



# MINUTES

Friday, February 22, 2013

## **RAQC MEMBERS PRESENT**

Andy Spielman, *Chairman, Hogan Lovells*  
Melissa Chalona, *CTL\Thompson Inc*  
Elise Jones, *Boulder County*  
Doug Linkhart, *Denver Department of Environmental Health*  
Ben Manvel, *City of Fort Collins*  
Jackie Millet, *City of Lone Tree*  
Paul Natale, *Citizen*  
John Putnam, *Kaplan, Kirsch, & Rockwell, LLP*  
David Stewart, *EnCana Oil & Gas (USA)*  
Joyce Thomas, *City of Federal Heights*  
Will Toor, *Southwest Energy Efficiency Project*  
Chris Urbina, *Colorado Department of Public Health and Environment*  
Elena Wilken, *Colorado Association of Transit Agencies*  
Tracy Winfree, *City of Boulder*

## **RAQC MEMEBERS NOT PRESENT**

Reeves Brown, *Colorado Department of Local Affairs*  
Eric Doering, *Citizen*  
Rick Garcia, *Department of Urban Housing and Development (advisory)*  
Steve Hogan, *City of Aurora*  
Darryl Jones, *Coventry Development*  
Don Hunt, *Colorado Department of Transportation*  
Bob Murphy, *City of Lakewood*  
Jennifer Schaufele, *Denver Regional Council of Governments*  
Jep Semen, *Corporate Advocates*  
Skip Spensley, *Environmental Consultant*  
Phil Washington, *Regional Transportation District*

## **RAQC ALTERNATES PRESENT**

Jeff Sudmeier, *Colorado Department of Transportation*  
Bill Van Meter, *Regional Transportation District*

## **RAQC STAFF PRESENT**

Ken Lloyd, Meg Alderton, Lauren Beliles, Kate Cooke, Jerry Dilley, Misty Howell, Steve McCannon, Kate Ruygrok and Anne Ritter.

## **OTHERS PRESENT**

Will Allison, APCD; Greg Fulton, Colorado Motor Carriers Association; Karen Hancock, City of Aurora; Randy Harrison, RW Harrison; Sarah Judkins, student; Kent Kuster, CDPHE; Jake Matter, Attorney General's Office; Gordon Pierce, APCD; Trey Rogers, Ward Alternative Energy; and Mike Silverstein, APCD.

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The meeting was called to order at 9:30 a.m. by Chairman Spielman. A quorum was present.

**Approval of Agenda**

**David Stewart moved to approve the agenda. Seconded by Elise Jones. Motion passed without objection.**

**Approval of Minutes**

**Elise Jones moved to approve the minutes. Seconded by Jackie Millet. Motion passed without objection.**

**Informational Items**

*Chair*

Andy Spielman indicated that Ben Manvel is not seeking re-election to the Ft. Collins City Council and this will be his last RAQC meeting. He thanked Ben for all his hard work and indicated his public service will be missed.

*Executive Director*

None.

*Members*

John Putman offered to share the summary and detail of EPA's report that has updated the integrated science assessment as it relates to the ozone standard. He indicated he would provide the summary to staff to distribution to Council.

**Public Comment**

None.

**Legislation of Interest**

Ken Lloyd provided Council with an update on legislation of interest.

**House Bill 13-1071**

This bill attempts to create a means whereby collector vehicles 32 years or older could obtain collector plates in the future. As amended in committee, collector vehicles would still be required to pass an emissions test every five years upon registration. A further amendment is anticipated that will add an annual mileage limit to collector vehicles.

Ken indicated this bill passed the House Transportation and Energy Committee and the House Finance Committee and is awaiting action in House Appropriations.

There was discussion on how 4,000 miles was decided upon as the mileage limit. Ken said the Old Car Council has been very involved with this bill. Ken also clarified that the collector cars

are not exempt from emissions testing. The test is good for five years and the owner is required to pay fees for all five years up front.

**Jackie Millet moved that Council take a position of support for this bill as amended with the mileage limit. Seconded by John Putman.**

David Stewart asked why the Council would take any position on bills that do not reduce emissions. In response, Elena Wilkins said it is important to distinguish between high emitting cars and classic collector cars.

**The motion passes without objection.**

#### **House Bill 13-1091**

This bill would allow the AQCC to establish an alternative method for operators of heavy-duty vehicles to demonstrate compliance with opacity testing standards by following and submitting proof of exemplary maintenance practices. The bill also increases the model year exemption for new heavy-duty diesel vehicles in the fleet inspection program from two to four years.

Ken indicated this bill passed the House Transportation and Energy Committee and is awaiting action on the House floor.

Will Allison, APCD, said that CDPHE supports the bill because the opacity test is becoming antiquated and there is a need to keep up with technology. Under this bill, the AQCC would have the authority to set up guidelines and boundaries for an exemplary maintenance program. Council discussed whether the new program would provide similar outcomes as the opacity test. Some Council Members expressed concern that this would be mandated. Mr. Allison said the bill would allow operators to have choices in how they want to test their fleets. He also noted that the AQCC through its public process would determine how the program would work.

**David Stewart moved that Council take a position of support for this bill. Seconded by Joyce Thomas. Motion passed without objection.**

#### **House Bill 13-1110**

This bill, among other things, would impose a decal fee on electric vehicles. As amended in committee, the bill would impose a \$30 annual registration fee that would be credited to the Highway Users Trust Fund for roadway maintenance, and an additional \$20 fee that would be credited to the Electric Vehicle Grant Fund operated by the Colorado Energy Office.

Ken indicated this bill passed as amended in the House Transportation and Energy Committee and the House Finance Committee and is awaiting action in House Appropriations.

It was suggested that Council weigh in on this bill based on the fact that the RAQC has some electric vehicle projects underway.

Melissa Chalona asked if the \$30 fee was comparable to what drivers pay through the gas tax. In response Elena Wilkins indicated that CDOT's information shows that urban drivers pay approximately \$10-12 per month through the gas tax. Will Toor explained that the methodology used to determine the \$30 fee was established using an energy equivalent formula.

**Elena Wilkins moved that Council support the \$20 fee amendment to the Electric Vehicle Grant Fund. Seconded by Will Toor.**

Council had additional discussion on whether there was value in supporting an amendment but not the entire bill. Discussion included clarification of what it means to support a bill. Ken Lloyd indicated that a formal position can be shared with legislative committees, it provides direction for the RAQC's lobbyist and allows staff to testify with Board direction.

**The motion passed without objection.**

**Senate Bill 13-048**

This bill would allow cities and counties to use HUTF revenues for transit and bike/pedestrian investments. The bill is broadly supported by DRCOG, Metro Mayors Caucus, CML, DMCC, and other organizations.

Ken indicated this bill passed the Senate and is awaiting action in the House Transportation and Energy Committee.

Council discussion included that RAQC's support of this bill would be in line with its policies and multi-modal focus.

**Will Toor moved to support this bill. Seconded by Elise Jones and John Putman. Motion passed without objection.**

**Senate Bill 13-070**

This bill would modify current statute by expanding the definition of alternative fueled vehicles to require the state to purchase CNG or other alternative fuel vehicles, including electric, if the base cost or the lifecycle cost is no more than 10% more than the petroleum fuel alternative.

Ken indicated this bill passed the Senate and is awaiting action in the House Transportation and Energy Committee.

Council discussion included how fiscal mandates within statutes are making it difficult for local governments to budget. It was also pointed out that this bill broadens the definition of alternative fueled vehicles and allows for consideration of the life cycle, which is an improvement to current statute.

**Elise Jones moved to support Senate Bill 13-070. Seconded by John Putman. Motion failed with a vote of 11 in favor, 3 opposed, 2 abstentions. (13 affirmative votes are needed for passage)**

**Senate Bill 13-126**

This bill prohibits a landlord or HOA of a condominium or a common interest community from restricting the right of a tenant or united owner from installing, at their own expense, an electric charging system, subject to reasonable safety and insurance requirements. It also allows the Electric Vehicle Grant Fund to make grants to apartment owners, condominium owners and common interest communities to install electric vehicle charging systems.

Ken indicated this bill passed the Senate and is awaiting action in the House Transportation and Energy Committee.

Council questioned how the additional cost to the power grid would be paid. Several Council Members expressed concern over the additional cost to Xcel customers. The cost of allowing

the charging stations was compared to the costs associated with air conditioning. Not everyone would have either and only those choosing to use it would be paying for the additional power usage. It was clarified that under the current bill, tenants have the right to take the charging station equipment with them when they move. It is unknown if the bill addresses what happens if the equipment is left by a tenant.

**Doug Linkhart moved to support Senate Bill 13-126. Seconded by John Putman. Motion failed with a vote of 11 in favor, 2 opposed, 3 abstentions. (13 affirmative votes are needed for passage)**

#### **Bills of Interest that Died in Committee**

Ken indicated that House Bill 13-1128, to Exclude Clean Counties from Enhanced Emissions Area, died in the House Transportation and Energy Committee.

Senate Bill 13-061, to Establish a 10-Model-Year Exemption from Emissions Testing For New Vehicles, died in the Senate Transportation Committee.

#### **Update on Oil and Gas Issues**

##### **Recent Colorado Oil and Gas Conservation Commission rulemaking**

Ken Lloyd introduced Jake Matter from the Attorney General's Office, who is counsel for the Colorado Oil and Gas Conservation Commission. Mr. Matter provided Council with an overview of the recent rulemaking activities of the Colorado Oil and Gas Conservation Commission (COGCC). He explained that the COGCC has proposed new setback rules to address concerns around encroachment during oil and gas drilling activities.

Mr. Matter indicated the new rules have heightened mitigation for wells or facilities within 1,000 feet of a home. He also said that if a proposed well falls within one of many enumerated Designated Setback Locations (DSL), additional notification, consultation and operational requirements are triggered. He outlined requirements for each of the different DSL categories.

John Putman asked about green completions within the buffer zones and how these rules relate to the air quality regulations regarding green completions. Mr. Matter said the EPA rule on green completions is expected in the future.

Mr. Matter said at another meeting he was asked whether plugged abandoned wells 40 feet from sub-divisions could be operated again without applying the new requirements. To this he responded that to reopen the well would require a new Application for Permit to Drill (APD), which would trigger the heightened requirements for setbacks.

In response to a question as to whether there are other mitigation actions for air quality impacts, specifically as they relate to condensate tanks, Mr. Matter said condensate tanks regardless of size are addressed in the COGCC Rules, 805 series. If they are within a quarter mile of a home there needs to be a 95% emissions control factor.

##### **CDPHE stakeholder process regarding oil and gas rule revisions**

Will Allison, Air Pollution Control Division (APCD), indicated the APCD is conducting a stakeholder process for potential oil and gas rulemaking revisions. He noted that CDPHE staff has worked closely with the COGCC and that the Air Quality Control Commission (AQCC) rule making will occur in November 2013. He said that in November 2012 the AQCC partially

adopted the new federal source performance rules regarding permitting. He explained that the Commission wanted to take time to consider the implications to Colorado's state-only before adopting the full Federal rules. Mr. Allison said there will be five stakeholder meetings between January and May. Interested individuals can attend in person or via live-stream. The meetings will be available on-line after they have occurred. He also noted that the new rules will be proposed to the AQCC in August with the Rule Making Hearing scheduled for November 2013.

Mr. Allison also noted that Will Toor has been nominated by the Governor to join the Air Quality Control Commission and is awaiting confirmation from the Legislature.

#### *Public Comment*

Karen Hancock, City of Aurora, asked how much health impact data was included in determining the oil and gas setbacks. Ken Kuster said the COGCC considered a lot of data during its process. He also noted that the Commission always considers information from studies as it is made available. Will Toor added that the AQCC proposal is based on the available updated information.

#### **Proposed CDPHE study on air quality impacts from oil and gas operations**

Gordon Pierce provided an update on plans for a North Front Range Emissions and Dispersion Study. He explained that the COGCC's Environmental Response Fund has \$1.3 million available and COGCC and CDPHE are developing a budget amendment to transfer the funds to CDPHE. The Study is proposed for July 2013 – June 2016. The goal is to commence field sampling in the first half of 2014. This budget amendment is currently awaiting legislative approval.

Mr. Pierce explained that the Study is designed as an emissions and dispersion study and utilizes similar protocols to the CSU Garfield County study. CDPHE plans to contract with CSU to leverage resources. The focus of the Study will be oil and gas activities in the D-J/Wattenberg field. He explained that Phase I would include conducting a literature review of other scientific studies, convening a technical advisory group, develop air emission characteristics, examine the downwind dispersion and dilution of emitted pollutants under various meteorological conditions, publishing study findings in a peer-reviewed scientific journal. He said the dataset of emissions and related dispersion characteristics for future health impact assessments will be released at the end of the Study, along with the emission impacts on regional ozone production.

Mr. Pierce indicated that in Phase II, which is currently unfunded, CDPHE would perform a screening level analysis to estimate potential human exposure and relative health risks at different distances from oil and gas operations and to evaluate the potential human health effects.

In response to a question, Mr. Pierce stated that the NCAR FRAPPE Study uses ground based monitoring and air craft to get upper air readings. He also said that it is CDPHE's intention to coordinate modeling wherever possible. Chris Urbina indicated he would have his staff provide Council with a summary of current air quality studies relating to oil and gas.

## **Update on Projects of Interest**

### **OzoneAware 2013**

Meg Alderton provided Council with an overview of the 2013 OzoneAware program. Highlights included:

- Revising/updating creative components, including messaging, tag line website content Facebook ads, TV commercials, banner ads, radio scripts, promotional pieces and TV spots announcing partnerships and offers;
- Working out details of deliverables with media partners KMGH and PBS;
- Developing outreach activities, including targeted outreach to youth and Hispanics, and developing an Air Quality Impact Tool.

### **Local Government Air Quality Toolkit**

Meg Alderton also explained that to better serve RAQC's local government partners, staff developed a web-based toolkit that includes information on the area's air quality issues and strategies for improvement. The toolkit can be found at [www.raqc.org/localgov](http://www.raqc.org/localgov).

She said that an announcement about the tool was sent to 290 contacts including public information officers, sustainability coordinators, city managers, fleet managers, city planners and RAQC partner organizations. She indicated that roughly 33% of recipients opened the email and clicked through to the first page. Meg also showed Council the Toolkit pages on the website.

### **Electric vehicle project solicitation process**

Steve McCannon gave Council an update on the RAQC's Clean Air Fleets Electric Vehicle/Electric Vehicle Supply Equipment (EV/EVSE) project. The current funding for EV is \$737,000 and for EVSE is \$206,000. The RAQC's program will cover 80% of the incremental cost over the equivalent non-EV up to \$8,260 and 80% of the cost of EVSE up to \$6,260.

He indicated that applications were posted on December 14, 2012 and project proposals are due February 28, 2013. RAQC staff met with approximately 35 potential applicants to answer questions on the process. He anticipates that 5-10 organizations will apply for funds during this cycle. The next application cycle opens April 1, 2013.

Steve explained that during discussions with CDOT about procurement questions brought up at the applicant meeting, RAQC was informed that all CMAQ projects must follow "Buy America" requirements, which requires any project with equipment made of steel or iron be manufactured from steel or iron produced in the United States. At this time, there are no vehicles that meet this requirement. RAQC staff is investigating to determine if any EVSE meet the requirement. FHWA currently has a waiver process in place, which RAQC intends to use to move forward with the project. Steve said this issue could slow the implementation of this project. He indicated staff is working with CDOT and FHWA to get compliance guidance.

### **SWEEP analysis of natural gas and electric vehicle impacts**

Will Toor, Transportation Director of the Southwest Energy Efficiency Program (SWEEP), provided Council with an update on SWEEP's analysis, *Lifecycle Energy and Environmental Comparison of Electric, Compressed Natural Gas and Gasoline Vehicles in Colorado*. He outlined the methodology used in the analysis and shared the conclusions with Council.

### *Public Comment*

Greg Fulton, Colorado Motor Carriers Association, said there is not an option for heavy duty vehicles to convert to electric. Will Toor clarified that the analysis looked at light duty vehicles only. Mr. Fulton also asked Council to consider, as they move forward with their discussions, that CNG may not be a fit for everything, but it is a viable option for heavy duty vehicles.

Trey Rogers, Ward Alternative Energy, said they are a CNG provider, supporter of House Bill 13-1110 and support state incentives for conversions and purchase of CNG vehicles. He said both alternatives have a place in market and he would like to see RAQC help incentivize conversions.

### **Every Trip Counts TDM project**

Kate Cooke, gave Council an update on the Every Trip Counts TDM project. She indicated the program currently partners with Arvada, Wheat Ridge and Lakewood and focuses on summer air quality and reducing vehicle trips that contribute to the creation of ozone. She noted that in 2012 there were nearly 1,300 participants in the program which was a 57% increase over 2011. The program estimates a reduction of 86,900 vehicle miles traveled, 2,106 pounds of VOCs and 1,914 pounds of NOx.

Kate also noted the upcoming activities which included working to develop a trip tracking tool, coordinating with Lakewood and RTD on the opening of the West Rail Line, attending community events, sending out a large direct mail piece and working with partners to expand focus in Jefferson County.

### **DRCOG MetroVision scenario planning process and outcomes**

Kate Cooke provided Council with an overview of recent MetroVision 2040 activities. DRCOG has created a matrix that identifies key outcomes that will be analyzed as scenarios are developed. Kate noted that the outcomes include criteria pollutant emissions and greenhouse gas emissions. She also indicated that over the next few months DRCOG will be surveying local governments to obtain a better understanding of local growth and development challenges. The development and analysis on regional scenarios will take place over the summer and early fall months.

Kate informed Council of several upcoming meetings: March 7 – MetroVision Short Course and March 22 – Sustainable Communities Consortium Meeting.

### **Pending EPA rules**

Ken Lloyd said the 2008 Ozone Implementation Rule (for the 75ppb Ozone Standard) has not been submitted to the Office of Management and Budget (OMB) yet. EPA's current schedule indicates the rule will be proposed later this summer. Once the rule is issued we will have a definitive indication of its requirements under a marginal classification.

Ken indicated that the Tier 3 Motor Vehicle Emissions Standards rule has been submitted to OMB for review and is slated to come out in March. The standards are expected to be similar to California's low-emission vehicle standards. The standards will also include a lower 10 ppm sulfur standard in gasoline.

Ken said that staff will keep following these rules and provide Council with updates as they are available.

### **Next Meeting and Suggested Topics**

Will Toor suggested that Council receive an updated on CDOT RAMP funding with respect to transportation funding at its April 19 meeting.

Ken Lloyd said that staff would schedule a conference call meeting in March to discuss legislation, if necessary.

### **Adjournment**

There being no further business before the Council, the meeting was adjourned at 12:00 pm.