

# **Advisory Committee on Mercury Pollution**

Meeting #93: September 10, 2009

Time: 12:30 pm to 3:30 pm

Location: Laundry Building Conference Room, Waterbury State Office Complex  
Waterbury, Vermont

## **DRAFT MINUTES**

### **Members Present:**

John Berino, Fletcher Allen Health Care; Vermont Association of Hospitals and Health Systems  
Bill Bress, Vermont Dept. of Health  
Gary Gulka, Vermont Agency of Natural Resources, Environmental Assistance Office  
Jen Holliday, Chittenden Solid Waste District  
Neil Kamman, Vermont Agency of Natural Resources, Water Quality Division  
Ruma Kohli, IBM  
Senator Richard McCormack, Vermont State Senate

### **Guests Present:**

Lisa Carlson, Funeral Ethics Organization  
Matt Levin, Vermonters for a Clean Environment  
Peter Taylor, Vermont State Dental Society

The Committee members and interested parties gathered at the Waterbury State Office Complex, Laundry Building Conference Room and via telephone conference call. Jen Holliday called the meeting to order.

### **Agenda Item 1**

Accept Minutes from June 9 meeting

The draft minutes of the June 9 meeting were approved as drafted.

### **Agenda Item 2**

Committee member concerns / public comments

Gary Gulka mentioned that the mercury auto switch collection program funded by auto manufacturers and run by a third party (End of Life Vehicle Solutions) is running into financial problems. The new General Motors that has organized as a result of the General Motors bankruptcy has not agreed to continue funding GM's share of the switch collection program. Many states and environmental organizations have sent letters to the President and Congress urging that funding continue for the program that pays all of the switch collection and processing costs. Do we know how many mercury switches have been collected in Vermont? The number

of switches turned in (by facility) is tracked by End-of-Life Vehicle Solutions and is available on their web site. The Agency is required to report on program status annually to the Legislature. The Agency also has assigned a person to salvage yard compliance in regard to all environmental regulations, including the switch removal requirement. Last year's report to the Legislature indicated a lower number of switches collected than expected. Some of the reasons for this were that facilities were processing fewer vehicles and collection buckets were not full and therefore not returned for counting purposes.

The Food and Drug Administration has ruled on dental amalgam, issuing a final rule which classifies dental amalgam as a Class II medical device. FDA recommends labeling of dental amalgam, including contraindications for use and certain precautions during use, such as ventilation. FDA has also ruled that dental amalgam does not pose a risk to pregnant women and children. Infants are not considered at risk from breast milk. A handout was provided on the FDA ruling, taken from the FDA web site.

Jen Holliday related a personal experience of having to pay out-of-pocket expenses that were \$180 more for two composite resin fillings compared to amalgam fillings. Dental insurance provided by her employer did not cover composite fillings at the same amount as amalgam for all tooth surfaces.

Bill Bress indicated that there is a new Dental Director for the Vermont Department of Health (VDH). He has briefed the Dental Director on the work of the Advisory Committee in regard to dental amalgam.

Gary Gulka mentioned that Efficiency Vermont has expressed a willingness to fund the existing lamp recycling programs at hardware stores for a two-year period. Jen Holliday asked whether this funding was contingent upon the state seeking out a sustainable source of funding after this period. Mr. Gulka indicated that this was correct and that DEC will be working to address this.

### **Agenda Item 3**

Committee Review of Work Plan in 2009 ACMP legislative report

The Committee reviewed its progress to date in addressing the work plan items that were included in the Committee's 2009 legislative report.

The Committee acknowledged that all work plan items identified in the report were being addressed or scheduled to be addressed in future meetings.

In regard to reviewing the status of mercury product law implementation, Gary Gulka indicated that he will keep the Committee informed of progress on the mercury thermostat collection program. Annual legislative reports are required. Next year, DEC is required to develop methodology to ascertain the number of mercury-containing thermostats available for recycling. This will allow for a calculation of actual mercury thermostat recycling rates.

### **Agenda Item 3**

Assessment of state capacity to conduct mercury regulatory and outreach functions

Discussion of this agenda item was postponed until the next meeting.

### **Agenda Item 4**

Mercury lamp recommendations for recycling, mercury content and outreach functions

The Committee reviewed the lamp recommendations in the 2009 legislative report. The Committee agreed that it would review last year's recommendations in light of any new information that has become available, including status of implementation of lamp recycling laws in Massachusetts and Maine, and mercury content limits in lamps that are expected by January 2010 in the State of California.

### **Agenda Item 5**

Mercury emissions controls from crematoria

The Committee was updated on research at the University of Minnesota on developing an amalgam encapsulating device to capture mercury from dental amalgams during the cremations process. Doctoral candidates at the University of Minnesota evaluated different techniques and focused on refractory materials that could be injected into the mouth (consistency of oatmeal) that hardens and can insulate the teeth from the heat of the cremation process. A one-year provisional patent has been obtained on the device, however, according to Michael Lubrant of the University of Minnesota School of Mortuary Science, a great deal of research and development would be required to take this device to the next step. The graduate students have left the University and there is no funding to carry on further work. Lisa Carlson stated that a project like this would require venture capital to bring such a product to market, and this would be difficult to obtain.

Matt Levin suggested that other states be polled to determine their interest in pursuing this control technology and if there is interest, then there should be an effort to find or request funding at the federal level.

Gary Gulka said that he could poll the states that are involved in the Quicksilver Caucus to see whether crematory mercury emissions are of concern and the level of interest in this emission source. He said that he is aware that there is a high level of interest in amalgam separators to control mercury discharges from dental offices, but there does not seem to be interest in crematory emissions.

Lisa Carlson said that another option for emissions control is a public education campaign. Her limited surveying showed that a majority of people do not know that amalgam fillings contain mercury. A majority of people would pay for a non-mercury filling. The other option, she said, is to drastically reduce the use of amalgam. She said the surveys in Minnesota have shown that

80 percent of funeral directors either don't believe that mercury emissions pose a hazard to the environment or have no opinion on the issue.

John Berino stated that stack scrubber technology works. He said that amalgam is a hazardous material that becomes a hazardous waste that would be federally regulated as such. Mr. Berino said that he would propose a course of action at the next meeting that the Committee could consider under existing regulatory authorities.

Senator McCormack made a general comment about the Committee's recommendations, stating that any position that the Committee takes in any of its recommendations will likely be watered down and made less stringent through the legislative process. The Committee should keep this in mind in formulating its recommendations.

Bill Bress said that even though mercury emissions from crematoria are below air permitting thresholds (in terms of mass of emissions), it would be a good question to ask whether ambient air standards for health are expected to be exceeded.

Lisa Carlson suggested a tax on dental amalgam to support air pollution controls at a centralized crematory.

The Committee agreed that the next steps on this issue would be to: (1) consult with other states on their involvement with mercury emissions from crematoria; (2) hear from John Berino on a proposed course of action to control emissions; and (3) Neil Kamman will contact DEC's Air Program with the Committee's question concerning exceedances of ambient health standards.

### **Agenda Item 6**

Dental patient information on mercury

The Committee discussed the process followed last year to develop and provide comment on the Vermont State Dental Society's brochure on filling choices. The outcome of the discussions last year was that the Committee will prepare a fact sheet in collaboration with the Vermont Department of Health to address environmental and health risks of amalgam use.

Matt Levin suggested that the fact sheet could be distributed through the existing network of health care providers that currently receive information on mercury in fish and fish consumption advisories. It was also suggested that the information could be placed on the ACMP web site.

Peter Taylor provided the perspective of the Vermont State Dental Society. He said that VSDS took some but not all of the ideas of the Committee in drafting and finalizing the brochure. A poster on filling choices was distributed to dental offices and he believed that it is used in many or most offices. The VSDS brochure is consistent with the information on the poster and it has been made available to dental offices for their use. Mr. Taylor said that he believes that the brochure is consistent with the current FDA position on dental amalgam. VSDS had been waiting on the FDA ruling prior to encouraging the use of the brochure, but will now do so.

Peter Taylor questioned the effectiveness of mandated brochures and informed consent in other states as well as the rate of compliance. He said that there are two ways to get the information out to the public – voluntary versus informed consent. He said that VSDS is committed to getting the brochure out to the public and he believes that the dental community is doing a decent job. He asked that the Committee weigh its options before making a decision

Matt Levin said that he thought it was the Committee's intent not to develop an entirely new brochure on dental filling choices, but to develop a short piece, four or five paragraphs on health effects and environmental concerns of mercury related to dental amalgam.

The Committee agreed that as a homework assignment, it would review the notes and minutes from the subcommittee's work last year on developing language for a fact sheet on dental amalgam. It would also review the Maine and California brochures and be prepared to discuss specific language that could be included in a fact sheet.

Jen Holliday said that she would circulate the notes from last year's subcommittee via email.

### **Agenda Item 7**

Set agenda and date for next meeting

The next meeting will be set for the second week of November.

Agenda items will include:

- Assessment of state capacity to conduct mercury regulatory and outreach functions
- Dental patient information on mercury
- Control of crematory emissions
- Discussion of other committee recommendations to be considered

### **Summary of Motions and Actions**

- The draft minutes of the June 9 meeting were approved as drafted.
- The Committee reviewed the lamp recommendations in the 2009 legislative report. The Committee agreed that it would review last year's recommendations in light of any new information that has become available, including status of implementation of lamp recycling laws in Massachusetts and Maine, and mercury content limits in lamps that are expected by January 2010 in the State of California.
- The Committee agreed to the following regarding crematory emissions of mercury: (1) consult with other states on their involvement with mercury emissions from crematoria; (2) hear from John Berino on a proposed course of action to control emissions; and (3) Neil Kamman will contact DEC's Air Program with the Committee's question concerning exceedances of ambient health standards

- The Committee agreed that as a homework assignment, it would review the notes and minutes from the subcommittee's work last year on developing language for a fact sheet on dental amalgam. It would also review the Maine and California brochures and be prepared to discuss specific language that could be included in a fact sheet.