Waddell:	Jewell Coke Company, L.P.
J. P. Richardson:	Jewell Coke Company, L.P.
Julie Crenshaw Van Fleet:	Citizen
Leonard Dupruis:	Dominion
August Wallmeyer:	Virginia Chamber of Commerce
Debra Jacobson:	
Frank Daniel:	Meeting Facilitator, DEQ
Robert Mann:	DEQ
Mary E. Major:	DEQ
Tamara Thompson:	DEQ
Patty Buonviri:	DEQ
Kayla Smith:	DEQ
Thomas Ballou:	DEQ
Jerome Brooks:	DEQ
Doris McLoud	DEQ

CAMR: Introduction to Allowance System

Aug 3, 2006



Presentation Outline

- ◆ Allowance Management System
- ◆ Allowances
- ◆ Designated Representative
- ◆ Account Representation
- ◆ Types of Allowance Accounts
- ◆ Populating Allowance Accounts
- ◆ Allowance Transfers
- ◆ Reconciliation
- ◆ Excess Emissions



Allowance Management System

- ◆ EPA's system for tracking allowances, source representatives, and conducting compliance activities.
- ◆ Maintains information on:
 - accounts and their representatives
 - the issuance of all allowances
 - the holdings of allowances in accounts
 - the transfer of allowances between accounts
 - the deduction of allowances for compliance purposes



Allowances

- ◆ Identified by 12 digit serial number
 - first four digits are the compliance use date (aka “vintage”)
 - last eight digits are sequential
 - cannot use allowance for compliance prior to its vintage year
- ◆ Value
 - 1 allowance authorizes emissions of 1 ounce of Hg



Designated Representative

- ◆ Each source must have a Designated Representative (DR)
- ◆ This individual is responsible for all submissions under CAMR
 - monitoring plans
 - emissions reports
 - allowance transfers
 - compliance



Account Representation

- ◆ Account Certificate of Representation
 - Used to assign the Designated Representative (DR) [and alternate]
 - » individual who is responsible for all submissions under CAMR
 - one form per plant
 - » identifies all units
 - » identifies owners and operators of each unit



Account Representation, cont.

- ◆ CAMD Business System (CBS)
 - Online alternative to paper form
 - » assign DR and alternate
 - » make changes
 - » designate “Agent”



3 Types of Allowance Accounts

- ◆ Source (Plant) Accounts
 - (aka Compliance Account)

- ◆ General Accounts

- ◆ EPA/State Accounts
 - Used to administer system



Compliance Accounts

- ◆ Source (Plant) Accounts
 - established for each affected unit via Account Certificate of Representation
 - populated with initial allocation

- ◆ Account Numbers
 - 12 digits (but leading zeroes may be dropped)
 - » first six digits are ORIS/facility code
 - » second six digits will be “FACLTU”



Compliance Accounts: Initial Allocations

- ◆ Sources receive a set amount of allowances for each compliance period (calendar year)
- ◆ determined by a methodology specific to each State Plan
- ◆ total of initial allocations must be within State trading budget
- ◆ Initial allocation period varies by State Plan



General Accounts

- ◆ Available for any individual or organization
- ◆ Established by submitting Allowance Account Information form
 - name and contact information for account representative [and alternate]
 - signature
 - list of all persons with ownership interest in the allowances held in the account



EPA/State Accounts

- ◆ State set-asides: from within the State trading budget, States may choose to set aside a portion of the budget
 - New unit set-asides
 - Energy efficiency or clean air
- ◆ Retirement accounts: where allowances go when they are deducted for compliance – the allowances are never used again



Private Allowance Transfers

- ◆ Negotiate the buying/selling of allowances and then either:
 - Fill out an Allowance Transfer Form
 - » Mail the Form to EPA
 - Establish on-line access via CAMD Business System (CBS)
 - » Perform transfer on-line
- ◆ EPA sends transfer confirmations to both parties
 - U.S. mail for paper transfers, e-mail for electronic transfers



Annual Reconciliation Deadlines

- ◆ January 30
 - 4th Quarter emissions reports due
- ◆ March 1 allowance transfer freeze
 - final allowance transfers must be complete



Annual Reconciliation -- Eligible Allowances

- ◆ Allowances used for compliance
 - only allowances of a vintage for the current year or an earlier year may be used
- ◆ Allowance transfer freeze
 - the date after which allowances that may be used for compliance cannot be transferred into or out of a unit or overdraft account



Process at EPA

- ◆ Final allowance transfers received from sources and processed
- ◆ Emissions data quality-assured
- ◆ Emissions and allowances compared by Allowance Management System
- ◆ Deductions processed
- ◆ Excess emissions penalties calculated (if necessary)



Excess Emissions

- ◆ When there are not enough allowances to cover emissions in the source account
- ◆ Allowances are deducted from following year's allocation at 3:1 rate
 - 3 allowances for each ounce of excess
- ◆ Other enforcement action possible



Data on the Web

- ◆ Data and Maps web site
 - www.epa.gov/airmarkets -
 - » click on Data and Maps
- ◆ All allowance information is publicly available
 - Accounts
 - Allocations
 - Representatives
 - Transfers
 - Deductions for emissions

