

**Air Quality Control Advisory Council Meeting Notes
June 6, 2016 @ 8:15 am
MDE Headquarters
1800 Washington Boulevard
Baltimore, MD 21230**

AQCAC MEMBERS PRESENT

John Quinn - Chairman
Sania Amr, M.D.
Kevin Barnaba
Jonathan Kays
John Kumm
Lawrence Kasecamp (on phone)
Ross Salawitch, PhD
Hon. Leta Mach
Todd Chason
Lawrence Schoen
Julian Levy

MDE-ARMA

George (Tad) Aburn
Randy Mosier
Husain Waheed, PhD
Carolyn Jones
Joshua Shodeinde
Kathleen Wehnes
Karen Irons
Dave Mummert
Christopher Mentzer
Megan Ulrich, Esq
Susan Nash

AQCAC MEMBERS ABSENT

Andrea Bankoski
Cindy Parker, M.D.
Sara Tomlinson
Sue Garonzik

VISITORS

Josh Berman – Sierra Club
Tom Weissinger – Raven Power
David Cramer – NRG
Tom McBurney – MD Correctional Enterprises
Joe Yost – CSPA
Chloe Ahmann – Student at George Washington
University
Chris Skaggs – Northeast Waste Disposal Authority
Juliana Bilowich – MD PIRG
Josh Berman – Sierra Club
Leah Kelly – Environmental Integrity Project
CIO representative – unidentified (on phone)

This is a summary of the June 6, 2016 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/ARMA. 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://www.mde.state.md.us/programs/WorkwithMDE/MDEBoardsandCommissions/Pages/AQCACmeetingminutes.aspx>
[x](#)

MEETING OPENING/OPENING REMARKS

Air Quality Control Advisory Council (AQCAC or the Council) Chair John Quinn opened the meeting by welcoming everyone to the meeting.

Mr. George (Tad) Aburn updated the Council on air quality topics. Governor Hogan signed the Greenhouse Gas Emissions Reduction Act (GGRA) of 2016, which reauthorizes and enhances the GGRA 2009 law. The GGRA of 2009 required the State to reduce statewide greenhouse gas emissions by 25% from 2006 levels by 2020. The new law requires a 40% reduction of greenhouse gas emissions by 2030. The Department plans to brief the Council at a future meeting on implementation of the GGRA. A bi-partisan climate commission has been established that is made up of legislators, cabinet secretaries, members of the general public, academic community, and advocacy groups. This Commission will aid in driving MDE work over the course of the next couple of years. The Department additionally will be promulgating regulations to minimize air emissions from the oil and natural gas sector.

Approval of Minutes from November 9, 2015 meeting:

The Department staff conducted an email poll of Council members to vote on the November 2015 AQCAC webinar meeting minutes. The minutes were approved by the Council via email and were distributed at the June 6, 2016 meeting. The November 9, 2015 meeting minutes have also been posted at the Department's website titled Air Quality Control Advisory Council Meeting Minutes and Materials. No further action was taken at the meeting.

ACTION ON REGULATIONS

COMAR 26.11.32 – Consumer Products

Mr. Randy Mosier and Dr. Husain Waheed presented the proposed amendments to 26.11.32 – Control of Volatile Organic Compounds from Consumer Products at approximately 8:37 a.m. (~ 5 min. into the webinar recording).

The proposed action amends the existing Maryland consumer products regulations by establishing VOC standards for ten new consumer product (CP) categories. The proposed amendments further strengthen the VOC standards for fourteen consumer product categories based on improved reformulations of these products which are capable of achieving lower VOC emissions and demonstrating an ability to maintain performance specifications for the products. Additionally, the proposed amendments incorporate new definitions and numerous modifications to existing definitions for clarity. The updates to the requirements are based on the Ozone Transport Commission (OTC) CP model rule that were finalized in 2012 and revised in 2014. The 2014 OTC model rule reflected changes made by the 2009 California Air Resources Board (CARB) rule.

The standards and requirements of the proposed regulation amendments apply to a person who sells, supplies, offers for sale, or manufactures for sale in the State a consumer product on or after January 1, 2018. The Department engaged with stakeholders, including impacted businesses, trade organizations and the environmental community, during development of the proposed amendments. The Department recognizes that regional rule consistency for consumer products is preferred by the manufacturing community.

Council member Julian Levy inquired about who comprised the stakeholders. MDE stated that stakeholders are trade associations, manufacturers, and environmental groups. Council member Jonathan Kays inquired if products still perform the same despite being reformulated to a lower VOC

content. Mr. Joe Yost, a representative with Consumer Specialty Products Association (CSPA), answered that the compliant products perform on equal terms or almost as well in most cases, and have been accepted in the marketplace.

The Council inquired about the VOC reductions expected in Maryland due to the proposed rule. Council member Julian Levy also wanted to know the total VOC tpd for all sources in Maryland and whether the quoted 6.3 tpd of VOC emission benefits is potential or actual emissions. MDE answered that in Maryland there are over 200 tpd of VOC emissions from anthropogenic sources, and that CP's contribute to 12% of VOCs regionally. The expected VOC reductions from the amendments are estimates from use in the State based on population and applied to the inventory. The OTC region and Maryland populations were projected to 2018. Based on the CARB per capita emission reductions achieved, the projected VOC reductions for the OTC region and Maryland were developed. This is the same methodology utilized by CARB, OTC and other states for developing emission benefit projections. The Council requested a summary of the amount of VOC estimated in the State versus the benefits estimated here to get a sense of scale. The Department informed the Council that they will prepare emission inventory data for review. MDE staff mentioned that the 6.3 tpd of VOC emission reductions is a large reduction for the state; a larger amount of VOCs than any recent regulation proposed. Council member John Kumm and Dr. Ross Salawitch inquired about how much of the expected 6.3 tons per day (tpd) reduction in VOCs is expected from the rule since CARB compliant products are already available. The Department acknowledged that a number of the VOC benefits may have already been realized since product reformulations have occurred as a result of the promulgation of CARBs 2006 and 2009 consumer product rules. Mr. Yost further added that products produced by nationwide manufacturers may have been realized, but Maryland will benefit from manufacturers that sold on a regional basis or that sell products only in the state of Maryland. VOC emission benefits will most likely be realized in Maryland from the multi-purpose solvent and paint thinner categories.

The Council raised questions about the toxicity of the different consumer product categories and expressed concern regarding public health impact. Council member Dr. Ross Salawitch inquired about information on the VOC content of product categories and whether more dangerous VOCs and toxics are present in consumer products due to reformulations necessary as a result of the new rule. Council member Dr. Sania Amr mentioned that some of the disinfectants contain chemicals that have reproductive, carcinogenic, and neurological side effects and expressed concern that end users need to be cautious when using such products to limit exposure to harmful chemicals. Dr. Amr also explained the importance of reduced VOC limits that can vary based on aerosol or non-aerosol application. MDE explained that the rule is based on the OTC model rule which is based on CARB's rules. California addresses VOCs and toxics together as a part of their rulemaking process and has a specific toxic standard review process. The proposed rule includes incremental updates on products that have been formulated in the past, and the reformulated products have significant reductions in air toxics as proposed. California has established prohibitions upon specific toxics in certain product categories and has required reductions of toxic content for numerous other consumer products. In general, when CARB lowers the VOC limit for consumer products, the assumption is that companies will reformulate with water or compounds that are not VOCs. CARB survey data has confirmed this to be the practice.

Council member Larry Schoen inquired about clarification as to whether the regulation applied to consumer or commercial products. Mr. Schoen also requested, for clarity, those products that have an "NA (Not Applicable)" in the regulation table should be denoted as a product subject to a standard elsewhere in the regulation. Mr. Schoen additionally inquired about the artist/solvent thinner size

exemption and the reasoning behind the container size exemption. The Council suggested MDE add wording to clarify that consumer products also include “and commercial products” as explained in the fact sheet. MDE responded that consumer products are products sold to retail customers for personal, household, or automotive use, along with the products marketed by wholesale distributors for use in commercial or institutional organizations; and further that the definition of “consumer products” in the regulation clarifies this issue. Concerning the artist/solvent thinner size exemption, MDE mentioned that the size exemption was established in the CARB and OTC rule and that MDE decided to adopt this exemption while including the proper labeling requirements. MDE worked with the trade associations to establish the regulatory language. OTC Model Rules are developed for the express purpose of reducing regional ground level ozone, however, certain compounds were regulated by the OTC Model Rules that may not cause or contribute to the formation of ozone, but due to their hazardous nature were included in the Model Rules for convenience of the states, which may regulate such compounds under their own state authorities. The OTC Consumer Products Model Rule includes updates from CARB’s regulations which implement a prohibition on 3 specific toxics in certain consumer product forms. Maryland’s existing and proposed consumer product regulations have included toxic prohibitions that apply to numerous consumer product categories. The CARB consumer products technology and composition review process includes toxics, and involves regular surveys (every 3 years) and analyzes data submitted by all manufacturers and sellers of consumer products in the state. Information on the chemical substitutes and technologies used is gathered and reviewed. Carcinogenic toxic contaminants are prohibited in reformulation.

Council member Todd Chason inquired about whether there is deviation from state to state from the implementation of the OTC model rule. MDE stated that in an effort for regional consistency, there is not much deviation from the model rule. Each state primarily adopts the regulations into their respective regulatory structure and style. The OTC states follow CARB, as that regulatory body has the resources to conduct surveys and perform technological and economic feasibility of rules.

Ms. Juliana Bilowich, representing the Maryland PIRG, stated that MD PIRG cares about toxics and indoor air, and therefore appreciates the closer look at the level of toxics. Ms. Bilowich supports MDE establishing a regulation with regional consistency and would caution against the regulation deviating from regional rules.

Mr. Joe Yost, on behalf of CSPA, stated his represented organizations and members support the amendments as proposed. Mr. Yost also stated his appreciation for the open and responsive communication in building the regulation and stresses the importance of interstate consistency for the proposed regulations.

The Council voted to move this item to the September meeting. The Council generally supports the VOC reductions, however the Council requested two items from the Department before the September 2016 meeting: 1) A high level two-page summary on the CARB protocol/rulemaking process for CP as it relates to air toxics within 30-45 days of meeting; 2) proposed regulatory language that links the Department regulations to the CARB process within two months of the meeting. The Department stated that the additional time to provide information to the Council will not impede the schedule for State Implementation Plans and ozone attainment.

Motion to approve the action as stated above was made by Julian Levy and seconded by Ross Salawitch. Nine members voted in favor, no members voted against, and one member abstained at approximately 9:43 a.m. (~1 hr 10 min into the audio recording).

COMAR 26.11.02.17 – Permit Fees Reductions

COMAR 26.11.02.17 Permit Fee Reductions Regulations – Mrs. Megan Ulrich presented the proposed amendments to the permit fees for certain categories at approximately 9:57 a.m. (~ 1 hr 24 min. into the webinar recording).

This action is part of the Governor’s regulatory initiative to reduce fees for Maryland taxpayers and small businesses. There are 155 other fees that will be reduced throughout Maryland with this initiative. The specific action reduces the permit to construct fees for non-residential charbroilers or pit barbecues and for small fuel burning equipment with a rated heat input capacity of less than 10 MMBtu/hr. MDE averages about 50 permits a year for the charbroilers and pit barbecues category, and about 90 permits per year for small fuel burning equipment. The Department is proposing to reduce fees for both categories by \$100 each. The Department is also working on a strategic plan to address budget reductions while ensuring continued implementation of Clean Air Act programs over the next 10 years.

The Council inquired about administrative and inspection costs associated with the permits and its effect on staff. Council member Julian Levy inquired whether the new permit fee would cover the Department’s administrative costs. Council member Leta Mach inquired about inspection expenses. Council member Jonathan Kays further inquired about the cost of these permits in comparison to other states. Council Member John Kumm asked about the reduction’s impact on MDE. The Department explained the permit application process and inspection process to the Council and stated that no positions would be affected by reduction in permit fees. There are no direct inspection fees associated with the permits. A strategic analysis of the Department’s budget and the implementation of the Clean Air Act programs is currently being developed. Also, MDE stated that the cost of permit fees compared to other states varies. MDE has to require permits for smaller sources that other states do not have to permit, and thus, there is no comparison for those permits. For fees on similar sources, MDE and agencies in other states assess the needs of the state – which varies from state to state.

Council member Jonathan Kays suggested that these fees could be further reduced and suggested reviewing other permit categories to identify other areas for reducing fees. The Department responded that they will look into that.

Motion to approve this action was made by Julian Levy and seconded by John Kumm. All voted in favor, no members voted against, and no members abstained at approximately 10:12 a.m. (~1 hr 39 min into the audio recording).

BRIEFINGS – NOx RACT for Municipal Waste Combustors

Mr. Randy Mosier and Mr. Joshua Shodeinde presented a briefing on NOx RACT for Municipal Waste Combustors at approximately 10:12 a.m. (~1 hr 39 min into the webinar recording)

MDE is currently reviewing NO_x RACT standards and requirements for large municipal waste combustors (MWCs) with a capacity greater than 250 tons per day. There are two large MWCs in Maryland: Wheelabrator Baltimore, L.P. and Montgomery County Resource Recovery Facility (MCRRF). Under the federal Clean Air Act, sources in ozone nonattainment areas classified as moderate and above are subject to a NO_x Reasonably Available Control Technology (RACT) requirement. Section 182 of the Clean Air Act requires the Maryland Department of the Environment (MDE) to review and revise NO_x RACT requirements in the Maryland State Implementation Plan (SIP) as necessary to achieve compliance with new more stringent ambient air quality standards. On October 18, 1999, the Department adopted source specific RACT limitations for a variety of major NO_x emission sources including MWCs. NO_x RACT for major MWC sources were established and regulations required that NO_x emissions may not exceed the NO_x emission standards in COMAR 26.11.08.08 or applicable Prevention of Significant Deterioration limits, whichever is more restrictive.

Region-wide, several states have proposed or revised NO_x RACT standards for large MWCs. On April 20, 2009, New Jersey adopted Regulation 7:27-19.12 that established a NO_x RACT emission rate of 150 parts per million by volume, dry basis (ppmvd) based on a calendar day average. New Jersey regulations also provide an alternative compliance option that allows MWCs to comply with the regulation by applying for an alternative NO_x emission rate. In May of 2013, Massachusetts proposed a NO_x RACT of 150 ppmvd for MWCs, equivalent to the type of large MWC plants operating in Maryland. To date, Massachusetts proposal has not moved forward for adoption. Most recently, on April 23, 2016, Pennsylvania updated their RACT requirements and established a NO_x emission rate of 180 ppmvd for MWCs.

Based upon regional RACT amendments and optimization studies conducted by Maryland sources, the Department has concluded that the NO_x RACT standards for MWCs can be improved upon based on the design of the combustor and year of installation. The Department has been working with the sources to review performance and Maryland MWCs have demonstrated the potential to reduce NO_x emissions through analysis and optimization of existing controls. This regulation, when effective, will result in reductions in NO_x emissions from these sources, which are needed to attain and maintain compliance with federal ozone standards.

Council member Dr. Ross Salawitch inquired about the reason MCRRF is processing similar amount of waste to Wheelabrator, yet MCRRF is emitting less NO_x. MDE responded that MCRRF is a newer plant and has proprietary low NO_x technology at the plant. Mr. Chris Skaggs, a representative from the Northeast Waste Disposal Authority, also added that MCRRF decided to modify and optimize their system in 2009 through the installation of the low NO_x technology. Mr. Skaggs acknowledged that MCRRF is ten years newer than Wheelabrator and was required to meet lower standards when the plant began operations in 1995. Dr. Ross Salawitch asked if the technology that MCRRF is using is available to Wheelabrator and Mr. Skaggs said the proprietary technology is available.

Council member Dr. Ross Salawitch also asked as to why the standard is based on mixing ratio, ppm, as opposed to mass. The Department stated that the standard is consistent with the federal standard, and regionally as well. Additionally, a backup Prevention of Significant Deterioration (PSD) standard is in place which is a mass limit. Furthermore, due to the heterogeneous fuel composition of the waste, it is more feasible to use a concentration limit.

BRIEFINGS – Maryland 2016 Clean Air Progress Report

Mr. Tad Aburn spoke about the Clean Air Progress Report that was released during Air Quality Awareness Week in May 2016 at 10:33 a.m. (~2 hr into the webinar recording).

For the first time in 30 years, Maryland is very close to meeting all federal air quality standards. Programs like the Maryland Healthy Air Act and federal standards for upwind power plants (Cross State Air Pollution Rule) have helped Maryland to reach this point. In 2012, the State came into attainment with the fine particulate matter standard. However, there is still work to be done to meet Maryland's air quality goals and to attain the new, stricter ground level ozone standard of 70 ppb. Weather plays an important role in the formation of ozone. This year, Maryland and the East Coast have seen more ozone days with the warmer weather.

Another challenge that MDE will have to tackle is attempting to meet a new federal one hour SO₂ standard. The new standard focuses on high levels of SO₂ around large sources such as power plants. The EPA is currently trying to finalize designations for all states areas. Governor Hogan recommends the area where the Wagner plant is located in Baltimore should be an attainment area. EPA recommended nonattainment for that area, but they will be taking a second look. By fall 2016, the EPA will be making a final determination of the designation. Other areas that are in the second phase of the EPA designation process are power plants around the Washington D.C. area and one area that involves the Luke Paper Mill in Western Maryland.

Mr. Josh Berman, a representative of the Sierra Club, stated that the Sierra Club believes the Department can take more action on SO₂. Based on Sierra Club's opinion, Maryland is not meeting the new federal SO₂ standard around the Wagner coal plant and wanted to see the Department move forward on regulations that were previously discussed.

Chairman Quinn announced meeting dates for this year and requested that Department bring four proposed meeting dates for 2017 before the next meeting.

Meeting was adjourned at 10:41 a.m.

Confirmation of Next meeting dates:

September 19, 2016

December 12, 2016