

Air Toxics Regulation Group Meeting February 20, 2003

Meeting Attendees: P. Robinson, P. Daggett, L. Boisselle, W. Ure, G. Ryan, S. McFadden, J. Boehneit, R. Hittinger, C. Fuller, M. Motte, T. Gray, K. Michalik, K. Williamson, J. Martiesian, G. Ezovski, P. Papoojian, H. Spivack

DEM: T. Getz, S. Majkut, B. Morin, G. Friedman

Steve Majkut opened the meeting and spoke about the regulation and the hearing last September. He also spoke about the background information on stakeholders' process. He indicated that it is the Department's hope to pull all ideas together, throw out proposals, and obtain our reaction. He also hopes to use process will allow us to modify and improve the regulation in terms of protecting public health and environment.

Tom Getz reviewed the agenda, and said that Barbara Morin had a rough draft of comments on the regulation. He said that RI DEM will present the group with a proposal for addressing ten major issues that were raised in comments on the proposed regulation. He indicated that we will limit the discussion for this meeting to the first three issues, which are the issues that generated the most comment. He also stated that we intend to hold a total of 3 –4 meetings and that the other seven issues will be discussed at future meetings. He also proposed that there were two issues where he would like to form a subgroup that would get together and bring back their ideas to the main group. These two subgroups would look at how AAL's were derived, and the definition of "use".

In addition, Barbara will forward a draft response to all of the comments received to the group. Members of the group who would like to discuss other issues raised in the comments should notify Tom, and he will add those issues to the agendas of future meetings.

1. Broad Scope of Regulation

Barbara Morin stated that many people had commented that the regulation was too broad. Some commenters felt that we were including facilities that we did not mean to include. In addition they felt that the consideration of hourly and daily use, in addition to annual use, also broadens the scope of our regulation. She said that RIDEM proposed to retain the proposed list of substances with a few exceptions, i.e. propylene glycol, modified to correct any mistakes in classification, since the HAP list doesn't include all substances relevant to RI. She stated that the reasons were that the HAP list is a national list and there are other substances we need to consider which are important to the list. In addition Regulation 9 requires us to look at substances during pre-construction permit process and develop AALs on a case by case basis. This method can lead to inconsistencies. Paul Daggett said that he couldn't find the reference to calculated AALs in Regulation No. 9 (9.3.3(a)(3) and 9.4.2(g)). Attempts were made to clarify that it is RIDEM that would have to develop AALs on a case by case basis. There was no major opposition to this position.

Tom Getz asked if there were questions specifically on the list of substances. Rich Hittinger questioned whether asbestos should be on the list. It was clarified that asbestos is a HAP and therefore RIDEM needed to keep it on the list. Mary Motte in

particular is worried about the material generated during the sanding process of fiberglass and the standard for fine mineral fibers. Barbara agreed to look at this issue further.

Stacey McFadden from LFR asked whether the health benchmarks from agencies other than the EPA (California and the ATSDR) used to derive AALs and to select substances for regulation are appropriate for evaluating ambient air in Rhode Island. Both Barbara Morin and Cynthia Fuller replied to the affirmative. We have taken EPA as a first choice then California and ATSDAR, another federal agency. These numbers were derived for the same purposes, ambient air.

Paul Daggett said that the lawyers expressed concerned on using multiple states and agencies, and that by doing that we take RI facilities ability to comment on the process. However, Barbara stated that if we were to adopt new numbers because of EPA or Calif. that we would need a new public process. Tom Getz also clarified that we don't automatically adopt when others agencies change.

Barbara Morin also reminded the group that EPA is looking at carcinogenic substances so we may need reevaluate RI's AALs. She also stated that we don't want to adopt by reference so we don't lose our ability to have public comment.

Paul Daggett asked whether we were receptive to a public petition process, to raise or lower numbers. Barbara Morin stated that we do not have the expertise to do this. She said that we need to look to EPA or other agency who developed that number. Barbara stated RI DEM will look into all of these issues, but there appeared to be no general opposition to retaining the list.

2. Change minimum quantities from use to emissions.

Barbara Morin stated that the second issue seemed to focus on the change in minimum quantities from use to emissions. Many processes use a lot but emit little. She stated that we don't want to bring in these sources, it is extra work for facilities and the Department. In addition many sources cannot calculate emissions by themselves. This can be a huge issue for smaller sources. She asked how we could exclude these people.

One solution may be to keep the MQs in terms of use but we need to better define use. We could exclude certain types of process that have minimal emissions. She gave two examples; Example 1: We would exclude metals in processes, which don't emit dust of metals. Example 2: Closed reactors. She also stated that minimum quantity only requires you to register. Everything else is based upon emissions. She proposed that we form a subgroup to hash this out unless these are large negative comment.

She then proposed that we continue to define MQs in terms of use, but to include a definition of "use" in the regulation that excludes processes that emits none or de minimus quantities of listed substances. This would remove from consideration processes that are not significant air emissions sources without requiring small sources to calculate emissions. Stacey McFadden suggested that, instead, the MQs should be applied to emissions, rather than use, and that emissions could be defined to mean either use (as a conservative default) or emissions calculated using defined procedures

(mass balance, published emissions factors, etc.) RI DEM and the rest of the group agreed with this approach, and a small group was formed to work out the details.

Paul Daggett asked whether mixtures containing small quantities of a listed substance would be included. Barbara replied that concentrations lower than those that OSHA requires to be listed on MSDS sheets would be excluded, since companies using those products may not know that the substance is present. Kim Michalik from Pease and Curran asked whether they would have to report the small, variable, unquantified amounts of listed metals that are mixed in with the precious metals that they refine. Barbara said that RI DEM will look into this issue. Stacy McFadden also asked whether we should exempt remediation. Barbara stated that we do look at them through a Regulation 9 process.

The following attendees agreed to form a “use” subgroup; M. Mott, S. McFadden, P. Daggett, J. Bainer, K. Michalik, K. Williamson, B. Morin

3. Minimum Quantities in terms of lbs/day.

Barbara stated that many commenters were concerned that inclusion of MQs in units of pounds per hour and pounds per day, in addition to the pounds per year MQs, would necessitate overly burdensome recordkeeping and reporting and would have the unintended consequence of regulating occasional use of listed substances. She stated that RI DEM proposed to drop the shorter-term MQs but to derive pound per year MQs using a method that considers one-hour, 24-hour and annual average AALs, since all three averaging times can be important for a particular substance. A list of MQs derived in this manner was distributed. She also stated that once a facility applied for an Air Toxics Operating Permit that we could ask for the actual information of usage patterns. The group was generally supportive of this solution, although some members of the group may have comment on the specific assumptions that were used in the MQ derivation process.

Barbara thought that the best way to handle this would be by subcommittee and email. The following attendees volunteered for the AAL subcommittee; P. Daggett, C. Fuller, B. Morin

4. Meeting Conclusion

Tom Getz stated that we wanted to finish this process in 3-4 meetings. He said that he will send the agenda for the March 12th meeting. He also asked that the group send him other issues if they wish them to be included on the agenda.

5. Next Meeting –March 12, 2003 at 10 am.