

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY

VERBATIM MINUTES

JOINT MEETING OF THE AIR QUALITY TECHNICAL ADVISORY  
COMMITTEE, CITIZENS ADVISORY COUNCIL, AND MERCURY RULE  
WORKGROUP

TIME 9:00 A.M.

Rachel Carson State Office Building  
400 Market Street, Room 105  
Harrisburg, Pennsylvania 17105

August 30, 2006

REPORTED BY:

Brad Weirich  
Diaz Data Services

DIAZ DATA SERVICES  
331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

## AGENDA TOPICS

9:00	Opening Remarks/Introductions (Thomas K. Fidler, PADEP)	Page 3
9:15	Overview of Proposed Rulemaking Process (Robert "Bo" Reiley, Esq)	Page 11
9:45	Preliminary Summary of Public Comments (Craig Evans)	Page 20
10:15	Break	
10:30	Draft Concepts for Final Rulemaking (John Slade/Krish Ramamurthy)	Page 49
11:30	Discussion of Draft Concepts for Final Rulemaking	Page 118
12:15	Lunch	
2:00	Adjourn	

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 August 31, 2006

2 \*\*\*

3 MR. FIDLER:

4 Good morning everyone, and welcome to the Joint  
5 Meeting of the Air Quality Technical Advisory  
6 Committee, Citizens Advisory Council, and Mercury  
7 Rule Workgroup. And this is the Advisory Council.  
8 I know most of you, but my name is Tom Fidler, I'm  
9 the Deputy Secretary for the Waste Program, the Air  
10 Program and the Radiation Protection Program. And  
11 it's been a long summer, we've been through  
12 hearings, we've been through a fairly vigorous  
13 public comment process with respect to our state-  
14 specific mercury rulemaking process. And I'd like  
15 to report that we've set a brand new record on  
16 public comments for any rulemaking within the  
17 agency. We had done that previously with  
18 Pennsylvania Clean Vehicles rulemaking package,  
19 where we received just under 5,000 comments. As a  
20 result of the great deal of interest that this  
21 issue has generated within the Commonwealth, there  
22 are very close to 20,000 comments on this  
23 rulemaking package, 19,934 comments, most of which  
24 favor the proposed rule. What we'd like to do  
25 today is provide you with a snapshot of what we

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 will be providing by way of changes to the proposed  
2 rule that will become part of our final package to  
3 be presented to the EQB. Before that, we have --  
4 as you follow along in the agenda -- a number of  
5 presentations talking about process, talking about  
6 the comments that were received, and then we get  
7 into the meat of the presentation where we discuss  
8 the revisions that will be made to the proposed  
9 rule. Before we get started with all of that,  
10 however, we are recording the proceedings of the  
11 session today -- as we have for all of our previous  
12 meetings -- for us, as well as for anyone who would  
13 like the information in follow-up to the meeting.  
14 As part of housekeeping, and for our stenographer,  
15 I'd like to go around the room and have everyone  
16 introduce themselves, identify their affiliation,  
17 and whether they are a member of the Mercury  
18 Workgroup, AQTAC, or the Citizens Advisory Council.  
19 I've already introduced myself. Joyce?

20 MS. EPPS:

21 Joyce Epps, Air Director, Pennsylvania Department  
22 of Environmental Protection.

23 MR. RAMAMURTHY:

24 Krish Ramamurthy, Bureau of Air Quality.

25 MR. YANKOVITCH:

DIAZ DATA SERVICES  
331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Ed Yankovitch, United Mine Workers of America.

2 MR. FIDLER:

3 Mercury Workgroup.

4 MR. YANKOVITCH:

5 Oh yeah, Mercury Work Rule.

6 MR. FIDLER:

7 All right.

8 MR. YANKOVITCH:

9 I'm sorry.

10 MR. TRISKO:

11 Gene Trisko, Attorney. I'm here for the United  
12 Mine Workers of America, and as a member of the  
13 Mercury Workgroup.

14 MR. HADLEY:

15 I'm Drew Hadley, with Proctor & Gamble, and I'm  
16 Chair of the Air Quality Technical Advisory  
17 Committee.

18 MR. ADAMS:

19 Peter Adams, AQTAC at Carnegie Mellon University.

20 MR. WELSH:

21 Mike Welsh, International Brotherhood of Electrical  
22 Workers, and Mercury Workgroup.

23 MR. BRISINI:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Vince Brisini, Reliant Energy, member of the  
2 Mercury Workgroup and the Air Quality Technical  
3 Advisory Committee.

4 MR. WESTMAN:

5 Roger Westman, Allegheny County Air Quality  
6 Program, member of AQTAC.

7 MR. ELKIN:

8 Harold Elkin, Consultant, member of AQTAC.

9 MR. SALVAGGIO:

10 Jim Salvaggio, AQTAC.

11 MS. PARKS:

12 Nancy Parks, AQTAC, the Mercury Workgroup, and the  
13 Sierra Club's Clean Air Committee.

14 MR. WILLCOX:

15 Nathan Willcox, Penn Environment, panel of the  
16 Mercury Rule Workgroup.

17 MS. JARRETT:

18 Jan Jarrett, Penn Future, and Mercury Workgroup.

19 MR. WENDELGASS:

20 Bob Wendelgass, Clean Water Action, member of  
21 Mercury Workgroup.

22 MS. HATALA:

23 Good morning. I'm Joyce Hatala, I'm from the  
24 Citizens Advisory Committee.

25 MR. HEINE:

DIAZ DATA SERVICES  
331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           Walter -- excuse me. Walter Heine, Chair of the  
2           Citizens Advisory Council.

3 MS. ANTOUN:

4           DeEtta Antoun, I'm the newest member of the  
5           Citizens Advisory Council, and also Director of  
6           Citizens for Quality Environment.

7 MR. MERRITT:

8           Gary Merritt, Inner Power and Air Quality Technical  
9           Advisory Committee.

10 MS. EARLEY:

11           Amy Earley, Merck & Company, AQTAC.

12 MR. DUCKETT:

13           Joe Duckett, AQTAC and SNC-Lavalin.

14 MR. BIDEN:

15           Doug Biden, Electric Power Generation Association,  
16           Mercury Workgroup.

17 MR. BURKE:

18           I'm Frank Burke, I'm with Consol Energy, and I'm  
19           here on behalf of Pennsylvania Coal Association,  
20           and I'm a member of the Mercury Workgroup.

21 MR. BARR:

22           Gene Barr, Pennsylvania Chamber and Mercury  
23           Workgroup.

24 MR. SLADE:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1                   John Slade, I'm Chief, Sub-Division of Permits for  
2                   the Bureau of Air Quality.

3 MR. FIDLER:

4                   Please...

5 MR. McNALLY:

6                   I'm Jeff McNally, ARIPPA.

7 MR. OSMAN:

8                   Fred Osman, representing ARIPPA.

9 MR. EVANS:

10                  Craig Evans, Pennsylvania DEP.

11 MR. RHOADS:

12                  Steve Rhoads, with the Pennsylvania Environmental  
13 Reporter.

14 MR. VAN ORDEN:

15                  Dean Van Orden, Pennsylvania DEP.

16 MR. BLACK:

17                  I'm sorry. Terry Black, Pennsylvania DEP.

18 MS. WILSON:

19                  Sue Wilson, Citizens Advisory Council.

20 MR. ELLIS:

21                  George Ellis, Pennsylvania Coal Association.

22 MS. ROTH:

23                  Sharon Roth, Pennsylvania Chamber.

24 MR. ESMURPHY:

25                  Skip Esmurphy [ph] at Five Color.

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 MR. KELLER:

2 Tom Keller, PPL Corporation, sitting in for Reid  
3 Clemmer, who is a member of the Workgroup.

4 MR. BARKANIC:

5 Bob Barkanic, PPL Corporation.

6 MR. EGAN:

7 John Egan, All 4.

8 MR. CAIN:

9 Randy Cain, Allegheny Energy.

10 MS. HAMMER:

11 Jeannine Hammer, Allegheny Energy.

12 MR. JEWETT:

13 John Jewett, IRRRC.

14 MR. HUSTED:

15 Dan Husted, Pennsylvania DEP.

16 MR. HOCHHAUSER:

17 Marty Hochhauser, Pennsylvania DEP.

18 MR. HENDERSON:

19 Patrick Henderson, Senate Department of  
20 Pennsylvania.

21 MR. LEIBY:

22 Brent Leiby of Monteway Energy.

23 MS. MILLER:

24 Sarah Miller, IRRRC.

25 MS. WITMER:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Pam Witmer, Pennsylvania Chemical Industry Council,  
2 Mercury Workgroup.

3 MR. HASKELLS:

4 David Haskells [ph]...

5 MR. REILEY:

6 Bo Reiley, DEP Office of Chief Counsel.

7 DR. GOODMAN:

8 Cynthia Goodman, Department of Health.

9 MR. DONALD:

10 Pat Donald, Pennsylvania DEP.

11 MR. FIDLER:

12 Thank you very much everyone. For those of you who  
13 are sitting along the side, and you are a member of  
14 the Workgroup, AQTAC or the Citizens Advisory  
15 Council, please come up to the table and join the  
16 Group. Tom, George, if you care to do that, please  
17 feel free to join us at the table. I would also  
18 like to say that for those folks who are here as  
19 Chairs of either CAC, AQTAC, or Vice Chairs, please  
20 feel free to assist in facilitation of the  
21 discussion today. I'd really appreciate your  
22 assistance. During the process that we've been  
23 about most of the summer, as I said, we've received  
24 a significant number of comments, most of them in  
25 support of the proposed rule, but clearly we've

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 taken a very close look at comments received by the  
2 power- generating sector, and others. We've  
3 received a number of comments from USCPA, and we  
4 will be discussing some of those comments in  
5 detail. And I'd just like to give you a sense of  
6 some of the changes that -- and probably more  
7 significant -- the changes that you will be hearing  
8 more about in concept today. We will be  
9 instituting a system-wide averaging process as part  
10 of the final rulemaking package. The details of  
11 that to some extent we'll be covering with you  
12 today in our presentation. We will also be  
13 providing the final rulemaking language to the  
14 AQTAC, scheduled to meet on September 12<sup>th</sup>...

15 MS. EARLEY:

16 The 11<sup>th</sup>.

17 MS. EPPS:

18 The 11<sup>th</sup>.

19 MS. PARKS:

20 The 11<sup>th</sup>.

21 MR. FIDLER:

22 Sorry, September 11<sup>th</sup>.

23 MS. PARKS:

24 Right.

25 MR. FIDLER:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 We also had received a number of comments on the  
2 compliance, presumptive compliance option for  
3 bituminous coals, and that provision has been  
4 deleted because of a lot of the comments and  
5 concerns about that particular provision within the  
6 proposed rulemaking package. There are a number of  
7 other changes that had been made primarily to  
8 complement those changes of some significance, and  
9 also to address the comments that had been received  
10 by US EPA to make sure that the package that we  
11 provide to EPA hopefully in November will be  
12 approvable. So, without further introductory  
13 remarks, I'd like to turn it over to our first  
14 presenter, Bo Reiley. As there are questions and  
15 comments, if in fact you could wait until the end  
16 of the presentation, and for recording purposes,  
17 please, please identify yourself and your  
18 affiliation so that we can properly document your  
19 comment. Bo?

20 MR. REILEY:

21 Thank you, Tom. Good morning everyone.

22 MS. EPPS:

23 Good morning.

24 MR. REILEY:

1 Welcome to the Joint Meeting of AQTAC, CAC and the  
2 Mercury Workgroup. A couple of topics that we're  
3 going to cover today, I'm going to give you an  
4 overview of the proposed rulemaking process, and  
5 what they plan. Then, Craig Evans is going to  
6 discuss the preliminary summary of public comments.  
7 Then, John and Krish are going to talk about the  
8 draft concepts of the final rulemaking. And then,  
9 Joyce Epps is going to talk about the next steps.  
10 This is just an overview of what I'm going to be  
11 presenting. Mercury Workgroup meetings, meetings  
12 with the Citizens Advisory Council or CAC; and  
13 then, the Air Quality Technical Advisory Committee,  
14 or AQTAC meetings; then, the Environmental  
15 Quality's Board action on the proposed Mercury Rule  
16 public participation process; and then, the  
17 proposed Section 111(d) Plan. As you can see, when  
18 the EQB said that we were going to develop this  
19 proposed rulemaking, the EQB wanted us to have a  
20 diverse and enhanced public participation process.  
21 The Department is committed to this. On October of  
22 2005, we convened the Workgroup from a diverse  
23 public and private sector of individuals, including  
24 representatives from petitioners like Penn Future,  
25 representatives from industry like PPL and

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Reliance, and then folks from trade associations.  
2 We wanted to discuss key information relative to  
3 the state-specific mercury regulation. We wanted  
4 to obtain recommendations on technical aspects of  
5 the proposed rulemaking, also including control  
6 levels, testing, monitoring, recordkeeping and  
7 reporting, the compliance schedules. And, also, we  
8 have a number of people who came in and talked  
9 about technical information related to mercury  
10 emissions, deposition and control of technology, as  
11 well as cost and benefits of the regulations. As  
12 you know, we held four meetings, two in October and  
13 two in November: October 14 and 28, then November  
14 18 and 30. As I said, you know, the primary  
15 objective was an enhanced public participation  
16 process to discuss key information relative to the  
17 state-specific rule. Each meeting, we provided an  
18 opportunity for technical presentations, and then  
19 an open discussion for the Workgroup members. So,  
20 as we recall, we've had a number of guest speakers  
21 who talked about deposition, who talked about  
22 mercury control; and then, of course, we had an  
23 open discussion. We also had consultations with  
24 the Advisory Committee. On March 6, we consulted  
25 with AQTAC on the concepts of the proposed rule.

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 On March 13, we consulted with AQTAC and the  
2 Citizens Advisory Council concerning the proposed  
3 rule. On March 21, we consulted with Clean Air --  
4 or Citizens Advisory Council and their subcommittee  
5 concerning the proposed rulemaking. And then, on  
6 March 30, AQTAC took deliberations on the proposed  
7 rule. We made a presentation, and many voters have  
8 recommended a draft be presented to the  
9 Environmental Quality Board for consideration. The  
10 Environmental Quality Board meeting was on May 17.  
11 The Board heard presentation concerning the  
12 proposed Mercury Rule, which Tom Fidler gave during  
13 the discussions of the proposal. Walter Heine from  
14 the Citizens Advisory Council requested that a  
15 "Decision Document" be prepared by the Department.  
16 Following the discussions, the Board approved the  
17 proposed rulemaking for public comment. And then,  
18 the Board requested a Decision Document to  
19 complement other documentation that we  
20 traditionally prepare for a final rulemaking. And  
21 this Decision Document should set forth the  
22 Department's justification, rationale and  
23 supporting information on the final rule. The  
24 requested Decision Document is going to be  
25 available for AQTAC and the CAC at the respective

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 meetings on September 11<sup>th</sup> and the 19<sup>th</sup>. And the  
2 document is going to address the following: The  
3 legal and regulatory history and rationale for the  
4 proposal; a compilation and summary of the data,  
5 models, studies and evidence considered and used to  
6 support the decision-making; also, an evaluation of  
7 arguments and information presented by those  
8 opposed to the rulemaking, and an explanation of  
9 the decision "trail," and our intent. So,  
10 basically, what we're going to try to do is just  
11 lay out to you our rationale for the proposed  
12 rulemaking. And we're also going to discuss some  
13 of the other information that the public, industry  
14 and trade associations have given to us to  
15 consider, and why we accepted or did not accept  
16 their reports or their arguments. And then, of  
17 course, the validation that the approach was well  
18 considered, and did not alter it.

19 MR. DUCKETT:

20 Bo, do you mean literally on September 11<sup>th</sup>, or  
21 before?

22 MR. REILEY:

23 No, I think it will probably be available at the  
24 meeting. I don't think it will be available before  
25 the meeting, Joe, because I think that we have to

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 get a proposed regulation out to AQTAC, you know,  
2 before the meeting on the 11<sup>th</sup> next week. So, I  
3 don't think that we'll have that. Following the  
4 EQB's approval for proposed rulemaking, we went out  
5 for three public hearings. We had one on July 25  
6 at the Regional Office in Pittsburgh. We had one  
7 on the 22<sup>nd</sup> here in Room 105 in Harrisburg, and  
8 then we had one on July 27<sup>th</sup> at Norristown, our  
9 Regional Office. Now, that finishes the rulemaking  
10 process, or the regulatory process. Now, as you're  
11 probably aware, we also have to develop a State  
12 Plan to submit to EPA. Now, I'll be talking about  
13 the State Plan requirements. And, under Section  
14 111 of the Clean Air Act, EPA promulgated the  
15 emission standards for new EGUs, and the emission  
16 guidelines for existing EGUs to control the  
17 emissions for mercury. And, as required under the  
18 Code of Federal Regulations, we have to submit the  
19 State Plan to EPA to implement and enforce the  
20 requirements of the emission guidelines for the  
21 existing EGUs no later than November 17. And,  
22 also, we're required to have one or more public  
23 meetings to be held prior to the adoption of the  
24 plan. Just to give you a basic overview of what's  
25 in the plan, being essentially the plan is going to

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 be the final regulation. These are some of the  
2 elements that we have to put in for the State Plan.  
3 So -- and this is out for public comments. So,  
4 first, we have the background, and the  
5 introduction. And then, we have for public  
6 comment, which is the three hearings that we're  
7 going to have, the implementation of the State  
8 Plan. All of these things are required under 40  
9 CFR, Part 60. And that kind of brings out the  
10 sections for the Federal requirements: The annual  
11 emission limitations, and the mercury allowances;  
12 the inventory of the designated units; the  
13 compliance schedule; the recordkeeping, reporting,  
14 and the monitoring requirements. And then, lastly,  
15 we have the legal authority to implement the State  
16 Plan. The Department is going to hold three public  
17 hearings -- all on September 6<sup>th</sup> -- at our Regional  
18 Offices in Harrisburg, in Elmerton Ave., in  
19 Norristown and in Pittsburgh. And, so, these three  
20 hearings are going to be on the proposed plan.  
21 Once the plan is finalized, we are going to submit  
22 it to EPA, and EPA will propose the plan for  
23 approval or disapproval. Within four months after  
24 submission of the State Plan, EPA will either  
25 approve or disapprove the plan, or portions

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           thereof. And then, a revision to the State Plan  
2           won't be considered part of the plan unless it's  
3           approved by EPA. So, for example, if EPA approved  
4           everything except for, let's say, the reporting  
5           requirements, everything would be part of the State  
6           Plan except for the reporting requirements, and  
7           then we may have to go back and do something with  
8           the reporting requirements. But I don't think that  
9           anybody anticipates that, but that's just a basic  
10          example of how, when we're talking about approving  
11          the State Plan, what EPA can do. Now, we, of  
12          course, are in the final rulemaking regulatory  
13          review process. As Tom has said, we are  
14          diligently, you know, going through over all of the  
15          comments. There's over 19,000 comments that had  
16          been submitted on the proposed regulation. We're  
17          going through those comments, we're responding to  
18          those comments. We will be preparing a comment and  
19          response document as part of the final rulemaking  
20          package. We're drafting the final form regulation  
21          now, and John and Krish are going to be talking  
22          about that in a little bit. And that's going to be  
23          available to AQTAC and the CAC on September 11<sup>th</sup>.  
24          The Environmental Quality Board will make a  
25          decision on the final-form regulation, which is in

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           October. And then, we will submit the final-form  
2           regulation for a review and action to the  
3           Independent Regulatory Review Commission, the  
4           Standing Committees in the House and the Senate --  
5           that should be Committees, not Committee. And  
6           then, we would submit it to the Attorney General  
7           for review, and the Attorney General will look at  
8           the regulation for legality and form. So,  
9           basically, this is just a little chart which shows  
10          you what the final rulemaking process is going to  
11          be. You know, both Committees are going to look at  
12          it; and, once approved, IRRC would look at it, and  
13          then they will notify the Legislative Reference  
14          Bureau and the Committees of DEP, and then we'll  
15          proceed with the final publication once we get the  
16          Attorney General's approval. And, so, that's  
17          basically, you know, what will happen in a  
18          snapshot. So, then, that's it. I don't know if  
19          anybody has any questions or comments? Okay? I'm  
20          going to turn it over to Craig Evans, who's going  
21          to talk...

22 MR. FIDLER:

23           Just two things, very quickly. Thank you, Mr.  
24           Blackberry Communication. I was receiving  
25           information on the number of comments that were

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 received by the Department; and, apparently, my  
2 information source did not quite reach far enough  
3 on the keyboard. Instead of 19,934, it looks like  
4 we're at 10,934. But we're getting some  
5 clarification on that. It did seem like a  
6 tremendous jump to me, based on my last check on  
7 the number of comments that had been received, but  
8 that's for the record. Also, I would like to  
9 revisit Joe Duckett's question, and say that we  
10 will, in fact, have the Decision Document to AQTAC  
11 before the AQTAC Meeting. We'd like to shoot for  
12 September 8 to have that out to not only AQTAC  
13 members, but members of the Mercury Workgroup, and  
14 the members of the...

15 MS. EPPS:

16 CAC.

17 MR. FIDLER:

18 ...CAC as well, and that would be provided  
19 electronically.

20 MR. DUCKETT:

21 Thank you.

22 MR. FIDLER:

23 Questions? Comments?

24 MR. EVANS:

25 Good morning. Okay, so it's only half of 20,000.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. FIDLER:

2 Yeah.

3 MS. EPPS:

4 Yeah.

5 MR. EVANS:

6 So, I guess, maybe we can get a little break this  
7 weekend, hopefully some break. It's Penn State  
8 Football Kickoff this weekend. Are there any Penn  
9 State fans in the audience?

10 MR. WENDELGASS:

11 Not me.

12 MS. PARKS:

13 Not me.

14 MR. SALVAGGIO:

15 No.

16 MR. EVANS:

17 No?

18 MS. PARKS:

19 No.

20 MR. EVANS:

21 Anyway -- so, that will change to 10,934  
22 commentators on the proposed rule. And, as Bo  
23 said, we are in the process of developing a  
24 comments-and-response document, and we're well into  
25 it. We're getting a lot of comments from different

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 sectors of the society: public, sportsmen,  
2 industry, trade associations, and the US EPA. And  
3 it's very diverse, the level of comments are  
4 diverse in terms of complexity. It runs anywhere  
5 from "We support the DEP in their role," to making  
6 recommendations on changes in the reg itself. Like  
7 I say, we're getting a lot of support for the rule.  
8 If you look at the left, as pro, and the right  
9 column as con, a lot of letters of support coming  
10 in from the general public, as well as medical  
11 groups, medical professional groups, giving support  
12 and saying that it's time to get a rule in place.  
13 It's going to get reductions greater than the CAMR,  
14 and in a faster timeframe than the CAMR. And,  
15 opposition to trading seems to be a common theme in  
16 a lot of the letters, stating that because of  
17 hotspots, we need to have each unit within the  
18 Commonwealth make reductions as opposed to allowing  
19 trading of allowances in and out of the  
20 Commonwealth. And stating that we are a leader in  
21 this effort. And then, on the right side, you see  
22 the con, saying that we're not -- our rule is going  
23 to create a problem for system reliability, and  
24 cause the older plants to shut down based on the  
25 economics of price and control occurring, and

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 putting it in place to reduce the mercury to meet  
2 the standards. And that there's no compelling  
3 reason for adopting a regulation beyond CAMR, that  
4 there's no benefits beyond that which would be  
5 achieved through CAMR. And then, the final  
6 argument would be that the trading incentives, or  
7 rather early incentives to reduce emissions based  
8 on over-control, and the economics of that would  
9 allow the purchase of the equipment to be more, I  
10 guess, doable in their view. US EPA has laid out  
11 some specific comments related to the rules that  
12 they'd like to see changed throughout the ladder.  
13 They'd like to see additional terms be defined,  
14 starting with the boiler, bottoming-cycle co-  
15 generation unit, combustion turbine, gross thermal  
16 energy, potential electrical output capacity, total  
17 energy output. They also request that we include  
18 provision notifying the owners and operators of new  
19 sources that they must also comply with the mercury  
20 control requirements in their standards of NSPS,  
21 Subpart DA standard, which is adopted by the  
22 Department in Chapter 122 of our Code. And  
23 probably one of the biggest hitches they have is  
24 this second bullet, is the exemption provisions for  
25 the Integrated Gassification Combined Cycle -- that

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1           should be IGCC -- units. And they won't approve it  
2           -- they're stating flat-out -- if we don't take  
3           this out. They recommend that we specify in detail  
4           how we would do this facility-wide average. They  
5           would recommend that we change the Phase I Budget  
6           to reflect the modification to the allocations that  
7           came out, some minor changes in the allowances that  
8           are allocated to each unit. They request that we  
9           consider whether there might be any EGUs now or in  
10          the future that may not be CFBs or PCFs, and it  
11          should be allocated allowances. And they state  
12          that an express prohibition against banking is  
13          necessary in order to ensure that the annual cap is  
14          not exceeded in any year. EPA believes that the  
15          requirement to have the non-tradable allowances for  
16          the mercury, covering mercury emissions will apply  
17          to new, as well as existing -- and that's true, we  
18          do have that setup for that -- and that failure to  
19          meet this requirement would be a violation of the  
20          Clean Air Act. They're saying that we need to  
21          modify the 123.207(k) to state that the allowances  
22          will not be set aside for an EGU that is under an  
23          agreement to shut down ultimately. They would like  
24          to see laid out in more detail how we're going to  
25          allocate allowances to owners and operators who are

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 proposing to construct new units in the  
2 Commonwealth, and the priority in which we would  
3 give those allocations. And then, they're stating  
4 that new units cannot carry over allowances for a  
5 given year, from the annual emission limit  
6 supplemental pool to a future year, and that we  
7 would not carry over unused allowances from the  
8 annual emission limit pool from one year to the  
9 next. They indicate that the rule must use  
10 emissions data reported in accordance with their  
11 Part 75 Regulation to be in compliance with our  
12 rule. And then, they state that we have to -- they  
13 stipulate that we have to include in our  
14 regulations that Part 75 takes precedence over any  
15 portions of our rule that would be in conflict with  
16 it. And then, they state that we clarify in our  
17 regs -- I'm sorry. EPA requires that Pennsylvania  
18 clarify in the regs that EPA will not approve  
19 alternative requirements unless they are consistent  
20 with Part 75. Again Part 75 has primacy over  
21 anything we would state. Public comments, I'll  
22 take a couple of seconds and let you look at them.  
23 This is, we're basically trying to summarize what  
24 the public is saying. In general, we get a lot of  
25 form letters in support of the rule, stating that

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 they like the fact that we're going for a 90%  
2 reduction by 2015, and cite the fact that  
3 Pennsylvania is the second largest emitter of  
4 mercury in the United States. And that there's a  
5 problem out there with fish, and all of the fish  
6 advisories that are occurring due to the mercury,  
7 that's precluding the ingestion of the fish due to  
8 the high mercury content. The third bullet would  
9 be Terry Madonna -- I believe he's from Franklin  
10 and Marshall -- did a survey across the  
11 Commonwealth, and found that four out of five  
12 Pennsylvanians support a rule that's stronger or  
13 more stringent, and going faster than the CAMR.  
14 They believe that it's easier to just buy  
15 allowances than to control, sort of like, the SO2  
16 Program, the Acid Rain Program that's going.  
17 Pennsylvania is a large importer of credits, and a  
18 lot of people in the public think that the same  
19 would occur with mercury, that there's going to be  
20 a lot of purchasing. And in a basic catch-all in  
21 power plants, the largest unregulated source of  
22 mercury which contaminates waterways and ends up in  
23 fish. And then, you'll see we have a lot of  
24 consortium of groups, fairly diverse groups, faith-  
25 based, children's, women's health clubs, groups,

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 supporting it. Hunting and angling groups in  
2 support of it, 100 medical experts in support of  
3 it, co-signing letters. So, we're getting a lot of  
4 letters coming in with a lot of people in support  
5 of the rule, and signing, you know, several  
6 signatories on each of these testimonies. This is  
7 the idea, that the Centers for Disease Control has  
8 identified 600,000 women on an annual basis with  
9 mercury, methyl mercury content in the umbilical  
10 cord, blood, in excess of the 5.8 micrograms of  
11 methyl mercury per liter, and that that's having --  
12 it's unsafe for children that are coming into the  
13 world. They point out that there's a problem with  
14 wildlife. It's not just humans, it's also animals.  
15 You know, it works its way up through the food  
16 chain. I mean, at the very top, you have the  
17 symbol of this great country, the eagle, the bald  
18 eagle that gets mercury; starts all the way down to  
19 the, you know, basic minnows, and works its way up  
20 into the food chain. And it's not just us, it's  
21 animals as well, and the environment. And the  
22 third bullet would be in reference to the  
23 Stuebenville Study, that there is evidence soon to  
24 be released, or a report that indicates that local  
25 and regional sources of mercury are responsible for

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 something like 70 percent of the deposition of the  
2 mercury in and around that area, the Stuebenville,  
3 Ohio area. And then, there's industry. Industry  
4 is on, pretty much on the flip side, on the  
5 opposite side, however giving us battles in our  
6 endeavor to work out a reasonable rule, and then  
7 stating that we've given no reasonable evidence  
8 that there's any reason to implement our state-  
9 specific rule as opposed to the CAMR; and that  
10 Executive Orders stand once they're implemented,  
11 and that there's no withdrawal to this Executive  
12 Order No. 1 back in 1996, and that we should not  
13 promulgate the mercury rule because of that  
14 Executive Order still in place. No evidence that  
15 there's going to be any benefit beyond the CAMR if  
16 we would implement this rule, that it's  
17 unnecessary, the incremental change would not be  
18 necessary -- would not be worth the dollars spent  
19 to control the mercury beyond the CAMR. It seems  
20 to be a drumbeat I've heard for probably the last  
21 six to seven months. And there's this particular  
22 cost and benefits analysis, there's just no reason  
23 to go beyond the Federal rule. And, basically, the  
24 first bullet is the idea of reliability and cost to  
25 the industry to implement a standard beyond the

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 CAMR. Again, reliability, cost benefits. Is it  
2 necessary? Does the increment get us something  
3 better? Does the increment -- is the increment  
4 warranted based on the cost to install the  
5 equipment? One of the high sulphur coal arguments  
6 is that the activated carbon injection, the SO<sub>3</sub>,  
7 would react and create a problem for the activated  
8 sites for the mercury to absorb. It's an argument  
9 that we hear, and that there's a lack of equipment  
10 and control coming out there to control  
11 Pennsylvania's fired-coal units. They argue that  
12 we haven't given enough information that there are  
13 citizens in this country that are, you know,  
14 demonstrating blood levels of mercury, methyl  
15 mercury above what's considered a safe level, and  
16 that that comes from eating fish. The argument  
17 that we've already done substantial reductions in  
18 power plants from 1999 to 2004, based on TRI data,  
19 seems to be an argument to compel us to allow the  
20 industry to continue to move on the path that  
21 they've already taken, and that we'll continue to  
22 see further reductions. And it's unconstitutional,  
23 the Commerce Clause somehow would be violated with  
24 that provision we had in it, where we allowed the  
25 presumptive level, the presumption that you were in

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 compliance with the standard if you burned 100%  
2 bituminous coal, where -- nowhere did we say  
3 Pennsylvania coal, we just simply said bituminous  
4 coal. And, as Tom pointed out, that provision is  
5 coming out. PPL comments basically state that 1%  
6 of the elemental mercury that's released from the  
7 power plant stack is going to end up in and around  
8 the area. And 99% of it is going to go global and  
9 downwind, whereas about a quarter of the oxidized  
10 or reactive gaseous mercury would end up being  
11 deposited in the state. Let's see. We have --  
12 they argue that because the mercury production  
13 technologies are not yet proven, that they don't  
14 believe they can meet the requirements of the rule  
15 without the trading. That should say without  
16 trading for the proposed Pennsylvania rules. They  
17 took -- PPL had NERA Economic Consulting to do the  
18 analysis. And they came up -- or came to the  
19 conclusion that under a cap-and-trade program, the  
20 total emissions would be capped. The sources would  
21 be given the flexibility to trade the emission  
22 allowances, and that would provide incentives to  
23 find and apply the lowest-cost method for reducing  
24 emissions. PCA, *et al*, argues that 28% of the  
25 state's coal-fired capacity is "at risk" of

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 retirement; and, a compliance with our rule would  
2 displace 85.1 million tons over -- from the time  
3 period of 2010 to 2018. And that, in the end, we  
4 wouldn't be in compliance -- not we, but the units  
5 would not be in compliance with the CAMR cap. The  
6 League of Women Voters have argued that medical  
7 research indicates that there is no threshold for  
8 methyl mercury. According to Dr. James Roberts, in  
9 Pittsburgh's Magee-Women's Research Institute, he  
10 says that there is no threshold below which mercury  
11 causes no damage to fetuses. They point to the wet  
12 deposition site in Cresson, Pennsylvania, where the  
13 wet deposition, I believe, was running about --  
14 nearly 12 micrograms per meter square per year, as  
15 compared to the site up in Tioga County that was  
16 running about 8 micrograms per meter square per  
17 year. And the argument is that those sites in  
18 Cresson are under influence of a lot of power  
19 plants out to the West, where the one in Tioga has  
20 very limited influence on it. And, but that's  
21 evidence that there's, you know, contributions  
22 being made by the power plants out to the West of  
23 that site. ARIPPA, ARIPPA asks that we change the  
24 standard for existing sources -- both in Phase I  
25 and Phase II -- from 0.0058 lbs. per GWh to 0.0096

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 lbs. per GWh, and that we modify the proposed rule  
2 such that it reads that when you show compliance  
3 with the percent of reduction, that you use a  
4 specified ASTM method, and that we clarify the rule  
5 to ensure that low emitter provisions of the CAMR  
6 could be used to satisfy the monitoring,  
7 recordkeeping and reporting requirements of our  
8 rule. TXU, they applaud Pennsylvania DEP for  
9 taking our, you know, our efforts. Oh, TXU is the  
10 Texas Utilities Corporation, that's proposing,  
11 currently proposing to bring in some generation  
12 into the Commonwealth. And, basically, they're  
13 supporting the idea that there's a provision for  
14 flexibility for new units, and that there would be  
15 adequate units for new EGUs within the proposed  
16 rule. And that's pretty much it. Is there any  
17 questions?

18 MR. BRISINI:

19 Are we to the point where we can...

20 MR. EVANS:

21 Yes.

22 MR. BRISINI:

23 ...respond to those?

24 MR. EVANS:

25 Yes.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. BRISINI:

2 Doug, you had your hand up first.

3 MR. BIDEN:

4 Doug Biden, Generation Association. I have -- I  
5 missed the point that you made relative to EPA's  
6 comment on banking. I wasn't sure exactly. What  
7 did they say about banking? I was reading your  
8 other two points, and then you went to the next  
9 slide, and I missed it.

10 MR. EVANS:

11 Is this the one you're talking about...

12 MR. BIDEN:

13 No.

14 MR. EVANS:

15 ...Doug?

16 MR. FIDLER:

17 No.

18 MR. BIDEN:

19 No.

20 MR. EVANS:

21 Which one in here?

22 MR. BIDEN:

23 There it is.

24 MR. EVANS:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Oh, that "an express prohibition against banking is  
2 necessary." Isn't there -- oh, your rule is silent  
3 on it, correct?

4 MS. EPPS:

5 Our rule is silent on it. So, EPA, when they  
6 submitted their comments, they asked that we  
7 clarify our intent. And if it's your intent that  
8 there be no banking of allowances, then you need to  
9 state it explicitly in the rule.

10 MR. BIDEN:

11 But EPA is saying an expressed prohibition is  
12 necessary?

13 MS. EPPS:

14 Under our rule, we are not allowing the trading or  
15 banking of allowances. And it was not clearly  
16 spelled out in the proposal, so EPA basically asked  
17 us to clarify in the rule that that's our intent.

18 MR. BIDEN:

19 So, EPA wants you to have no banking?

20 MS. EPPS:

21 We -- the rule, as it was proposed, would not have  
22 allowed banking, but it was not clearly spelled out  
23 in the rule.

24 MR. BIDEN:

25 Okay.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MS. EPPS:

2 EPA stated that, "If that is your intent, you need  
3 to expressly state that in your final rule."

4 MR. BIDEN:

5 Okay.

6 MR. RAMAMURTHY:

7 I, actually, I just want the argument that it's  
8 basically -- I think the confusion here expressing  
9 is, basically, what it is is if any State do not  
10 participate in the Federal or EPA administrative  
11 cap program, then basically the State budget  
12 becomes a firm cap. So, there's no banking at this  
13 -- the present position of EPA is the banking of  
14 emissions, because it's a firm cap for EPA.

15 MR. BIDEN:

16 So, if you're not all in to the EPA Cap-and-Trade  
17 Program, you cannot have a banking program?

18 MR. RAMAMURTHY:

19 That's the current...

20 MR. BIDEN:

21 Is that a correct statement?

22 MR. RAMAMURTHY:

23 That's the current EPA's position.

24 MR. BIDEN:

25 Okay, I'm with you now.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. EVANS:

2 Yes.

3 MR. BIDEN:

4 I understand.

5 MR. EVANS:

6 Vince?

7 MR. BRISINI:

8 Vince Brisini, Reliant Energy. And that was the  
9 point I wanted to make. I think it's important to  
10 note that EPA's comments are specific to the PA  
11 Rule. And not allowing in the negative comments of  
12 the EPA -- as it's made in many cases -- are simply  
13 because they're not participating in CAMR, and  
14 really are not issues that are opposed by EPA,  
15 because they are in fact allowed under the Federal  
16 Program. And I think that's an important  
17 differentiation in that, to correctly represent  
18 EPA's position, it's that if you don't participate  
19 in CAMR, then you can't do -- you can't pick and  
20 choose the provisions of CAMR that you want to  
21 implement. So, it's really -- and you got to keep  
22 this in context, that these are specific comments  
23 to if you're going to have a State Rule, this is  
24 what you have to do. And I think that gets at your  
25 point, which is you can't pick and choose, so all

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 of the other opportunities that are afforded are  
2 available there by virtue of that selection. Now,  
3 one of the things, and I wanted to bring this up,  
4 but I feel compelled to do this because -- and it  
5 relates to one of the comments made on the  
6 depositions of the Cresson site, and they talk  
7 about the impact at the Cresson site and the wet  
8 deposition. And the reason I feel compelled to do  
9 that is that we operate three of the four  
10 facilities that are identified, and used to operate  
11 the other one. But what's important to note -- and  
12 I think this is really something that's important  
13 and didn't get publicized, there wasn't a press  
14 release in response to the DEP press release --  
15 that this demonstrated a hotspot, in that the power  
16 plants that were identified during the period of  
17 time, where there was really no change in  
18 deposition, there was a high level of deposition in  
19 the other site, there was wet deposition over a  
20 period of time. Over that period of time, there  
21 has been a 47% decrease in mercury emissions, which  
22 did not show up as any decrease in the wet  
23 deposition. And what happened was an existing  
24 power plant was retired and replaced with a  
25 circulating fluidized bed, and which has virtually

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 no mercury emissions based on testing that both DEP  
2 and we have done. Homer City has installed SCRs  
3 which provide for effective collection with bonox  
4 [ph] burner technology, and they've also installed  
5 an SCR and scrubber at Homer City III, which  
6 achieves in excess of 90%. And the Keystone Plant  
7 has installed SCRs which, in conjunction with deep-  
8 stage bonox burners, we've tested and supplied the  
9 information to DEP that we're achieving during the  
10 ozone season at 80% reduction of mercury. So, I  
11 really feel compelled to respond to that, and to  
12 make people aware that there have been significant  
13 reductions. There hasn't been a corresponding  
14 change in deposition at that site, so -- and I also  
15 was on the DEP website, and saw that the complaint  
16 continues to be made, and I just don't think it's  
17 substantiated by the data.

18 MR. FIDLER:

19 Anyone else? George?

20 MR. ELLIS:

21 Yeah, Tom. In its comments...

22 MR. FIDLER:

23 Please identify yourself, George.

24 MR. ELLIS:

25 Excuse me?

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. FIDLER:

2 Please identify yourself.

3 MR. ELLIS:

4 Oh, I'm sorry. George Ellis, from the Pennsylvania  
5 Coal Association. In its comments, did EPA offer a  
6 rationale for its decision that the IGCC exemption  
7 would render the State Plan unapprovable?

8 MS. EPPS:

9 Krishnan...

10 MR. RAMAMURTHY:

11 I'll get it.

12 MR. FIDLER:

13 Yeah.

14 MR. RAMAMURTHY:

15 The genesis of that concern is EPA is concerned  
16 that we have not, and we exempted the -- any  
17 recalling of existing EGUs and ICCs that come from  
18 the emission standard and emission limit during the  
19 Phase I. We are not really down to a finite  
20 percent of the total budget. So, I think that's  
21 one of the reasons why they said it cannot be  
22 approved. If we exempt them from standard, then  
23 definitely, there can be an avalanche of requests  
24 for re-powering, and that would potentially bust  
25 the budget. So, the theory could possibly be

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 existing, even though there is no -- if there is an  
2 expiration to that particular approach, we need to  
3 have a binding agreement by the end of 2007,  
4 otherwise they aren't eligible for exemption,  
5 though we haven't gotten any response so far. So,  
6 even though in reality it might not happen, but I  
7 believe since there's a, clearly, a possibility  
8 exists, so EPA objected to that open-ended  
9 exemption.

10 MS. EPPS:

11 George, we are having further discussions with EPA.  
12 We think we have a right to address their concerns  
13 by keeping the exemption, but not exempting those  
14 sources from the annual emission limitation, and  
15 that would ensure that we don't exceed the cap.  
16 So, we'll have follow-up discussions with EPA about  
17 that approach.

18 MR. FIDLER:

19 Gene?

20 MR. TRISKO:

21 Hi, Gene Trisko with the United Mine Workers. I'd  
22 just like to follow up for a moment on the colloquy  
23 between Doug Biden and Vince Brisini regarding the  
24 EPA decision on limitations and banking. It's my  
25 understanding that there's another option available

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 to States that are desirous of imposing mercury  
2 restrictions more stringent than CAMR. And that  
3 option has not really been discussed or debated  
4 within this process, but evidently a decision has  
5 been made by DEP to reject it. And that option is  
6 the one pursued by the States in Maryland and  
7 Virginia, which individually have adopted  
8 regulations through legislative processes that are  
9 more stringent than the EPA requirements, but also  
10 have adopted the EPA CAMR rule. In the case of  
11 Virginia, for example, the more stringent Virginia  
12 requirements enable one of the power companies in  
13 Virginia -- American Electric Power -- to bring  
14 allowances in two of its small plants into Virginia  
15 from the State of West Virginia, where it has much  
16 larger operations. And there's similar  
17 flexibilities provided in Maryland, which is  
18 similar in many respects to the level of stringency  
19 called for by the initial Pennsylvania proposal.  
20 So, if one were to consider an alternative approach  
21 in the way that Pennsylvania adopted CAMR, but then  
22 impose a so-called "rule within a rule" approach of  
23 going beyond CAMR, then greater degrees of  
24 flexibility might be unavailable to the State if  
25 that option were to be undertaken.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. FIDLER:

2 Thank you. Vince?

3 MR. BRISINI:

4 Okay. Vince Brisini, Reliant Energy. And, first,  
5 let me offer to Gene that I know that there have  
6 been comments specifically making that proposal  
7 made to the Department in the, during the comment  
8 period.

9 MR. TRISKO:

10 Endless.

11 MR. BRISINI:

12 That was -- that did not go uncommented with that  
13 it was not made; it was made. Something that,  
14 though, that I think -- and could I ask that maybe  
15 Craig can help me: Did you have in your industry  
16 comments, did you address the potential effects of  
17 not having a trading system on some coal supplies  
18 in Pennsylvania, and the capability to use those  
19 supplies in the future?

20 MR. EVANS:

21 Well, I mean, we're summarizing it. It's many...

22 MR. BRISINI:

23 No, but I'm saying that's a pretty important  
24 component, because I know that...

25 MR. ELLIS:

DIAZ DATA SERVICES  
331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1                   Yeah, I think EPA...

2 MR. BRISINI:

3                   ...that's probably...

4 MR. ELLIS:

5                   ...made that statement, because 85 million tons  
6 would be curtailed, the production curtailed  
7 between 2010 and 2018. Let me see. Yeah, where  
8 was that? Right there. There's a splice of 85  
9 million tons of coal.

10 MR. BRISINI:

11                   All right. And now that, I believe that includes  
12 both due to retirement, and also to the fact that  
13 we have Pennsylvania coals, but are much higher in  
14 mercury than other places in those particular  
15 areas. And those suppliers would be at risk,  
16 because with the annual caps, that becomes one of  
17 your -- still, switching becomes one of your  
18 compliance options. So, that was just a -- I know  
19 that that specifically was made a couple of times.

20 MR. ELLIS:

21                   Gene's shaking his head.

22 MR. TRISKO:

23                   I don't think...

24 MR. BRISINI:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           No, I'm saying I know some comments where they were  
2           made. That comment was made.

3 MR. ELLIS:

4           But I don't think they addressed the switching. I  
5           think the study was just limited to the 85 million  
6           rather than...

7 MR. BRISINI:

8           The 85 million was just retirements.

9 MR. ELLIS:

10          Yes, I believe that's...

11 MR. BRISINI:

12          That means that -- because, you know, in addition  
13          to retirements, you have coal supplies that are at  
14          risk due to their inherent mercury content where  
15          they cap, as opposed to a standards approach.

16 MR. ELLIS:

17          That 85 million...

18 MR. FIDLER:

19          Excuse me, George. Just to maintain facilitation,  
20          this is a great discussion, but please identify  
21          yourselves...

22 MR. ELLIS:

23          I apologize.

24 MR. FIDLER:

25          ...so that we can properly attribute in the record.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. ELLIS:

2 George Ellis with the Pennsylvania Coal  
3 Association. My understanding, that the 85 million  
4 tons is just due to the retirements. In fact, it's  
5 probably a floor, not a ceiling. We could stand to  
6 lose much more if they're still switching at units  
7 that still operate, installed controlled technology  
8 that's still finding it more economical or just  
9 that they gain compliance, be compliant with the  
10 switched status they call it.

11 MR. FIDLER:

12 Let me just make a follow-up comment to, I think,  
13 Gene's remark. We have been, you know, observing  
14 very carefully what's going on in other States as  
15 we've gone through this process. And we do know  
16 that Maryland took a legislative approach very  
17 early on that was more stringent than the CAMR.  
18 But I'd just like to say that I'm not clear as to  
19 what EPA is willing to approve or accept at this  
20 point as a hybrid. And I'm not aware that  
21 Virginia's 111(d) plan, or Maryland's 111(d) plan  
22 has been submitted or approved by the EPA at this  
23 point. So, what we can base our proceedings on is  
24 what we know, and what is clear and what's in  
25 place. Joe?

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. DUCKETT:

2           Yeah, Joe Duckett from AQTAC and SNC-Lavalin. Just  
3           a point of clarification, I guess, or a question.  
4           My recollection is that one rationale by the  
5           Department for having a state-specific rule is "to  
6           protect" -- I'll use that phrase -- the coal  
7           industry in Pennsylvania. And I'm curious whether  
8           -- I don't remember any of the positive comments  
9           coming in saying, "Yeah, this is something we want,  
10          because it protects the coal industry in  
11          Pennsylvania." Were there any such comments?

12 MS. EPPS:

13          We're still in the process of collating comments.  
14          What -- we have a team working on those comments,  
15          and so one of the next steps is to go back and to  
16          complete the comment and response document. We did  
17          not highlight every comment that was opposed to the  
18          rule, or every comment that was in support of the  
19          rule. And, so, what we want to give you was a  
20          sense of the type of comments that we are receiving  
21          today. But, when we come before the AQTAC on  
22          September the 11<sup>th</sup>, we should be able to address  
23          that question.

24 MR. FIDLER:

25          Comment?

DIAZ DATA SERVICES  
331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. TRISKO:

2 Yes, Gene Trisko for the United Mine Workers. If I  
3 could just follow up on your observation. It is  
4 likewise our understanding that EPA has not made an  
5 official determination of the approvability of the  
6 Maryland or Virginia plans. But, I think it is  
7 fair to say that if a State elects not to  
8 participate in CAMR, then the straightjackets apply  
9 very quickly. And the amount of flexibility that  
10 the State is able to build into its own approach  
11 will be limited accordingly. But, if the State  
12 would accept CAMR, but then impose a more  
13 restricted rule on top of it, that there may be  
14 opportunities for greater flexibility...

15 MR. FIDLER:

16 Okay.

17 MR. TRISKO:

18 ...subject to the uncertainty that you note.

19 MR. FIDLER:

20 Thanks for the clarification. Any other comments  
21 or questions on the very quick overview of the many  
22 comments that we have received on the proposed  
23 rule? If not, you know, the next major component  
24 of the presentation is an overview of the changes  
25 that we are proposing to make from the proposed

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664





1 MR. FIDLER:

2 Good morning.

3 MS. EPPS:

4 Good morning.

5 MR. RAMAMURTHY:

6 Krish Ramamurthy, and I'm going to be sharing the  
7 discussion with, or the various slides with John  
8 Slade. And, actually, I want to just say a few  
9 things before we start that up. There's really a  
10 lot of comments among there, that I think there are  
11 a lot of technical comments. And, so, I think I  
12 was focusing on a lot of the technical comments,  
13 addressing some of the regulatory language. Now, I  
14 think we wanted to really -- and one of the common  
15 pleas, basically, to afford a lot more flexibility  
16 in implementing the program. So, I think one of  
17 the objectives I had, I tried to provide as much  
18 flexibility as possible without compromising our  
19 core...

20 MR. SLADE:

21 Krish...

22 MR. RAMAMURTHY:

23 ...objectives.

24 MR. SLADE:

25 ...this one. I don't think that's the right one.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. EVANS:

2 No, that's just for the recorder...

3 MR. FIDLER:

4 It's just for...

5 MR. EVANS:

6 ...and not for the loudspeaker.

7 MR. SLADE:

8 All right.

9 MR. FIDLER:

10 We can...

11 MR. SLADE:

12 Oh, there you go.

13 MR. RAMAMURTHY:

14 Okay.

15 MR. EVANS:

16 You have to speak up, Krish.

17 MR. RAMAMURTHY:

18 So, I think we wanted to maintain the, you know,  
19 core objectives, and then -- but try to expand the  
20 flexibilities as much as possible. Let me start  
21 with the applicability. I think there is not any  
22 change with the applicability, it's the same as the  
23 proposed rule. It's 25 MW. And I think the EGU, I  
24 think the definition of EGU, they modified it to

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           make sure that it's consistent with the latest EPA  
2           definition of EGU.

3 MR. HADLEY:

4           Krish, could you briefly just highlight what  
5           significant difference that there might have been?

6 MR. RAMAMURTHY:

7           Yeah, we're going to -- I think later on, the  
8           significant changes...

9 MR. FIDLER:

10          Right.

11 MR. RAMAMURTHY:

12          ...are coming up.

13 MR. HADLEY:

14          Okay.

15 MR. RAMAMURTHY:

16          I'm trying to set the stage here so you'll know,  
17          because we're going to see a lot of the common  
18          things, and we basically give the structure of our  
19          rule, and then highlight the significance revisions  
20          later.

21 MR. HADLEY:

22          Mine was very specific to the EGU definition.

23 MR. RAMAMURTHY:

24          I think the EGU definition -- one of the petitions  
25          to EPA was to, really, from the municipal waste

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           combustion is to make sure that it's not covered by  
2           this EGU definition.

3 MR. HADLEY:

4           Okay.

5 MR. RAMAMURTHY:

6           So, the EGU definition was modified to address the  
7           municipal waste combustions.

8 MR. HADLEY:

9           Okay.

10 MR. RAMAMURTHY:

11           Now, this is -- I think you already heard about the  
12           EPA's comment on this issue. And I briefly  
13           discussed that, the -- why EPA comment, that EPA  
14           made the comment. I think what the exception is,  
15           basically, is to enter into a legally binding  
16           agreement with us, that the existing unit is going  
17           to be replaced with IGCC before December 2007, then  
18           they'll be a little focused on -- the exception is,  
19           they'll be exempt, the existing unit will be  
20           exempted from the emission standard and emission  
21           limit. That's what we proposed. I think the  
22           emission limit has an effect on the budget. So, I  
23           think since we didn't really, we couldn't really  
24           quantify how large the percentage we may need or  
25           anything, so that's -- so, one of the reasons we

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 wanted, we left it more generic rather than to be  
2 more specific. And I think since EPA commented on  
3 that, so the change we made basically is to give  
4 the exception to the emission standard, which is  
5 the 80% or 90% of mercury-based. You know, in this  
6 particular case, the exception is limited to the  
7 Phase I, so basically they'll be exempt from the  
8 80% reduction demonstrations. But, since they  
9 object to the emission limits, and then I'll touch  
10 upon that later on, how we are going to be  
11 accommodating them, so they'll be given the  
12 supplemental and full preference knowledge. Yeah,  
13 there is no change with this particular -- the  
14 deadline is still the January 1, 2010 and 2015, and  
15 still we have emission standard and the emission  
16 limit to be met. Here, though, I think there is no  
17 change, except that when we referred to the PCF,  
18 the pulverized coal-fired units, we basically said  
19 out of the CFB. So, I think one of the comments  
20 the EPA made was that we should really address the,  
21 address the coal as well as the coal-derived fluids  
22 as covered in the EGU definitions. So, basically,  
23 so if there's any liquid or gaseous fuel derived  
24 out of coal and somebody's combustion generating  
25 unit, it will be an affected unit. So, we

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1            basically -- even though we don't have anything  
2            other than PCF and CFB at this point, in the future  
3            there's a possibility that somebody could have new  
4            units and becoming an existing unit. So, we  
5            evidently have a PCF, we basically said PCF, we  
6            basically said other than CFB. So, the main  
7            objective, intent of our rule was to really set the  
8            distinction between the other units, such as the  
9            pulverized coal-fired units. Yeah, here, I think  
10           there's no change with the PC-fired emission  
11           standard and the CFB. The second one there,  
12           there's no change. And I think the existing units,  
13           the CFB, I think, though we did receive comments  
14           from the ARIPPA on that, the standard should be  
15           revised, and we examined the issue. And I think  
16           the availability of the mercury content with the  
17           waste coal is much larger than the coal. So, I  
18           think that we revised that from .0058 GWh to .0096.

19 MR. FIDLER:

20            Um-hmm.

21 MR. RAMAMURTHY:

22            Some of this stuff is better than the PCF, and  
23            that's the only change. I think IGCC, we didn't  
24            get any -- I don't recall getting any comments on  
25            that standard, and we didn't revise that standard.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           Yeah, again, I think the .0096 is very wise,  
2           upgrading for that limit. Yeah, I don't think  
3           there's any change in this one.

4 MR. DUCKETT:

5           What, the CFBs...

6 MR. RAMAMURTHY:

7           Yeah, and then...

8 MR. DUCKETT:

9           ...it's the same standard?

10 MR. RAMAMURTHY:

11           Yeah.

12 MR. DUCKETT:

13           That one that...

14 MR. RAMAMURTHY:

15           I think our intent of that same standard is the  
16           existing configuration there would include that  
17           it's capable of achieving the level without any  
18           additional mercury-specific control technology.  
19           So, therefore, the limit would be achieved in the  
20           first place itself. So, there's still no change  
21           within Phase I and Phase II emission standard for  
22           circulating fluidized bed.

23 MR. DUCKETT:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1           Question: Did you change -- I'm making reference  
2           to the different state. Did you change or clarify  
3           the definition of "capture efficiency?"

4 MR. RAMAMURTHY:

5           I don't remember changing it, but I don't remember  
6           seeing any comments either, but I'll have to check  
7           that. All right. Let me come back, I'll -- let me  
8           look at that point later. I don't recall revising  
9           the capture efficiency. But, at one point, we  
10          called it "capture," and then I think we probably  
11          changed it to "control efficiency." I can -- I  
12          will respond to you later on. Yeah, annual  
13          emission limit, I think that's really essential to  
14          make sure that our mercury budget is not exceeded.  
15          And I don't think we have -- there's no change  
16          from the proposed to final on this one. Now, here  
17          for the emission standard, there is no change for  
18          the compliance options, too. You have a, we can --  
19          yeah, unit-by-unit demonstration, or you can  
20          average all the units within that single facility.  
21          And then, you, after applying the technology, and  
22          if it's found it meets the standard, then you can  
23          petition for an alternate emission standard, or you  
24          need an alternate compliance schedule. That

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 process is laid out in the proposed rule, and  
2 there's no change in it.

3 MR. SLADE:

4 All right. But, it's important to note this  
5 distinction of the emission standard, unit-by-unit  
6 or facility-wide demonstrations acceptable to the  
7 emission standards. System-wide would not be -- is  
8 not an option, and we'll get into that.

9 MR. RAMAMURTHY:

10 Yeah.

11 MR. HADLEY:

12 Excuse me, Drew Hadley with AQTAC. Could you say a  
13 little bit more about it? Just to refresh: The  
14 emission standard, are you talking about the mass  
15 emission load take?

16 MR. SLADE:

17 80%-90% is the...

18 MR. HADLEY:

19 Right.

20 MR. SLADE:

21 ...emission standard. And when we say "standard,"  
22 it's the control efficiency. When we say "emission  
23 limit," then it's the cap.

24 MR. HADLEY:

25 The cap of it.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. SLADE:

2 The cap of it, right.

3 MR. RAMAMURTHY:

4 Yeah, Phase II emission standard is essentially the  
5 same as the Phase I options. Here, the -- we set  
6 aside within the budget, which is the same as the  
7 proposed 5% for the new source under Phase I.

8 And...

9 MS. EPPS:

10 Speak louder.

11 MS. RAMAMURTHY:

12 Yeah, there is no change from the proposed rule.  
13 It's, basically, is when we -- the same allocation  
14 for Phase I for CFB, Phase I and II. The logic is  
15 they are capable of meeting the standard in the  
16 first place itself, and they do not need the larger  
17 allocation. And -- but they'll be listed in the  
18 order of preference of the supplemental allowance.  
19 The petitions are also the same. Yeah, I've been  
20 monitoring -- it's similar to CAMR, but I think we  
21 made some changes to the monitoring provisions, and  
22 largely a clarification of perspective in some  
23 instances to respond to EPA. And we assured them  
24 that any alternate monitoring systems, or any  
25 change to monitoring by EPA still has the argument

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 about it. So, if you have any change to the  
2 system, it cannot be approved by the Department  
3 without getting approved from the EPA. Here, this  
4 is the -- we are beginning to highlight the  
5 changes. I think that one of the comments EPA made  
6 was a lot of the definitions were not included in  
7 the rule. And I think, in some cases, we didn't  
8 think that was necessary, but I think we need to  
9 have -- and, also, EPA has indicated in their  
10 comments that when they proposed the Federal Plan,  
11 they might change some of the definitions, but  
12 they're not really in a position to identify which  
13 ones they're likely to change. So, I think we want  
14 to -- since our rule already, we have already  
15 adopted the initial performance standard, and then  
16 the emission guidelines on its entirety in Chapter  
17 122, I personally think. So, we basically, here,  
18 I'm highlighting the fact that the definitions  
19 included in the Da -- Da is for the new source, and  
20 then the subpart HHHH is for the existing source.  
21 So, it's basically kind of identical. But, I  
22 think, because the HHHH is the emission guidelines,  
23 you know, we need -- that's precisely the reason  
24 why we are proposing and finalizing a State Plan,  
25 to implement the Federal guidelines. Whereas, the

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 initial performance standards we don't have to do  
2 anything, because it's incorporated in the  
3 reference we implemented. And we don't really  
4 revise the NSPS, because it's incorporated in the  
5 reference. So, as to the emission guideline, it's  
6 a guideline. So, we -- basically the statute  
7 allows the individual states to customize it for  
8 their states. Yeah, I think this is the -- there's  
9 no change to this particular thing, but mainly we  
10 are revising some of the language there to indicate  
11 that. But, since we rerouted almost the entirety,  
12 the whole emission guideline -- the emission  
13 guideline control has that cap-and-trade program,  
14 so basically confirming the fact that, very well,  
15 our rule is more stringent. That supersedes that  
16 provision, so we are not adopting the cap-and-trade  
17 program, which is part of the emission guidelines.  
18 Now, here is a change in response to the comments  
19 we received, and this is one area we have, I think,  
20 that we have covered in the earlier AQTAC  
21 proceeding also. That, because what is in the  
22 proposed rule, basically, is that if a percent  
23 reduction is measured from the "mercury content" as  
24 fire, and then what is coming out of the stack.  
25 Whereas, here, if some fuel pretreatment is going

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 to be done, sort of "cleaning," for example,  
2 removing the mercury content, and I think we will  
3 basically give credit for the reductions achieved,  
4 percent reduction achieved through "cleaning"  
5 towards the 80% and 90% reduction. I think the EPA  
6 and the NSPS support DEP, and then essentially for  
7 a long time they're even implementing that same  
8 thing for the SO2 control efficiency. And they  
9 call it "pretreatment optional requirement," but I  
10 think, basically, that lays out the process. So, I  
11 doubt that the cleaning is going to be a new  
12 process. It basically will be following the policy  
13 and all of the implementation for the SO2 control  
14 efficiency. Whether the process is laid out for  
15 the percent reduction of sulphur, so we'll be  
16 following it for the percent reduction for mercury.  
17 Yeah, I think that's -- we received a few comments  
18 on the constitutionality of that specific  
19 preference given to the bituminous coal, even  
20 though we don't really give a specific preference  
21 to Pennsylvania coal. But it's just that I think  
22 our -- we laid out the vast name we had before  
23 that. We have the data which supported that  
24 bituminous coal, which certain control  
25 configurations can achieve at certain levels. So

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 we, basically, we have a lot of comments we  
2 received on the, concerning -- raising concerns and  
3 doubts, so we have removed the presumption off the  
4 percent reduction for a bituminous coal with  
5 certain control configurations.

6 MR. BRISINI:

7 Let me -- Vince Brisini, Reliant Energy. Let me  
8 just -- have you removed the presumptive  
9 technologies in their entirety, or just the  
10 reference to the technologies using 100%  
11 bituminous?

12 MR. RAMAMURTHY:

13 We removed the -- on its entirety, mainly  
14 because...

15 MR. BRISINI:

16 Okay.

17 MR. RAMAMURTHY:

18 ...you can't really -- that one of the reasons, the  
19 same control configuration with other fuel, like  
20 for example sub-bituminous coal cannot really  
21 demonstrate the efficiency. That's precisely why  
22 we earlier on, when we proposed it, we really  
23 identified the presumption, and we limited the  
24 presumptions to a bituminous coal. Since we are  
25 removing the preference, so we are -- basically, we

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 removed on its entirety. And I think that,  
2 basically, they'll be demonstrating compliance.  
3 And then, if, that for some reason they can't meet  
4 the thing, they can go through the alternate  
5 limitation requirement.

6 MR. BRISINI:

7 Well, like I say, I have to see what other changes  
8 might've been made relative to that demonstration  
9 to understand the significance...

10 MR. RAMAMURTHY:

11 So...

12 MR. BRISINI:

13 ...of that.

14 MR. RAMAMURTHY:

15 So, basically, there's no presumption. Like say,  
16 for example, if sub-bituminous coal-fired unit,  
17 we'll really have to do the measurement to quantify  
18 and demonstrate compliance with the, say, 80%, as  
19 opposed to bituminous coal with certain  
20 configurations. We are presuming that they meet  
21 the percent reduction requirements. Now, they are  
22 already doing the demonstrations.

23 MR. BRISINI:

24 I understand what you're saying, but what I'm  
25 saying is that I need to understand if there has

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1           been any addressing of the fuel sampling to make  
2           that demonstration, and those provisions to  
3           understand how big a deal this is.

4 MR. RAMAMURTHY:

5           Right. Well, I'm going to get to that.

6 MR. FIDLER:

7           George?

8 MR. ELLIS:

9           Krish, George Ellis with the Pennsylvania Coal  
10          Association. With the deletion of the preference,  
11          is there still a hierarchy or a priority listing  
12          for requesting surplus credits?

13 MR. RAMAMURTHY:

14          Yeah, there is a priority, we'll get to that.

15 MR. ELLIS:

16          I understand...

17 MR. RAMAMURTHY:

18          But there is no preference to...

19 MR. ELLIS:

20          I understand.

21 MR. RAMAMURTHY:

22          But the thing is, we are still...

23 MR. ELLIS:

24          But there's still going to be a hierarchy for the  
25          distribution of credits?

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. RAMAMURTHY:

2 Correct.

3 MR. FIDLER:

4 Yes.

5 MR. RAMAMURTHY:

6 Correct.

7 MR. FIDLER:

8 Yes.

9 MR. RAMAMURTHY:

10 I think the second bullet is mainly to assure EPA.  
11 I think the EPA commented that they wanted it  
12 explicitly stated in the rule that the, any  
13 alternate standard we authorize through the  
14 petition process, that that's not relieving them of  
15 their obligation to meet the annual limit. And  
16 that's clearly what our rule is. We have two  
17 distinctive requirements: the emission standard  
18 requirement, which is the percent reduction, not  
19 output-based standard; then, the emission limit,  
20 which is the mass limit. And, I think -- so,  
21 basically, they're really clarifying our intent in  
22 response to the EPA comment. Here is the -- we  
23 didn't really want to do that, but in the EPA  
24 reconsideration, they tweaked our budget. Before  
25 that, they basically have -- the Phase I budget was

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           1.78 tons. And the EPA, they revised the rule,  
2           basically said it's 1.779 tons; and the rounding  
3           out enabled us to get two additional pounds of  
4           mercury, which now we lost. So, other than that,  
5           the Phase II there's no change, because it's still  
6           the three digit, apparently, so we basically lost  
7           two pounds. Well, this is...

8 MR. SLADE:

9           All right. Some of the other changes: This has to  
10          do with the annual emission limitation, where we  
11          talked about the standard, is the 80% to 90%, Phase  
12          I and Phase II. The emission limitation is the  
13          emission cap that the facility or the EGU unit will  
14          be given allowances. So, after -- and here in  
15          particular, we're talking about how we're going to  
16          treat a new EGU, and there's a conversion process.  
17          EPA has one. We have a similar process. It is --  
18          there are differences in timing between ours and  
19          EPA. But the way that a new EGU becomes an  
20          existing EGU, and then its allocation would come  
21          from the existing EGU allowance pool, is that after  
22          the new EGU has completed three complete control  
23          periods. A control period is January 1 to December  
24          31. So, if they start in the middle of the year,  
25          that doesn't -- that year doesn't count. They need

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           to complete three complete years worth of data,  
2           then we'll have three years to average their  
3           emissions from...

4 MR. RAMAMURTHY:

5           Heat input.

6 MR. SLADE:

7           ...through -- I'm sorry. Yeah, the heat input is  
8           the number that we're using -- is the heat input,  
9           not their emissions -- to calculate what their  
10          allowances would be. And it would be -- they would  
11          become, after that three-year period, they would  
12          become an existing EGU, and would be given an  
13          allowance. And that allowance would be no more  
14          than what had been put in their permit or plan  
15          approval. So, that would be the maximum allowable  
16          that they would have, and very possibly less than  
17          that. They would continue to receive from the new  
18          source pool until they're actually operating in a  
19          control period for which they'll be given  
20          allowance. Their allowance will be given to them  
21          two years in advance. So, following the three-year  
22          period, they will be given an allowance for a  
23          control period that's two years in the future. But  
24          that's the time at which they would actually be  
25          using allowances from the existing pool. And, of

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 course, during that same time period, we would also  
2 be letting all of the existing EGUs know what their  
3 allowance, maximum allowances would be. So, there  
4 would obviously have to be some adjustment to the  
5 allowances that were determined for maximum  
6 allowance for each EGU. And those would be  
7 published in the Pennsylvania Bulletin. Yes,  
8 Vince?

9 MR. BRISINI:

10 Vince Brisini, Reliant Energy. Will there still be  
11 a provision relative to the new source set aside if  
12 that remains as it is, that remains at the  
13 supplement pool? So, in addition to the unit lead  
14 when you put a set-aside, which those non-tradable  
15 allowances stay and use for a set-aside.

16 MR. SLADE:

17 Correct.

18 MR. BRISINI:

19 But, then, you move and you reduce the allocation  
20 to the existing units, and you have a double-whammy  
21 where that, at least the set-aside still sits out  
22 there, and you're now decreasing the allocation to  
23 the other existing units.

24 MR. RAMAMURTHY:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           It's not a double-whammy. It's not -- the reason  
2           that that's happening, in view of the Clean Air  
3           Mercury Rule, is the 3% is for the air. You can't  
4           really say that if somebody consumed the 3% in the  
5           Second Phase, and then that's all, and now there's  
6           no new source, can they use it? Then, you can't  
7           have any new source coming into the state.

8 MR. BRISINI:

9           Well, what I'm saying is completely legitimate,  
10          because the unused new source set aside does not  
11          return to the existing units. It stays out there -  
12          - even if there's no new units to supply -- it  
13          stays out there as a supplement pool, as opposed to  
14          returning to the existing units, similar to what we  
15          do in the NOx Program ...

16 MR. RAMAMURTHY:

17          But it is returning to -- actually, this enables  
18          you to supplement the petition process.

19 MR. SLADE:

20          Yes.

21 MR. RAMAMURTHY:

22          So, basically...

23 MR. SLADE:

24          Right.

25 MR. RAMAMURTHY:

1           ...what it means, the existing EGU, if for some  
2           reason they didn't need it with -- yeah, they get  
3           that from the pool.

4 MR. BRISINI:

5           The...

6 MR. SLADE:

7           Well, it will be available for use by the existing  
8           sources if it's not...

9 MR. BRISINI:

10          Those will be available, but you don't know that  
11          the supplement pool will cover the subscription?

12 MR. SLADE:

13          Just like EPA, you don't know that there's enough  
14          allowances out there, that's correct. Joe, do you  
15          have a question?

16 MR. DUCKETT:

17          Joe Duckett, AQTAC and SNC-Lavalin. So, it's fair  
18          to say, is it, that absent retirements at the  
19          plants, all the EGUs would have their allowances go  
20          down once new units come out of this three-year  
21          initial period and enter into the existing pool?

22 MR. RAMAMURTHY:

23          Correct. I think the idea is the new units is  
24          going to be retiring, so you have -- in fact,  
25          because the newer units are higher efficient units

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 with the higher control in place, likely to meet  
2 less emissions. That you are correct in that  
3 thing, that if there is no real retirement  
4 happening, then the existing sources and stuff go.

5 MR. SLADE:

6 Now, along the same theme: To encourage re-  
7 powering, or replacing older units, the way that  
8 our rule reads now is that some of the re-powering  
9 and replacing units for their -- for the new units  
10 that's coming in, they would be given the  
11 allowances from the retiring units. So, they would  
12 retain the ability to, if they -- for whatever  
13 allowances they need to be taken from the existing  
14 sources, allowances up to the maximum. And if they  
15 took a 400 MW plant, and bought a 1,000 MW plant  
16 there, it's possible they might need more. If they  
17 need beyond the allowances that were already given  
18 for the existing unit, then that additional would  
19 come from the new source set aside, but that we  
20 would -- the facility would retain those allowances  
21 up to what they need, and then possibly even more.  
22 So, that's an encouragement for replacing older  
23 units, and then you're not at the whim -- those are  
24 there, they're guaranteed to be for you for use for  
25 the new source, and replacing your existing source.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 MR. DUCKETT:

2 We have provisions that are for permanently -- EGUs  
3 that will be permanently shut down no later than  
4 December 31, 2009; that the provisions of 2002  
5 through 2015 are not applicable to an EGU that's  
6 currently shut down. But why? That they entered  
7 into an agreement with the Department, and notify  
8 the Department by December 31, 2009, and that we've  
9 talked about that previously.

10 MR. RAMAMURTHY:

11 Basically, we added a lot more verbiage to the  
12 rule, very similar to what is included in the Clean  
13 Air Mercury Rule, but these are basically -- the  
14 essence is, I think one of the comments EPA made is  
15 they wanted us to make sure explicitly that the  
16 shutdown is a permanent, and they get into a  
17 legally binding agreement to a permanent process of  
18 some other means.

19 MR. SLADE:

20 Now, as Tom announced at the beginning of the  
21 program today, this is another one of the very  
22 substantive changes that we made in response to  
23 comments, and evaluating the information that was  
24 submitted to us by all the parties, is that for  
25 compliance with the cap, the emission limit, not

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 the emission standard. The emission standard  
2 remains for each unit or facility, if the facility  
3 can make a demonstration with the 80% and 90%  
4 removal. But, for the cap for an individual unit,  
5 compliance could be made at the unit level. It  
6 could be made at the facility level -- as we have  
7 previously written -- or it can be made at the  
8 system level. And the system can be based on  
9 either owner or operator. And that would be -- a  
10 given facility could only participate in one of  
11 those. They could only participate in another  
12 system averaging, or an operator system averaging,  
13 and that would be a totally -- their discretion.  
14 The Department doesn't dictate that in any way, but  
15 the demonstration for the emission limit, all the  
16 facilities owned by a company, or operated by a  
17 company in the Commonwealth could participate. And  
18 therefore -- I mean, we received substantial  
19 comments about, you know, "Where -- is there any  
20 incentive where we're doing better than the 80% and  
21 90%, we're going to be giving those up, and where  
22 we may be struggling in our other facilities,  
23 although we're meeting the 80% and 90%?" This  
24 provides incentives for those facilities that they  
25 can use -- as long as they're meeting the 80% and

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           90% at each facility -- that they can use  
2           additional reductions that they have at one  
3           facility to be able to average for across their  
4           entire system. Yes, Drew?

5 MR. HADLEY:

6           Drew Hadley from AQTAC. I'm curious, more  
7           strategically, why the Department in their  
8           rulemaking -- if the objective is truly to improve  
9           air emission beyond the CAMR requirements, and so  
10          this system-wide averaging with a cap set achieves  
11          that -- why the Department feels that the emissions  
12          standard compliance by unit is an important  
13          element. I mean...

14 MR. SLADE:

15          It's actually by facility or unit.

16 MR. HADLEY:

17          Thank you, by facility or unit. I'm just -- it  
18          continues to strike me, that in the element of  
19          really achieving air quality, if that's the  
20          Department's objective in a reduction in mercury,  
21          and if this system-wide averaging provides some  
22          flexibility to address some of the significant cost  
23          concerns that a number of the affected sources have  
24          raised, why the overlay of an additional technology  
25          requirement, unrelated to a new source performance

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 standard, you know. I mean, it just -- I'm curious  
2 as to the Department's perspective on that.

3 MR. SLADE:

4 Well, we received a lot of comment and concern  
5 about trading, as EPA had proposed it, and a lot of  
6 concern that a given facility could, in theory, put  
7 no controls on, and therefore an area would receive  
8 a disproportionate amount of mercury, compared to  
9 what could possibly be reduced by technology. So,  
10 I mean, that certainly was a factor in that, and  
11 that there, you know -- definitely, we can argue  
12 about the issue of hotspot, and I don't think today  
13 is the day to argue about that. But the, there  
14 certainly is -- even by EPA's own modeling  
15 projections, there are obviously areas of higher  
16 concentration of mercury deposition. EPA's got  
17 those maps out there all over the place, and  
18 everybody else does, too. So, you know -- it won't  
19 say "hotspot," but there's definitely radiance of  
20 deposition. And, you know, that certainly is a  
21 concern of the Department, that we assure that  
22 there is a reasonable application of controlled  
23 technology to remove mercury from each facility as  
24 can be. There is a petitioning process, that if an  
25 individual facility has issues with that, there is

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 a petitioning process to come to the Department for  
2 an alternate standard, or an alternate schedule,  
3 and, as well, for the standards, as well as for the  
4 emission limitations.

5 MR. FIDLER:

6 Let me just say that, Drew, for the averaging  
7 process to work as it's framed for the  
8 Commonwealth, though, we do need to rely on some  
9 level of mercury-specific control for every  
10 facility. Recognizing that, you know, we have now  
11 provided an incentive for possibly doing more with  
12 some facilities. But, there needs to be some level  
13 of protection provided at every facility, and  
14 that's the reason for maintaining the standard.

15 MR. HADLEY:

16 Um-hmm.

17 MR. FIDLER:

18 Jan?

19 MS. JARRETT:

20 I understand that the system-wide averaging is just  
21 within Pennsylvania, and there are many companies  
22 that own plants elsewhere.

23 MR. SLADE:

24 Correct, it is just within Pennsylvania.

25 MS. JARRETT:

DIAZ DATA SERVICES  
331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1                   Okay.

2   MR. FIDLER:

3                   Gene?

4   MR. SLADE:

5                   I believe the next...

6   MR. TRISKO:

7                   Thank you. Gene Trisko, United Mine Workers. Let  
8                   me just clarify: In my understanding of the EGU  
9                   emission limitations that are stated in the  
10                  alternative, that each existing EGU in the two  
11                  phases would meet a minimum emission standard or a  
12                  minimum control efficiency -- or, either/or -- that  
13                  is the numerical limit or the 80% or 90%, one or  
14                  the other, and...

15   MR. SLADE:

16                  Correct.

17   MR. TRISKO:

18                  ...must meet, and having met...

19   MR. SLADE:

20                  Correct.

21   MR. TRISKO:

22                  ...one or the other of those two, and must meet the  
23                  annual emission limitation analysis. So, is that  
24                  understanding correct?

25   MR. SLADE:

1                   Correct.

2   MR. TRISKO:

3                   It's then preserved.

4   MR. SLADE:

5                   Right.

6   MR. TRISKO:

7                   It's not "and, and," it's "or, and?"

8   MR. FIDLER:

9                   For the emission standard, we have an emission  
10                  rider in the pounds, or a pounds per MW.

11   MR. SLADE:

12                  Right.

13   MR. TRISKO:

14                  Right.

15   MR. FIDLER:

16                  Right.

17   MR. TRISKO:

18                  "Or?"

19   MR. FIDLER:

20                  "Or."   That's an "or."

21   MR. SLADE:

22                  "Or."

23   MR. TRISKO:

24                  Right.

25   MR. FIDLER:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           So, you get to pick which of those works for you.

2 MR. TRISKO:

3           All right. Now, in the context of the concerns  
4           that many parties have raised, not only about  
5           Pennsylvania bituminous coal, but also the small  
6           plant issue, by including the provision -- as  
7           you've suggested -- on optional credits for coal  
8           wash, that those changes to this rule might allow,  
9           for example, a smaller unit that uses a washed  
10          bituminous coal, Pennsylvania or otherwise, to  
11          utilize their washing credit subject to the CFR  
12          requirements.

13 MR. FIDLER:

14           Um-hmm.

15 MR. TRISKO:

16          Say that's 30%, or whatever it might turn out to  
17          be, and then meet one of the two alternative  
18          emission limits through the use of activated carbon  
19          injection technology -- which, let's say, gets 60%,  
20          just hypothetically -- and, through that  
21          combination and the use of washed coal and  
22          activated carbon injection, meet the 80% limit in  
23          Phase I, or the 90% limit in Phase II.

24 MR. SLADE:

25          Correct.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 MR. TRISKO:

2           Okay.

3 MR. FIDLER:

4           Vince?

5 MR. BRISINI:

6           Vince Brisini, Reliant Energy. Out of curiosity,  
7           how many -- or what do you think the request of the  
8           supplement pool would be as part of the petition  
9           process, say in Phase I? I mean, how many folks,  
10          you know, when you're going to have the 5% set  
11          aside, I'm just curious how many allowances you  
12          think that people -- or non-tradable allowances do  
13          you think people will be going after in that set-  
14          aside?

15 MR. RAMAMURTHY:

16          I don't have the numbers in front of me. I think  
17          the First Phase, obviously, the reductions are much  
18          larger than the Second. The Second Phase is the  
19          one which probably would need supplemental...

20 MR. BRISINI:

21          Of course.

22 MR. RAMAMURTHY:

23          ...allocations.

24 MR. BRISINI:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           Okay. So, basically, what you're saying is that by  
2           virtue of the standard, you wouldn't have any  
3           trading anyway?

4 MR. RAMAMURTHY:

5           What...

6 MR. BRISINI:

7           If nobody is asking for allowances from the  
8           supplemental pool, then...

9 MR. SLADE:

10          Are you talking about averaging?

11 MR. BRISINI:

12          What I'm saying is...

13 MR. SLADE:

14          Uh-huh?

15 MR. BRISINI:

16          ...with the standard in place -- and this gets to  
17          the point. If you have the standards in place, the  
18          -- and so, the question gets to be: You have a  
19          supplement pool in the event that you don't meet  
20          the standards -- or, rather, the annual limit...

21 MR. SLADE:

22          Yeah.

23 MR BRISINI:

24          ...but, the question I'm asking is that, with the  
25          standard, I mean, what do we think people are

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           really, people are going to be applying or  
2           petitioning for non-tradable allowances?

3 MR. RAMAMURTHY:

4           First, I think you need to compare the proposed and  
5           the final, after...

6 MR. BRISINI:

7           Right.

8 MR. RAMAMURTHY:

9           ...what we are proposing today. We would've had a  
10          larger supplemental pool there with the proposed  
11          rule. Now, what we basically did was -- you do the  
12          system with averaging, so there will be less coming  
13          to the fold, because you'll be using some of the,  
14          what would have come to the supplemental pool in  
15          the proposed rule. You'll be allocating it within  
16          yourselves, within the system, so less will be  
17          coming into the supplemental pool, and less demand  
18          will be made on the supplemental pool. So, I think  
19          it's basically...

20 MR. BRISINI:

21          So...

22 MR. RAMAMURTHY:

23          ...that partially -- the system would average,  
24          would really address that issue in most instances.

25 MR. BRISINI:

1           So basically, so basically, with -- now, you're  
2           saying with averaging in the system, there's not  
3           going to be anyone reaching out? I mean, with your  
4           facility-specific standards, since each of them --  
5           and I'm just, I'm offering a conjecture. I mean,  
6           with the facility-specific standards, what you're  
7           basically saying is that you're not seeing --  
8           you're not expecting there's going to be much  
9           trade?

10 MR. SLADE:

11           Well, we do expect to see some averaging...

12 MR. BRISINI:

13           About...

14 MR. SLADE:

15           ...even in Phase I, but we would see less. Krish  
16           is saying we expected to see some activity, not as  
17           much...

18 MR. BRISINI:

19           With your...

20 MR. SLADE:

21           ...as in Phase II.

22 MR. BRISINI:

23           Regardless.

24 MR. SLADE:

25           I mean...

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. BRISINI:

2 With your unit-specific standards, whatever amount  
3 that would be, it would be pretty small -- whether  
4 you go with Phase I or Phase II -- because you're  
5 getting 80% to 90%.

6 MR. RAMAMURTHY:

7 I think, because of the alternate standard we have,  
8 I think that's one of the -- this is a, basically,  
9 a safety feature. If, for some reason, the control  
10 technology in that particular...

11 MR. BRISINI:

12 So, basically, what you're saying is, so what  
13 you're saying, then, is that even doing 80% and  
14 90%, if you look at the CAMR allocation of  
15 Pennsylvania, and we have to meet the standard,  
16 that there's -- the standard is so much more  
17 stringent than the 80% and 90% percent removal,  
18 that the driver is the annual limit?

19 MR. SLADE:

20 By Phase II, the annual limit for some facilities  
21 certainly would be more challenging then.

22 MR. BRISINI:

23 Okay.

24 MR. SLADE:

25 The...

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. BRISINI:

2 If we look at the reduction of that CAMR allocation  
3 further by the way of new source set-aside is. So,  
4 I guess I'd kind of go to -- if we have the  
5 facility-wide standards, 80%-90% that are in place,  
6 why are we limiting and averaging within the  
7 Commonwealth, to just system-wide? Let alone why  
8 in the world wouldn't we do unrestricted trading  
9 and take advantage of that, since the amount  
10 obviously will be small? Or, if it isn't that  
11 small, it really gets to the point that  
12 Pennsylvania really didn't get enough allocations  
13 compared to others, which then those places could  
14 address through their own economic means. But why  
15 would you restrict it just to system-wide, as  
16 opposed to inter-company? I mean, if two parties  
17 reached an agreement, and they're willing to set up  
18 an averaging plan, what are you gaining with, and  
19 even if you bank -- and, really, I think it's truly  
20 just a policy statement relative to system-wide or  
21 intra-state issues only. Why wouldn't you let  
22 people reach agreements among each other to deal  
23 with the annual limit, since they're all going to  
24 have to deal with the standard on a facility-wide  
25 basis anyway?

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. SLADE:

2 The Department, as you know, we're in litigation,  
3 that the trading as under CAMR is not legal. So,  
4 that certainly is a basic principle that we've  
5 continued. But, in order to -- we heard a lot of  
6 comments from the utility sector about the issues.  
7 They said that there was no incentive for them to  
8 do any over- control at a given facility, as  
9 trading gives you. And so, and that, you know,  
10 therefore, you know, that they wouldn't be -- there  
11 would be no incentive for them to do better at a  
12 given facility than another facility. We added the  
13 system-wide averaging in there to provide that  
14 incentive, take away that disincentive. And we  
15 don't expect it to be a high percentage, as you  
16 said, but it does add the flexibility that we heard  
17 over and over again from the utility sector, that  
18 we were -- we would not have in our rule that was  
19 provided by CAMR. And, so, it was added to  
20 specifically address that issue, and not go beyond  
21 that.

22 MR. FIDLER:

23 Well, let me, Vince...

24 MR. SLADE:

25 I will...

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. FIDLER:

2 Let me be clear. It is a policy statement, no  
3 question about it. You know, we had looked at  
4 various options, as we looked over all the  
5 comments, and intra-state trading was something  
6 that was kicked around a bit. But we looked at  
7 this concept of averaging, as you know during our  
8 Mercury Workgroup Meetings. We had STAPPA come in  
9 and talk about their model, and they were  
10 advocating a concept of at least Phase I system-  
11 wide...

12 MR. SLADE:

13 Yeah.

14 MR. FIDLER:

15 ...averaging. Given the overwhelming support for  
16 the Department's position against trading, we  
17 believe that the system-wide averaging approach,  
18 providing additional incentive for controls in a  
19 controlled fashion, short of going the trading  
20 route. And it is a policy call, it's sort of a  
21 compromise. Frank, you were next?

22 MR. BURKE:

23 Yeah, I have two fairly specific questions.

24 MR. FIDLER:

25 Frank, please...

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 MR. SLADE:

2 Yes.

3 MR. FIDLER:

4 ...identify yourself.

5 MR. BURKE:

6 Oh, Frank Burke, with Consol Energy.

7 MR. SLADE:

8 Um-hmm.

9 MR. BURKE:

10 One is with respect to the credit given for mercury  
11 reduction and coal preparation and coal cleaning,  
12 how is that reduction calculated? What's the -- I  
13 guess what are the units in which that reduction  
14 would be denominated?

15 MR. SLADE:

16 There's a lot of detail to it. I would suggest you  
17 go to the CFR that we cited. That's how EPA does  
18 it for sulphur, but we're...

19 MR. BURKE:

20 The EPA...

21 MR. SLADE:

22 I mean, there really is a lot of detail that goes  
23 into that today, Frank.

24 MR. BURKE:

25 That's fine.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. SLADE:

2 Okay.

3 MR. BURKE:

4 Okay. But that's the source for that?

5 MR. SLADE:

6 Yes.

7 MR. BURKE:

8 So, you're relying on the CFR for your definition  
9 of what would constitute a percentage reduction  
10 through coal cleaning?

11 MR. SLADE:

12 Correct.

13 MR. BURKE:

14 Okay. The second question is with respect to the  
15 system-wide averaging and the petitioning process.  
16 Is there, I mean will the petition process still be  
17 on the unit, facility-specific basis, or will there  
18 be some element where the petitions can be made on  
19 a system-wide basis?

20 MR. RAMAMURTHY:

21 Yes, the petitions are made on a system-wide if  
22 they choose to be -- for one, it is really an  
23 option, obviously -- if they choose to demonstrate  
24 compliance through system-wide, and then petition  
25 on that basis.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. FIDLER:

2 Right. Nancy, then Joyce, then Vince. And then, I  
3 think we'll get back to the presentation, and hold  
4 some additional questions until we get through...

5 MS. PARKS:

6 All right.

7 MR. FIDLER:

8 ...the rest of the program.

9 MS. PARKS:

10 I have two questions, then. Krish and John, what  
11 is the -- our loss in the emission reduction  
12 benefit from the change in the emission standard  
13 from .0058 to .0096?

14 MR. SLADE:

15 For the circulating fluidized bed? The one that  
16 we...

17 MS. PARKS:

18 Yes.

19 MR. SLADE:

20 There won't be, there really won't be any loss.  
21 It's really an issue of just -- I mean, the CFBs  
22 with the back houses, I mean, they have really low  
23 emissions. It's just a question of there is some  
24 evidence, you know, that there is some high swing  
25 in mercury content in waste coal, a lot more than

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           in regular coal even. And it just provides some  
2           flexibility. We don't expect to see any real  
3           difference in the emission limits.

4 MR. RAMAMURTHY:

5           The other, or one other point I wanted to make:  
6           The thing is, again, I would like to -- Gene  
7           mentioned, it's really, all of the requirements,  
8           basically .0096 pounds per GWh, all are 95%  
9           reduction. So, the 95% reduction is probably, in  
10          most cases, going to be controlling, because the  
11          data we have seen is, throughout, pretty much they  
12          can meet 95%.

13 MR. SLADE:

14          There were only two facilities we saw that might  
15          have to go to the pound per MW -- or ounces per MW,  
16          sorry. But, you know, so we...

17 MS. PARKS:

18          It's not your choice? I understood that was a  
19          choice.

20 MR. SLADE:

21          It is a choice, it is a choice. But we were in the  
22          numbers, and there's only two that might have to go  
23          to it in our opinion. So, you know, it would be  
24          very limited applicability to that, to be honest  
25          with you.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MS. PARKS:

2 My second question is on this most recent issue.  
3 System-wide averaging is about something that we've  
4 been avoiding for the last 15 years that I've been  
5 here. And you're suddenly opening this Pandora's  
6 box. And, I believe, if you go to system-wide  
7 averaging, you're not going to be able to get the  
8 site-specific, unit-specific reductions that we  
9 need in the areas where we have the highest mercury  
10 deposition in this state. It's going to be done on  
11 an economic basis, not on a public health basis.  
12 And the reason we're doing this is to protect  
13 public health. And this is a really bad idea, and  
14 I don't believe we should be doing this.

15 MR. SLADE:

16 Well, that's why we retained the 80%-90%, to make  
17 sure that that wouldn't be an issue.

18 MS. HATALA:

19 You're saying, I just wanted to -- Joyce Hatala  
20 from CAC. I just wanted to comment, because I hear  
21 all the comments today, that there's the other side  
22 of it too. And people that I speak to, whether  
23 they're physicians -- I've spoken to dentists, I've  
24 spoken to people that work in hospitals, a lot of  
25 them are just the average citizens. But there are

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 concerns -- as Nancy Parks just stated -- from  
2 residents that I talked to, dozens of people that  
3 are concerned about the site-specific older plants  
4 that are operating. And whether you call it  
5 hotspots, or whether you don't call it hotspots,  
6 but there's so many people I've spoken to that are  
7 part of those thousands of comments, and they are  
8 concerned about all of the plants. They are  
9 concerned about public health. There's physicians  
10 that I've spoken to that said that they wouldn't  
11 advise any of their pregnant women patients to eat  
12 any fish from Pennsylvania. It's different if it's  
13 me, or if it's you, or if it's someone else, but  
14 the pregnant women shouldn't eat fish that are  
15 caught in Pennsylvania waters. These are from  
16 physicians. So, there's, you know, like we're  
17 hearing so much today, and so what I'm hearing --  
18 what I wanted to say today is that there's so many  
19 people that have spoken to me that are concerned  
20 about the public health. And they applaud the  
21 Department for a lot of the regulations that are  
22 being promulgated. And I feel that I have to say  
23 that, because somebody has got to say the other  
24 side of this, too. Thank you.

25 MR. FIDLER:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           Okay. Vince?

2 MR. BRISINI:

3           One observation: One thing I wasn't sure is that  
4           rather than controlling IGCC's, what you really  
5           need to do is controlling units that burn synthetic  
6           gas. You don't know if in the future you could  
7           have a simple-cycle combustion turbine for  
8           synthetic gas from, derived from coal. So, I  
9           didn't know -- did you...

10 MR. SLADE:

11           Yeah, that was the...

12 MR. BRISINI:

13           Did you...

14 MR. SLADE:

15           ...that was the revision that we made...

16 MR. BRISINI:

17           Okay.

18 MR. SLADE:

19           ...that addressed that issue.

20 MR. BRISINI:

21           As far as the system-wide averaging and the  
22           flexibility, the reason I talked about inter-  
23           company averaging is that you have companies like  
24           First Energy and EME who have a single facility,  
25           that we want to keep them making investments

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           enhancements in those facilities to achieve. And  
2           there's really no incentive for them unless they  
3           have the ability to average with other people. The  
4           important issue -- and I think it gets yours -- is  
5           that no one at any point has said, "Let's not  
6           control mercury." And the question really gets to  
7           be: How do we control it? And we have the unit-  
8           specific provisions, and so on. The question gets  
9           to be: As you reach into Pennsylvania, the budget  
10          for Pennsylvania was developed with a conjecture,  
11          as it related to implementation of strategy in the  
12          Clean Air Interstate Rule, and the co-benefits.  
13          And the circumstances for bituminous coal, this has  
14          been raised -- and it's been addressed by the  
15          Department -- in that allocations that otherwise  
16          would've come to Pennsylvania have, in fact, gone  
17          to other states, where they suspected they would  
18          not be able to control effectively, which they have  
19          since learned they can. So, to me, the real issue  
20          is there are very specific provisions with very  
21          stringent control requirements, and they certainly,  
22          I believe, they certainly address health concerns,  
23          or concerns relative to local deposition. But we  
24          also have to look at it from the standpoint of what  
25          this means in terms of keeping honest. We can't be

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 blind to that as well. And we really need to  
2 consider that there are some significant portions  
3 of Pennsylvania coal supplies, that folks who burn  
4 coal and are subject to this regulation will have  
5 to consider not using those coal supplies. And I  
6 know that for a fact, because I've been involved in  
7 some of those decisions. So, we really do have to,  
8 you know, decide what is appropriate. And the  
9 reason I ask that is because once we give the 80%  
10 and 90% -- once we get to the 80% and 90%  
11 reduction, what is there that you really would gain  
12 by not retaining some flexibility? And the other  
13 issue that you have to consider is that in  
14 Pennsylvania, we're electric full-cell generators.  
15 We're no different than any other competitive  
16 company. We have to go to financial institutions,  
17 and we need definitive certainty compliance to  
18 satisfy issues with those financial institutions.  
19 Those are some of the issues that you get into.  
20 And we have to, if we look at this -- and, quite  
21 honestly, that's why the comments that you can have  
22 a two-phase regulation with very stringent specific  
23 controls as proposed by the Department in trading,  
24 and have the best of both worlds.

25 MR. HEINE:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Can I -- this is Walter Heine, Citizens Advisory  
2 Council. I have a follow-up question to ask.  
3 Economics, of course, is very important in the  
4 whole Commonwealth. If a power plant is mandated  
5 to reduce its mercury emissions, and one "out" it  
6 has, if you will, is to purchase allowances -- let  
7 me state an example. A power plant in lower  
8 Pennsylvania, old power plant now has to upgrade.  
9 But it can, under the Federal rule as I understand  
10 it, they could go to a New Jersey power plant, or  
11 they just go buy a brand new power plant that has  
12 excess allowances there that they could purchase  
13 those? I mean, is that the way it works? They  
14 could purchase those, and therefore reduce the  
15 amount of actual control that would be implemented  
16 at the Pennsylvania plant? Is that the way that  
17 works?

18 MR. BRISINI:

19 Well, it depends. You have to get into details  
20 with specific programs. If you look at the Acid  
21 Rain Program, that's exactly how it works. But, if  
22 you control and you have an allocation from the  
23 existing source, and you implement controls, and  
24 you emit far less than your budget, you have the  
25 ability to trade some of those allowances. That's

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 not quite how it works for nitrogen oxide, and this  
2 is how we, how Reliant Energy proposed that it  
3 would work under mercury, in that you would have  
4 two separate rules. In the two separate rules, you  
5 would -- in this case, with the mercury, what you  
6 would have is you would have a specific provision  
7 implementing exactly what is proposed for the  
8 standards. The 80%, the 90%, the technologies, new  
9 source set-aside, everything is the same. Simply  
10 what you would do is that you would replace the  
11 annual limit in the petition process in the  
12 supplement pool with the CAMR regulation such that,  
13 if you were able to achieve some level beyond your  
14 allocation, you would be able to trade. But, on  
15 the other hand, you would be able to have certainty  
16 that if you ended up with a supplier whose mercury  
17 was higher, you could continue to use that coal,  
18 and you could address that on a year-to-year issue  
19 via trading. But, by virtue of the unit-specific  
20 provisions, you would have a very limited amount of  
21 trading that would be going on. In other words,  
22 you would control the amount of trading by virtue  
23 of your standards that you have to meet on a  
24 facility basis. That's exactly the way the

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           nitrogen oxide program works in Pennsylvania right  
2           now.

3 MR. RAMAMURTHY:

4           But, still, the answer to your question is still  
5           yes. I mean, the moment you have a trading, if  
6           that happens, if you purchase alone from somewhere,  
7           that amount of reduction is not going to happen  
8           here. So...

9 MR. BRISINI:

10           That's...

11 MR. RAMAMURTHY:

12           Rather, it is likely to happen.

13 MR. BRISINI:

14           Krish, that...

15 MR. RAMAMURTHY:

16           You can argue all about that.

17 MR. BRISINI:

18           That is...

19 MR. RAMAMURTHY:

20           But the answer to his question is yes.

21 MR. BRISINI:

22           That is a differentiation that I made between the  
23           SO2 Program, and the NOx Program, and it's an  
24           important differentiation. The differentiation is  
25           that under the SO2 Program, that's exactly how it

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 works. It does not work that way -- however, under  
2 any allowance provision, you are not allowed to use  
3 an allowance to emit above a unit, or a site-  
4 specific standard. Allowances, you just can't go  
5 out and buy a bunch of allowances and use them.  
6 You have a limit that's established for your plant.  
7 You cannot use allowances to exceed any established  
8 limit in your program.

9 MR. HEINE:

10 But is that limit, though -- in this hypothetical  
11 Pennsylvania plant -- that is required to reduce  
12 emissions or not? I think I heard him say is that  
13 they still have to have some reduction of mercury;  
14 but, in order to get into "compliance," they could  
15 purchase. Could they not still go somewhere else  
16 and purchase allowances or credits?

17 MR. BRISINI:

18 Not to meet a standard, no. Not to meet the  
19 standard. In other words, if you had the  
20 standards, you'd have to implement an 80% to 90%,  
21 exactly what's proposed in the rule, is what we're  
22 proposing is that you'd have to meet a standard.  
23 And you also have a limit based on the CAMR  
24 allocation. Now, the issue that we have is that  
25 the specified reductions under CAMR for

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 Pennsylvania are very, very stringent. For  
2 example, if you look at Page 1, you're talking,  
3 with the new source set-asides, you're talking  
4 about 85% reduction from the mercury in coal, that  
5 I think it will be -- that that will be achievable.  
6 But, when you get to a situation where you have a  
7 new source set-aside, and you look at the  
8 historical poll that was analyzed as part of the  
9 EPA's information collection request, the reduction  
10 requirement that's specified in the CAMR allocation  
11 for Pennsylvania, it'll be somewhere in the  
12 vicinity of about a 95% removal requirement. So,  
13 it's going to be very difficult to have over-  
14 control on a unit-specific basis, even to do  
15 system-wide averaging in the second phase. And I  
16 think that's an important point. There's just  
17 really not going to be stuff left over. Sir?

18 MR. SLADE:

19 Is this on this discussion?

20 MR. WENDELGASS:

21 No, I -- well, I have...

22 MR. SLADE:

23 Okay.

24 Mr. WENDELGASS:

25 ...a comment, and then I have a question about it.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. SLADE:

2 Because I wanted to add a comment in here for  
3 Walter. One of our concerns, Walter, to address  
4 your issue is a company could choose to -- and it  
5 is like right now, they buy low-sulphur coal.  
6 Lower-sulphur coal costs more. A company could  
7 choose to buy a higher-mercury coal. It's actually  
8 easier with higher-mercury coal doing, to begin  
9 with, to get your percent removal. So, if you can  
10 go to an allowance and buy allowances from outside,  
11 that would drive you to buying cheaper, higher-  
12 mercury coal, then get your percent removal, and  
13 yet you may need to purchase allowances to bring  
14 in. I'm just saying that's a driver...

15 MR. BRISINI:

16 Which happens to be Pennsylvania coal...

17 MS. PARKS:

18 Correct.

19 MR. BRISINI:

20 ...because Pennsylvania coal...

21 MR. SLADE:

22 Actually, Pennsylvania...

23 MR. BRISINI:

24 ...has been shown to have the highest mercury  
25 content.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. SLADE:

2 Well, let's not actually get into that. A lot of  
3 Pennsylvania's low-mercury coal is going out of  
4 state, but we won't get into that either. I don't  
5 think we're...

6 MR. HEINE:

7 Just to make sure, and again -- I'm sorry. Can I  
8 have one more follow-up on this? I'm more confused  
9 now than I was. In my hypothetical, if what you're  
10 saying is that this hypothetical old power plant in  
11 Pennsylvania cannot just go to a plant somewhere  
12 else, to a New Jersey plant, a brand new shiny New  
13 Jersey power plant that have excess credits or  
14 whatever, so you're saying they can't simply go  
15 there and purchase, if you will, some credits, so  
16 they have to -- so that the Pennsylvania plant can  
17 do less, invest less money in correcting the  
18 pollution problems at that plant? And am I  
19 understanding, well, it can do that?

20 MR. WENDELGASS:

21 And under CAMR, it's my understanding that they, in  
22 fact, could.

23 MR. HEINE:

24 And if they can under CAMR, then the cost -- I  
25 mean, that the customers at that old power plant

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1           are still going to have to bear the cost of buying  
2           credits from this New Jersey plant in my  
3           hypothetical.

4 MR. WENDELGASS:

5           Well, and what...

6 MR. HEINE:

7           And so, our rates are going to go up anyway. And  
8           when all is said and done, if two years from now a  
9           new rule comes out that, now, the Pennsylvania  
10          plant, "Now, you do have to upgrade..."

11 MR. BRISINI:

12          Well...

13 MR. HEINE:

14          ...and, now, they have to spend money again to  
15          actually put in physical upgrades there.

16 MR. BRISINI:

17          Let me...

18 MR. HEINE:

19          I mean, am I...

20 MR. BRISINI:

21          Let me go back to how I qualified that in the  
22          beginning. In the discussion in the beginning,  
23          what I qualified was the proposal that we as  
24          Reliant Energy made. The proposal that we as  
25          Reliant Energy made is that you can have standards.

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           You can implement the standards exactly as  
2           identified by DEP. And, by virtue of the  
3           implementation of those standards, you will have  
4           facility-specific reduction requirements, 80%, 90%.  
5           They will be accelerated ahead of the Clean Air  
6           Mercury Rule requirements of 2010 and 2018. They  
7           will have to make reductions. Everyone will have  
8           to make reductions, and that will have to be done  
9           as a state-specific rule. My point -- and it gets  
10          to the point that Gene Trisko made -- this is what  
11          many states are doing to address those issues.  
12          Instead of, and the only change that you need to  
13          make with the Pennsylvania rule to do that is that  
14          instead of the annual limit -- which is based upon  
15          CAMR allocations. And the petition process for the  
16          supplement pool, if you use the trading program --  
17          and, in this case, they're using a system-wide  
18          trading program, averaging program to address those  
19          issues between plants. But, from a practical  
20          standpoint, I really don't see much difference if  
21          you were to implement an unrestricted trading  
22          program, or an inter-company program that's intra-  
23          state, because the unit-specific requirements that  
24          you have a specific requirement you can't exceed  
25          because of allowances. Allowances would be used to

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 address your other standard as it lives in a  
2 separate program. Because, when you say "allowance  
3 program," you really have two very different kinds  
4 of allowance programs. You have the Acid Rain,  
5 which is like the CAMR, which is unrestricted, and  
6 it could happen exactly as you were envisioning.  
7 But, you have also the Nitrogen Oxide Program that  
8 has a component -- and we called it Phase I, II and  
9 III -- which was NOx, which are unit-specific  
10 requirements to reduce nitrogen oxides which were  
11 implemented across the state by 1995. But, then,  
12 you have on top of that the trading program that  
13 reduced emissions 55% to 65% across the Northeast,  
14 those that are on trading program. And, now,  
15 you're in the NOx sift call, which was Phase III,  
16 which was a further reduction in the trading  
17 budget. And, so, you can have standards that work  
18 in conjunction with the trading program. And those  
19 standards, you cannot exceed the standards using  
20 allowances. So, it's not as simple as the Acid  
21 Rain Allowance Program.

22 MR. HEINE:

23 Actually...

24 MR. BRISINI:

25 I hope that helps.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. HEINE:

2 It certainly isn't simple. Thank you.

3 MR. FIDLER:

4 Okay, let's move along. Sir?

5 MR. WENDELGASS:

6 One comment, and then one question I have. The  
7 question was: Is there more to your presentation?  
8 Are there more objectives?

9 MR. FIDLER:

10 There's two more slides.

11 MR. WENDELGASS:

12 Okay. Is that -- I'd like it if we could get  
13 through them...

14 MR. FIDLER:

15 Yeah.

16 MR. WENDELGASS:

17 ...before lunch as well.

18 MR. FIDLER:

19 Okay.

20 MR. WENDELGASS:

21 I just...

22 MR. FIDLER:

23 Just two...

24 MR. WENDELGASS:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           ...have a comment. I want to just echo what Nancy  
2           said about our concerns about moving to system-wide  
3           trading, and that to the degrees in which you say  
4           that there are -- that the sort of controlling  
5           factor would be the annual emission limit. To the  
6           degree that we incorporate a system-wide trade --  
7           system-wide averaging, our concern is that at the  
8           end of the day we're going to be perpetuating  
9           disparate deposition levels, disparate emission  
10          levels and disparate deposition levels around the  
11          state, with the disparate impacts on public health  
12          around the state. And, so, we do have a concern  
13          that it is opening -- that it is imposing a bubble  
14          concept, and moving us down the road to sort of  
15          permanent recognition of disparate depositions and  
16          disparate health effects.

17 MR. FIDLER:

18           Jan, did you have a question or comment?

19 MS. JARRETT:

20           No.

21 MR. FIDLER:

22           Okay, thank you. Let's move on.

23 MR. RAMAMURTHY:

24           Okay. I can summarize the rest of them in a much  
25          more shorter form than a lot of verbiage, unless

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           you want an        actual, or probably, we probably  
2           won't really -- to cover all that's in this.  
3           Basically, what it is is for the monitoring  
4           requirement, we have -- from the intent we have not  
5           deferred. Basically, it is similar to the Clean  
6           Air Mercury Rule language. I think since the  
7           format of that monitoring language, to suit our  
8           own, the regulatory requirement, and also in  
9           compliance with the CSM Manual and all of that.  
10          So, some -- there was a need for clarification for  
11          the purpose of EPA, I think that's what we made  
12          basically. I think the essence is, we've followed  
13          Part 75 for daily mass emission monitoring  
14          purposes. And then, if there's any alternate  
15          monitoring system, approval is needed, then EPA is  
16          the ultimate authority to really approve that  
17          system. And I think that's basically-- this is  
18          really not a whole lot we can sift through. This  
19          particular, basically, we only talked about that.  
20          They deleted the preference to the 100% bituminous  
21          coal, with certain control configurations is really  
22          removed. But still, we're left with the alternate  
23          preference, is the first one is still the standby  
24          unit. I think we clarified that the standby unit  
25          was basically capable of complying with the

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 emission standard. In other words, there was a  
2 clarification we made in response to one of the  
3 comments we received, that the standby unit may not  
4 have any control at all, and that they should not  
5 have a place in the top of the order. And I don't  
6 think that was our intent. I think that's  
7 basically clarifying that it will be in compliance.  
8 And that's -- the second one will be the IGCCs.  
9 Since we removed that exemption from the emission  
10 limit, then basically for the existing EGU, who is  
11 going to be repowered with the IGCC, they'll be  
12 getting the allocation for the unit which is  
13 getting repowered from the existing EGU set-  
14 aside. And then, the additional allocations  
15 needed, then they'll generally come from that  
16 supplemental pool. So, they'll be in the second of  
17 the pool preference. And then, the third one will  
18 be...

19 MR. SLADE:

20 CFB.

21 MR. RAMAMURTHY:

22 ...the CFB units.

23 MR. SLADE:

24 There's still the monitoring.

25 MR. RAMAMURTHY:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           And then, I think -- yeah, again, there's  
2           monitoring of the recent data, which is obvious  
3           since it'll be complying with the Part 75  
4           requirements. Yeah, this is the coal sampling and  
5           analysis. We are basically given an option to  
6           really let the operator submit a proposal, and  
7           where they'll do it on a case-to-case basis.

8 MR. SLADE:

9           This is relative to the 80%-90% demonstration, so  
10          we have control over that as opposed to EPA,  
11          because they don't have such a requirement.

12 MR. FIDLER:

13          What I would like to do is -- I know there's going  
14          to be some additional discussion on some of the  
15          regulatory concepts. But, in the absence of  
16          time...

17 MR. SLADE:

18          You mean, we can't leave?

19 MR. FIDLER:

20          ...and to get through the slides, I'd like Joyce to  
21          cover sort of our schedule, because it is very  
22          aggressive, very compressed, and to give everybody  
23          an expectation of what we're facing as we move  
24          forward. And then, we'll open up for a period of  
25          general discussion.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1 MS. EPPS:

2 The next slide, please. With the now-confirmed  
3 10,934 comments, we're going to be spending the  
4 rest of the week and the weekend getting those  
5 comments processed. What has really helped us a  
6 lot is that the EQB now has an electronic process  
7 where we don't have to wait until the end of the  
8 comment period to receive those comments. So, we  
9 have been receiving them electronically, and the  
10 staff have been working to basically deal with the  
11 comments that support, and those that are in  
12 opposition. Based on a very conservative estimate  
13 of the comments that we have received to date, the  
14 estimate is that 90% of the comments are in support  
15 of the proposed rule, and 10% in opposition. As we  
16 continue to work through the comments, we're  
17 anticipating that the number in support will likely  
18 increase. We will definitely need to get a  
19 complete comment-and-response document drafted.  
20 The intent is to have that document completed so  
21 that we can have further discussions about the type  
22 of comments and issues that we will have to  
23 address. Clearly, EPA has concerns about the  
24 approvability of the regulation as it relates to  
25 our State Plan. So, we decided to take a look at

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 those issues initially, and then we would go back  
2 and take a look at where there are other changes  
3 that we need to make. The decision was made that  
4 we would not depart from the Department's long-  
5 standing position, that we would not allow the  
6 trading of mercury emissions. Although we are  
7 incorporating emissions averaging for the annual  
8 emission limitation, we made that decision with  
9 certainty that you would achieve actual emission  
10 reductions at every facility. That had to be the  
11 premise. And, so, because of the fact that you  
12 have both an emission standard and an annual  
13 emission limitation, the emission standard will  
14 ensure that we're going to get reductions at every  
15 facility. So, I'm cognizant of the concerns that  
16 are being raised by the enviros. I'm cognizant of  
17 the concerns that are raised by industry. But, the  
18 goal is to ensure that we achieve mercury  
19 reductions within our borders. During the approval  
20 of our proposed rulemaking, there was a request by  
21 the Citizens Advisory Council that we draft a  
22 decision document, so that when we go back to the  
23 EQB, we will have this document available, and it  
24 will basically lay out what factors we took into  
25 consideration after we made changes from the

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 proposed to the final. That document is being  
2 drafted. There was a question raised about whether  
3 it would be available in time for the AQTAC Meeting  
4 on September 11<sup>th</sup>. I'm committed to having that  
5 document available electronically by September 8<sup>th</sup>.  
6 So, Joe, you should get a copy of it sometime late  
7 on September the 8<sup>th</sup>. In terms of completing the  
8 final form regulation, we will continue to review  
9 the comments, address concerns that were made. And  
10 what was interesting about the type of comments  
11 that we have received, it was a very diverse group  
12 of comments. We got comments from enviros. We  
13 even got comments from lawyers, raising the  
14 constitutionality issues. And so, clearly, we took  
15 those issues into consideration when we were  
16 thinking about how to go about with framing a final  
17 form regulation. So, we will also need to go back.  
18 And, Bo, we're going to keep him busy over the  
19 weekend, too, because we'll need to have him draft  
20 the preamble. We'll need to do the regulatory  
21 analysis form. So, the next ten days will be,  
22 really, crunch time for us. And the staff has been  
23 committed to getting this project finished  
24 according to the directive. Clearly, it is  
25 unprecedented that we, on such, with such a short

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 timeline to get a regulation done, but the staff  
2 has worked diligently to make sure that this  
3 happens. Let's move on to the next slide, please.  
4 So, what we're going to do on September the 6<sup>th</sup>, in  
5 support of our State Plan, which is out for public  
6 comment. Because until the State Plan is approved,  
7 if EPA were to come out with a Federal  
8 Implementation Plan, those units would be subject  
9 to that Federal Implementation Plan until the State  
10 regulation and the Federal Plan was approved by  
11 EPA. We're required to have at least one hearing  
12 on the plan. We have decided to hold three public  
13 hearings, as was stated earlier. They're all going  
14 to take place on September the 6<sup>th</sup>. And we intend  
15 to submit the State Plan to EPA for approval prior  
16 to the November 17<sup>th</sup> due date. The next slide,  
17 please. We'll come back to AQTAC on September the  
18 11<sup>th</sup>. That meeting will be held out at the  
19 Southwest Regional Office. And we'll meet with  
20 Citizens Advisory Council here on September the  
21 19<sup>th</sup>. And we're intending to also go to the EQB on  
22 October the 17<sup>th</sup>, with a final form regulation.  
23 So, that's basically where we are in terms of  
24 dealing with the issues that will have to be  
25 addressed in coming weeks.

**DIAZ DATA SERVICES**

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. FIDLER:

2 Any questions at all on the schedule?

3 MR. WESTMAN:

4 Yes.

5 MR. FIDLER:

6 Yes, Roger?

7 MR. WESTMAN:

8 Those of us at AQTAC at least received a set of  
9 comments from Mr. Biden that have some fine-tuning,  
10 as well as actually recommendations in them.  
11 Concerning my comment or question today, it is  
12 specifically on the fine-tuning. You know, that  
13 set of comments was dated -- we received it August  
14 25<sup>th</sup>. I don't know whether they were actually in  
15 your comments or not. That's outside the comment  
16 period. Can they still be considered?

17 MS. EPPS:

18 We'll have discussions with the council, and get  
19 back to you on that.

20 MR. WESTMAN:

21 Okay.

22 MR. FIDLER:

23 That was not outside the comment period.

24 MS. EPPS:

25 The 25<sup>th</sup>?

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. WESTMAN:

2                   You accepted it.

3 MR. FIDLER:

4                   Never mind, never mind.

5 MS. EPPS:

6                   We really accepted comments until August 28<sup>th</sup>,

7                   because the 26<sup>th</sup> fell on a Saturday.

8 MR. FIDLER:

9                   Right.

10 MR. WESTMAN:

11                   Thank you.

12 MR. FIDLER:

13                   Are there questions about procedures and timelines?

14                   Okay. Then, let's -- are there other comments,

15                   questions to be made with respect to proposals or

16                   revisions to the proposed reg? Gene?

17 MR. TRISKO:

18                   Gene Trisko, United Mine Workers. Very briefly.

19                   I'm following up on Vince's comments about the

20                   single-plant situation. One should note that the

21                   State of Illinois did its -- separately pursuing

22                   its own mercury rule, provides a mechanism whereby

23                   so-called "orphaned plants," single-plant

24                   situations in Illinois can group together and form

25                   a system for compliance-averaging purposes. And

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           such a system may be applicable and beneficial in  
2           Pennsylvania since you do have these single owned  
3           or orphaned plants, and that it would help to  
4           address the incentive to over-control.

5 MR. FIDLER:

6           Thank you. Roger? Please identify yourself.

7 MR. WESTMAN:

8           Roger Westman. A question in the duration of the  
9           preference for bituminous coal: Is it just that  
10          that word is being deleted, or is -- how is it that  
11          actually working? And I'm looking at the language,  
12          and I'm not sure how it would work in that process.

13 MR. FIDLER:

14          John? Krish?

15 MR. SLADE:

16          No, it's all being deleted, Roger.

17 MR. FIDLER:

18          I think the answer was it was being deleted in its  
19          entirety.

20 MR. SLADE:

21          Yeah.

22 MR. WESTMAN:

23          So, we're not just deleting the word "bituminous?"  
24          We're deleting the entire preference. So, under

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1           the deficient process, and also as it relates to  
2           the standard, the presumption.

3 MR. FIDLER:

4           Joyce?

5 MS. HATALA:

6           Mine was a very similar question. Joyce Hatala,  
7           CAC. Coming from the Northeast, we still have a  
8           couple of counties left that are using anthracite  
9           coal. So, my question was: You deleted the word  
10          "bituminous," so anthracite also fits in there? We  
11          have, again, we have a couple of counties; and,  
12          from what I understand, it is lower-sulphur coal.  
13          Am I correct in thinking that...

14 MR. ELLIS:

15          Yes.

16 MS. HATALA:

17          ...it's also lower-sulphur?

18 MR. ELLIS:

19          Yes.

20 MS. HATALA:

21          Okay. So, it would probably fit more readily into  
22          the new mercury emission standards, which the DEP  
23          has set? It would be easier to meet those  
24          standards using the small amount of anthracite coal  
25          we have? This is just a question that I want to

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664



1           know for knowledge. It's not any -- I mean, I just  
2           wondered where anthracite coal would stand?

3 MR. FIDLER:

4           My sense would be yes, but maybe one of the utility  
5           reps could...

6 MS. HATALA:

7           Okay.

8 MR. RAMAMURTHY:

9           Yeah...

10 MS. HATALA:

11           I just wondered.

12 MR. RAMAMURTHY:

13           ...they do contain less mercury than bituminous.

14 MS. HATALA:

15           Right, right, and less sulphur, and...

16 MR. RAMAMURTHY:

17           Yeah.

18 MS. HATALA:

19           Sulphur content.

20 MR. REILEY:

21           Right. And I think the EPA, in its CAMR  
22           rulemaking, only identified the one plant that  
23           burns anthracites exclusively.

24 MS. HATALA:

25           Okay.

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

1 MR. REILEY:

2                   So, I mean, it's not going to have that much of an  
3 effect.

4 MS. HATALA:

5                   Okay. I just wondered.

6 MR. REILEY:

7                   Okay.

8 MS. HATALA:

9                   Thank you.

10 MR. FIDLER:

11                   Yeah.

12 MR. FIORENTINO:

13                   Michael Fiorentino of AQTAC. I just want to  
14 clarify. I have heard that the supplement  
15 preference for bituminous coal has been removed,  
16 but I wasn't sure if I heard whether or not the  
17 presumption of compliance based on the use of 100%  
18 bituminous coal and the certain suite of controls  
19 established. Is that also removed, or does that  
20 remain?

21 MR. REILEY:

22                   Yes, those are removed as well.

23 MR. FIORENTINO:

24                   Thank you.

25 MR. FIDLER:

DIAZ DATA SERVICES

331 Schuylkill Street, Harrisburg, PA 17110 (717) 233-6664

