

**Air Quality Control Advisory Council Meeting Minutes
December 11, 2017 @ 8:15 am
MDE Headquarters
1800 Washington Boulevard
Baltimore, MD 21230**

AQCAC MEMBERS PRESENT

John Quinn - Chairman
John Kumm, P.E.,BCEE – Vice Chairman
Sania Amr, M.D.
Todd Chason, Esq.
Benjamin (Ben) Hobbs, PhD
Lawrence Kasecamp (via webinar and phone line)
Jonathan Kays
Julian Levy
Ross Salawitch, PhD
Lawrence (Larry) Schoen, P.E.
Rebecca Rehr
Sara Tomlinson
Weston Young, P.E.

MDE-ARA

George (Tad) Aburn
Randy Mosier
Susan Nash
Carolyn Jones, P.E.
Husain Waheed, PhD
Joshua Shodeinde
Megan Ulrich, Esq.
Wendy Sollohub
Kathleen Wehnes
Steve Lang
Karen Irons
Jay Apperson
Eddie Durant
Brian Hug

AQCAC MEMBERS ABSENT

Sue Garonzik- (via webinar- No audio so recorded as listen only)
Hon. Leta Mach

VISITORS

Ariel Solaski - CBF
Alayna Chuney - CBF
David Cramer - NRG
Justine Fernen - Baltimore Resident
Andrew Cantz
Laalitha Surapaneni - JHSPH EDU
Brad Keller - Wheelabrator Baltimore
Tim Porter - Wheelabrator Technologies
Chris Skaggs - Northeast, MD/Waste Authority
Benjamin Kunstman - Environmental Integrity Project
Ken Jackson- Curtis Bay Energy-Medical Waste Energy
Tracy Fearson - Curtis Bay Energy
Leah Kelly- Environmental Integrity Project
Taylor Smith-Hams - Chesapeake Climate Action Network
Keith Schmidt - GEN ON
Greg Sawtell - Curtis Bay resident
Edith Gerald - Curtis Bay resident
Dr. Gwen Dubois - Chesapeake PSR MD
Jennifer Kunze - Clean Water
Mike Ewall - Energy Justice Network
Andy Bodnarik - OTC
Andrea Areodano - Earth Compliance Solutions
Pam Kasemeyer - Schwartz, Metz & Wise
Richard Tabuteau - Schwartz, Metz & Wise

This is a summary of the Dec. 11, 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. Chairman Quinn noted that Mr. Aburn would be arriving shortly and the Council should move ahead to review the previous meeting minutes.

Approval of Minutes from Sept. 18, 2017 meeting:

Chairman John Quinn called for a motion on the Sept 18, 2017 meeting minutes at approximately 8:26 a.m.

Motion to approve the minutes was made by Julian Levy and seconded by Dr. Amr. All members voted in favor, and none opposed, at approximately 8:28 a.m. (~ 5 min into recording).

Chairman John Quinn asked the recent guests to the meeting to announce themselves.

ACTION ON REGULATIONS

COMAR 26.11.08 – NO_x RACT for Municipal Waste Combustors (MWCs):

Mr. Randy Mosier presented on the proposed regulation amendments to COMAR 26.11.01.01 Definitions, COMAR 26.11.08 – Control of Incinerators and COMAR 26.11.09 – Control of Fuel Burning Equipment at approximately 8:30 a.m. (~ 6 min. into the webinar recording).

The primary purpose of this action is to propose nitrogen oxide (NO_x) reasonable available control technology (RACT) emission rates for large MWCs that will result in lower NO_x emissions allowing Maryland to meet and maintain the 2008 Ozone National Ambient Air Quality Standard (NAAQS) requirements. In order to address federal startup and shutdown requirements, the proposed action requires large MWCs to meet mass based emission limits during these periods of operation. This action also requires a feasibility analysis from Wheelabrator Baltimore, Inc. and contains additional NO_x emission control requirements that may be needed by Maryland to attain and maintain compliance with the 2015 federal ozone standard.

There are two large MWC facilities in Maryland: Wheelabrator Baltimore, Inc. and Montgomery County Resource Recovery Facility (MCRRF). The Department has been meeting with affected sources and EPA since 2015 to discuss MWC operations, emissions data and NO_x RACT proposals. The Department began a formal stakeholder process in 2016 and held three meetings where stakeholder comments were received and incorporated into the proposed regulations. In an effort to establish a regionally consistent NO_x RACT rate for large MWCs and address the recommendations of stakeholders, the Department is proposing a 24-hour 150 ppmv NO_x rate for the Wheelabrator Baltimore, Inc. facility and a 24-hour 140 ppmv NO_x rate for MCRFF. RACT requirements are intended to acknowledge the different design and age of equipment at existing MWCs and to require “reasonable”, cost effective controls. New MWC’s would be subject to best available control technology (BACT).

Mr. Mosier explained that the proposed regulations would focus on three key elements. A requirement would be established for large MWCs to optimize control technologies to minimize NOx emissions each day of operation, paired with a daily 24-hour block average limit, beginning May 1, 2019, to ensure peak daily emissions are addressed and then a 30-day rolling average limit, beginning May 1, 2020, to ensure that even lower limits are met throughout the year. Reporting requirements would ensure compliance with the proposed NOx RACT rates including mass limits for periods of startup and shutdown.

Under COMAR 26.11.08.10E - Additional NOx Emission Control Requirements, the Department requires Wheelabrator Baltimore, Inc. to submit a feasibility analysis to the Department by January 1, 2020. Based upon the results of the feasibility analysis, Wheelabrator Baltimore, Inc. shall propose new NOx emissions limits for consideration and approval by the Department.

The Council inquired about what makes the two Maryland facilities different, what are the RACT emission limits in surrounding States, how the continuous emission monitors work at the facilities and how is the data recorded. The Department provided details regarding the age of the plants and design differences, operations of emission monitors and compliance determinations, regional NOx RACT limits. The Council also inquired as to the emission reductions expected from this action. The Department estimates approximately 200 tons per year will be reduced from meeting the 24-hour block rates, which also equates to an emission reduction of 0.50 tons per day. Mr. Aburn explained that 0.50 tons per day is significant in ozone attainment and modeling.

Dr. Salawitch questioned the public availability of NOx continuous emission monitoring (CEM) data and whether data from each facility could be made public. Chris Skaggs responded that MCRFF maintains a web site where public data is posted. The Department mentioned that Wheelabrator data had been available through a telemetry system, though the Department has lost the means to access data in this fashion. The proposed action will improve the reporting requirements for Large MWCs and Tad Aburn made a commitment to make data from the Wheelabrator facility available.

Dr. Hobbs raised the issue that stakeholder comments submitted to the Council were requesting a cost-benefit analysis to be conducted. Dr. Hobbs argued that larger social benefits do not come into play for RACT analysis and are more typically considered during the development of NAAQS.

The Department further explained that health benefits for NOx RACT are typically tied to the NAAQS review every five years, though additional health benefits can be considered when the Department looks beyond RACT such as with the proposed feasibility study.

Several questions were raised concerning the feasibility analysis. In particular whether other states require a feasibility analysis, the timing of the analysis, and the purpose considering a new emission limit is being established in the proposed action. The Department responded that feasibility studies have not been a requirement from other states NOx RACT proposals. While the proposed NOx RACT requirements will result in near-term reductions in NOx emissions, the feasibility analysis will require Wheelabrator to explore whether state of the art control technologies may be technically implemented at the facility. Additional controls may be needed at Wheelabrator to attain and maintain compliance and meet obligations under the Clean Air Act.

After hearing debate on this proposed action from the Council, Chairman Quinn then invited stakeholders the opportunity to comment or ask questions. Stakeholders showed an interest in the public health outcome for residents in Maryland, and specifically those living in South Baltimore near the Wheelabrator facility. Information was shared with the Council concerning the public health effects of pollutants emitted by municipal waste incinerators. Stakeholders recommended that the Department take meaningful steps to reduce air pollution and continue to seek NO_x pollution reductions from Wheelabrator beyond the RACT process.

Tim Porter, representing Wheelabrator, mentioned that the facility is committed to achieving the proposed NO_x RACT rates and plans to make necessary modifications to meet those rates on a permanent basis. Wheelabrator will continue to work with the Department to make NO_x CEMs data publicly available. Wheelabrator requested that the Department amend the proposed regulation to allow additional time between the effective date of the regulations and the enforcement date of actions.

Chris Skaggs, representing MCRFF, commented that they are in support of the limits proposed in the rule and that they have submitted additional comments on the regulations to MDE.

Several stakeholders requested that the Council reject the proposed regulation in its current form and amend the regulation so that it is more protective of human health and the environment. Requests were made to include a presumptive limit in the rule (or a stronger commitment from the Department to make a stronger rule in the future) and for MDE to add clarity to what information will be present in a feasibility study. Mr. Aburn responded that one of the reasons the feasibility study was built into the proposed regulation was to assess the possibility of Wheelabrator meeting a more stringent limit, and further reviewing potential controls with stakeholders and Baltimore City government.

The discussion and presentation by each speaker has been recorded and is available for public review. In general the speakers had varying degrees of support for the proposals, and many argued that the proposal should be rejected as it was not stringent enough. The facility representatives express a desire to work with the Department to achieve improvement.

Having heard statements from the public and the regulated facilities the Council discussed the desire to have available pollution emission data for the MWC facilities. Current MDE regulations require the facilities to maintain compliance records on site and submit quarterly reports. Commentors suggested, and the Council agreed, that data should be available via an excel spreadsheet for third party analysis. MCRFF mentioned that they provide compliance data that meets the state regulations on their own website.

The Council agreed to propose a Recommendation to the Department to obtain CEM performance data for the Wheelabrator facility for the past five years and to post that data with-in 30 days to the MDE website. The data should be in a one-hour format. Mr. Schoen made this recommendation which was seconded by Dr. Hobbs. Twelve members voted in favor, none opposed, and none abstained at approximately 10:58 a.m. (~2 hr 35 min into webinar recording)

The Council agreed that their role was to advise the Secretary on responsible proposals and that not voting today would be a delay in reducing the current NO_x pollutant level. The Council agreed to vote on the proposal in separate actions.

First Motion to approve the proposed RACT rates (Sections B, C and D of the regulation was made by Mr. Levy and seconded by Dr. Amr. Twelve members voted in favor, none opposed, and none abstained at approximately 11:11 a.m. (~2 hr 47 min into webinar recording)

The second motion that the Council discussed was the requirements for the feasibility study (Regulation .10, Section E). The Department was concerned that there is not currently enough data to support setting a predetermined limit and expects the feasibility study to inform any possible future limit. Some Council members agreed, others suggested a presumptive limit be set now to ensure NOx reductions. Ms. Rehr recommends that a Health Impact Assessment be included in the feasibility study to accurately capture health impacts. Dr. Hobbs recommends that the feasibility study include a range of reductions down to New Source Performance Standards (NSPS) levels of new facilities and associated cost.

Mr. Schoen read the proposed text that could be inserted into the regulation feasibility study requirements: “The feasibility analysis described in paragraph E included analysis of multiple controls and construction measures to achieve various levels of NOx emissions including levels comparable to those of a new source.”

Second Motion to approve the feasibility study as proposed in the Regulation with the text edits as detailed by Larry Schoen was made by Dr. Hobbs and seconded by Mr. Levy. Twelve members voted in favor, none opposed, and none abstained at approximately 11:33 AM (~3 hr 10 min into webinar recording)

BRIEFINGS

No briefing presentations because of the time.

Motion to adjourn meeting was made by Mr. Chason and seconded by Mr. Levy.

The meeting was adjourned at approximately 11:40 a.m.

Next meeting dates proposed:

March 12, 2018

June 11, 2018

September 17, 2018

December 10, 2018