



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

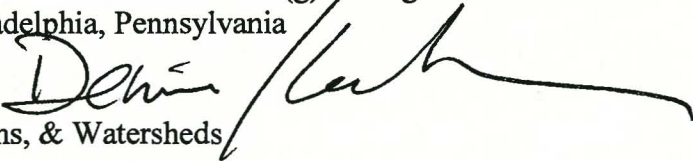
WASHINGTON, D.C. 20460

APR 26 2010

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Announcement of Clean Water Act Section 319(g) Management Conference on June 22-23, 2010, in Philadelphia, Pennsylvania

FROM: Denise Keehner, Director 
Office of Wetlands, Oceans, & Watersheds

TO: State Air and Water Program Contacts in Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the New England Interstate Water Pollution Control Commission

I am writing to announce EPA's decision to convene an interstate management conference in response to a Clean Water Act Section 319(g) petition regarding mercury deposition. We invite you or your designee to participate in the conference scheduled to be held June 22-23, 2010, at the Marriott Courtyard Hotel in downtown Philadelphia, Pennsylvania. We anticipate conference participants will include representatives from each of the seven petitioning states (collectively referred to as the Northeast states) and the eleven other states named in the petition. Further details on the conference location and logistics are attached.

Section 319(g) of the Clean Water Act indicates in part that "If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contributed significant pollution resulting from nonpoint sources to such portion."

Under this Section, the States of Connecticut, Maine, New Hampshire, New York, Rhode Island, Vermont and the Commonwealth of Massachusetts submitted a petition to EPA to convene a conference with states contributing nonpoint source mercury pollution from atmospheric deposition (see http://www.neiwpcc.org/mercury/319g_petition.asp). The basis for EPA's decision to convene a 319(g) management conference is discussed in the attached document "EPA Response to Northeast States' 319(g) Petition." Importantly, in agreeing to convene this conference, EPA is recognizing that the eleven other states are contributing, "in

whole or part” pollution from nonpoint sources but is not conveying that each of these eleven states are necessarily contributing “significant pollution” relative to what is causing the navigable waters to not meet applicable water quality standards.

Section 319(g) further states that “the purpose of such a conference shall be to develop an agreement among states to reduce the level of pollution in such portion resulting from nonpoint sources....” In keeping with Section 319(g), the primary participants of the conference are the states, with EPA as the convener. Accordingly, EPA expects that the conference agenda will be largely determined collectively by the state participants, and that, in turn, the outcome of the meeting will be shaped by the expectations of the participating states. EPA will provide a facilitator for the conference, who will be contacting you or your designee in the near future regarding the agenda and your goals and expectations for the meeting. As a starting point, we have attached a straw agenda to be revised based on your input.

The draft agenda includes a large portion of time devoted to information sharing among the states regarding their existing and planned programs to address mercury sources, and the key successes and lessons learned in each of the states. This information sharing would provide an understanding of mercury reduction efforts in other states and could form the basis for collaborative efforts as well as an opportunity for participants to benefit from others’ experiences in reducing mercury sources. You or your designee will be asked to provide information in advance of the conference about your state’s current and planned mercury reduction activities. Your assistance with this effort will be critical to the success of the information-sharing component of the conference.

The draft agenda also includes a discussion among the states regarding potential areas of agreement and opportunities for collaborative efforts to reduce mercury sources. Section 319(g) does not specify the type or extent of agreement among states from such a conference, and suggests that any followup would be up to the participating states. Thus, the nature and content of any agreement and/or followup actions emerging from the conference will be determined collectively by the state participants. Apart from any agreement reached during the conference, states may find value in a collaborative dialogue on a variety of ideas and approaches for reducing mercury releases. Again, in advance discussions with the facilitator, your thoughts on expectations for the conference will lay an important foundation and determine potential areas of agreement among the participating states.

Although states are the focus of this conference, EPA will provide an update on the Agency’s activities to reduce mercury sources, including the current rulemaking for a Maximum Achievable Control Technology (MACT) standard for coal-fired utilities. As part of that rulemaking effort, EPA is conferring with representatives of state programs, and a process for stakeholder input on the rule will be conducted apart from this conference.

We ask that you identify the following in preparation for the conference:

- The person(s) whom you expect to represent your Agency or Department, whether yourself or your representative. The conference will be most productive if each State or Commonwealth sends two representatives, one each from the state’s water and air

programs. To facilitate any agreement emerging from the conference, please consider sending a senior-level representative who can speak on behalf of your Agency or Department.

- A contact person, along with email address and telephone number, who can provide assistance prior to the conference by describing existing and planned programs in your Agency or Department to reduce mercury sources within your state.

Note that, in addition to providing a facilitator, we expect to make materials for the conference available to participants in advance and to prepare a meeting summary. Any follow-up actions or collaboration as a result of the conference will be the responsibility of the participating states.

Please provide your responses regarding participation in the conference and a contact person regarding your mercury programs to Ruth Chemerys at chemerys.ruth@epa.gov by May 10, 2010. If you have any questions, please let me know, or contact Ruth at the email address above or at 202-566-1216.

We look forward to your participation in this important conference.

Attachments