

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

INTRA AGENCY MEMORANDUM

TO: File

FROM: Mary E. Major
Policy Analyst

SUBJECT: Meeting Minutes,--September 7, 2005- Regulatory Ad Hoc Advisory Group
Concerning Clean Air Mercury Rule (Rev. F05)

DATE: September 12, 2005

INTRODUCTION

At 9:30 a.m., September 7, 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

A number of presentations were given by DEQ staff as well as information provided by Dr. Tripathi of the Virginia Department of Health (VDH) regarding health advisories issued by the VDH. These advisories are based upon the amount of mercury found in tissue of fish sampled from Virginia waters. Dr. Tripathi explained that five years ago 1 ppm (parts per million) was the level of mercury needed to issues an advisory. Today that level has been reduced to 0.5 ppm. The advisory recommends that no pregnant women or children eat fish caught from waters where levels of mercury exceed the 0.5 ppm level.

Alex Baron of DEQ reviewed the sampling methodology used by DEQ and indicated that all fish sampling data was available on the DEQ web site. He also indicated that there were no significant changes between 2000 and 2003 but that in 2004 there was an increase in the number of river basins and fish species sampled. In several instances it appeared that no obvious industrial source could be specifically identified for the levels of mercury found in several of the more pristine rivers in Virginia.

Information was also presented about a study being conducted at the University of Virginia that is evaluating both atmospheric deposition of mercury and fish tissue data.

The results of that study are not expected until later this fall.

The group discussed some members' frustrations over the inability to allow for trading of mercury and whether the opinion of not being able to trade mercury was correct. Dominion maintains that DEQ does have the authority to develop trading rules under Section 1308 of the Code of Virginia. Several members indicated that a formal opinion from the Attorney General would be beneficial. The opinion was expressed that regardless of whether the Attorney General's view of state law is correct, the EPA model trading program is also illegal under federal law.

The issue of whether to allow a Federal Implementation Plan (FIP) to be issued for Virginia was also discussed, including the implications of such action. Some members indicated that the state could let the FIP be issued then take more time to develop the State Implementation Plan (SIP), suggesting that the federal government would not act as long as the state was working toward a SIP. Others indicated that the state should not abrogate its responsibility to control mercury from its own sources and that such action would be viewed as irresponsible.

Alternatives to cap-n-trade were discussed:

1. State-wide Averaging;

- Some suggest that this is a poor choice to trading as it would remove all incentives for over control,
- Affect all units,
- Guarantee that the cap would be met within the Commonwealth,
- Who is accountable if the state-wide average is not met?
- How to allocate?
- How to enforce?
- How do you ensure safeguards for hot spots?
- What is the emissions rate?, cap?
- What level is necessary to achieve necessary fish tissue reductions to prevent the health advisories?

2. Adopt Unit Specific Standard

- 90% reduction
- 3mg/megawatt/hour
- 0.6 lbs/trillion BTU
- Need for earlier timeframe for reductions: If using a multi-pollution reduction strategy granted a longer timeframe.

3. Merge state-wide averaging with MACT Standard:

Specific reductions for plants in vulnerable or sensitive areas, average others
Make EPA expectations identified in the federal preamble obligatory not and option.

Some members commented that this approach has no incentives to go beyond command and control.

Other incentives? Tax incentives?

Dominion also offered to facilitate the presentations of several consultants to review modeling and bio-accumulative issues pertaining to mercury. Interest was indicated in a review of a report on Virginia-specific issues that could be forwarded to committee members.

Other states activities:

Information was distributed concerning activities in the following states: Connecticut, Massachusetts, New Jersey, Pennsylvania and Wisconsin.

INFORMATION TO BE DISCUSSED AT THE NEXT MEETING, SEPTEMBER 7, 2005

The group was asked to forward and additional options to cap and trade that they wish to discuss at future meetings to Melissa Porterfield at DEQ by Monday, September 12th.

The group did agree that additional research and discussion was necessary on a number of issues, as follows.

Need a list of EGUs and the corresponding heat input data

Continue the discussion of Alternatives to trading

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.

Discussion on alternatives to cap-n-trade
Other states activities

Inclusion of non-EGUs

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Attachments