

# Air Quality Technical Advisory Committee

to the Pennsylvania Department of Environmental Protection

PO Box 8468

Harrisburg, PA 17105-8468

April 29, 2010

Honorable John Hanger  
Secretary  
Department of Environmental Protection  
Rachel Carson State Office Building  
P.O. Box 2063  
Harrisburg, PA 17105-2063

Re: Repeal of mercury standards final-omitted rulemaking

Dear Secretary Hanger:

On April 29, 2010, the Air Quality Technical Advisory Committee (Committee) discussed the final-omitted rulemaking to repeal all changes to *25 Pa. Code* Chapter 123 (relating to standards for contaminants) made by the final-form rulemaking of February 17, 2007 (*37 Pa.B.* 883), entitled "standards for contaminants; mercury."

On December 23, 2009, the Pennsylvania Supreme Court upheld the Commonwealth Court's decision enjoining the Department of Environmental Protection from implementing and enforcing Pennsylvania's Mercury Rule. As a result, the Pennsylvania Mercury Rule is invalid and unenforceable. Omission of notice of proposed rulemaking is appropriate because the notice of proposed rulemaking procedure specified in Sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§1201 and 1202) is, in this instance, impracticable, unnecessary and contrary to the public interest.

The Committee voted 9-1-2 to concur with the Department's recommendation to present the final-omitted amendments to the Environmental Quality Board for consideration.

Sincerely,



Patrick K. O'Neill  
Chair