



AMERICAN FOREST & PAPER ASSOCIATION
Regulatory Affairs

October 22, 1999

Mr. Greg Susanke
U. S. EPA
Office of Pollution Prevention
National Program Chemicals Division (7404)
401 M Street, SW
Washington, D. C. 20460

Regarding: OPPTS --00276

64 Federal Register Page 50284 (September 16, 1999)
Call for Comments on Mercury NARAP

Dear Mr. Susanke:

First we would like to thank you for allowing AF&PA to provide comments on the draft North American Regional Action Plan's (NARAP) Phase II proposal for controlling mercury after the official comment period. The comments below pertain to the Phase II draft NARAP as referenced in the Federal Register, Sept. 16, 1999 and as fully published on the North American Commission on Environmental Cooperation website.

The American Forest & Paper Association (AF&PA) is a national trade association of the forest, paper, and wood products industry. The organization represents approximately 400 member companies and related trade associations which grow, harvest, and process wood and wood fiber, manufacture pulp, paper and paperboard from both virgin and recycled fiber and produce solid wood products. Additionally, AF&PA represents a vital national industry that accounts for over eight percent of the total U. S. manufacturing output. Employing approximately 1.4 million people, the industry ranks among the top ten manufacturing employers in 46 states, with an annual payroll of approximately \$46 billion. Some AF&PA members combust coal or biomass material that may contain trace amounts of mercury, so AF&PA has a substantial interest in this new proposal.

AF&PA recommends that the U. S. EPA consider the following before any further mercury reduction actions are finalized or approved under the proposed NARAP:

- The website for CEC (or related EPA websites) should more clearly explain the relationship of the NARAP, the Great Lakes Binational Toxics Strategy and the draft National EPA Multimedia Strategy for Persistent Bioaccumulative Toxics Pollutants (Mercury) Action Plan. This would be especially helpful since the CEC is outside the traditional EPA rulemaking structure.
- Any NARAP (for any pollutant) should be noticed in the Federal Register with the full text of a draft action plan along with the dates for next action. For example the NARAP notice and website materials do not indicate that the U. S. government will vote on the NARAP plan for mercury in December 1999 at an upcoming meeting of the CEC parties in Mexico. AF&PA believes the U. S. government should more clearly communicate, through notice and comment, that the U. S. government is considering the draft NARAP for a pollutant (in this case, mercury) and disclose that a vote for or against the proposed NARAP is pending. A clearer explanation of the process by which the EPA would dovetail the EPA Mercury Action Plan (under the PBT Strategy) or the Binational Toxics Strategy is needed in all EPA websites, notices in Federal Register, and CEC websites.
- AF&PA also understands that the EPA Office of Research Development is working with the U. S. Department of Energy on a five-year mercury research strategy. Any regulatory goals that might require controls, control methods, or devices should more clearly follow the EPA and DOE research.
- Any U. S. actions in compliance with the U. S. Mercury Action Plan or the CEC Mercury NARAP should be based on sound risk assessment and risk management decisions.
- No regulatory controls or actions should take place prior to a full assessment of the relative contribution of methyl mercury from manmade sources to the total global deposition or loading of mercury in the atmosphere since the EPA believes that the U. S. loadings are less than 5% annually. (Mercury Study Report to Congress, December, 1997, Page O-2). Even the EPA Mercury Study Report to Congress expressed that there is a lack of knowledge in differentiating methyl mercury and elemental mercury in the various studies and source material. (For example many reporting methods simply ask for total mercury not differentiating methyl mercury from elemental mercury). Until the U. S. government better understands the methyl mercury loadings versus natural elemental loadings, which cannot be controlled, a new plan to reduce by 50% is premature.
- There is a lack of scientific consensus about the actual dose-response relationship of methyl mercury. Most importantly, the U. S. government “family” of agencies should agree as to scientific and human health exposure issues.
- The overall NARAP effort on mercury risk reduction (and other Persistent Organic Pollutant substances) should be based on procedures and processes that have been scientifically peer-reviewed to reduce risks. This peer review process should include a

review by the EPA Science Advisory Board (SAB). In addition, the EPA should not move ahead with any rulemakings under the NARAP, PBT Strategy or Binational Toxics Strategy until the appropriate Reference Dose (RfD) and related wildlife criteria are established.

- Any action to reduce mercury, including “voluntary reduction plans” should be considered after more is known about the speciation of mercury, atmospheric loadings, and atmospheric transfer.
- EPA should consider its own Mercury Study Report to Congress (Dec., 1997) which stated that all U. S. commercial and industrial sources only contributed to approximately 3% (or 5,500 tons) in 1995 to global atmospheric loading of mercury.
- AF&PA member companies, like all other users of fossil fuels, would be potentially affected by the goal to reduce mercury emissions/discharges by 50% by 2006 (based upon 1990 or equivalent baseline) from fossil fuel usage. The CEC document encourages considering fossil fuel emissions controls and other recommended control devices listed under Technological Controls (page 18) which were discussed at Mercury NARAP workshops. We are not aware of a body of evidence that demonstrates that these controls are cost-effective, “available” or even technically viable.
- AF&PA is concerned about the inclusion of the appendices in the Action Plan on the website and believes these appendices should be removed from the final plan. These appendices appear to reflect the views of workshop participants and should not be construed to be regulatory recommendations for individual countries or states. Any vote by the U. S. government regarding the NARAP should be conditioned upon the written clarification that these workshop ideas are not regulatory recommendations or commitments under the NARAP.
- AF&PA believes that any U. S. plan to consider imposition of the control devices, systems or actions listed in the appendices would be premature. Should any measures ever be considered by any regulatory agency, significant weight should be given to feasibility, economic impact and efficacy of mercury emissions controls. AF&PA suggests that EPA consider its own determination in the EPA Mercury Study Report to Congress that the effectiveness of mercury emission control devices on fossil fuel combustion sources is extremely uncertain. AF&PA believes the EPA should wait until the Industrial Consolidated Combustion Rulemaking (ICCR) MACT (or separate combustion source) rulemaking and until the MACT technical and feasibility determinations are completed before any separate combustion controls may be recommended for general combustion sources under the NARAP.

In conclusion, AF&PA believes that the U. S. is making substantial progress in reducing mercury emissions under the Great Lakes Binational Toxics Strategy goal of reducing mercury emissions by 50% by 2006. In addition, U. S. EPA has proposed a national Mercury Action Plan under the PBT Strategy that the agency has not yet finalized. In

light of these goals and processes, AF&PA does not believe it is appropriate at this time to vote to approve the draft NARAP until the role of the NARAP, the Binational Toxics Strategy and the EPA PBT Strategy on Mercury are clarified. It would also be unwise for the U. S. to approve the NARAP without written clarification that the appendices are not to be construed as a regulatory framework or binding recommendations.

AF&PA appreciates the opportunity to file comments on the proposed NARAP and remains available to U. S. EPA, EPA contractors or to CEC staff to discuss our general views. Please contact me at (202) 463-5185 or by email at theresa_pugh@afandpa.org

Thank you for considering our views.

Sincerely yours,

Theresa Pugh
Director
Environmental Affairs

cc: Mr. Jorge Ocana
Commission for Environment Cooperation
393 St. Jacques Quest
Bureau 200
Montreal, Quebec
H2Y 1N9 Canada