

**Air Quality Control Advisory Council Meeting Notes
Sept. 18, 2017 @ 8:15 am
MDE Headquarters
1800 Washington Boulevard
Baltimore, MD 21230**

AQCAC MEMBERS PRESENT

John Quinn-Chairman
Sania Amr, M.D.
Sara Tomlinson
Todd Chason, Esq.
Lawrence (Larry) Schoen, P.E.
Julian Levy
Ross Salawitch, PhD
Rebecca Rehr
Hon. Leta Mach
Weston Young, P.E.
Benjamin (Ben) Hobbs, PhD

MDE-ARMA

George (Tad) Aburn
Brian Hug
Carolyn Jones, P.E.
Eddie Durant
Husain Waheed, PhD
Joshua Shodeinde
Chris Hoagland
Luke Wisniewski
Megan Ulrich, Esq.
Randy Mosier
Wendy Sollohub
Steve Lang
Karen Irons

AQCAC MEMBERS ABSENT

John Kumm, P.E., BCEE – Vice Chairman
Sue Garonzik- (via webinar- Remained silent during entire meeting so recorded as listen only)
Lawrence Kasecamp

VISITORS

Justin Godin – KBE (via webinar)
Chandra Chithaluru – Maryland Ports (via webinar)
Anne Lindner – Constellation (via webinar)
Amal Agharker – KBE - (via webinar)
Ariel Solaski- CBF
Paul Dickson- Dominion Energy
Susan Barnes – Trinity Consultants
Amber Kara – ERM Inc
Gary Lasako – American Sugar
Alayna Chuney - CBF
David Cramer- NRG
Nathan Rushing – CPV
Jack Andrews –CPV
Andrew Bodnarik - OTC (via webinar)
Joseph Pietro – Dominion Energy (via webinar)
Ronald Paugh - (via webinar)

This is a summary of the Sept 18, 2017, Air Quality Control Advisory Council Meeting and serves as a record of the Council's vote on regulatory action items. The meeting is recorded and the digital file is maintained by MDE/ARA. This digital file is considered public information and may be reviewed in its entirety by anyone who is interested in the details of the discussions.

Available at MDE website:

<http://mde.maryland.gov/programs/workwithmde/Pages/AQCAmeetingminutes.aspx>

MEETING OPENING/OPENING REMARKS

Chairman John Quinn opened the meeting by welcoming everyone to the Air Quality Control Advisory Council (AQCAC or the Council) meeting. Two new Council members were introduced: Mr. Weston

Young, representing the Maryland Association of Counties, and Dr. Benjamin Hobbs, representing the Johns Hopkins University.

Mr. George (Tad) Aburn updated the Council on several air quality topics. Air Quality continues to improve in Maryland as fine particulate levels decrease. Ozone levels are close to meeting NAAQS. Maryland is also seeing progress in pollution transport from upwind states, which is much lower now than ever before. Additionally, initial 2017 emissions data from the 36 power plants that Maryland filed a 126 petition against shows that those power plants have lower emissions this ozone season. The EPA has yet to respond to the 126 petition and the Department plans to take further action. Another hot topic is the VW settlement, in which Maryland was given \$76 million, to implement NOx reduction initiatives. There is an ongoing process to discuss how to best utilize the VW settlement money – two potential areas are diesel cleanup projects and electric vehicle infrastructure. Lastly, the Department is researching further greenhouse gas reductions by 2030 and will propose amendments to RGGI in the near future.

Chairman John Quinn asked the recent guests to the meeting to announce themselves at approximately 12:42.

Approval of Minutes from June 19, 2017 meeting:

Chairman John Quinn called for a motion on the June 19, 2017 meeting minutes at approximately 8:41 a.m.

Motion to approve the June 19th, 2017 minutes was made by Julian Levy and seconded by Todd Chason. All members voted in favor, and none opposed, at approximately 8:42 a.m. (~ 12 min into recording).

ACTION ON REGULATIONS

COMAR 26.11.40 – NOx Ozone Season Emission Caps for Non-trading Large NOx Units:

Mr. Randy Mosier presented on the proposed New Regulations .01-.04 under COMAR 26.11.40 NOx Ozone Season Emission Caps for Non-trading Large NOx Units, amendments to regulation .01 under COMAR 26.11.01 General Administrative Provisions, and amendments to regulation .07 under COMAR 26.11.14 Control of Emissions from Kraft Pulp Mills at approximately 8:50 a.m. (~ 20 min. into the webinar recording).

The purpose of this action is to propose new regulations to meet federal NOx State Implementation Plan (SIP) Call requirements under the Clean Air Act (CAA). In 1998, EPA promulgated the NOx Budget Trading Program as a central component of the broader NOx SIP Call. The NOx SIP Call was designed to mitigate transport of NOx in the eastern United States during the ozone season. Under this rule, EPA allocated each State a specific NOx ozone season emission budget cap after first classifying large point sources of NOx as either an electric generating unit (EGU) or a Non-EGU. The rule eventually morphed into the Clean Air Interstate Rule (CAIR), implemented in 2009, and the Cross State Air Pollution Rule (CSAPR), implemented in 2015. As part of the implementation of CAIR, Maryland was tasked with preparing a plan to address the non-EGU units which had been included in the NOx SIP Call. The non-

EGU units were boilers, combustion turbines or combined cycle units that could be regulated by the State rather than covered by CAIR. In 2010, under COMAR 26.11.14.07, MDE allocated the entire NOx ozone season emission budget to the only identified source in Maryland – Luke Paper Mill. A recent review of existing and proposed sources in Maryland has shown that there are additional non-EGU facilities subject to the NOx Budget Trading Program. These facilities are not power plants (EGUs) but they have a boiler, combustion turbine or combined cycle unit that is over 25MW or 250 MMBtu. The Department has termed the sources subject to this regulation as “Large Non-trading Unit” sources. MDE needs to reallocate the NOx ozone season emission budget among the affected sources – Luke Paper Mill, Dominion Cove Point LNG, and American Sugar. An additional facility, the National Institutes of Health (NIH), is currently deciding whether the facility would like to maintain the flexibility to operate their combined cycle system during the ozone season. If NIH does decide to maintain this flexibility, the requirements of the proposed action will apply to the facility. All affected facilities are required to install a “Part 75” continuous emission monitor and report to EPA.

The Council inquired about the basis behind the NOx ozone season emission budget cap of 1013 tons and the possible flexibility of this number to change if new units come to Maryland. Chairman John Quinn expressed concern about inflexible emission caps. Randy Mosier responded that the tonnage cap was set by EPA in 1997, taking into account all sources of NOx emissions in Maryland at that time, including power plants and industrial sources. The NOx ozone season emission budget cap will remain in place until EPA makes a change, but Maryland has the authority to dispense the emission cap as needed.

Council members Rebecca Rehr and Ross Salawitch expressed concern on the consideration of affected facilities current VOC emissions, stating VOC and NOx contribute to ozone formation. Randy Mosier explained this regulatory action is a requirement of the EPA for NOx emission caps. Tad Aburn responded that VOC emissions are being looked into through other regulatory avenues, and suggested the Council follow the actions at the Public Service Commission.

Motion to approve the proposed Regulation was made by Larry Schoen and seconded by Dr. Sania Amr. Nine members voted in favor, none opposed, and one abstained at approximately 9:35 a.m. (~65 min into webinar recording)

COMAR 26.09.02.08 & .09 – Clean Generation Set-Aside Account:

Mr. Brian Hug presented on the proposed amendments to the Maryland CO₂ Budget Trading Program, Regulations 26.09.02.08 - Voluntary Renewable Set-Aside Account (VRSA) and 26.09.02.09 Clean Generation Set-Aside Account (CGSA) at approximately 9:36 AM (~ 67 minutes into webinar recording).

The Regional Greenhouse Gas Initiative (RGGI) is composed of individual CO₂ Budget Trading Programs in each RGGI participating state. Maryland’s CO₂ budget trading program contains four Set-Aside Accounts, among which are the VRSA and CGSA. The intent of the VRSA was to spur renewable energy development, and with the increased sustainability of renewable energy in recent years, the VRSA can expire. As currently written in the proposed amendments, the VRSA will expire on January 1, 2018. Furthermore, the proposed amendments introduce two new terms to COMAR 26.09.01.02B – Definitions “Early Applicant” and “Non-early Applicant”. An Early Applicant is a CO₂ budget unit that

commences operations prior to or on December 31, 2017 and a Non-early Applicant is a CO₂ budget unit that commences operation after December 31, 2017. Maryland's CGSA is currently set at 1,875,199 tons for 2017, but will decrease annually until reaching 937,599 tons in 2022, and expires completely on January 1, 2023. Until the CGSA expires, the Department will award CO₂ allowances from the CGSA to an eligible CO₂ budget unit for each ton of CO₂ annually emitted by the eligible CO₂ budget unit for that calendar year.

Mr. Nathan Rushing from Competitive Power Ventures (CPV) gave a presentation on the effects of the proposed amendments to their business operations. Mr. Rushing stated that the proposed retroactive rule making negatively impacts the way CPV has procured RGGI allowances throughout 2017. CPV is supportive of the Early Applicant concept but requests that the concept not be applied in how allowances are awarded in 2018, which would have been based on 2017 emissions – the company requests allowances be awarded in 2018 as written in the existing regulation.

Council members inquired as to the necessity for the proposed regulation to be approved at this meeting and about the environmental impact of the rule being in effect in 2018. The Department responded that the agency had been working with CPV in the rule development and would like regulatory consistency through the remaining 6 years – 2017 through 2022, before the CGSA expires in 2023. In order for the regulations to be effective before the end-of-the-year compliance deadline, the Department needs to propose these amendments as soon as possible. There will be no specific environmental impacts as a result of the proposed amendments being in place now versus a one year delay, but the Department is comfortable with the proposed amendments as written in consideration of all affected units.

Motion to approve the proposed amendments with further debate was made by Todd Chason and seconded by Julian Levy at 10:33 AM.

The Council continued discussions. Dr. Ross Salawitch and Larry Schoen believe the equitable path forward would be to award allowances in 2018 proportionally based on unit emissions in 2017. Brian Hug and Chris Hoagland explained the division factors the Department used to establish fair allocations to all sources.

Some Council members expressed a belief that the proposed changes to how allowances are awarded in 2018 were retroactive in nature and suggested that the existing Regulation remain in place for 2018 awards. Other Council members suggested approving the Regulation as proposed and to allow the public process to take its course. Council members and the Department confirmed the importance of a stable banking program for this program.

The Council discussed a motion to amend 2017 allowances and keep 2018 – 2022 with the same allowances.

Dr. Ross Salawitch suggested that the Department be given the flexibility to amend the Regulation based on public input on the 2018 awards without bringing the amendments back to AQCAC.

The final motion made, and presented for vote, was to proceed with the proposed Regulation with an amendment that strikes the 2017 allocation – Remove line D(2)(a)(i) – but keep the proposed 2018 – 2022 allocations. This amendment no longer includes changes to the 2018 awards, therefore they remain as current.

Motion to approve the final motion was made by Larry Schoen and seconded by Ross Salawitch. Nine members voted in favor, one opposed, and none abstained at approximately 10:54 a.m. (~154 min into webinar recording).

BRIEFINGS

Process for Implementing 2015 Ozone Standard

Mr. Brian Hug briefed the Council on the current steps of the Clean Air Act 2015 Ozone Standard Implementation at approximately 10:54 a.m. (~144 min into webinar recording)

The EPA had postponed the designation process for the 2015 ozone standard. In October 2016, letters were due to the EPA from states with their designation recommendations for 2015 70 ppb ozone standard. Maryland submitted a letter in October 2016 to EPA requesting that areas in the state be designated as they have been in the past. In June, 2017, EPA proposed to delay the federal designation process; that proposal was rescinded in August 2017 and the original deadline of October 1, 2017 reinstated. There are some states that are proposing that EPA designates larger areas that stretch across states instead of smaller areas. Maryland doesn't think that that will happen.

Council member Julian Levy asked if things at EPA are starting to settle down with the new administration. Tad Aburn stated that an assistant administrator has been named, but it is still very uncertain where EPA is going on air quality issues. It is expected that EPA will finalize designations, however, there is uncertainty as to whether all areas will be designated at the same time.

Council member Ross Salawitch inquired how the Hart Miller Island will factor into designations. The Department responded that the Hart Miller Island monitor is a research monitor and not a compliance monitor. Therefore, it is not weighed into EPA's decision on designations.

Regional Greenhouse Gas Initiative (RGGI)

Mr. Chris Hoagland presented a briefing on the Regional Greenhouse Gas Initiative (RGGI) at approximately 11:03 a.m. (~153 min into webinar recording).

RGGI is a market-based cap and trade program to reduce greenhouse gas emissions. Nine states cooperatively work together to administer the program – Virginia and New Jersey, which are not currently RGGI states, may participate in the future. The nine RGGI states together write a model rule, and each state writes its own regulations based on the model rule. States sell most emission allowances through auctions and invest proceeds in energy efficiency, renewable energy, and other consumer benefit programs. The RGGI states recently announced a consensus agreement to improve the program in the 2020s by: (1) reducing the cap by 30% from 2020 to 2030; (2) adjusting for excess allowances remaining in 2020; (3) improving and maintaining the Cost Containment Reserve (CCR); and (4) implementing a new Emissions Containment Reserve (ECR). The RGGI states will be finalizing a model rule by the fall 2017 and Maryland will commence rulemaking early 2018.

Dr. Ross Salawitch inquired if there will there be reconsideration for state by state allocations as RGGI caps decrease. Chris Hoagland said that reconsideration of budget allocation is an ongoing part of the RGGI program. Individual states determine the distribution of the allowance under RGGI.

Motion to adjourn meeting was made by Leta Mach and seconded by Julian Levy.

The meeting was adjourned at approximately 11:18 a.m.

Next meeting date:

December 11, 2017