

## PUC Expresses Concerns With DEP Mercury Rule, EQB Asks for Comments

The Public Utility Commission and citizen members of the Environmental Quality Board this week expressed concerns about the lack of justification and background studies needed to respond to objections raised about DEP's proposed rule to reduce mercury emissions from power plants.

The comments were made as the 20-member Environmental Quality Board formally voted to ask the public and interested parties to comment on DEP's proposed mercury rule. (A summary of other EQB actions is available in Regulations section.)

Bill Hall, representing PUC Chairman Wendell F. Holland on the Board, put a statement on the record saying the PUC has serious concerns about DEP's proposed rule because it has not been proven that the additional costs imposed by the rule will provide any additional health benefits.

The PUC was also concerned the rule would reduce electric generating capacity in the Commonwealth and, as a fundamental matter, asked why DEP felt it was necessary to go beyond the national mercury rule already in place.

And in a specific comment, Chairman Holland wanted the Board to know that he finds the excessive rhetoric and personal attacks on legislators (by environmentalists) that have been part of the public debate on this rule are "undesirable" and noted there are better ways to resolve differences.

During the PUC's annual briefing on electric reliability on May 24, the issue of how a Pennsylvania-only mercury rule and its potential to force the early retirement of 20 percent of the coal-fired electric generating capacity will be discussed.

Walter Heine, chairman of DEP's Citizens Advisory Council, also commented on the rhetoric and lack of having all the information needed to make a judgment on the rule in one place.

Both Heine and Jolene Chinchilli, another CAC member, suggested DEP produce what they called a "decision document" after public comments are received on the rule to put in one place the legal and environmental rationale for the rule, all the data, modeling and environmental studies used to justify the rule and respond to comments, along with the traditional comment and response document.

Heine and Chinchilli said having this kind of record is the only way to try to resolve the significant contradictions between what DEP is saying about the proposed rule and comments by labor, business and coal industry representatives.

A coalition of labor, business and the coal industry reiterated its support for legislation that would reduce mercury emissions from power plants by 86 percent and its opposition to DEP's proposed rule that they said would not provide any greater protection to the health of Pennsylvania's children, but will cost jobs and increase the cost of electricity.

"The decision Pennsylvania faces is not whether to reduce mercury emissions from power plants, but how," said Douglas L. Biden, President, Electric Power Generation Association. "Our labor, business, and coal industry coalition supports bipartisan legislation that would reduce mercury emissions by 86 percent from Pennsylvania power plants without penalizing our economy or causing significant increases in what consumers pay for electricity."

"Today the Board asked for public comments on the DEP rule and we intend to take the opportunity to tell them that for the past year neither DEP nor any other group presented any information to show there would be any increase in health benefits from the rule DEP proposed over the legislation we support," said Donald Siegel, International Vice President, International Brotherhood of Electrical Workers. "On the contrary, DEP's proposed rule is a lose, lose, lose for Pennsylvania,"

"The DEP rule will mean the loss of good-paying jobs as power plants are prematurely retired and power plant owners are forced to buy coal from other states, all for no demonstrated increase in health benefits," said Edward D. Yankovich, International Vice President, United Mine Workers of America.

"The risk of power plants switching to coal mined in other states is very real," said George L. Ellis, President of the Pennsylvania Coal Association. "If DEP's rule is adopted, power generators may have no choice but to consider switching to out-of-state coal and Pennsylvania would lose good-paying jobs."

"The premature retirement of Pennsylvania's coal powered generating capacity and the forced investment of \$1 billion in pollution control technology for no discernible health benefit as a result of DEP's rule can't help but increase the cost of electricity for businesses and homeowners in the Commonwealth," said Gene Barr, Vice President Political and Regulatory Affairs, Pennsylvania Chamber of Business and Industry.

Among the issues raised by the coalition about the DEP rule are:

**No Greater Protection of Children's Health:** Neither DEP nor any other group has presented any information showing any net positive health benefits to children's health from adopting DEP's proposed rule. In fact, modeling by the U.S. Environmental Protection Agency shows there is virtually no difference in mercury deposition in Pennsylvania between the legislation supported by the coalition and eliminating all mercury emissions from all U.S. power plants.

**Higher Consumer Electricity Costs:** Older, smaller Pennsylvania power plants representing 20 percent of the state's coal generating capacity are at risk of early retirement under DEP's proposed rule which would result in the loss of jobs and markets for Pennsylvania coal. Closing these plants would also increase electricity prices as the supply of electricity decreases, a concern raised by PJM, operator of the regional electric grid. It will also result in the increased use of scarce and expensive natural gas as a replacement fuel for coal, further raising the cost of electricity to Pennsylvania consumers.

**No Incentive for Early or Over-Control of Emissions:** DEP's proposed rule offers no incentive for early reductions of mercury emissions, and no incentive to over-control emissions because DEP proposes to just take credits for any over-control made by power plants and give them to other plants, including competitors, that may not comply with the mercury rule. This system is simply unfair in Pennsylvania's competitive electricity market.

Ninety percent of Pennsylvania's generating capacity is already on track to install advanced air pollution control equipment that will reduce mercury and other air pollution, according to DEP.

**Increasing Pollution from Other States:** Because Pennsylvania is part of a large competitive electric power market, power is bought and sold across a 13 state area and the lowest price wins. DEP's Pennsylvania-only rule will not only force the early retirement of coal plants here, but increase costs for Pennsylvania power plants. The rule could act as an economic incentive to expand generation in other states that do not have the same restrictions as the DEP rule in areas to our west and south and as a result increase air pollution coming into Pennsylvania.

**No Alleged Hotspots:** No information was presented by DEP or any other group identifying any mercury hotspots around Pennsylvania's power plants. In fact, studies by the Brookhaven National Laboratory attempting to specifically identify "hotspots" by measuring mercury deposition around existing power plants, including one in Pennsylvania, determined there is no evidence "hotspots" exist. Another study around Steubenville, Ohio demonstrates that mercury emissions travel 400 miles or more.

**Mercury in Sensitive Populations:** The U.S. Centers for Disease Control conducted a nationwide study of women of childbearing age, infants and young children which did not find a single case where mercury levels approached those required to cause adverse health effects.

A 160 pound individual would have to eat 22.8 pounds of catfish or 15.5 pounds of freshwater trout a week, each week for 70 years or more before any health consequences from mercury are observed, according to the U.S. Environmental Protection Agency's Benchmark Dose Limit.

According to the Department of Environmental Protection, the health risk from mercury is indirect. The risk comes from eating fish that contains mercury, not from inhaling mercury in the air around us.

The coalition supports bipartisan state legislation (Senate Bill 1201 and House Bill 2610) that would make Pennsylvania part of the national mercury emissions reduction program, the first mercury reduction program by any country, and require Pennsylvania power plants to reduce mercury emissions by 64 percent by 2010 and by a total of 86 percent by 2018.

The coalition supporting the proposal includes the:

- a.. United Mine Workers of America;
- b.. International Brotherhood of Electrical Workers;
- c.. Pennsylvania Coal Association;
- d.. Electric Power Generation Association;
- e.. Pennsylvania Chamber of Business and Industry;
- f.. Pennsylvania Chemical Industry Council;
- g.. Associated Petroleum Industries of Pennsylvania; and the
- h.. Pennsylvania Manufacturers Association.

A third Senate Environmental Resources and Energy Committee hearing has been rescheduled for June 6 (from May 24) due to a change in the Senate's session schedule.

The purpose of the hearing will be to recall DEP Secretary Kathleen McGinty for further questioning about her apparent misrepresentation of both the position of the United Mine Workers of America and the Pennsylvania Coal Association on a mercury regulation, as well as the timing of when the Secretary learned of these positions.