

CLEAN AIR COUNCIL AND MERCURY POLICY PROJECT COMMENTS TO PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION ON INTENT TO ISSUE A HAZARDOUS WASTE PERMIT UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT AND THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984—PERMIT NUMBER: PAD002390961.

Clean Air Council is a statewide non-profit citizen's organization dedicated to protecting the public's right to a healthy environment. The Council has members throughout Pennsylvania. The Council is proud to be a signatory to the Memorandum of Understanding that established the Pennsylvania Mercury Automobile Switch Removal Program in November 2004. Responses to these comments should be addressed to Aaron Firestone, Director, Children's Environmental Health Program, Clean Air Council, 135 S. 19th Street, Suite 300, Philadelphia, Pa. 19103

The Mercury Policy Project, a project of the nonprofit Tides Center, is co-founder of the Ban Mercury Working Group¹—a coalition of 28 public interest nongovernmental organizations from around the world—and works at the local, national, and international level to promote policies and programs to indefinitely store surplus mercury; and reduce/eliminate anthropogenic mercury uses and releases, trade in mercury, and human, ecological and wildlife exposures to mercury.

Clean Air Council and the Mercury Policy Project wish to use this opportunity to comment on the draft permit under the Resource Conservation and Recovery Act and Solid Waste Amendments of 1984 for the Bethlehem Apparatus facility in Hellertown Borough, Pennsylvania. The Bethlehem Apparatus facility is a large facility processing mercury, an extremely hazardous substance, and Clean Air Council and the Mercury Policy Project appreciate the opportunity to participate in the permitting process.

Mercury entering the environment is a serious environmental health threat. Mercury contamination indiscriminately harms people, fish, wildlife, and the global environment without regard to political or geographical boundaries. The immortality of elemental mercury—the fact that once extracted from the earth it never ceases to be toxic—makes the continuing rise in global mercury levels from anthropogenic uses and releases increasingly problematic. From one pathway alone—atmospheric deposition—recent research indicates a three-to-five-fold increase in mercury build up in our environment. Consumption of mercury contaminated fish are placing billions of people worldwide—especially women of childbearing age, children, indigenous peoples, and impoverished communities—at serious risk of mercury poisoning. Therefore, it must be the goal of the state and federal governments to phase out the use of mercury in products, drastically reduce emissions of mercury from power plants, and curtail trade in mercury over time.

Presently there is a market for mercury, and governments have an obligation to ensure that any mercury that enters the market is carefully tracked. Indeed, the Pennsylvania Department of Environmental Protection recently memorialized this principle in the Memorandum of Understanding that, in November 2004, created the Pennsylvania

¹ See <http://www.mercurypolicy.org> and <http://www.ban.org/Ban-Hg-Wg>

Mercury Automobile Switch Removal Program. Signatories to this Memorandum, which included AERC Recycling Solutions, Bethlehem Apparatus, Clean Air Council, Institute of Scrap Recycling Industries, Pennsylvania Automotive Recycling Trade Society, and Steel Recycling Institute, agreed that mercury recycled as a result of mercury switch recovery should be sold subject to the condition that its further use can be monitored. As the Memorandum noted, “AERC and Bethlehem Apparatus will recycle and sell the mercury to companies that require it to produce essential products.” Such language reflected the shared understanding of the signatories that mercury reclaiming and recycling is a crucial step in ensuring that mercury does not enter the waste stream and end up in the environment and then affecting public health.

Yet even as we collect and phase out mercury in the United States, consideration should also be given to the human rights and global environmental justice dimensions of the mercury market. Increasingly, we are seeing that the current trading system creates the incentive to trade excess mercury to developing countries after uses are phased-out in wealthier countries. In particular, this classic double-standard of “toxic trade” continues with sales of mercury stockpiles to the developing world, where the mercury is often used for obsolete or illegal uses in the United States, contaminating the local environment and its people, before circulating back and being consumed by Americans in the fish they eat.

In recognition of this emerging global mercury crisis, in March 2004 the European Commission (EC) issued a first-of-its-kind report on mercury trade flows worldwide.² The EC is now poised to release a new Mercury Strategy that is likely to address primary mining, trade in mercury and storage of surplus mercury quantities. Furthermore, the United Nations Environment Program (UNEP) is gathering additional trade information through follow-up research to its Global Mercury Assessment report.³ These are important undertakings because they provide the best information available on mercury trade and demand, and identify the uncertainties and unknowns that still remain.

Therefore, an important first step for the United States and the Commonwealth of Pennsylvania in this process is the promotion of transparency in mercury trading. Ongoing tracking of worldwide mercury trade and demand is a basic building block of any global mercury strategy that must be collected locally and reported globally for several reasons. First, it would provide the data needed to refine target priorities for reducing regional and global demand as international activities are implemented and evolve. Given limited resources, it is imperative that global activities in this area be cost effective, and good information is a necessary pre-requisite for cost-effective demand reduction planning. Accordingly, this information should be gathered on a routine basis by local, state and national governments, instead of relying upon UNEP or another institution to publish one-time contractor reports.

Second, greater transparency will likely result in fewer export transactions where mercury will be used in particularly harmful mercury ways, such as small-scale gold mining. While we hold no illusions that trade transparency by itself will halt environmentally harmful mercury trading, shining the light on this trading will have some salutary effect, and at a minimum will make it more difficult to hide these transactions from public view.

² See: <http://europa.eu.int/comm/environment/chemicals/mercury/pdf/report.pdf>.)

³ See: <http://www.chem.unep.ch/mercury/>

Over time, traders and sellers of mercury should be held accountable for their transactions, given the resulting serious health and environmental risks that can stem from ill-advised trade of this chemical.

Therefore, we strongly recommend that the information should, at a minimum, include the quantities and countries involved, the identity and location of the purchaser and the ultimate consumer(s), and the intended purpose(s) for the mercury as provided to the broker/trader. The information should be reported annually to the state environmental agency, forwarded to UNEP and made available electronically. In possession of the trade/use information, UNEP could then be empowered with the detailed mercury consumption data necessary to track progress in achieving global demand reduction targets. This, in turn, would allow all nations to utilize this information to tailor their internal and external demand reduction activities as needed to address priority sectors.⁴

Clearly, tracking of worldwide mercury trade and demand will facilitate global solutions to mercury contamination by giving solid information about where and how efforts to reduce mercury use must be targeted. Also, tracking will help reduce the use of mercury in particularly harmful and unnecessary practices. A mercury phase out is only a matter of time, and a well established tracking system will only help facilitate the process.

Currently, most recycled mercury is exported to the developing world where alternatives are not viable. Yet the responsibility for reducing mercury use in the developing world lies with all countries. Mercury contamination is a global issue, with air and water pollution crossing political boundaries. It is the responsibility of the global community to address this serious threat to public health. Implementing policies to collect solid information about the trade of recycled mercury is an easy and effective way for the developed world to begin addressing this global issue.

In summary, mercury recycling is an important process and Bethlehem Apparatus plays an important role in reclaiming used mercury that otherwise might find itself released into the environment. However, more must be done to move toward a mercury-free future. Over the years, Bethlehem Apparatus has been most forthcoming in providing information to the public related to the production and use of mercury both in the United States and worldwide.⁵ Therefore, Clean Air Council and the Mercury Policy Project strongly urge the inclusion of tracking requirements in the final permit granted to Bethlehem Apparatus.

Thank you for your consideration of this important issue.

⁴ For further information on this, see: <http://www.chem.unep.ch/mercury/GC-23-responses/NGO/Ban-Hg-WG-ENVIRONMENTALNGOUNEPCOMMENTS1.pdf>.

⁵ See pages 39-41 of the June 14, 2002 U.S. Submission of Comments on the UNEP Global Mercury Assessment at <http://www.chem.unep.ch/mercury/Report/1st-draft-Comments/Govs/Comm-24-gov.pdf>. Also see: <http://www.newmoa.org/Newmoa/htdocs/prevention/mercury/breakingcycle/toc.cfm>.