

**Air Quality Control Advisory Council Meeting Notes  
September 21, 2015 @ 8:15 am  
MDE Headquarters—Aeris/Terra Conference Room  
1800 Washington Boulevard  
Baltimore, MD 21230**

**AQCAC MEMBERS PRESENT**

John Quinn  
Sania Amr, M.D.  
Jonathan Kays  
John Kumm  
Julian Levy  
Lawrence Kasecamp – by phone  
Lawrence Schoen – by phone  
Ross Salawitch, PhD  
Sara Tomlinson  
Cindy Parker, M.D.  
Hon. Leta Mach – by phone

**AQCAC MEMBERS ABSENT**

Andrea Bankoski  
Sue Garonzik  
Kevin Barnaba

**VISITORS**

Dr. Lorne Garrettson – previous AQCAC member  
David Smedick – Sierra Club  
Tom Weissinger – Raven Power  
Todd Chason – Gordon Feinblatt  
David Cramer – NRG  
Chelsea Ritchie – Roof Coatings Manufacturers Association  
Kaushik Patel – Benjamin Moore – on phone  
Dave Darling – American Coatings Association – on phone  
Tina Hunt – PPG – on phone  
Pat Gieskie – Valspar – on phone

**MDE-ARMA**

George (Tad) Aburn	Megan Ulrich
Randy Mosier	Duane King
Diane Franks	Ariane Kouamou-Nouba
Eddie DuRant	
Carolyn Jones	
Husain Waheed	
Kathleen Wehnes	
Joshua Shodeinde	
Dr. Jed Miller	

*This is a summary of the September 21, 2015 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/AQACmeetingminutes.aspx>

## **MEETING OPENING/OPENING REMARKS**

Chair John Quinn opened the meeting by welcoming everyone. Mr. Quinn recognized the service of Council members stepping down from the Air Quality Control Advisory Council (AQAC or the Council), Mr. Kip Keenan and Dr. Lorne Garrettson. Air Director George (Tad) Aburn, Jr. and Mr. Quinn presented to Dr. Garrettson a Certificate of Appreciation from the Secretary of the Department of the Environment and expressed their appreciation of his dedicated service to the Council. Mr. Keenan was unable to attend the meeting and will be recognized for his service at a future meeting. Mr. Quinn also acknowledged the retirement of Diane Franks who has been with MDE for over 34 years.

Mr. Aburn updated the Council about the status of Maryland's air quality. Current data indicates that Maryland will be in attainment for the 75 ppb ozone standard with six days remaining in the summer ozone season. On October 1, 2015, however, EPA will be coming out with a lower standard for ozone.

Mr. Aburn also provided an update on the status of Maryland's Greenhouse Gas Reduction Act Report, which illustrates how Maryland will meet the required 25% reduction of greenhouse gas emissions in Maryland by 2020. Initial analysis indicates Maryland is on track to achieve the 25% reduction while having a positive impact on the economy by preserving jobs. MDE will be providing a formal update to the State legislature in October 2015 and will provide the AQCAC with an update at a future meeting.

### **Approval of Minutes from August 5, 2015 meeting:**

Chair Quinn called for a motion to approve the August 5, 2015 meeting minutes at approximately 8:35 a.m.

Council member Dr. Salawitch noted a typo in the spelling of Senator Pinsky's name in the meeting minutes. MDE stated that the typo will be corrected.

*Motion to approve the August 5, 2015 minutes was made by Ross Salawitch and seconded by Sara Tomlinson. Eight members voted in favor, and none opposed, at approximately 8:37 a.m. (~ 13 min into recording).*

### **Scheduling of Meetings/Discussion - Time for Topics**

Chair Quinn requested input/feedback from the Council for meeting schedule times and dates.

Mr. Jonathan Kays suggested that notification should be given in advance to Council members if the Department expects the meeting will go beyond the scheduled time. He also suggested that a 30 minute notice be stated prior to a member needing to depart.

Mr. Julian Levy spoke about the Council's responsibility to the public, and indicated his understanding that at times discussions may take longer due to public participation.

Some Council members expressed concern with the limited time the Council had to deliberate the August 5, 2015 NO<sub>x</sub> EGU regulation, especially since the public had strong feelings about the topic. Chair Quinn explained that the Council, with a majority vote, may decide to delay a decision on a topic if Council members feel more time is needed. If such a delay was to occur, MDE would have the ability to move forward in promulgating a regulation without the AQCAC's consent.

Dr. Salawitch suggested adding deliberation time in the meeting agenda for controversial subjects. Chair Quinn asked Council members to feel free to add items, including deliberation time, to the agenda once received. The Council also suggested that MDE should add discussion time to the agenda for controversial topics.

Chair Quinn further explained that Council members are able to participate in the stakeholder meetings that occur before regulations are brought before AQCAC, and can indicate their status as AQCAC members at those meetings.

## **ACTION ON REGULATIONS**

### **COMAR 26.11.41 – Architectural and Industrial Maintenance (AIM) Coatings**

Mr. Eddie Durant presented on the proposed regulation Architectural and Industrial Maintenance (AIM) Coatings, under COMAR 26.11.41, at approximately 8:56 a.m. (~32 min. into the audio recording). Council member Larry Schoen joined the meeting by telephone conference.

In 2004, MDE adopted COMAR 26.11.33 – Architectural Coatings based on the model rule (Phase I) developed by the Ozone Transport Commission (OTC). This rule established stringent volatile organic compound (VOC) content limits for architectural and industrial coatings, container label requirements, and compliance and recordkeeping requirements.

The proposed regulation, COMAR 26.11.41 – AIM Coatings, is based on Phase II of the OTC Model Rule for AIM and was developed in conjunction with OTC member states. The rule was developed using standards adopted in the state of California in 2007, and updates the current regulation COMAR 26.11.33 – Architectural Coatings. Specifically, this action revises the VOC content limits for many coating categories, improves definitions for certain coating categories, and contains some standards and requirements that are more stringent than the current regulation. Various stakeholders, including the manufacturing industry, suppliers and retailers were involved in the development of the proposed regulation, and stakeholders had no significant comments. Currently, 17 states have promulgated either Phase I or Phase II of the existing AIM regulations. Therefore, more manufacturers are producing coatings which meet or comply with lower VOC limits.

The proposed regulation applies to any person who, on or after January 1, 2017, sells, supplies, or manufacturers AIM coatings in the state of Maryland. The regulation does not apply to architectural coatings sold, supplied, or offered for sale, or manufactured for use outside of the state of Maryland. The proposed regulation also does not apply to aerosol coatings or coatings sold in a container with a volume of 1 liter or less. The regulation does allow non-compliant coatings that were manufactured prior to the effective date (January 1, 2017) to be sold, supplied, or offered for sale for three years.

Dr. Salawitch asked for clarification to the reason why some coatings, which may fit multiple definitions with two different VOC limits, are subject to the higher of the two VOC limit. MDE stated that some coating categories are exempted from the Most Restricted Limit provision in regulation.

Mr. Levy asked about the effectiveness of Phase I of the regulation, and about the effect the proposed regulation will have on ozone. MDE responded while reducing NOx emissions provides a greater benefit, reducing VOCs is still important for meeting ozone standards. MDE also stated that reducing VOCs additionally reduces fine particulates and air toxics.

Mr. Levy suggested establishing a rule that controls the time of day when painters would be allowed to paint based on air quality forecasts. MDE stated that there has been limited success in mandating modification of behavior through regulations. However, MDE does encourage public awareness as part of public outreach education initiatives such as Clean Air Partners. Dr. Cindy Parker encouraged the group not to forget about the health co-benefits in reducing VOCs, which can be toxic to lungs. Dr. Salawitch and Dr. Sania Amr agreed, and they both cited personal experiences of using paint with lower VOCs and its benefit.

The Council expressed concern about the price of paint increasing and the durability and effectiveness of paints with lower VOCs. MDE explained that with changes in technology, manufacturers have been able to reduce VOC content in paint while ensuring durability and performance of paints. Ultimately though, the price and paint properties will depend on each manufacturer of the product.

Ms. Sara Tomlinson inquired about the effect the proposed regulation will have on indoor air quality. MDE stated that indoor air quality and toxics levels will be improved by the proposed regulation. VOC limits were set on coatings to ensure its safe use indoors.

The Council inquired about the possibility of a national standard for AIM coatings. MDE believes that there might be a national standard at some point, but it is still being discussed. The market will determine whether a federal standard is developed. It looks likely since manufacturers are moving towards developing a product that would meet a national standard. If a national standard is developed, whichever rule, either federal or state, is more stringent would apply.

Pat Gieskie spoke on behalf of Valspar. The company is in support of the proposed regulation and would like for EPA to establish a federal rule for AIM coatings.

Ms. Chelsea Ritchie spoke on behalf of the Roof Coatings Manufacturers Association. Manufacturers support the regulation, but are concerned that they would not be able to sell certain products until January 1, 2017. They asked for an early compliance provision in the regulations, as provided in the OTC model rule, which would allow certain new coatings categories to be sold prior to January 1, 2017.

Mr. Dave Darling spoke on behalf of the American Coatings Association. Manufacturers in the group also requested an early compliance option to be able to sell certain products prior to January 1, 2017.

MDE stated that they would amend the regulation to include language providing an early compliance provision.

*Motion to approve this action with an early compliance option was made by John Kumm and seconded by Ross Salawitch. Eight members voted in favor, no members voted against, and two members abstained at approximately 10:02 a.m. (~1 hr 38 min into the audio recording).*

### **COMAR 26.11.10.06 – Control of Iron and Steel Production Installations**

Mr. Randy Mosier presented on the proposed Control of Iron and Steel Production Regulation, under COMAR 26.11.10.06 at approximately 10:02 a.m. (~1 hr 38 min into the audio recording).

MDE proposes to update COMAR 26.11.10.06 to remove the reference to the discontinued Technical Memorandum (TM) 90-01 “Continuous Emission Monitoring (CEM) Policies and Procedures” and add a reference to COMAR 26.11.01.11 – Continuous Emission Monitoring Requirements. The Department has adopted and codified CEM requirements into COMAR 26.11.01.11, and quality assurance and quality control procedures into COMAR 26.11.31. Reference to the TM 90-01 document in MDE regulations is no longer needed.

*Motion to approve this action was made by Sania Amr and seconded by Julian Levy. All members (10) voted in favor, no members voted against, and no members abstained at approximately 10:05 a.m. (~1 hr 40 min into the audio recording).*

### **COMAR 26.11.28, 26.11.01.01, 26.11.14 – Repeal Clean Air Interstate Rule (CAIR) and Amendments**

Mrs. Diane Franks presented on repealing COMAR 26.11.28 – Clean Air Interstate Rule, and amending COMAR 26.11.01.01 and COMAR 26.11.14.07 at approximately 10:06 a.m. (~1 hr 42 min into the audio recording).

EPA developed the Clean Air Interstate Rule (CAIR), a cap and trade program, to address air pollution transported across state lines. CAIR addressed both NO<sub>x</sub> and SO<sub>2</sub>, which provided reductions to lower concentrations of both ozone and fine particulate (PM 2.5). Due to the unrestricted trading allowance permitted in CAIR, some areas within states did not see reductions – high emissions sources would end up buying allowances instead of utilizing controls. Therefore, a lot of litigation ensued because of unrestrictive trading. As a result, EPA developed the Cross State Air Pollution Rule (CSAPR) to supersede CAIR.

CSAPR addresses PM 2.5 and ozone through reduction of SO<sub>2</sub> and NO<sub>x</sub>. Originally scheduled to be implemented January 1, 2012, litigation caused the rule’s effective date to be delayed until January 1, 2015. Now that CSAPR is in effect, all references to CAIR can be removed from and amended in MDE regulations.

MDE proposes to repeal 26.11.28 as it is replaced by CSAPR, 40 CFR 97, Subparts AAAAA, BBBB, and CCCCC. The Department also proposes to amend a reference to CAIR in COMAR 26.11.01.01B (24-1) and in COMAR 26.11.14.07C (1). Additionally, per the request of EPA, the Department proposes to amend COMAR 26.11.14.07D (1)(a) by removing the word 'certified'.

The Council asked if there will be reference to CSAPR in MDE regulations. MDE stated that a reference will be made in the regulations to the code of federal regulations.

*Motion to approve this action was made by Julian Levy and seconded by John Kumm. Council member Ross Salawitch had to leave the meeting prior to this vote. All members (9) voted in favor, no members voted against, and no members abstained at approximately 10:14 a.m. (~1 hr 50 min into the audio recording).*

### **Closing Remarks**

The Council requested the scheduled briefings be held for a future meeting –possibly in the form of a webinar.

The meeting adjourned at approximately 10:15 a.m.

### **Confirmation of Next meeting dates:**

December 7, 2015