

MINUTES

REGIONAL AIR QUALITY COUNCIL

Thursday, December 4, 2008

RAQC MEMBERS/ALTERNATES PRESENT:

Andy Spielman, *Chairman, Hogan and Hartson, LLP*
Brad Beckham, *Colorado. Department of Transportation (alternate for Russell George)*
Theresa Donahue, *Smart Energy Living Alliance*
Mark Johnson, *Jefferson County Department of Health and Environment*
Jim Martin, *Colorado. Department Public Health and Environment*
Jana Milford, *University of Colorado at Boulder*
Nathan Rabinovich, *National Jewish Health*
Joan Ringel, *Citizen Member*
Nancy Severson, *Denver Department of Environmental Health*
Melanie Worley, *Douglas County/DRCOG*

RAQC MEMBERS/ALTERNATES NOT PRESENT:

Ben Marvel, *City of Fort Collins*

RAQC STAFF PRESENT:

Ken Lloyd; Sarah Anderson; Jerry Dilley; Misty Howell; Steve McCannon; Trevor Noel; Kate Riegle

OTHERS PRESENT:

Renee Allen, ESP; Korby Bracken, Anadarko Petroleum; Jim Brandon, ESP; Steve Cook; Dennis Creamer; Stan Dempsey, Colorado Petroleum Association; Aimee Fenlon, CCD- Dept of Aviation; Abby Gaffney, Davis, Graham & Stubbs; Ray Gorks, K.P. Kauffman; Zac Graves, CDOT; John Jacus, Davis, Graham & Stubbs; Trent Korby, Cimarron; Doug Lempke, CDPHE; Brian Lockard, Noble Energy; Pam Milmoie, Boulder County Department of Health; Jeff Schwarz, DSMB; Phil Schlagel, Anadarko Petroleum; Mike Silverstein, APCD; Natalia Swalnick, American Lung Association; Paul Tourangeau, APCD; Eric Triplot, Faegre & Benson; Scott Wagner, Wagner Equipment; Sabrina Williams, Denver Health; Tonya Winkler, DRCOG; Ed Woods, Caterpillar Emissions Solutions;

The meeting was called to order at 3:10 pm by Chairman Andy Spielman. A quorum was present.

Approval of Agenda and Minutes

Jim Martin moved to approve the agenda. Seconded by Mark Johnson. Motion passed without objection.

Mark Johnson moved to approve the minutes. Seconded by Jim Martin. Motion passed without objection.

Informational Items

Chairman

Andy Spielman informed Council that he recently accompanied Governor Ritter and others on a trip to China. The trip gave him a greater appreciation for Denver's air quality.

Executive Director

Ken Lloyd announced that Sarah Anderson has returned to the RAQC staff as the Communications Manager.

Committees

None.

Members

None.

Public Comment

None.

Consideration of Issues and Alternative Proposals Relating to AQCC Hearing on Ozone Action Plan and State Implementation Plan

Ken Lloyd outlined the issues that have been resolved through the AQCC process including the start date for the North Front Range Inspection and Maintenance program (July 2010); language changes indicating the references to ethanol fuels study were provided for information only; and EPA comments addressed.

Stan Dempsey, Colorado Petroleum Association, indicated his members are pleased with the resolution of the issues.

Ken Lloyd stated Council needs to provide direction to staff on some remaining issues.

Condensate Tank System-Wide Control Approach

Ken Lloyd informed Council that industry proposed maintaining the current system-wide control approach for condensate tanks as an alternative. The proposal included the following controls: 85% in 2010, 90% in 2012, and deferred the 95% control for further study. Ken stated the Air Pollution Control Division also recommended maintaining the system-wide approach as an alternative proposal for the AQCC to consider. Mike Silverstein, APCD, explained the APCD tried to create equivalent controls under the system-wide approach. The goal was to convert from numbers from the threshold system to the system-wide approach and preserve the emission reductions contained in the initial proposal. They also realized the proposal submitted for the pneumatic devices created unreasonable tracking requirements and difficult enforcement. They have recommended the control be removed from the SIP document. He explained this issue would be addressed through a permitting process.

John Jacus, Davis, Graham & Stubbs, stated the approach issue comes down to operator flexibility and diminishing returns. He shared some slides with Council to illustrate his points. He stated the 95% control does not allow any flexibility to operators. The companies he represents are comfortable with 85% and 90% control in the SIP.

Pam Milmoie, Boulder County Health Department, and Sabrina Williams, Denver Health, representing the Local Government Coalition, expressed their surprise with the APCD change in position to a system wide approach. However, Pam said they were swayed by APCD's arguments regarding EPA's issues. She expressed concern with the enforceability, but said they were persuaded by the greenhouse gas disbenefit issues and support deferring the 95% control for further review. Sabrina Williams asked Council to endorse the 85% and 90% control in the SIP.

Council discussed the differences between the APCD alternative proposal and the industry proposal. Council's discussion focused on the inclusion or deferral of the 95% control. Joan Ringel stated the APCD proposal is more responsive to the Governor's directive and allows flexibility by including the 90% in the State-only plan. Melanie Worley questioned whether the 95% control would cause issues for small businesses.

Ray Gorks, KP Kaufman Co., a small operator, said the 85% and 90% would be obtainable; however, the 95% would be tough to meet. He indicated he would have to have an incinerator at each tank facility.

Jim Martin said the State is now operating in a very different economic climate and he encouraged Council to think about the complexity of the system being created because additional administrative costs to the State will become an issue.

Nancy Severson moved to accept the APCD's system wide approach with 81%, 85% and 95% in the SIP. Seconded by Joan Ringel.

Melanie Worley suggested working toward the 95% but not putting it in the regulation.

Andy Spielman suggested Council not re-craft a proposal, but instead recommend testimony with suggested direction for the AQCC.

Nancy Severson withdrew her motion.

Nancy Severson moved that Council, at the AQCC hearing, support the system wide control approach with the parameters that the appropriate targets to be included in the SIP are 81% in 2009, 85% in 2010, and 90% in 2011. Seconded by Joan Ringel. Motion passed 9-0-1 (Jim Martin abstained).

Nathan Ravinovich said he is sympathetic to the disproportionate cost/benefit. Brad Beckham recognized that deferring the control allows for more time to review the issue.

Melanie Worley moved to recommend that the AQCC defer including the 95% control under the system-wide approach in the State-Only regulation at this time to allow time to review and collect data on the issue over the next year. Seconded by Nathan Rabinovich. Jim Martin made a friendly amendment to conduct the work over the next two years. The

friendly amendment was acceptable to Melanie Worley and Nathan Rabinovich. Motion passed 7-2-1 (no- Joan Ringel, Jana Milford; Jim Martin abstained.)

RICE engines

Ken Lloyd said that industry proposed the AQCC defer the adoption of statewide RICE engine controls. Ken indicated the RAQC staff did not comment on this issue during the prehearing process.

John Jacus provided some data on current RICE engine controls. He stated that industry believes the adoption of this control is premature given that NOx controls are scheduled to be evaluated in the near future.

Theresa Donahue moved to support the original RAQC proposal on the state-wide RICE controls. Seconded by Joan Ringel. Motion passed 8-0-1 (Jim Martin abstained).

Adoption of Additional Measures under State Authority Only

Ken Lloyd stated there is a provision of State law which states that any regulation not required by the Clean Air Act or more stringent than required by the Act cannot be included in the federally enforceable SIP. The AQCC is reviewing this issue and trying to decide whether any of the measures recommended by the RAQC will need to be removed from the SIP. At the AQCC's direction, the APCD staff prepared an alternative proposal which adopts everything proposed by the RAQC under State authority only and does not include the measures in the SIP. Mike Silverstein, APCD, said the AQCC has to make a determination of what is needed to satisfy the provision.

Jim Martin said the majority of AQCC members are new to this process so this is a first impression issue. There is concern regarding what would happen if there is no buffer in the plan and what measures are needed for attainment without conflicting with a strict interpretation of the State provision.

Jana Milford said the RAQC's rebuttal statement clearly reflected the position of the Council. She said it would be a grave error to let the AQCC believe the 1ppb buffer is sufficient to maintain attainment given the uncertainty of the models.

Theresa Donahue moved to encourage the AQCC, after their legal considerations, to include as many of the RAQC recommended measures in the SIP as possible. Seconded by Jana Milford. Motion passed 8-0-1 (Jim Martin abstained).

Adjournment

There being no further business before the Council, the meeting was adjourned at 5:35 p.m.