

Copy of Comments Made by Tad Aburn
MWAQC Meeting
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Before I begin my comments, could I ask the COG staff to explain to the Committee how after I finish my short comments, I will be muted by the COG staff and the “chat” and “raise hand” functions will be disabled ... and that the only way for me to respond to questions or provide additional information is if a member asks the Chair if she will allow additional input from the public. The Chair may also allow for additional input from the public without a request from the membership. I do not believe many MWAQC members know how public comment and public participation are being handled. Could COG staff go over these procedures before I begin my comments. I would also appreciate it if the 3-minutes allowed by staff for public comment ... 3 minutes is nowhere to be found in MWAQC bylaws or public participation guidance documents ... could be extended to 5 minutes.

Beginning of Comments

Madame Chair, MWAQC members, thank you for providing the opportunity to provide public comment today.

I will start by apologizing up front for the tone of my comments and how they have evolved from collegial and polite in late 2022 to now being more direct and less collegial in September of 2023. I have serious concerns over the way COG staff appears to want to minimize public input and participation. You should ask to be briefed on the way public comment and participation has been handled and become more difficult since late 2022.

Later on your agenda, you will receive a briefing on what has taken place since May 24, 2023 to act on the unanimously approved motion by the

Chair to expeditiously adopt a stand-alone regional plan to address environmental justice and how MWAQC air quality plans are allowing, actually enabling, high-risk, air quality hotspots in environmental justice communities of color to get worse. Although MWAQC and MWCOG appear to want to ignore the issue, what is happening is clear cut institutionalized, systemic environmental racism.

It is my opinion that the elected membership of MWAQC and MWCOG do not fully understand this as they appear to not have been adequately briefed on the air pollution hotspot EJ issue by COG staff ... public input on this issue has also been ignored.

The briefing you will see today (which is similar to recent briefings provided to TAC and ACPAC) was thrown together after my somewhat negative August 24, 2023 letter¹ to MWAQC asking what has the COG staff done for the last quarter of a year to implement the vigorously supported and unanimously approved motion ... made by the Chair ... to expeditiously develop and adopt an environmental justice plan.

As you will see in the briefing:

- Since the May action, no input was sought from leaders and residents who breathe the unhealthy air in environmental justice areas. This kind of immediate input was highlighted by the Chair during the May 24 meeting,
- The framework for a regional EJ plan that I provided to MWAQC in a letter dated June 1, 2023 was never even discussed or considered. This framework includes significant input from environmental justice communities and experts, like Sacoby Wilson and Vernice Miller.
- The briefing is very general and includes a lot of “feel good” concepts and buzzwords like, “EJ toolkit” (which has never actually been used), “EJ Resource Guide” and “equity lens”.

¹ All of the letters mentioned in my comments are attached to the September 26, 2023 letter that is mentioned at the end of my comments.

What it does not include is anything that is action oriented ... things that will actually reduce risk to the residents and the children who have to breathe the air in these already overburdened communities. Maryland is implementing a very action oriented EJ plan in several high profile EJ communities. The MDE effort involves:

- Building partnerships and trust with these communities ... in general, government has very low credibility in these areas,
- Taking immediate action using existing authorities to reduce air pollution risks in these communities, and
- Working to rethink the legacy of government dumping high polluting transportation projects and dirty industrial plants on environmental justice communities over and over and over. This legacy has been built over the last 100 years and will not get better until state and local governments rethink the very difficult issue of how business-as-usual land use and zoning decisions are made.

MDE was not even asked by COG staff to provide a briefing on their EJ plan to TAC.

TAC did not even mention the EJ Plan in their June and July meetings although public comment was provided requesting that the issue be discussed. Over the past year, I have on multiple occasions offered to help set up a panel, involving MDE, EJ community leaders and other local EJ experts.

I urge you to charge the COG staff to establish a subcommittee ... as provided for in the MWAQC bylaws ... to move forward more expeditiously to reach out to communities and local EJ experts immediately, discuss the EJ framework document that was sent to MWAQC and ask for a briefing from MDE ... and to then bring back a much more robust, action-oriented regional environmental justice plan. Again, I will volunteer my time to help with this.

I have submitted a more detailed letter dated September 26, 2023 to supplement these short comments. The letter also provides information on other actions linked to the EJ issues discussed above. Both the recent letter I submitted to EPA on this issue and the Title VI/Civil Rights complaint that was submitted on July 10th are summarized and updated in the September 26 letter. Recent comments and letters from national leaders working on EJ issues in the DMV and the Chesapeake Climate Action Network (CCAN) are also attached to the 9/26 letter.

Because of the time limitation put on public comments, I can not fully summarize my major concerns about an equally important issue ... the briefing on the draft SIP ... a very flawed briefing ... that you will receive as agenda item # 5.

You will be asked to approve the draft SIP for submittal to the EPA. If MWAQC approves the draft SIP ... it will be endorsing an overarching policy that allows emissions to increase and public health protection to be decreased to allow the transportation community to avoid adopting new transportation related emission controls.

That is what the draft SIP does. Ask the staff. I have attached some of my questions for potential use by MWAQC members to ask COG staff questions during the briefing. You could also ask the Chair to unmute me so that you can ask me questions. More detail on this issue (including ways to create a win-win ... public health protection and transportation growth ... solution) is also provided in the September 26, 2023 letter.

I urge you to not approve the SIP today and to ask TAC and the COG staff to revisit the SIP to address the issues I have raised. You may also want to ask the staff to explain how the public comment process and potential legal challenges ... as part of EPA's approval or disapproval process ... works.

In closing, I urge you to set up a subcommittee and to develop a robust EJ plan expeditiously and to not approve the draft SIP today.

Thank you again for allowing public comment. Please let me know if I can help in any way.²

² As background, My name is Tad Aburn. In October of 2022, I was the Chair of MWAQC TAC. For the past 10 years I was the MDE Air Director and an MWAQC member. I have helped write and have submitted over 30 SIPs to EPA over my career. I am now retired ... doing volunteer work for overburdened communities in Prince George's County.

ATTACHMENT TO TAD ABURNS COMMENTS AND THE 09/26/23 SUPPLEMENTAL LETTER MENTIONED IN THE COMMENTS

*Questions That I Believe MWAQC Members Should Ask During
the Briefing for Agenda Item #5*

Request to Approve SIP for EPA Submittal

Note: If desired, MWAQC members can ask the Chair to unmute me during the meeting to provide input.

After the public provides short comments at the beginning of the meeting, the COG staff mutes the commenter and disables their ability to use the chat and raise hand functions of the virtual meeting. This can only be reversed if the Chair asks for the commenter to be unmuted and allowed to use chat and raise hand functions.

Recommendation - Do not approve the SIP for submittal to EPA until response to comments are responsive to the comments that have been submitted and SIP is consistent with the policy goals of MWAQC.

Overarching Policy Question: If MWAQC approves the draft SIP ... it will be endorsing an overarching policy that allows emissions to increase and public health protection to be decreased to allow the transportation community to avoid adopting new transportation related emission controls.

That is what the draft SIP does. Ask the staff.

Is this what MWAQC wants?

There are other ways to find a win-win solution that will be good for both public health protection and transportation growth.

Secondary Policy Question: The SIP appears to be built using two basic concepts:

1. That If something is right and should be done to protect public health, but it's not required by minimum EPA guidance, then do not include it in the SIP ... even if it is logical and would protect public health ... or
2. That if something is wrong, not needed and bad for public health ... but it is allowed because of old, poorly thought out EPA guidance ... then include it .. even if it is wrong and bad for public health.

Is this what MWAQC wants?

Other Key Questions Linked to the Presentation:

Slide 4 - In a May 24, 2023 letter to MWAQC, didn't the person submitting the comments (me - Tad Aburn - Mr. Aburn) provide draft language for the SIP. Wasn't the draft language attached to the comments?

The suggested language was ...

“A core requirement of this SIP is that the emission reduction measures contained in the SIP directly or indirectly, and the implementation of those measures will not create or make worse environmental justice problems in already overburdened communities of color, or other environmental justice communities.”

The SIP should also include detailed descriptions of how MWAQC jurisdictions and the States plan to enforce that core element.”

This language was also recommended in the comments to Virginia and the District.

Shouldn't the responses discuss why that language could not be included?

During the debate on this issue during the May 24, 2023 MWAQC meeting, there was considerable support for the members of MWAQC to include language similar to the suggestion as it appeared to be the right thing to do ... whether it

was or was not required in current EPA guidance ... especially when everyone knows that the new EJ guidance will soon be finalized.

Slide 5 - Bullet 1 - Is the goal of the air quality plan to do the minimum or to do what is right to protect public health? Most MWAQC members became MWAQC members because of their desire to protect the health of their constituents and the residents of the region. The response is particularly weak as the states and the COG staff know that a real problem exists and that EPA guidance is imminent. Why is the EPA not at the 9/27 meeting? Were they asked to attend and to clarify their position on including EJ in the SIP?

Slide 5 - Bullet 2 - Doesn't MDE's response imply that they would be OK with adding the suggested language into the SIP as they are already doing most of what the suggested language would require? MDEs response acknowledges the problem with air quality hotspots ... in EJ communities ... driven by the SIP ... is real.

Slide 6 - Bullet 1 - Does this say anything about the comment. No. The comment is that the SIP needs to make sure that the SIP does not allow for implementation to make problems in EJ areas worse. This is happening right now. The VADEQ response does not even acknowledge that the data, research and analysis show that the problem is real. This response is not responsive and inadequate.

Slide 6 - Bullet 2 - Does the DC DOEE response infer that they would also be OK with adding the suggested language? Their response acknowledges that the problem is real but does not include anything specific on how the problem should be addressed. Like the VA DEQ comment ... The DC DOEE comment provides big picture rhetoric but does not actually address the "hotspots in EJ communities-caused by the SIP" issue.

Slide 8 - All bullets - Will the so-called "Safety Margins" help provide greater public health protection or are they really "Transportation Buffers that will increase emissions and decrease public health protection so that the transportation planning process does not have to find additional emission reductions"?

They are the latter. Safety margins is a misleading term. There are many other ways to address the “uncertainties” associated with new models and other technical changes. The real question is should future changes in mobile emissions or growth be handled by allowing for less public health protection or by finding more emission reductions in the transportation sector. The “Safety Margin” provisions of the SIP sacrifice public health protection to ensure that the transportation planning process does not need to find more emission reductions.

Is this what MWAQC wants?

Slide 9 - All Bullets. - Are the greenhouse gas benefits made available when policy makers are trying to decide what should be in transportation plans? For example if two packages of strategies are being considered (assume one package is very heavy on technology while the other is based on technology and strategies to reduce VMT) are the greenhouse gas reduction benefits from each package of strategies made available to policy makers so that climate change goals can be considered as the two strategies are debated.

The answer is no. This information should be made available to policy makers and the public as decisions are made on how to spend millions of public dollars to improve the region's transportation system while ensuring public health protection. Not ... as is current practice ... after the policy decisions have been made.