

Metropolitan Washington Air Quality Committee
Suite 300, 777 North Capitol Street, N.E., Washington, D.C. 20002-4239
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MINUTES OF JULY 28, 2004 MEETING

Attendance:

Members and Alternates

Tad Aburn, Maryland Department of the Environment
Larry Bohn, Frederick County
Nat Bottigheimer, Maryland Department of Transportation
Hon. Sharon Bulova, Fairfax County
Rick Canizales, Prince William County
Howard Chang, Tri-County Council of Southern Maryland
James Collier, District of Columbia. Department of Health
Sherry Conway Appel, Prince George's County
Julie Crenshaw, Chair, AQPAC
Hon. Redella S. Del Pepper, Alexandria
Hon. Thomas Dernoga, Prince George's County; MWAQC Chair
Hon. Paul Ferguson, Arlington County
Hon. Nancy Floreen, Montgomery County
Victoria Greenfield, Charles County
Hon. Dana Kauffman, Fairfax County
Hon. Leta Mach, City of Greenbelt
Hon. Phil Mendelson, District of Columbia Council
Hon. Eric Olson, College Park Council
Michelle Pourciau, District of Columbia Department of Transportation
Hon. Linda Smyth, Fairfax County
Joanne Sorenson, Virginia Department of Transportation
Hon. Mick Staton, Loudoun County
Jim Sydnor, Virginia Department of Environmental Quality
Don Wambsgans, District of Columbia Department of Health
Hon. Patrice Winter, City of Fairfax

Others Present:

Kambiz Agazi, Fairfax County
Tom Biesiadny, Fairfax County
Randy Carroll, Maryland Department of the Environment
Alex Hekimian, Montgomery County M-NCPPC
Matthew Jalali, District of Columbia Department of Transportation
Betsy Massie, Potomac and Rappahannock Transportation Commission
Krute Singa, Washington Metropolitan Transit Authority
Kanathur Srikanth, Virginia Department of Transportation

Staff:

Mike Clifford, COG/TPB	Eulalie Lucas, COG/TPB
Stuart Freudberg, COG/DEP	Joan Rohlfis, COG/DEP

Jeff King, COG/DEP
Sunil Kumar, COG/DEP
Jennifer Desimone, COG/DEP

Lee Ruck, COG General Counsel
Rich Denbow, for COG/DEP

1. Call to Order, Public Comment Period

Chair Dernoga called the meeting to order at 12:11 p.m. No speakers signed up for the public comment period.

2. Approval of Minutes, Announcements, Chairman's Report

Mr. Dernoga called for a motion to approve the minutes of the May 26, 2004 meeting. Ms. Crenshaw asked that clarifications to the AQPAC report be made regarding AQPAC membership and representation, and asked that an additional item be noted. The minutes were approved with the requested changes.

Mr. Dernoga delivered the following Chair report: EPA issued a final rule on transportation conformity requirements under the new 8-hour ozone and PM2.5 air quality standards. EPA sent states proposals for PM2.5 nonattainment area boundaries. COG staff and representatives of the state and District air and transportation agencies have met over the past two months to discuss changes to the process for future SIP development. The Sierra Club filed suit on July 14 asking that the Court order EPA to approve or disapprove the old SIP submitted in 1997-1998. EPA will file a response brief by August 6. Lastly, Mr. Dernoga welcomed Jeff King, a new COG staff member.

3. Committee Reports

A. Report of the Technical Advisory Committee

Mr. Kauffman, Chair of the Technical Advisory Committee (TAC) reported on the July 16 TAC meeting. TAC received an ozone season update, addressed sketch planning for the 8-hour standard, mid course review requirements for the current SIP, status for the next round of conformity, and reviewed the progress of voluntary measures.

B. Report of the Air Quality Public Advisory Committee

Ms. Crenshaw, Chair of the Air Quality Public Advisory Committee (AQPAC), reported on the July 19 meeting. At the meeting, AQPAC made a motion regarding Section 185 requirements for Maryland. Ms. Crenshaw said she will address this later in the agenda. She stated that AQPAC is asking that two measures be included on the control measures list that MWAQC will revisit in the future: 1) that the transport of goods be piggybacked on locomotives rather than long haul truck routes; and 2) that greater fact finding be carried out for intermodal possibilities to improve air quality and energy efficiency. Lastly, Ms. Crenshaw said AQPAC wished to advise MWAQC that although TPB makes the decision on conformity, MWAQC may want to exercise strong encouragement for the TPB to thoroughly determine the impacts to air quality of any changes or improvements near regional locations that have Code Red or high Code Orange air quality readings. Mr. Freudberg asked for clarification of this point. He suggested that TAC talk to the modelers about this because conformity is a regional analysis and it's not clear that specific transportation projects impact regional monitor readings, and that activity near a particular monitor is not necessarily the driver for readings at that monitor. Mr. Dernoga added that one of the reasons Prince George's County has the high monitor readings it sometimes has is

because it is picking up local or regional transport blowing to the east. He agreed with Mr. Freudberg that the technical staff should discuss this because there could be hot spot issues.

C. Report of the Clean Air Partners

Ms. Adams reported on the Clean Air Partners Board Retreat held in June. They discussed messages, possible program expansion to report on particulate matter throughout the year, and financial implications of expanding the program. The Board decided to develop the new PM messages for 2005. The Board decided to review membership status through a survey to determine needs and possibly develop a fee structure. CAP is now in the process of planning for 2005 and may change the CAP fiscal year to coincide with COG's fiscal year. The first draft of the 2005 CAP work program will be presented in August. Lastly, she stated that CAP is interested in working with Virginia and the District on any exchange programs they may consider.

4. Status Report on MWAQC Process Discussion

Mr. Dernoga gave the recent background and events leading to the MWAQC proposal to be presented by Stuart Freudberg. Mr. Freudberg prefaced his presentation, "Proposal for Revising MWAQC's Planning Process," by stating that the today's proposed action would be creation of a bylaws committee. After Mr. Freudberg's presentation, the following discussion took place.

Mr. Ruck said there are two options for making the proposed changes: amending the bylaws or recertification. The latter involves decertification and raises other issues, making the bylaws amendment the preferred option. Mr. Dernoga said the goal today is to get feedback. Mr. Freudberg said the MWAQC Executive Committee should act as a bylaws committee. Mr. Mendelson said he is in favor of constituting the MWAQC Executive Committee as a Bylaws Committee, he is open to making revisions to the structure or process, but he believes that the proposal is not in the best interests of the region or the environment. The proposed Steering Committee moves responsibility from local jurisdictions to state capitols. Local governments sometimes are at odds with state capitols. He said the participation of local governments needs to be "optimized," citing examples in the recently submitted SIP of local governments' adoption of voluntary measures such as wind energy and retrofitting diesel school buses. He said MWAQC has been dominated by the air agencies. The new proposal would give the DOTs more authority, but air quality should not be driven by departments of transportation. He said the SIP is more than a mobile budget. His two concerns about the proposal are the creation of a State Steering Committee and the voting parity issue.

Mr. Ferguson asked how the proposal improves air quality. Mr. Sydnor replied that it does nothing for air quality, but it improves the process by involving higher level cabinet officials. He said it will help the states get a regional strategy on power plants, which doesn't exist now. Ms. Floreen said the Governors certified MWAQC. She expressed sympathy with Mr. Mendelson's concern about how jurisdictions weigh in, but said the most critical function of MWAQC, is voting. Mr. Ferguson asked if the Governors and Mayor are "just being courteous" by asking for feedback. Mr. Ruck said the issue is a conundrum. The Governors have the authority. There is no mechanism to enforce collaboration with local governments and no details for local governments on this issue. Voting parity was proposed to ensure that there would be parity between the states and locals, so that consensus would reign.

Mr. Bottigheimer said MDOT is not concerned about voting parity. Both MDOT and MDE are fine with leaving the voting the same. Many MDOT and MDE staff must focus on local matters, which detract from MDOT's ability to address larger issues. As for charges that Departments of Transportation do not have the environment as a priority, MDOT has been "very progressive" on the environment, promoting smart growth development around Metro stations, controls for construction equipment, and gas can exchanges.

Mr. Dernoga asked if voting parity is an issue for Virginia. Mr. Sydnor said it's not off the table. He said that there is flexibility in the way it is addressed. Ms. Pourciau said voting parity is not critical for the District. Mr. Aburn said he has no problem with the current voting.

Ms. Conway Appel said the Chesapeake Bay Agreement is run by the States and the State Secretaries. Local governments have tried to raise a voice in the process. Locals have to be involved. She expressed concern about the direction of the proposal.

Mr. Kauffman expressed concern about the issues of funding and transport. He said if the state takes charge, funding needs to follow. The states need to take a strong position on transport. Instead of the three-column chart contained in Mr. Freudberg's presentation, he suggested showing a timeline of the steps needed to produce the SIP and who is involved at each step. He asked about the process for changing the bylaws. Mr. Ruck replied that a notice must be given at the meeting before the changes are considered and adopted.

Mr. Olsen said there is no compelling reason to change MWAQC, however he is willing to have the Executive Committee look at the options and bring them back to MWAQC.

Ms. Pourciau said the State Secretaries Group is not considering decertifying MWAQC. The Governors and Mayor need to formalize the process. The D.C. government looked at not moving forward with the last SIP. Consultations between the departments of transportation and environment have been ongoing, but not publicly. She said that formalizing the new process (i.e., Steering Committee), would make such consultations more public and open. The Steering Committee is a process which does more to clean the air because it allows the region to move forward on transport, which is a state issue.

Ms. Del Pepper asked about the timeframe for the proposed changes. She expressed concern about the departments of transportation being involved, but she said if it's a done deal then let us focus on what we can do which is the voting issue. Mr. Freudberg said the Governors want this completed by October.

Tom Dernoga said the two issues of concern are voting parity and the State Steering Committee. He asked the committee to respond to those two issues. Ms. Floreen said she had hoped for more detail. She moved that the states be advised that MWAQC is willing to develop bylaws but does not agree to changing the voting structure of MWAQC.

Ms. Conway Appel suggested that a letter identifying the issues be sent to the states. Ms. Mach said she agreed and said she needs more time and information. Ms. Floreen said the MWAQC officers have met with the State Secretaries' representatives and have expressed the concerns raised today.

Ms. Greenfield said regarding the voting issue, the Committee has been challenged to address clean air. Local governments' challenge is to balance it with other concerns such as economic development, growth, and transportation.

Mr. Mendelson proposed to change the motion to add "or to change the Steering Committee as proposed." Ms. Bulova said she sees some advantages to changing the structure. It would be a continuation of a partnership with the state agencies, and she likes the idea of having issues heard at a higher level. Big changes to clean the air happen at the state level. At the local level, we could cobble little programs together. She supported the first motion and said it is premature to tinker with the Steering Committee. Mr. Sydnor said more detail will come from the bylaws. He asked that a draft of the bylaws come back in September. He said that the states are hearing the concerns of the locals on the voting issue.

Ms. Floreen said the locals' power will be protected in the voting process. Mr. Mendelson urged that the Committee not foreclose negotiation on the Steering Committee. Mr. Dernoga asked how the Steering Committee would be treated in the bylaws. Mr. Ruck said the bylaws will recognize the Steering Committee; the Governors will create it.

Mr. Dernoga called for a vote on continuing discussion about the Steering Committee. The results of the vote were:

In favor: 8
Opposed: 10
Abstain: 1

Mr. Freudberg said we need to flesh out the Steering Committee. There will be further opportunity to comment, although control is with the States.

The question was called on Ms. Floreen's motion: that the States be advised that MWAQC is willing to develop bylaws but does not agree to changing the voting structure of MWAQC. The results of the vote were:

In favor: 13
Opposed: 3
Abstain: 2

Ms. Greenfield said she hopes there is continuing discussion about the roll of local governments. Ms. Crenshaw asked if AQPAC should give input on the MWAQC process. Mr. Dernoga said public comment is useful, but this is not a direct AQPAC responsibility, so AQPAC should not comment. He said he would be speaking to the Prince George's County Council and said the Council will evaluate where they stand with regard to MWAQC.

5. Ozone Season Update

Ms. Desimone provided a report on the status of the ozone season. In the period of May 1 to July 25 there have been five exceedance days of the 8-hour ozone standard and two exceedance days of the 1-hour ozone standard. Ms. Desimone reviewed the monitor data for each exceedance. There has been one Code orange day for PM2.5. Mr. Kumar provided a meteorological analysis of the two Code Red days for the 1-hour standard, July 2 and 3. A

stationary front was present with light winds, which prevented the formation of cloud cover. This helped the build up of ozone levels. Mr. Kumar provided a back trajectory of winds on the two days. The upwind areas experienced low ozone readings on those days. These data taken together lead to a conclusion that the high ozone levels in the Washington region on these days were the result of local emission levels, possibly due to high levels of local traffic.

6. 8-Hour SIP Planning: Status Report

Ms. Rohlfs reported that the first phase of EPA's 8-hour ozone standard implementation guidance was released in April of this year. The second phase will be issued this fall. We won't know the specific planning requirements under the 8-hour standard until then. Staff has done a sketch analysis of what the region will need to do to meet the 8-hour standard by 2010, which is our attainment year.

Ms. Rohlfs stated that the requirements depend upon whether the recently submitted 1-hour Severe Area SIP is approved by EPA. Because Maryland has not completed the requirements for the Section 185 fee program, it is unclear what action EPA will take on the recent SIP. If Maryland is unable to complete its 1-hour attainment SIP by submitting evidence of a Section 185 fee program, the Washington region may need to submit an early 5% "increment of progress" plan toward the 8-hour standard by June 2006, or submit an early 8-hour attainment demonstration ensuring that the first reasonable further progress milestone is achieved early. Ms. Rohlfs described each of these options in more detail.

If EPA finds the 1-hour SIP complete and approvable the region will need only to complete an 8-hour reasonable further progress demonstration. EPA will release details of these requirements this fall, including the date of the first milestone. This could range from sometime in 2006 to 2008.

Staff has completed some sketch-planning inventories for 2007 and 2008 and performed initial ballpark calculations to estimate whether existing control measures could satisfy a 15% VOC or 15% VOC+NO_x reduction requirement. The analysis indicates that reductions from control measures included in the Severe Area SIP may be sufficient to enable the Washington region to prepare a 15% VOC + NO_x Plan for either 2002-2007 or 2002-2008. The region would also be very close to meeting a 15% VOC-only requirement for 2002-2007 or 2002-2008. Ms. Rohlfs emphasized that the preliminary calculations use ball park inventories, so the need for additional control measures cannot be determined until SIP-quality inventories are available and reviewed by the states. The planning is preliminary at this point.

Ms. Rohlfs said that staff is reviewing a long list of control measures and determining screening criteria to identify control measures that could be implemented by 2007 or 2008. In the next month, staff will be getting more information on the requirements and hope to find out from EPA if a 5% increment of progress requirement would apply to Maryland only or to the entire region. Ms. Rohlfs added that Earthjustice filed a petition with the EPA administrator regarding implementation of the 8-hour standard that raises concerns about potential backsliding due to reduced New Source Review provisions in the implementation rule. Some states in the northeast and the District recently sued EPA on similar grounds. These lawsuits could affect the implementation schedule for the new standards.

Mr. Aburn was asked about Maryland's Section 185 situation. Mr. Aburn replied that MD believes that it will have an approvable SIP if the guidance prevails. Maryland is looking at all the options.

Ms. Crenshaw stated that AQPAC passed a motion recommending that Maryland pass a Section 185 provision. Mr. Dernoga asked if Ms. Crenshaw is requesting MWAQC action. Ms. Crenshaw said she would be happy to ask AQPAC to send a letter and that she would work with staff to send it to the appropriate people.

Ms. Conway Appel asked if the state could have a pre-filed bill and meet with key people before the session begins. Mr. Ferguson moved that MWAQC should also send a letter. The motion was seconded. Mr. Aburn stated that right now, the Section 185 provisions will be revoked under the final 8-hour rule. Ms. Rohlf's stated that there is now a challenge to EPA's rule and the court has not set out a schedule yet. Ms. Appel said there has been a lot of program uncertainty for years and we shouldn't wait for certainty to act. Mr. Mendelson stated that we can be sensitive to Maryland's position and not act on this today, and that it could be addressed in September or October. Ms. Floreen suggested that we can send a letter to the Maryland Governor stating our concern and urging the State's attention on the matter. Mr. Mendelson moved to postpone action until the next MWAQC meeting. The motion was seconded. Ms. Crenshaw advocated for two letters – one from citizens through AQPAC and one from the political body. The motion carried.

Mr. Dernoga postponed the remaining agenda items until September.

10. Date for Next Meeting and Adjourn

The next meeting of MWAQC is scheduled for September 22, 2004. The meeting was adjourned at 2:25 p.m.