

Metropolitan Washington Air Quality Committee
Suite 300, 777 North Capitol Street, N.E., Washington, D.C. 20002-4239
(202) 962-3358 Fax (202) 962-3203

DRAFT MINUTES OF May 23, 2007 MEETING

Attendance:

Members and Alternates

Tad Aburn, Maryland Department of the Environment
Hon. Joy Austin-Lane, Takoma Park
Tom Ballou, Virginia Department of Environmental Quality
Cecily Beall, District of Columbia Department of Environment
Larry Bohn, Frederick County Health Department
Hon. Mary Cook, City of College Park
Hon. Sharon Bulova, Fairfax County
Del. Adam Ebbin, Virginia General Assembly
Jill Engel-Cox, JCET/AQPAC
Hon. Nancy Floreen, Montgomery County, MWAQC Chair
Hon. Leta Mach, Greenbelt City Council
Hon. Wilson Parran, Calvert County
Hon. Redella Pepper, City of Alexandria
Mark Rawlings, DDOT
Howard Simons, Maryland Department of Transportation
Hon. Dave Snyder, City of Falls Church
JoAnne Sorenson, Virginia Department of Transportation
Hon. Mick Stanton, Loudoun County Board of Supervisors
Hon. Beverly Warfield, Prince George's County
Sen. Mary Margaret Whipple, Virginia
Hon. Patrice Winter, City of Fairfax

Others Present:

Randy Carroll, Maryland Department of the Environment
Julie Crenshaw Van Fleet, AQPAC
Barbara Hardy, Fairfax County Department of Health
Sandra Jackson, FHWA
Rodney Livingston, DICEE
Bob Owolabi, Fairfax County Department of Transportation
Pam Parker, Montgomery County Department of the Environment
Ram Tangirala, District Department of the Environment
Harriet West, Clean Air Partners
Alberta Williams, FHWA

Staff:

Mike Clifford, COG/DTP
Stuart Freudberg, COG/DEP
Jeff King, COG/DEP

Sunil Kumar, COG/DEP
Eulalie Lucas, COG/DTP
Heather Mueller, COG/OPA
Dave Robertson, COG Executive Director
Joan Rohlfs, COG/DEP

1. Call to Order, Public Comment Period, Approval of Minutes, Announcements

Chair Floreen called the meeting to order at 12:02 p.m. During the public comment period, Rodney Livingston said that the time for public comment should be extended to five minutes. He said that his previous requests that all meeting materials be provided in open format (html) has not been addressed. He suggested that maker/seller buyback requirements would help reduce the amount of trash. He said that there should be penalties for wasting energy. He expressed concern that judges typically don't penalize aggressive drivers that threaten pedestrian safety. Finally, he expressed concern that air quality was not included in the 2020 Vision document. Ms. Floreen thanked Mr. Livingston for his comments that highlight inconsistencies in human behavior and on the challenges of public processes for improving air quality.

During the public comment period, Julie Crenshaw Van Fleet displayed photographs of an event at the Mirant Potomac River Power Plant from May 21, 2007 at 8 am that show a serious opacity violation. She said there have been a hundred such violations so far in May. She said there was a 6-hour public hearing last night held by the Air Pollution Control Board regarding a permit for the plant and the Board is meeting again today. Mirant is proposing to merge the stacks from five to two outflows and the stacks will be raised 50 feet. The fly ash from the plant is contaminated with selenium which can leak into groundwater. She said that the facility provides power to the District of Columbia. She suggested that jurisdictions have a choice about where they purchase their electricity. She asked that the District help shut the plant down by not purchasing electricity from the plant.

Ms. Floreen called for a motion to approve the draft minutes of the March 15, 2007 meeting. A motion was made and seconded. The minutes were approved unanimously.

Dave Robertson announced that members are invited to an upcoming COG's 50th Anniversary event: the Futures Forum to be held on May 30 from 10 to 2 pm.

Ms. Floreen made several announcements. She introduced and welcomed Wilson Parran, Commissioner from Calvert County, MD, and Cecily Beall, newly appointed Air Director for the District's Department of Environment. COG's Climate Change Steering Committee met for the first time today.

Ms. Floreen proposed a change to the MWAQC meeting schedule. Last year MWAQC met almost every month and during the month when MWAQC didn't meet, an MWAQC Local Government Initiatives/MWAQC Workshop was held. She proposed that MWAQC meet every other month, alternating with the Climate Change Steering Committee. The alternating schedule would make it easier for members of both committees to participate. It would be especially MWAQC members who are also members of the Climate Change Steering Committee and staff that support the committees. There were no objections. Copies of the new meeting schedule were available.

Committee Reports

A. Report of the Technical Advisory Committee

Ms. Beall reported on the activities of the TAC. She referred members to the one page summary of relevant policy issues. She said that the main action of the TAC at the recent meeting was approval of the draft 8-hour ozone SIP. She said that the TAC also reviewed the public comments and proposed responses, and approved recommending the summary for inclusion in the final 8-hour ozone SIP. Also considered was a proposed comment letter supporting the no-trading provision of the Virginia CAIR rule. Finally, the TAC began planning for the PM2.5 SIP due next April.

B. Report of the Air Quality Public Advisory Committee

Ms. Engel-Cox, Chair of the Air Quality Public Advisory Committee (AQPAC), reported on a recent meeting. She said that a letter was prepared and submitted as a comment on the draft SIP. The letter reflected comments made at the last meeting. The primary emphasis was a concern that the modeling indicates that not all of the monitors in the region are predicted to be in attainment with the standard by 2009. Members want more measures adopted, including additional federal measures, so that all of the monitors are predicted to be in attainment.

AQPAC also supports the creation of the Climate Change Steering Committee (CCSC). A letter was prepared that contained several suggestions on development of a regional climate change initiative. Members note that MWAQC should participate in the climate initiative, and many of the capabilities of MWAQC fit well with greenhouse gases, including development of inventories and control measures and coordinating response to federal regulations. AQPAC encourages public participation in the CCSC, including business, non-profits, the scientific community, and residents.

AQPAC has begun planning for a public meeting on the PM SIP in the early Fall.

C. Report of the Clean Air Partners

Harriet West, managing Director of Clean Air Partners, reported. Piloting of the air quality curriculum will be completed in June 2007. The consultant is also developing a one-hour version of the materials which will be used for outreach to summer schools, camps, etc. The Clean Air Partners Board has also approved the addition of a Climate Change unit for the curriculum and outreach materials. The 2007 campaign includes radio, transit, and print ads. The radio ads will air over a five-week period (June 25-July 23). WMATA is also providing two months of advertising on the back of Metro fare cards as part of its in-kind support.

A new Clean Air Partners website was launched at the Annual Meeting on May 10th which will better enable Clean Air Partners to provide timely and accurate air quality information to the public.

Clean Air Partners continues to work with the Montgomery County Department of Environmental Protection (DEP) on the County's auto parts washer rebate program. DEP will be conducting a survey of roughly 150 auto repair facilities in the Anacostia watershed in May/June 2007.

The Board approved the FY 2008 Work Program and Budget at the Annual Meeting on May 10th. The FY 2008 Work Program includes the continuation of core programs and services, and two new special projects (implementation of the Prince George's County Air Quality Outreach Plan and Clean Air Teleworking).

The 10-Year Anniversary celebration will be held on June 5, 2007 from 3:00-5:00 pm at the Belair Mansion in Bowie, Maryland.

D. Report of the Interstate Air Quality Council (IAQC)

Mr. Ballou, Virginia Department of Environmental Quality, reported on the IAQC. The IAQC met on May 14, and an orientation was provided to new members. The IAQC reviewed and approved the draft 8-hour ozone SIP, heard a briefing on the Climate Change Steering Committee, and reviewed and discussed the draft PM SIP process and schedule. The IAQC will meet again in September or October.

E. Report of the Climate Change Steering Committee (CCSC)

Nancy Floreen reported on activities of the Climate Change Steering Committee (CCSC). Ms. Floreen was appointed Chair. Mary Cheh and Gerald Connolly were appointed Vice-Chairs. The CCSC held its first meeting on May 23, 2007. Ms. Floreen reviewed the COG Board resolution that formed the CCSC and listed the anticipated outcomes of the committee. The next meeting will focus on the work program. She asked for recommendations and suggestions for issues for the CCSC to consider. She encouraged staff to ensure that all of the meeting support documents be posted on the internet. Stuart Freudberg provided a list of the CCSC members. He said that the CCSC also reviewed a ballpark inventory of CO₂ which shows that unlike the trend for other pollutants, greenhouse gas emissions are projected to increase in the region through 2030.

3. Overview of Ozone Air Quality Plan (SIP); and Public Comments and Response to Public Comments

Ms. Rohlfs reviewed the background of the ozone SIP planning requirements, indicating that the region was designated moderate nonattainment of the 1997 NAAQS for 8-hour ozone in 2004. The 8-hour ozone SIP is due to EPA on June 15, 2007. The deadline to meet the standard is 2009. Ms. Rohlfs provided an overview of the 8-hour ozone SIP, covering the main points of the SIP included in the Executive Summary. The main components of the SIP are emissions inventories for the base year 2002 and the projection years 2008/2009; a Reasonable Further Progress (RFP) plan; an Attainment Plan, including the reductions needed by 2009; an assessment of Reasonably Available Control Measures (RACM), the attainment demonstration and weight of evidence, and a contingency plan. Mobile budgets are also established for 2008, 2009, and 2010. The base year 2002 inventory must be submitted as part of the SIP and therefore was part of the public comment process. She reviewed several new measures being implemented to reduce emissions to meet the standard, including the Clean Air Interstate Rule (CAIR) and Healthy Air Act; rules requiring lower emitting portable fuel containers and adhesives; and rules requiring reduced emissions from on-road and off-road motor vehicles. Local initiatives incorporated into the SIP control strategy include LED traffic signal retrofits, greater purchase of wind energy, Green Building initiatives, and urban tree canopy programs. She also reviewed the list of available contingency measures.

The results of the attainment modeling indicate that all of the monitors in the region except two will have 2009 predicted Design Values below the 85 ppb health standard. The two monitors with

predicted DVs greater than the standard (Mt. Vernon and Arlington) are still within EPA's weight of evidence range (82-87 ppb). She reviewed the items included in the weight of evidence analysis, including emissions and pollution trends, and implementation of voluntary local programs. The conclusion of the attainment demonstration is that "photochemical modeling combined with supporting weight of evidence analysis provide strong evidence the region will attain the 8-hour ozone standard by 2009."

Senator Whipple asked whether it is expected that the Arlington monitor will someday meet the standard. Ms. Rohlf's said that the base year selected by EPA (2002) had a large impact on the predicted future values and that the monitor will likely be in attainment by 2009. Mr. Ballou said that the current design value at the Arlington monitor is currently quite close to meeting the standard.

Ms. Smyth asked if staff have reviewed environmental impacts at Ft. Belvoir, noting some concerns about traffic and tree canopy impacts. Ms. Rohlf's said that staff have reviewed the draft Environmental Impact Statement (EIS), but the issues at Ft. Belvoir will be subject to General Conformity reviews conducted by Virginia DEQ. Mr. Ballou said that DEQ has reviewed the draft EIS as well as the General Conformity Demonstration, and has provided comments. Virginia DEQ hopes to work with the Army to include mitigation in the plan for expansion at Ft. Belvoir, especially for the construction phase of the project. Another recommendation was for the Army to forward all traffic estimates to COG for inclusion in future transportation conformity analysis.

Mr. King provided a summary of the public comments received and the proposed responses to comments. He said that the TAC reviewed all 18 of the public comments that were received and approved draft responses. The most significant comments were from AQPAC, which urged adoption of additional controls so that all of the monitors in the region are projected to be in attainment of the 8-hour ozone standard in 2009. The Metropolitan Washington Airports Authority (MWAA) asked for clarification on non-road construction emissions. Local residents urged owners of power plants to do more to reduce emissions. Several comments supported the inclusion of wind energy purchases in the SIP and urged the states to implement EERE set-asides in their respective CAIR regulations. There were also several technical corrections included in the comments.

Ms. Engel-Cox expressed appreciation for deciding to hold a Virginia hearing near access to Metro. Ms. Engel-Cox said that AQPAC discussed the public comment responses and recommended that the full version of the written comments be included in the SIP. Ms. Rohlf's said that it is not standard practice to include the full written comments.

The full SIP, including the public comment response document is posted on the web at: <http://sharepoint.mwcog.org/airquality/default.aspx>.

4. Approve Plan (SIP) for Submittal to States (ACTION)

A motion was made and seconded to approve the SIP for recommendation of the final 8-hour ozone SIP for submittal to the states. The motion was approved unanimously. Mr. Snyder said the 22 percent reduction in VOC emissions and the 29 percent reduction in NO_x emissions

included in the SIP is an important development that will help improve the health of residents in the region. Ms. Floreen expressed appreciation to staff for their work in developing this plan.

5. Letter Re: Virginia CAIR Rule's Ban on Emissions Trading in NAA

Mr. King said that a member of the TAC requested that a draft MWAQC comment letter be prepared in support of the Virginia CAIR Rule's restrictions on emission allowance trading in nonattainment areas. As background, Mr. King said that one of the stakeholders in Virginia affected by the CAIR rule obtained sufficient signatures on a petition asking Virginia to reopen the public comment period on the no-trading provision of the rule. He explained that the provision is a critical component of the attainment strategy to ensure that local point sources control emissions rather than purchase allowance or reduction offsets from outside the region. Based on the recommendation, members of the TAC met and crafted a letter that if approved would be forwarded to the Virginia Air Pollution Control Board.

Ms. Floreen asked if the Virginia jurisdictions support the language in the draft letter. Ms. Pepper said that the City of Alexandria supports the letter. The letter was approved with no objections.

6. PM_{2.5} Plan Requirements and Proposed SIP Schedule

Ms. Rohlfs discussed PM SIP planning requirements. The metropolitan Washington region is designated nonattainment for the annual PM_{2.5} standard (1997 NAAQS). The metropolitan Washington region has not yet been designated for EPA's new daily 24-hour PM_{2.5} standard, promulgated in 2006. Based on guidance released in March, a SIP addressing the annual standard will be due to EPA in April 2008. The attainment deadline is 2010 but attainment must be demonstrated by the end of 2009. The size of the particle is directly linked to health effects. The standard covers all particles with diameters less than 2.5 microns, and the maximum allowable ambient concentration of such particles is 15 µg/m³ averaged on an annual basis and 35 µg/m³ on a daily 24-hour basis. The constituents are direct PM, and the precursors NO_x, SO₂, ammonia, and VOCs. Significance determinations will be needed for SO₂, ammonia and VOCs. The area designated is the same as the ozone area, with the exception of Calvert County which is excluded.

She showed the trend line for the annual Design Value. Based on data from 2003-2005, the region is actually in attainment with the annual NAAQS. If the 2004-2006 data also show the region is in attainment, it may be possible to redesignate the region to attainment and begin work on a Maintenance Plan. She provided graphs of emissions of PM pollutants between 2002 and 2009, showing significant expected reductions during that time. Mobile budgets for significant precursors will need to be developed as part of the SIP process.

The SIP components will include emission inventories, mobile budgets, control measures, RACM analysis, a contingency plan, an attainment demonstration and a weight of evidence analysis. Ms. Rohlfs provided a schedule for completing each of the SIP components. The goal is to complete a draft SIP to MWAQC by December 12, 2007.

Mr. Aburn said that EPA took action last year on the PM NAAQS. The EPA science advisory council had recommended lowering the annual standard. EPA chose to maintain the standard at the current levels of 15 µg/m³. Maryland and other states including the District have sued EPA over the decision not to lower the standard. Maryland therefore plans to attempt to plan to meet a standard that is lower than 15 µg/m³ and would like other members of MWAQC to support such

an approach. Mr. Aburn said that PM_{2.5} pollution does not have a safe threshold, therefore, additional reductions in PM pollution will decrease mortality risk in the region. There are still many cost effective options available to reduce PM_{2.5} pollution that will provide a net social benefit considering the value of avoided mortality.

Ms. Bulova asked for Virginia's perspective on the PM_{2.5} standards. Mr. Ballou said that DEQ is aware of the Maryland lawsuit and is tracking developments relating to NAAQS actions for PM. He said that preliminary modeling may indicate that the OTB/OTW controls will help bring the region below the 15 µg/m³ levels by 2009, possibly as low as 12-13 µg/m³.

Ms. Engel-Cox said that the AQPAC would support a goal of meeting a goal lower than the 15 µg/m³ standard.

Senator Whipple asked for clarification of the annual and daily standard. Mr. Kumar explained that the annual standard is based on averaging the hourly readings for the entire year. The annual average must be below 15 µg/m³. The daily standard is based on the average of the hourly readings for a 24-hour period. The daily average must be below 35 µg/m³.

7. Recent Supreme Court Decisions on EPA Lawsuits

Mr. Ruck discussed recent Supreme Court decisions on greenhouse gases/climate change and New Source Review (NSR). One of the most important outcomes of the greenhouse gas decision is that the Supreme Court has accepted the nexus between greenhouse gases and climate change, and climate change and certain environmental and economic damage, specifically oceanic levels. Therefore, the next time there is a case involving greenhouse gases and alleged harm, plaintiffs won't have to work to prove the fundamental science associated with global warming. The court also found that the plaintiffs have standing in court for anticipated future damages, and the relief sought does not have to completely reverse the alleged damage, it is sufficient to slow or reduce the effects. Finally, the court found that the EPA has an obligation to form its policy guidance within the Clean Air Act itself. EPA can't look to statutes and policies of other Departments, or to the policy of the Administration, it should interpret its role in as to how and when it should exercise its jurisdiction if there is a scientifically proven harm. The court did not compel a specific finding, but it did require EPA to make a finding. It may be difficult for EPA to respond in some way that does not involve regulating greenhouse gases.

The second case considered by the Supreme Court involved decisions under EPA's New Source Review (NSR) program. The decision, considered in light of a later *certiorari* decision to not accept an appeal related to NSR, suggests that EPA may no longer be able to use a technical defense to not apply NSR standards.

Mr. Aburn said that states are adopting the CAL LEV II program, which establishes requirements for reduced emissions of greenhouse gases. The Supreme Court ruling has encouraged states to continue efforts to regulate greenhouse gas emissions from motor vehicles.

8. State Air Agency Reports

Mr. Aburn reported for Maryland. On April 10, the Governor signed onto the RGGI program. MDE is now developing a model rule and a stakeholder process. There was also an Executive Order which establishes a Maryland Climate Change Commission. The Healthy Air Act has been

fully adopted, and will result in significant new controls on emissions in Maryland. All of the new VOC rules have been adopted. Maryland is also involved in litigation on the PM standard.

Mr. Ballou reported for Virginia. Currently DEQ is working on public meetings and hearings related to the Mirant Potomac River Power Plant. The Governor has agreed to become a member of the National Climate Registry. Redesignation for Richmond and Hampton Roads is expected in the next several weeks.

Senator Whipple said that a recent Executive Order will require increased energy efficiency in Virginia, including provisions for Green Buildings, improved fleets, and EERE goals.

Ms. Beall reported for the District. A new Director for the District Department of the Environment, George Hawkins, was appointed. The District is considering joining RGGI. The OTC VOC rules were proposed last week and should be finalized by July. The CAIR rule will be proposed in July and should be final by September.

9. Date for Next Meeting and Adjourn

The next meeting will take place on July 25. The meeting was adjourned at 1:50 pm.