



## MINUTES

Friday, October 1, 2010

### **RAQC MEMBERS PRESENT:**

Andy Spielman, *Chairman, Hogan Lovells*  
Debra Baskett, *City and County of Broomfield*  
Melissa Chalona, *CTL|Thompson Inc.*  
Russell George, *Colorado. Department of Transportation*  
Darryl Jones, *Coventry Development*  
Elise Jones, *Colorado Environmental Coalition*  
Susan Kirkpatrick, *Colorado Department of Local Affairs*  
Richard Long, *Citizen*  
Linda Morton, *Morton Consulting Co.*  
Bob Murphy, *City of Lakewood*  
Paul Natale, *City of Commerce City*  
John Putnam, *Kaplan, Kirsch, & Rockwell, LLP*  
Martha Rudolph, *Colorado Department of Public Health and Environment*  
Jep Seman, *Corporate Advocates*  
Nancy Severson, *Denver Department of Environmental Health*  
Skip Spensley, *Environmental Consultant*  
David Stewart, *EnCana Oil & Gas (USA)*  
Will Toor, *Boulder County*  
Elena Wilken, *Colorado Association of Transit Agencies*

### **RAQC MEMBERS NOT PRESENT:**

Eric Doering, *Town of Frederick*  
Rick Garcia, *Department of Urban Housing and Development (advisory)*  
Bob Fitzgerald, *City of Aurora*  
Ben Marvel, *City of Fort Collins*  
Jennifer Schaufele, *Denver Regional Council of Governments*  
Nancy Sharpe, *City of Greenwood Village*

### **RAQC ALTERNATES PRESENT:**

Jennifer Finch, *Colorado. Department of Transportation*

### **RAQC STAFF PRESENT:**

Ken Lloyd; Sarah Anderson; Misty Howell; Stephanie Lind; Steve McCannon; Tara Moberly; Aneka Patel; Kate Riegler

### **OTHERS PRESENT:**

Lee Cook, EPA; Greg Davis, EPA; Stan Dempsey, CPA; Cindy Cody, EPA; Dennis Creamer; Lesli Ellis, NFRMPO; Greg Green, EPA; Karen Hancock, City of Aurora; Julie Hozee, COGA; Garry Kaufman, APCD; Joe Keefe, Faris Machinery; Deb Lebow-Aal, EPA; Paul Ludwig, Suncor Energy; Monica Morales, EPA; Rich Muzzy, PPACG; Barbara Roberts, AQCC; Tim Russ, EPA; Jill Schlaefer, CDOT; Barbara Stinson, Meridian Institute; Patty Stulp, ERAS; Stephanie Tathem, Kaplan Kirsch; John Thomas, EPA; Callie Videtich, EPA; and Bob Yuhnke, SWEEP.

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The meeting was called to order at 9:35 a.m. by Chair Andy Spielman. A quorum was present.

### **Approval of Agenda**

**Debra Baskett moved to approve the agenda. Seconded by John Putman. Motion passed without objection.**

### **Approval of Minutes**

**Susan Kirkpatrick moved to approve the minutes. Seconded by Darryl Jones. Motion passed without objection.**

### **Informational Items**

#### *Chair*

Andy Spielman informed Council that he, as the RAQC Chair, provided comments to the PUC regarding HB1365, which included that the goals achieved by the plan would be of significant air quality benefit.

He also said that he provided the keynote speech at the 26th Annual Air Quality Conference in Breckenridge, Colorado. He indicated that the work of the RAQC was well received by those in attendance.

#### *Members*

None.

#### *Executive Director*

None.

### **Public Comment**

Patty Stulp, ERAS Inc., provided verbal and written comments to Council regarding the RAQC's consideration of a ban on ethanol. She said the Fuels Study did not specifically address the ethanol issue so she could not provide comments on the study. She provided Ken Lloyd and the Fuels subcommittee with studies that were done in 2005 and 2008, which showed that ethanol had no measurable affect on ozone. She urged the Council to take the ban of ethanol off the table.

Stan Dempsey, Colorado Petroleum Association, said he is working to get feedback on the Fuels Study from his members by the RAQC/CDPHE deadline. He said they have no position on the strategies that consider a ban on ethanol. He suggested Council look at the Renewable Standard requirements when considering ethanol measures.

## **Presentation and Facilitated Discussion with EPA Region VIII and Headquarters staff about Federal Efforts Regarding Forthcoming Final Ozone Standard**

Andy Speilman highlighted the importance of the EPA staff attending the meeting and thanked them coming. He introduced Callie Videtich, Director of Air Programs, EPA Region VIII. Ms. Videtich then introduced Greg Green, EPA Office of Air Quality Planning and Standards from Research Triangle Park, North Carolina; Lee Cook, EPA Office of Transportation and Air Quality from Ann Arbor, Michigan; and John Thomas, EPA Office of Policy from Washing, D.C. Andy explained that each EPA staff member would provide a presentation, after which Council would have a discussion with the EPA staff to be facilitated by Barbara Stinson, Meridian Institute.

Greg Green, EPA Office of Air Quality Planning and Standards, presented information on what EPA is doing to help states with the upcoming revised ozone standard. He outlined the 2010 ozone NAAQS milestone tentative dates, which include promulgation of the proposed standard and proposal of the implementation rule in October 2010, designations in October 2011, 110(a) SIPs due October 2013, and attainment demonstrations due in February 2014. He reviewed some federal measures that will reduce ozone, including Clean Air Interstate Rule, Clean Air Mercury Rule, Clean Air Visibility Rule, Clean Air Nonroad Diesel Rule, Light-Duty Vehicle Tier 2 Rule, and Heavy Duty Diesel Rule.

Mr. Green also indicated EPA is working with areas interested in including voluntary and emerging measures in SIPs. He said the energy efficiency/renewable energy (EE/RE) measures are of interest and EPA is developing a roadmap manual from existing EPA guidance to facilitate incorporation of these EE/RE measures into SIPs. EPA is also investigating the feasibility of producing revised future attainment year baselines for the utility sector that states might use in their SIPs. He stated EPA is working with Connecticut and New Mexico and is interested in working with a third state.

Mr. Green said that Headquarters staff has to be conscious of the fact that they need to work through the regional offices. He indicated that Headquarters is willing to help Region VIII and the RAQC as much as possible as Denver works to meet air quality standards.

There was discussion regarding the timeframes and target dates that Mr. Green outlined. In response to a question, Mr. Green said the additional information on best management practices he referenced would be complete at the end of 2010. He said most of the work is complete and being finalized at this time. He also said that work to select the 8-10 source categories for the National presumptive RACT (reasonably available control technologies) has begun and the entire process should be complete in the next two to two and half years.

Lee Cook, EPA Office of Transportation and Air Quality (OTAQ), presented information regarding mobile source control measures. She said in 2020 mobile sources are still projected to account for up to 50% of the NO<sub>x</sub> emissions, and substantial hydrocarbon and PM emissions. Even with the control strategies "in the pipeline," mobile sources will continue to significantly contribute to air pollution problems in many parts of the country. She indicated that OTAQ is continually evaluating the potential for new mobile source measures for both vehicles and fuels that could help states as they work to achieve new NAAQS standards.

She reviewed the Mobile Source Clean Air Rules that are comprehensively addressing air pollutants including Clean Cars and Passenger Trucks –Tier 2, Clean Heavy-Duty Trucks and Buses, Clean Non-road Diesel Engines and Equipment, Locomotive and Marine Diesel Standards, Small Gasoline and Recreational Marine Standards, and Mobile Source Air Toxics Rule. She noted there are about 11 million existing, high-polluting diesel engines not subject to EPA’s new standards. Recent years have allowed national grants to fund retrofits as a way of promoting retrofitting, early replacement and idle reduction which reduced NOx emissions and PM emissions.

Ms. Cook also addressed how fuel programs can be used as a SIP strategy. She said fuel measures have been identified by the Clean Air Act as measures of last resort. She stated that a state must make a “necessity demonstration” that reductions are needed to meet NAAQS and that no other non-fuel program exists or that they are impracticable to implement. She also noted that fuels strategies should not interfere with the fuel distribution system.

Ms. Cook stated the current Denver vehicle inspection and maintenance (I/M) program is not required to meet minimum federal requirements for such programs because the area is maintenance for carbon monoxide and falls below the classification level for the 1997 ozone standard that would trigger full I/M requirements. However, once areas are designated and classified for the 2010 ozone standard, the Denver I/M program may need to be revised to require failure and repair of vehicles that have the onboard diagnostic (OBD) system’s “Check Engine” light illuminated. She said updating Denver’s program will have several benefits including VOC and NOx emissions reductions needed for ozone attainment, Tests will be quicker, less expensive, more accurate and more protective of consumers and opportunity for increased customer convenience through options such as self-serve kiosks and remote OBD.

In conclusion, Ms. Cook said that OTAQ is getting re-involved in Travel Efficiency Strategies, such as public transit, Smart Growth, pricing policies, speed limit reductions and urban parking restrictions because most provide criteria, GHG, and other co-benefits. OTAQ is currently looking at these to determine if they would be SIP creditable or used for conformity.

John Thomas, EPA Office of Policy, presented information on land use and community development as air quality strategies. He said that incorporating effective land use strategies into air quality planning is not a new idea and they do more than just reduce emissions. He recognized that short term reductions are limited, but emphasized that reaching agreement on methods and future development scenarios improves longer term air quality planning. He used the Atlantic Station project and the Sacramento Regional Blueprint as examples of how planning can be incorporated into a SIP and/or the conformity process.

Skip Spensley asked for clarification on when a strategy is considered part of the baseline and when it can be used for SIP credit. Ms. Cook said for the baseline EPA looks at pre- and post-control scenarios which include assumptions to get a total emissions reduction. She said the assumptions are made about rate of growth, economy, level of VMT (vehicles miles traveled) and other regional data that may be available. She stated that including controls in the baseline is procedurally an easier way for some innovative measures to move forward. The biggest difference between the two ways to use the control measures is that the baseline measures include assumptions. If a control measure is included in the baseline it cannot be used as a strategy to get additional SIP credit. In response to additional questions, Ms. Cook said that if a land use strategy is included in the baseline for conformity it is already counted in the SIP process. However, if it is not in the baseline then the strategy could be used to show attainment in the SIP. Ms. Cook, in response to an enforceability question, stated EPA looks at the SIP decision criteria to make sure assumptions are reasonable and factual.

Nancy Severson stated that the RAQC looked at OBD during its last SIP process. She said there were individuals from the North Front Range who were advocating OBD because of their more rural communities. She inquired as to how an OBD program would be implemented considering Denver currently has centralized emissions testing. Mr. Cook said EPA has flexibility regarding how areas create their inspection and maintenance (I/M) programs. She said OBD allows flexibility and can be added to current I/M programs. There is also an option to use remote OBD. In response to questions about false positives, Ms. Cook said that no technology is perfect but she believes there are more false positives with the IM240 treadmill tests than OBD. She also noted that like all technologies there is chance for tampering, but it is more difficult with the OBD technology.

John Putman asked EPA staff for their thoughts on how to coordinate long-term strategies with the shorter attainment deadlines. John Thomas indicated it is important to create partnerships with the agencies that qualify as regional land use planners and work together to obtain federal funding to acquire tools needed for regional land use planning efforts. Ms. Cook said EPA is hoping to come out with an information product to help areas with grouped strategies in December 2010. Ms Cook suggested transportation conformity be considered in air quality planning since transportation control measures can be helpful with VMT changes through conformity.

Andy Speilman inquired whether EPA has been having discussions regarding flexibility for allowing SIP credit to be taken for innovative strategies. Ms. Cook said the Office of Air and Radiation has been looking at the SIP process and the agency recognizes a need for streamlined processes. She emphasized that quantifiability is the big issue with innovative strategies. Callie Videtich, EPA Region VIII, said it is important for areas to work through their regional office when considering innovative strategies because they can help advocate appropriate measures.

Council discussed what EPA is doing to address the regional transport issue. Ms. Videtich said that EPA is currently working with western states to determine background levels (impacts from outside areas). David Stewart asked how the National Ozone modeling relates to the modeling being done by states. Ms. Videtich said the EPA is currently working on modeling efforts for the western states to help predict background levels. There have been discussions on how states can use the tools in their planning. She noted that she has heard there could be as much as 45-60 ppb coming into Colorado as background. Under those circumstances, if the standard is 70 ppb or below there is not much room to meet the standard. Paul Tourangeau noted that the Transport 1 Rule applies to the 1997 ozone standard and that EPA is going to develop a Transport 2 Rule for the new ozone standard once it is announced.

#### *Public Comment*

Bob Yuhnke, SWEEP, asked about the consequences of the National modeling exercise and whether the information would be used to create a CAIR program similar to that of the east coast. Ms. Videtich responded that she has not heard any discussions about creating a CAIR-like program. However, there have been discussions about a Transport Commission for the western states, which was not desired by the western states elected officials because of the regulatory requirements. Paul Tourangeau, APCD, added that the National modeling would help inform EPA for a Transport 2 Rule.

Paul Tourangeau, APCD, wanted to give the State's view on OBD. He indicated the OBD vehicle I/M testing requirement does not apply to pre-1995 vehicles. Currently, pre-1995 vehicles make up a significant portion of the fleet. He said the State has committed to look at OBD as the fleet profile changes. The State relies on the current system to get substantial emissions reductions from the pre-1995 fleet. He informed Council that the North Front Range wanted to make sure there was an IM240 program that captured pre-1995 vehicles for emissions reductions. He also said that the new MOVES mode will have a significant influence on planning.

### **Facilitated Discussion of Transportation Pricing Subcommittee Report-out, Recommendations, and Next Steps**

John Putman provided Council with an overview of the transportation pricing strategies that were analyzed by the pricing subcommittee, including fuel tax pricing, transportation facility pricing, mileage based fees, pay-as-you-drive insurance and priced parking.

During Council's discussion of fuel tax pricing strategy concern was expressed that the strategy requires further investment in gasoline and does not consider non-gasoline options. It was noted that the traditional use of fuel tax has eroded because of increases in non-gasoline transportation (electric vehicles) and more fuel efficient vehicles, and that it is important to find a price point that reduces demand. Council agreed this strategy needs further analysis.

Andy Spielman said that there was great interest expressed in facility pricing at the EPA Air Quality Conference he attended. It was noted that with local government cooperation, this strategy could be a powerful regional tool. Council recognized that this strategy is very political and unintended consequences, such as out of area travel, need to be considered. Facility pricing puts value in the trip which will encourage transportation changes. Council agreed the subcommittee should continue to investigate this strategy option.

Council discussed that mileage-based fee strategies should be considered in conjunction with alternative transportation to get people out of their cars. The importance of creating value for managed lanes to get motorists to make alternative choices was discussed. Russ George informed Council that CDOT is embarking upon a study and possible pilot program which will look at mileage-based fees. David Stewart added that Encana and the City and County of Denver have installed devices on its fleets to track VMT, fuel efficiency and driving safety. Council agreed to keep the strategy on list, but to let CDOT, through its pilot project, take the lead.

Council's discussion of pay-as-you-drive insurance included that it is revenue neutral and could offer significant VMT reductions. It was said that this type of insurance alleviates the uninsured motorist issue. Council also noted that the petroleum, insurance and realtor industries should be included in the discussions of this strategy since their businesses would be impacted. Council agreed to continue to investigate this option.

Council decided to discuss the priced parking option at the November meeting when they would have more time.

### *Public Comment*

Bob Yuhnke, SWEEP, said lane management by itself does not reduce emissions. He said pricing an entire highway and providing transit facilities will get emission reductions. He stated there is parity with price and mode of travel.

Greg Davis, EPA Region VIII, commented that there are good opportunities to expand on some mileage based fee programs. He informed Council that NREL will soon be releasing an expansive study which evaluated how much emissions can be reduced with these types of programs. He noted that Denver and Adams County have some fleet data available on some current programs they have implemented. He said most of the studies are showing that payback on the programs are coming sooner than anticipated, which helps to reduce some of the unintended consequences discussed.

### **Meeting Wrap Up and Overview of Next Meeting**

Council decided to devote the majority of the November meeting to continue its discussion on the pricing strategies and begin discussion on the transportation and land use subcommittee work. They also asked for updates on the new ozone standard, if it is announced before the meeting, and an update on the HB1365 plan regarding emissions reductions at metro area power plants.

### **Adjournment**

There being no further business before the Council, the meeting was adjourned at 12:30 p.m.