



MINUTES

Friday, February 7, 2014

RAQC MEMBERS PRESENT:

Andy Spielman, *Chairman, Hogan Lovells*
Terri Blackmore, *North Front Range MPO*
Melissa Chalona, *Citizen*
Gerry Horak, *Larimer County*
Elise Jones, *Boulder County*
Doug Linkhart, *Denver Department of Environmental Health*
Jackie Millet, *City of Long Tree*
John Putnam, *Kaplan, Kirsch, & Rockwell, LLP*
Jennifer Schaufele, *Denver Regional Council of Governments*
Jep Seman, *Corporate Advocates*
Skip Spensley, *Environmental Consultant*
Joyce Thomas, *City of Federal Heights*
Bruce White, *Weld County*
Tracy Winfree, *City of Boulder*

RAQC MEMBERS NOT PRESENT:

Reeves Brown, *Colorado Department of Local Affairs*
Eric Doering, *Town of Frederick*
Rick Garcia, *Department of Urban Housing and Development (advisory)*
Don Hunt, *Colorado Department of Transportation*
Darryl Jones, *Coventry Development*
Bob Murphy, *City of Lakewood*
Paul Natale, *Citizen*
David Stewart, *EnCana Oil & Gas (USA)*
Will Toor, *Southwest Energy Efficiency Program*
Phil Washington, *Regional Transportation District*
Larry Wolk, *Colorado Department of Public Health and Environment*
Elena Wilken, *Colorado Association of Transit Agencies*

RAQC ALTERNATES PRESENT:

Martha Rudolph, *Colorado Department of Public Health and Environment*

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; Mark Asoian, URS; Andrew Casper, COGA; Margy Christiansen, RAQC; Lisa Decker, WPX; Stan Dempsey, CPA; Kate Fay; Joelle Greenland, Adams County; Dan Grossman, EDF; John Jacus, DGS Client Group; Diane Kous, Arapahoe County; Jim Martin; Rich McClintock, Transit Solutions; Pam Milmoie, Boulder County Public Health; JoDell Mizone, WPX Energy; Patrice Murphy, BCPH; Jessica Scott, City and County of Denver; Nick Stubler, DU student; Laura Weber, DCP Midstream; and Bob Yuhnke.

The meeting was called to order at 9:35 a.m. by Chair Andy Spielman. A quorum was present at 9:38 am.

Informational Items

Chair

Andy Spielman thanked the board and staff for the “get well” card he received after his surgery in December.

He informed members of the audience that there was a specific sign in sheet for those who wish to speak during agenda item VIII, Public Comment on the Oil and Gas Air Quality Regulations. The amount of time to address Council will be determined by how many sign up for public comment.

Andy also informed Council that he would be recusing himself from the discussion on the oil and gas regulations since there is a chance the Oil and Gas Conservation Commission, for which he is a commissioner, may take some action after the AQCC hearing. He will leave the meeting for agenda item IX.

Approval of Agenda

Terri Blackmore 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 John Putman. Motion passed without objection.

Informational Items (continued)

Executive Director

Ken Lloyd informed Council that staff released an RFP for EPA Smartway certified aerodynamic trailer technologies. He asked Council to approve the awards as recommended in the memo provided to Council.

In response to Council inquiry, Ken confirmed that the contracting amounts were included in the 2014 budget.

Elise Jones moved approval to contract with the recommended contractors for EPA Smartway certified aerodynamic trailer technologies as outlined in the memo. Seconded by Jackie Millet.

Motion passed without objection.

Members

Andy Spielman introduced Fort Collins City Council member, Gerry Horak, as a new member representing Larimer County. Andy also announced that Mayor Steve Hogan has found it necessary to resign from Council due to time commitments.

General Public Comment

Rich McClintock, executive director of Transportation Solutions, announced that as part of DRCOG's Way To Go program a trip planning tool is available at mywaytogo.org. This is one outcome of TMO/TMA's partnership with DRCOG to reduce VMT.

Update of Legislation of Interest

Ken Lloyd provided Council with a legislation status. He indicated that HB 1056 clarifies the changes made in the 2013 collector vehicle legislation to make clear that emission inspection requirements for collector's vehicles registered before September 1, 2009 continue to apply to those vehicles until they are transferred.

SB 28 expands the existing list of persons and entities that are eligible to receive grants from the electric vehicle grant fund for EB charging stations. The bill also establishes priorities for reviewing grant applicants. In response to questions, Ken said that this bill does not deal with funding, only eligibility.

Elise Jones moved to support House Bill 28. Seconded by John Putman. Motion passed without objection.

Public Comment

None.

Briefing on Proposed Oil and Gas Air Quality Regulations

Ken Lloyd provided Council with an overview of the proposed oil and gas air quality regulations. He outlined the AQCC rule making process and indicated the hearing is scheduled for four days, with a fifth set aside if necessary.

Ken outlined the major issues with proposed rules for Regulation 7 that arose from the prehearing process, which include: statewide application; regulation of methane; storage tank requirements; LDAR program; well maintenance, liquid upload, glycol dehydrators; and order to demonstrate rules are sufficient to attain ozone standard.

John Putman, in reference to the statewide applicability issue, asked if staff had a sense on the transport of ozone precursors from other areas. Ken Lloyd indicated that source apportionment has not been done with the modeling at this time. He said the WestJump study shows 50-75 percent comes from sources outside the state.

Skip Spensley asked if APCD has done any work on methane contributions. Will Allison, APCD, indicated that the CDPHE has methane monitors and a draft GHG inventory. He said information on methane contributions has been provided to the AQCC.

Public Comment on Proposed Oil and Gas Air Quality Regulations

Andy Spielman indicated that there would be eight minutes per person based on the names on the sign-up sheet.

Ted Brown, Noble Energy, said Noble Energy is committed to health and the environment and support the rules because they are the right thing to do. He said the proposed rules are tough and the coalition worked through some very difficult discussions during the process. Mr. Brown said it started with Governor Hickenlooper's vision that a collaborative process be put into place to develop something extraordinary for the state of Colorado and its citizens and Governor Hickenlooper challenged industry and the NGO community to find solutions that would improve air quality and enable responsible economic development. To begin the process the groups had to find common ground set by science. Mr. Brown said these rules provide a clear message that we can have the environment we deserve, the energy we need and the economy we want. He believes these rules will achieve air quality benefits at a reasonable cost. Mr. Brown stated that these rules strike a balance and encouraged Council to support the proposed rules.

John Jacus from Davis Graham & Stubbs LLP, and **Stan Dempsey** from the Colorado Petroleum Association, both representing Joint Industry Work Group, addressed the Council. Mr. Jacus informed Council that the Joint Industry Work Group (JIWG) is comprised of the DGS Client Group (four operators), the Colorado Petroleum Association, the Colorado Oil and Gas Association and other oil and gas company parties. Mr. Jacus presented slides to Council which represented JIWG's position on the proposed rules. He said the industry has supported VOC reductions, has done the most, is willing to do more, but asserted that the Division's rationale for the rules is flawed. He stated the rules focus selectively on oil and gas, without modeling of projected benefits of rules. The JIWG believes the APCD's growth in production projected statewide and the claims that rules are cost-effective are wrong. He said the JIWG revisions are more reasonable, achievable and cost-effective, and still cutting-edge. Mr. Jacus further indicated that the APCD's selective focus skews the required analysis. He said the oil and gas sector is one piece of the ozone puzzle and should not be singled out in these rules. He stated the JIWG believes the APCD's VOC inventory for oil and gas is inflated and not consistent with EPA guidance. Additionally, the JIWG has issue with there being no modeling data to support the asserted benefits. Finally, Mr. Jacus said the cost of the rules varies and the benefits are exaggerated.

Mr. Jacus shared the following conclusion with Council:

- JIWG revisions will improve rules in the nonattainment area;
- Industry is willing to do even more, but not without demonstrated benefits;
- Suggested it is unwise to move aggressively where data and costs are so widely disputed; and
- Adoption of JIWG measures will provide data to support SIP revisions in future.

Andy Spielman disclosed that some clients of Hogan Lovells, while not his clients, are involved with the JIWG.

Stan Dempsey, Colorado Petroleum Association, indicated his members are concerned that the AQCC just started the process of looking at GHG and have now focused on regulating methane. He said the state's GHG inventory is currently a draft and CPA believes a more refined inventory is necessary. Mr. Dempsey stated data and studies overstate contributions of methane.

In response to a clarifying question regarding reports that oil and gas is the largest source for ozone precursors and growing, Mr. Jacus said he questions those conclusions. There are other larger contributors such as transportation. He indicated that oil and gas is growing in the Nonattainment Area, but not necessarily in other areas.

Gerry Horak asked how the proposed regulations change the 95 percent controls on oil and gas. Mr. Jacus said the regulations would promote further reductions on small facilities and more leak detection which is the reason for the different opinion on the cost.

Bob Yuhnke on behalf of The Sierra Club, Natural Resources Defense Council, Earthworks Oil and Gas Accountability Project and WildEarth Guardians said they support the proposed rules, but believe they do not go far enough. He said they are concerned that public health was not part of the discussion and it needs to be given more priority. Mr. Yuhnke indicated that this group of environmentalists have asked the APCD to re-run the photochemical grid model for ozone for 2015 to determine if emissions resulting from current rulemaking will attain the ozone NAAQS, and, if not, determine what additional reductions will be necessary for attainment. They also want the VOC inventory modified from last model run to reflect reductions required by final AQCC rule and the APCD to use the NOx inventory for 2015 as well as the most recent design values (2011-2013).

These results should be presented to RAQC by October 2014 and if the modeling (with latest O&G rules) does not show attainment, additional control measures should be developed by December 31, 2014, for submission to AQCC. He expressed that the group also wants a maximum allowable VOC emission level needed to maintain NAAQS to be developed and the adoption of an offset program or other strategy for minor sources to ensure that VOC cap is not breached to prevent future backsliding into nonattainment.

In response to a clarifying question, Mr. Yuhnke confirmed that they are suggesting that additional modeling be done after the rules are adopted.

Lisa Decker and **JoDell Mizone** from WPX Energy provided Council with WPX Energy's perspective. Ms. Decker said that WPX Energy is the largest producer of natural gas in the state of Colorado. WPX Energy is one of the few companies remaining active in drilling and producing

natural gas in the Piceance basin. She stated they support the proposed regulations. They have proposed minimal revisions to LDAR, including a step down approach, to keep the benefit without imposing unnecessary additional costs. She indicated that Trihydro was hired to look at data and noted the decline in emissions is less than one percent leak rate, which is important because it shows the cost per ton reduced is skewed. She said it gets more expensive to continue the program and less leaks will be found. In response to a question regarding how the benefit of leak detection decreases, Ms. Decker stated they have looked four years of data and the outcome remained the same. She also noted that this data was not provided during the prehearing process because it was not available at the time.

Elise Jones asked at what point deterioration of equipment increases leaks. Ms. Mizone indicated maintenance programs help maintain lower leak levels and LDAR provides trend data on leaks.

Pam Milmoie, air quality coordinator for Boulder County, and **Gregg Thomas**, City and County of Denver, both representing the Local Government Coalition, shared the Coalition's position on the proposed rules. Ms. Milmoie noted the Coalition supports the proposed rule because they include all hydrocarbons, continues the course statewide, requires cost-effective controls & monitoring and is necessary to reduce ozone and keep clean air clean. The Coalition proposes strengthening the rules by making the following changes:

- Increase leak detection and repair (LDAR) frequency (not including monthly AVO): every two years for 0-6 TPY sources (versus 1x lifetime), semi-annually for 6-12 TPY sources (versus annual), and semi-annually for 0-12 TPY compressor stations;
- Simplify and move-up LDAR phase-in; January 2015 for all sources except the smallest, January (versus July) 2016 for smallest sources (+12 mos.); and
- Reduce venting and flaring; recover product.

Mr. Thomas explained the Coalition supports the statewide requirement. He said Coalition members can attest to the extreme importance to residents of local emissions from small and medium sized tanks. He indicated they believe the cost effectiveness is well within acceptable ranges of past emissions reduction strategies. Mr. Thomas said the Coalition does not support the applicability to ozone non-attainment area only or the industry "step down" proposal for LDAR.

Dan Grossman, regional director for Rocky Mountain Environmental Defense Fund, said the stakeholder process was daunting and the recommendations are a compromise that represents progress in the right direction. He said that many operators are already performing leak detection and repair and these rules provide a level playing field. Mr. Grossman said the main issue with the proposed rules is that they are one-size fits all and EDF believes the rules should be tailored to the size of the source through a tiered system. He further said that most of the rules through the AQCC are statewide and it makes sense that these are as well. The benefits from the rules should not just be for the nonattainment area but for all Coloradans.

Elise Jones inquired how EDF got to a different conclusion than others with regard to the cost benefit analysis. Mr. Grossman said they relied on industry partners then contracted industry consultants to review.

Will Allison, director, APCD, said there was a tremendous amount of evidence submitted to the AQCC for consideration and the parties provided valuable information which led to the proposal. He indicated the APCD has confidence that the proposed rules provide straight-forward, proactive, cost-effective strategies. The cornerstones of the proposal include ensuring emissions are accurately controlled at tanks and leak detection/repair. He said the tier requirements are based on emissions from sites. Mr. Allison indicated a cost analysis was provided to AQCC as well as two economic analyses. Mr. Allison also noted that none of the strategies in the rules are pollutant specific.

Terri Blackmore asked why an air quality benefit analysis was not completed. Mr. Allison indicated APCD did analysis that shows the rules are cost-effective. He said modeling is an important tool in the tool box, but is not required for the proposed rules. He reiterated that the proposal is proactive and not tied to SIP requirements.

Council Discussion of Comments and Possible Statement on Proposed Regulations

John Putman, in Andy Spielman's absence, guided Council through discussion of the proposed rules. He suggested Council spend 10 to 15 minutes on a general principles discussion and then 20-25 minutes on specific details. Council was agreeable to this arrangement.

Ken Lloyd indicated the RAQC has filed a prehearing statement that stated that additional oil and gas emission reductions need to be considered, that ozone is a challenge in the region, and that oil and gas is a significant contributor to ozone. He said Council can choose to prepare a general statement of support or opposition for parts, all or none of the rules. Ken indicated that he believes the work of the RAQC will build upon these rules in the future. These rules provide benefits that can be applied to future ozone planning. He indicated staff is looking for some direction from Council. Specifically whether the RAQC would endorse that there is a need to do more to reduce ozone and recognize the rules as a good proposal containing details that need to be worked through by the AQCC.

John Putman reminded Council that they are not obligated to take a position but it is helpful to provide comments.

Jackie Millet expressed concern over economies of scale as they related to small producers. Will Allison indicated the APCD tried to recognize the differences in sites and basins. He said the APCD made assumptions but did not have access to employee sizes so the tiers are not broken down by company size.

Elise Jones said the RAQC is tasked with bringing the region into attainment and it does not make sense to pass on implementing rules. She said Council should be able to support the proposed rules on a larger level effort.

Gerry Horak concurred and said the AQCC should decide how to deal with the issues that arise through its process. He said it has been clearly voiced that there is a need for strict regulations.

Joyce Thomas expressed concern that these rules are making it harder on business. Jackie Millet said she can appreciate and support the collaborative effort, but emphasized that the cost-effectiveness to small producers should be considered.

Martha Rudolph emphasized to Council that what was presented today was a very brief summary and the AQCC will have the benefit of detailed evidence that was provided during the hearing. She suggested Council look at the purpose of the RAQC and ways of reducing ozone in the Front Range in a cost-effective manner and leave the details to the AQCC.

Tracy Winfree said it is important for the RAQC to support this effort. Terri Blackmore said Council should support the proposed rules because they fulfill the RAQC's general directive and helps to achieve attainment.

Skip Spensley echoed Martha's comments and said the RAQC needs to be supportive of the direction of the AQCC's proposal. He stated that with 50-75 percent of ozone coming from outside the Denver area, it is important to look at statewide controls, which is in alignment with the RAQC's directive.

Elise Jones moved that Council make the following statement of support of the AQCC proposal: *Given the mission and purpose of the RAQC, we support the AQCC proposal to reduce hydrocarbons in a cost-effective manner, including enhancing leak detection and enhancing storage tank management, and we support scaling the proposal based on the size of the emission source.* Motion seconded by Doug Linkhart.

Council discussed the language as proposed by Elise. Elise Jones stated the assumption is that small businesses would have less wells and therefore less cost. Skip Spensley said that there is reverse equity as well; just because a company cannot afford the cost of controls does not mean they should not have to implement them. Will Allison indicated the size of the tanks will be used in the cost analysis.

Gerry Horak made a friendly amendment to include “...AQCC proposal, *based on work of diverse stakeholders...*” This was accepted by Elise Jones and Doug Linkhart.

Joyce Thomas expressed concern that other factors are not being considered.

Jennifer Schaufele indicated she agreed that the statement is within the RAQC's charge, but since the DRCOG Board has not taken a position she may abstain from voting. She questioned whether company size is directly correlated to keeping emissions down or if it is the size of the wells themselves. Elise Jones responded that the focus of the proposal is on the emissions from wells in tons per year, not company size.

In light of the multiple changes to the language and to be clear as to what Council was agreeing to, Misty Howell typed the language for Council to see on the projection screen as follows:

Given the mission and purpose of the Council and the diverse stakeholder involvement, we support in general terms the proposal to reduce hydrocarbons in a cost-effective manner including state-wide application of LDAR and enhanced storage tank management.

We recommend that the Commission pay close attention to the cost-effectiveness of the phasing of the requirements.

Jackie wasn't comfortable with the language because it seemed to imply the RAQC supported the LDAR and tank management and maybe not other parts of the noticed proposal. Council discussed adding "noticed" before the proposal.

Then Council discussed the "Statewide application" language and decided that by supporting the noticed proposal, the RAQC was supporting the statewide application because it is included. They struck the language from the motion, "~~including state wide application of LDAR and enhanced storage tank management.~~"

The final language of the motion, which was acceptable to Elise Jones and Doug Linkart is below:

Given the mission and purpose of the Council and the diverse stakeholder involvement, we support in general terms the noticed proposal to reduce hydrocarbons in a cost-effective manner. We recommend that the Commission pay close attention to the cost effectiveness of the phasing of the requirements.

The motion passed 12,0,1 (Jep Seman abstained).

Plans for Next Meeting

The next meeting is scheduled for April. Misty Howell will email Council to determine the exact date.

Adjournment

There being no further business before the Council, the meeting was adjourned at 12:35 p.m.