

Advisory Committee on Mercury Pollution

Meeting #82: Wednesday, May 28, 2008

Time: 9:00 am to 12:00 pm

Location: 108 Cherry Street, Room 1A

Vermont Department of Health, Burlington, Vermont

MINUTES

Members Present:

Michael Bender, Abenaki Self-Help Association, Inc.
Bill Bress, Vermont Department of Health
Gary Gulka, Vermont Agency of Natural Resources, Environmental Assistance Office
Jennifer Holliday, Chittenden Solid Waste Management District
Neil Kamman, Vermont Agency of Natural Resources, Water Quality Division
Ruma Kohli, Chemical Management Program Manager, IBM
Senator Richard McCormack, Vermont State Senate
Mary Jean Rajda, Porter Hospital (by telephone)
Eric Palmer, VT Dept. of Fish & Wildlife (by telephone)
Representative Cynthia Martin, Vermont State House of Representatives

Guests Present:

Elliot Burg, Vermont Attorney General's Office
Charity Carbine, Vermont Public Interest Research Group
Matthew Levin, Vermonters for a Clean Environment
Peter Taylor, Vermont State Dental Society
Karen Knaebel, Vermont Agency of Natural Resources, Environmental Assistance Office

The Committee members and interested parties gathered at the Waterbury State Complex, Old Pantry Building conference room. Neil Kamman called the meeting to order.

Agenda Item 1

Review draft minutes February 4th meeting

A motion was made and seconded to approve the minutes of the February 4, 2008 Advisory Committee meeting. The draft minutes were approved without changes.

Agenda Item 2

Committee member concerns / Public comments

Jen Holliday stated that it is important that agendas for Advisory Committee meetings reflect the topics to be discussed at the meeting for the benefit of the general public that

may wish to attend a meeting for a particular topic. This agenda was set a considerable while ago for a meeting originally scheduled in April and did not reflect the discussion or the legislatively mandated report of the Advisory Committee on toxic substances. Neil Kamman agreed and this is why the meeting agenda was modified several days prior to the present meeting.

Karen Knaebel updated the Committee on a mailing in mid-May of mercury in fish cards to fishing license agents. Jim Harrison of the Vermont Grocers' Association was contacted and agreed to do a mailing to his members requesting that they post updated fish cards. Bill Bress said that he has checked with the Department of Health sanitarians who inspect grocery stores and they indicated that most grocers do not have the cards posted and that the sanitarians have been distributing them when they are on site. Bill Bress said that he would call Jim Harrison to talk with him about methods to encourage grocers to display the card such as displays.

Neil Kamman said that H.515, which was signed into law, contains the Committee's recommendations on a manufacturer-funded mercury thermostat collection program and also requires a report of the Advisory Committee on expanding its role to address other toxic substances besides mercury. He indicated that this will be discussed under the legislative updates agenda item.

Neil Kamman said that he was invited to a meeting in Annapolis with the Environmental Protection Agency, United States Geological Survey, National Oceanic and Atmospheric Administration and several scientists to discuss the details of a national mercury monitoring network. There is currently a bill before the Senate Committee on Public Works and the Environment on monitoring mercury in the environment.

Mr. Kamman indicated that the courts have vacated the Clean Air Mercury Rule (CAMR) promulgated by EPA who is appealing the ruling. If the U.S. Court of Appeals accepts the case, then the CAMR would no longer be vacated during the appeal process. Mr. Kamman's conversation with EPA staff concluded that they did not believe that the Court of Appeals would take on the case.

Eric Palmer updated the Committee on fish monitoring that the Department of Fish & Wildlife will conduct in collaboration with U.S. Fish & Wildlife for viral hemorrhagic septicemia (VHS). About 5000 Vermont fish will be sampled for this fish virus which has been detected in the Great Lakes but is not believed to be present in Vermont lakes. Sampling will be done in many lakes throughout Vermont and this will allow for additional mercury testing in the collected fish and boost the mercury monitoring database.

Gary Gulka updated the Committee on a recent meeting of the Mercury Task Force that is affiliated with the Environment Committee of the New England Governor's and Eastern Canadian Premiers. The Mercury Task Force with representatives of the states and provinces has been responsible for monitoring progress and developing action steps to reduce anthropogenic mercury releases. In 1998, a goal was set to virtually eliminate anthropogenic releases of mercury in the region, with an interim goal of 50% reduction by

2003 and 75% reduction by 2010. The 50% goal has been met and steady progress is being made toward the 75% goal. A regional mercury emissions inventory will be updated next year. The last inventory was conducted in 2003. The new inventory will provide a clearer picture of current regional mercury emissions and progress in achieving the 75% emissions reduction target. Mr. Gulka indicated that there has not been an effort in the region to address crematory emissions of mercury; however, the new inventory may show a higher relative contribution of mercury emissions from this sector and may spur greater interest in addressing crematoria.

Karen Knaebel indicated that guidance on cleanup of broken lamps has been developed and is being made available on various web sites and at retail locations where lamps are sold and recycled. The fact sheets are being slightly modified and will be distributed to first responders who may receive questions from the public on cleanup procedures and health concerns. More than 12,000 fact sheets on cleanup procedures will be distributed by DEC to municipal solid waste districts.

Jen Holliday indicated that Chittenden Solid Waste District drop-off centers will be able to collect broken fluorescent bulbs. Testing was done by the District that showed very low air concentrations of mercury from incidental bulb breakage.

Michael Bender stated that he has been discussing two areas of focus for a subcommittee of the Advisory Committee on fluorescent lamps; one area is to explore how to expand lamp recycling collection locations in the state; the second area is to develop model legislation for lamp recycling that would involve the funding and establishment of collection infrastructure. Mr. Bender indicated that there are several groups working on this issue nationally, including legislation passed in California that sets mercury standards similar to the European standard that could potentially be part of model legislation.

Concerns were expressed about the purpose of a mercury lamp subcommittee. Mr. Bender said that the purpose of a subcommittee would be to pull together information and identify any gaps that can be filled by this subcommittee on enhancing the collection of lamps. The goal would be to provide recommendations to the Legislature. A subcommittee would first report back to the Advisory Committee in September with an update on the two focus areas. Jen Holliday indicated that neither she nor Mr. Bender had a lot of time to dedicate to this work, but can pull together information. Mr. Bender indicated that his organization has a grant to work on this topic. Neil Kamman indicated that he supported this proposal.

The Advisory Committee agreed to form a subcommittee on fluorescent lamps that will report back to the full Committee in September. Cynthia Martin and Ruma Kohli indicated that they have an interest in participating on this subcommittee.

Gary Gulka reported that DEC and Efficiency Vermont met with the US Postal Service which is very interested in becoming more involved with CFL recycling a mail-back programs. They have met with most northeastern states and are interested in doing pilot mail-back programs. They are not providing funding for the pilot projects but are looking

to electrical utilities to subsidize pilots. Efficiency Vermont expressed an interest in doing a pilot mail-back program at one of their retail lighting partners.

Michael Bender indicated that mercury export ban legislation has passed the U.S. House and is in Senate Committee. There was a hearing on the bill two weeks ago, with possible mark-up in the beginning of June that could lead to a possible Senate floor vote. Neil has drafted a letter to Senator Sanders in support of the bill that will be discussed later in the agenda.

Agenda Item 3

Dental brochure subcommittee recommendations

Michael Bender reported that the Dental Brochure subcommittee met on March 17, 2008. In attendance were Matt Levin, Bill Bress, Peter Taylor, Michael Bender, Mary Jean Rajda, and Jen Holliday. The subcommittee did not provide in-depth comment on the draft dental brochures but gave general guidance; in particular, the subcommittee suggested that the brochure be reflective of the consensus of the Advisory Committee on environmental concerns as reflected in the Committee's legislative reports and recommendations to the Legislature.

Bill Bress indicated that the subcommittee asked Peter Taylor to come back and report back after sharing this with the Vermont State Dental Society (VSDS) members.

Peter Taylor said that the intentions of VSDS were not to re-write but to modify the brochures slightly. He said that perhaps the ADA brochure does not enhance the environmental perspective and that VSDS wanted to hear this Committee's recommendations.

Jen Holliday said that the subcommittee was recommending that VSDS look at the legislative reports of the Advisory Committee and the Maine brochure for direction and that the subcommittee felt that the ADA brochure was weak in the areas of environmental and health concerns.

Michael Bender said that this issue can be put on the agenda at another meeting after VSDS considers the comments of the subcommittee. He said that this was not a collaborative process with VSDS but that the subcommittee was instead providing comment on an ADA document.

Agenda Item 4

Dental insurance follow-up with BISHCA

Neil Kamman said that the Committee had established that there were some inequities in cost to the patient between an amalgam and non-amalgam filling. There has been no recent follow up with BISHCA on this issue. The Advisory Committee could make a

recommendation to establish cost equity between amalgam and non-amalgam fillings and invite BISHCA to an Advisory Committee meeting.

Michael Bender also suggested that the Committee hear from dentists to hear if there is a financial disincentive to using non-amalgam fillings. He said that he would like to hear if this is a real problem or not.

Neil Kamman asked Peter Taylor if VSDS has a position on this.

Mr. Taylor said that Delta Dental is the largest dental insurance carrier in Vermont. It offers different plans to employers and that employers purchase the product for their employees. Plan price is a consideration for employers. Delta Dental will offer a product – one filling price. If the price is the same it does not make a difference. Medicaid offers differential reimbursement to dentists. As you look at this issue, it comes down to pricing and the insurance package. As the cost of plans increase, employers take a look at whether they are going to provide coverage.

Neil Kamman asked the Committee members whether they wanted to defer this issue to next year or address it this year. Michael Bender suggested a meeting in October for any Committee members that were interested.

Jen Holliday suggested that the Committee revisit this issue in more depth at the end of this meeting.

Agenda Item 5

Update and discussion of crematoria

Gary Gulka reported that the only state active in addressing mercury emissions from crematoria is Minnesota. He was referred to a faculty member at the University of Minnesota in the Mortuary Science Program who is collaborating with the dental school there to research amalgam removal techniques from the deceased. Legislation has been introduced in Minnesota to require removal of dental amalgam prior to cremation. Copies of the bill were distributed. This bill has been introduced several times in past years. The funeral directors association in Minnesota has taken interest in the bill and has provided a small grant to the dental school to investigate methods of amalgam removal. The dental school is collaborating with the Mortuary Science Program this summer, and they hope to have the results from their study available after this summer.

Gary Gulka suggested that the Committee revisit crematoria in the fall when this study is completed.

Mary Jean Rajda stated that she did not believe there were significant barriers to removing amalgam from deceased and expressed and that this practice should be acceptable, given all of the other things, such as pacemakers, that are removed from the deceased.

Matt Levin stated that there are three barriers or sets of issues to amalgam removal from the deceased that must be addressed: (1) removal methods and techniques; (2) logistics of removal and hesitancy on the part of funeral directors to become involved; and (3) resistance of families of deceased on personal and ethical grounds.

Michael Bender said that it is important to know the environmental risk and emissions estimates from cremations to fully evaluate this issue and make recommendations. He said that the Legislature, before taking action, would ask about the risk posed. He asked if this information could be gathered before the next meeting.

Gary Gulka stated that the best information on average amount of mercury in deceased individuals is available from the Colorado study. He did not believe that the Vermont Air Pollution Control Division would be able to evaluate emissions through an emissions inventory in the near future.

Senator McCormack asked whether the Dental Society would have information on the number of amalgam fillings in deceased individuals.

Peter Taylor said that his organization would not be a good source of information on this.

A concern was raised in regard to a proposed crematorium in Milton that the Air Pollution Control Division said poses no risk from emissions.

Neil Kamman said that he would contact Heidi Hales in the Air Pollution Control Division to get clarification on the Milton crematorium application and the Committee's interest in evaluating the risk of mercury emissions from crematoria.

Matt Levin said that he would circulate the newspaper article on the proposed Milton crematorium that appeared in the Milton Independent.

Karen Knaebel said that Jim Johnston had been agreeable to asking his members to do the survey on the number of amalgam fillings in deceased individuals but the survey was never completed. Mr. Johnston provided the name of another individual, Chris Book, to serve as a contact person.

A decision was made to defer further discussion of crematoria until November, to review the Minnesota study and possibly invite the Air Pollution Control Division to the meeting as well as Chris Book.

Agenda Item 6

Updates on mercury legislation – discussion of ACMP's report on toxic substances

Senator McCormack provided background on H.515 and the report required of the Advisory Committee on expanding the role of the Committee to review other toxic substances. The report is to include: (1) a summary of existing programs and entities that

identify or address the use of and risks posed by toxic substances; (2) a summary of how other states identify and minimize the risk posed by harmful toxic substances; and (3) a recommendation as to whether the jurisdiction of the Advisory Committee or other existing Vermont programs should be expanded to include review of other toxic substances. If a recommendation is made to expand the role of the Committee or some other entity to address other toxic substances, the Committee is also to address the following: (1) the toxic substances or categories of toxic substances that should be added to the jurisdiction and the rationale or criteria employed to review and identify such substances; (2) recommended changes to the Advisory Committee's or other entity's statutory charge and the programmatic impact of the expansion; (3) a recommendation on how to improve existing toxics use and hazardous waste reduction programs; and (4) the estimated cost if any for expanding jurisdiction.

Mr. Kamman said that there were several points to discuss as a beginning to the work on this report as follows:

- Should the report be the work of the Advisory Committee or a subcommittee?
- Who is interested in participating if the decision is to form a subcommittee?
- Additional members needed to be appointed before the work begins, including a member of a consumer public interest group appointed by the Governor and an employee of the Department of Environmental Conservation.
- A timeline for the work to be performed and the process for public involvement
- How to fit this work into the work plan of the Advisory Committee

Karen Knaebel stated that for members appointed by the Governor, the Advisory Committee generally makes a recommendation to the Governor's Office. For appointments by Agency heads, the Committee sends a letter requesting that an appointment be made.

Jen Holliday said that the Advisory Committee could also recommend an additional entity that is not but should be represented.

Senator McCormack said that although the charge for this report is broad, he believed the main focus was on toxic substances that the general population is exposed to and ends up in the human body.

Jen Holliday pointed out that a recent Vermont Solid Waste Prevention stakeholder report addressed household hazardous waste and recommended an Advisory group on toxic substances. Through this process, it was learned that Washington State and Oregon were prioritizing toxic substances.

Elliot Burg of the Attorney General's Office introduced himself as a consumer protection attorney that has had experience with lead, pressure treated wood, and carpet emissions. He said that he was familiar with work in Washington and Massachusetts (Toxics Use Reduction Institute) to prioritize toxic substances.

There was discussion of the element of the report to identify toxic substances or categories of toxic substances to be addressed in an expanded committee. Neil Kamman indicated that

the Legislature intended this report to recommend the body which would do the specific evaluation and analysis of toxic substances - not for the Advisory Committee to conduct its own in-depth analysis.

Charity Carbine suggested that the Advisory Committee could identify broad categories, not individual priority toxic substances.

Elliot Burg suggested that the Committee look at the work of others such as the MA Toxics Use Reduction Institute, which came up with eight criteria for prioritizing toxic substances.

Michael Bender made a motion to establish a subcommittee to report back at the next Advisory Committee meeting on how to proceed with developing the report, including appointment of new members specified in statute, and whether this will be the work of the Advisory Committee or a subcommittee. The motion was seconded and passed.

Gary Gulka circulated notes from a state regional Safer Chemicals Workgroup that recently formed and that provided a summary of toxic chemical legislation that has been introduced or has passed.

Neil Kamman introduced a letter to Senator Bernie Sanders that he drafted with Michael Bender on behalf of the Advisory Committee, supporting a ban on the export of elemental mercury. The Senate Environment and Public Works Committee has taken up the bill and Senator Sanders serves on this Committee.

Michael Bender stated that this letter is consistent with the position of the Advisory Committee and the Legislature's resolution on banning the export of elemental mercury and creating long-term storage for surplus mercury.

A motion was made and seconded that the letter be sent after all Committee members are given two days to review and comment back to Mr. Kamman on the letter and its content. The motion passed. Mr. Kamman will finalize the letter, considering any comments provided by members. Copies of the final letter will be sent to the Vermont Congressional delegation as well as relevant Vermont Senate and House committee chairs.

It was agreed that Gary Gulka would email some background materials relevant to the subcommittee discussion on the toxic substances report.

Agenda Item 7

Set date and agenda for next meeting

The subcommittee on toxic substances will meet in Waterbury from 9 am -11 am followed immediately by the Advisory Committee meeting from 11 am – 2 pm at the same location in Waterbury. An agenda and meeting location will be sent out in the near future.

Summary of Motions Passed and Other Action Items Agreed to at this Meeting

Action

Bill Bress will contact Jim Harrison of the Vermont Grocers' Association regarding the lack of posting of fish cards at grocery stores selling fish and seek his assistance in communicating with members.

Motion

The Advisory Committee agreed to form a subcommittee on fluorescent lamps that will report back to the full Committee in September. Cynthia Martin and Ruma Kohli indicated that they have an interest in participating on this subcommittee.

Action

A decision was made to defer further discussion of crematoria until November, to review the Minnesota study and possibly invite the Air Pollution Control Division to the meeting as well as Chris Book.

Action

Neil Kamman said that he would contact Heidi Hales in the Air Pollution Control Division to get clarification on the Milton crematorium application and the Committee's interest in evaluating the risk of mercury emissions from crematoria.

Motion

The Advisory Committee agreed to establish a subcommittee to report back at the next Advisory Committee meeting on how to proceed with developing the report, including appointment of new members specified in statute, and whether this will be the work of the Advisory Committee or a subcommittee.

Motion

The Advisory Committee agreed to send a letter to Senator Sanders in support of federal legislation which would ban the export of elemental mercury and provide for secure storage of surplus mercury.

Action

It was agreed that Gary Gulka would email some background materials relevant to the subcommittee discussion on the toxic substances report.