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Air Quality Control Advisory Council Meeting Minutes
June 13, 2022 @ 9:00 am
Webinar held by MDE

AQCAC MEMBERS PRESENT

John Quinn – Chairman
John Kumm, P.E., BCEE – Vice Chairman
Sania Amr, M.D.
Todd Chason, Esq.
Nicole Cook
Tom Dernoga
Nicole Hebert
Adreinne Hollis
Ben Hobbs, PhD
Tom Killeen
Megan Latshaw, PhD
Ross Salawitch, PhD
Robert Wright

MDE

George (Tad) Aburn
Chris Hoagland
Kelsey Sisko
Randy Mosier
John Artes
Justin Mabrey
Cynthia M Weisz
Megan Ulrich
Catherine Salarano
Carolyn A. Jones
Eddie Durant
Pars Ramnarain
Kara Dorr
Katharine Daristotle
Kim Drake
Marcia Ways
Roger Thunell
Suna Sariscak
Tim Shepherd

AQCAC MEMBERS ABSENT

Weston Young, P.E.
Lawrence (Larry) Schoen, P.E.

VISITORS

Karen Wrye
Peter Kitzmiller
Mike Johansen
Ruth White
Anne Havemann
Ari Plaut
Ariel Solaski
Birgit Sharp
Hugo Carmona
Daisy Rezende - AARST MD Chapter
Dru Schmidt-Perkins
Jacqueline Delisle
Kevin Shen
Leah Kelly
Linda Norris Waldt
Lindsey Mendelson
Louis Campion
Maddy Voytek
Michael Walther
Mark Binder
Mike Deitz
Shari Glenn
Shelly Leibowitz
Silverman, Sean
Gail240- Landy
6 telephone callers

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This is a summary of the June 13, 2022, 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/ARA. 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.

MDE website: <http://mde.maryland.gov/programs/workwithmde/Pages/AQCACmeetingminutes.aspx>

Mr. John Quinn, AQCAC Chair, opened the meeting by welcoming everyone to the Air Quality Control Advisory Council (AQCAC or the Council) meeting at approximately 9:04 a.m.

Mr. Tad Aburn, MDE Air Director announced his upcoming retirement and transition to the new Air Director Mr. Chris Hoagland.

Council members in attendance were introduced.

MEETING MINUTES

Mr. Quinn requested approval of the previous meeting minutes shared with the Council through email.

Motion to approve the March 14, 2022 minutes was made by Dr. Sania Amr and seconded by Mr. Thomas Killeen. Mr. Robert Wright had a correction to the minutes. A misspelling of Mr. Wright's name was corrected. Eleven members voted in favor at approximately 9:22 a.m. Ms. Adrienne Hollis was not present during the meeting minutes voting.

ACTION ON REGULATIONS

Motor Vehicle Anti-Tampering Amendments - COMAR 26.11.20.02

Mr. Randy Mosier and Mr. John Artes presented on the proposed regulation amendments to COMAR 26.11.20.02 – Vehicle Emission Tampering Amendments. During the March 2022 AQCAC meeting, the Department proposed amendments for the Vehicle Emission Tampering regulation that were approved by the Council in June of 2021 and were adopted on February 7, 2022. Enhanced tampering prohibitions, recordkeeping, reporting, and clarification on the Department's inspection role were included in the adopted regulations. During the final stages of that regulation adoption process, stakeholders informed the Department of concerns that would impact their business. The Department has been working with stakeholders on a series of amendments to address their concerns.

Mr. Artes began the presentation to the Council by explaining tampering basics, as well as the methods and equipment used to tamper with a diesel vehicle to delete (or remove) the emission controls. The Department has issued a compliance advisory and compliance alert to auto dealers, auctions, and trade organizations to inform them that tampering is illegal and the Department would increase efforts to ensure compliance of the regulations. Mr. Artes explained about the hardware and software that might be tampered with on a vehicle and the amount of NO_x and PM

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that could be emitted into our atmosphere from tampered vehicles. MDE inspectors have been attending training on the subject. This regulation further enhances and enforces existing state and federal rules.

Mr. Mosier then explained the background to the tampering amendments, including the June 14, 2021 AQCAC vote to adopt updated regulations addressing the tampering of motor vehicle controls, how the action expanded and clarified Maryland's regulations, the comments heard during the public hearing process, and the proposed amendments to AQCAC on March 14, 2022 to address the comments received. Mr. Mosier provided a comparison of the regulation as proposed to the Council in March and the changes that have been made to address stakeholder comments.

Mr. Quinn asked Mr. Mosier to summarize the major changes made to the amendments since the last meeting. Mr. Mosier responded by stating that the Department is proposing to exempt specific auctions, the non-retail wholesale of vehicles, auto insurers, and new vehicles. Mr. Quinn then asked what feedback the Department is receiving on the amendments. Mr. Mosier responded by telling Mr. Quinn the primary comments being addressed after the March AQCAC meeting were those coming in from the Auto Auction and Insurer industries. The Department has worked very carefully with these stakeholders over several months and the language presented to the Council satisfies the associations and the Department. Just prior to submitting the proposed amendments to the Council, comments were received from the Maryland Auto Dealers Association (MADA) regarding the impact upon the sale of new and used vehicles by licensed dealers. The Department included exemptions for new vehicle sales in the proposed regulation and will continue working with MADA to explore the need for additional amendments.

Ms. Megan Latshaw asked for clarification regarding the applicability of the amendments and exemptions, which was then provided by the Department. Ms. Sania Amr questioned the language describing the facilitating auction and owner of the vehicle title. Mr. Mosier stated that the language used in the amendments were provided and understood by the affected industries and the Department. Ms. Karen Wrye from the National Auto Auction Association confirmed that the terminology is acceptable by the industry.

Mr. Wright asked the Department whether the recordkeeping requirements would apply to individuals, and specifically those selling vehicles obtained by inheritance. Mr. Artes stated that the recordkeeping requirements only apply to vehicle dealers for business that sells these vehicles.

Ms. Nicole Herbert questioned whether the exemption for new vehicles would allow manufacturers to sell tampered, new vehicles. The Department stated that federal regulations would prohibit manufacturers from selling tampered vehicles or vehicles designed to circumvent emission control systems.

Mr. Ben Hobbs questioned how the Department would respond to the Maryland Automobile Dealers Association letter. Mr. Mosier explained that the Department is addressing the requested exemption for new vehicles in these proposed amendments and will continue to work with the Association on other issues raised in the letter. Mr. Hobbs questioned whether an inspection

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conducted by a dealer would be able to determine if a vehicle had been tampered. Mr. Artes responded that there are some types of physical and electronic tampering that would be difficult for a dealer to determine. However, the majority of vehicles that have been tampered are diesel pick-up trucks, and the modifications are often quite obvious.

Mr. Ross Salawitch stated his concern that the regulations may result in an increase of private sales of tampered vehicles as dealers will be unwilling to purchase these vehicles. Does MDE know what fraction of these sales today occur through dealers versus private and is there a plan for assessing how well whether there is a transition away from the dealer lots to private sales? Mr. Mosier stated that all vehicle sales, private or not, need to go through the Maryland Motor Vehicle Administration safety inspection process. While the primary purpose of this process is to ensure that a vehicle is safe for the roadways, a vehicles exhaust and emissions systems are also inspected. The Department believes that the most tampered vehicles will be picked up through this process. Mr. Mosier further stated that the Department will continue to have conversations with the Motor Vehicle Administration to better understand the inspection process and the efficiency of the program.

Mr. Peter Kitzmiller, the President of the MADA, and Mr. Mike Johansen from the Washington Area New Dealers Association talked with Council about the comments sent to the Department regarding the regulation. Mr. Kitzmiller stated that their members have no interest in selling tampered vehicles and would like to see amendments to the regulations pertaining to record keeping requirements. Mr. Mosier responded to Mr. Kitzmiller's comments by explaining that the Department is providing an exemption for new vehicles under this proposal and will continue to work with Mr. Kitzmiller on these issues.

Mr. Quinn asked whether the Department could hold off on the proposal until the next AQCAC meeting to address all of the issues being discussed. Mr. Mosier responded that the Department has been working over the past several months to address stakeholder comments and does not want to delay the exemptions for the auto auction and insurance industries.

A Motion to approve the regulation as presented was made by Mr. Todd Chason and seconded by Mr. Ben Hobbs at 10:20 a.m.

Mr. Quinn asked for final questions from the Council. Ms. Nicole Cook asked the industry representatives whether industry has concerns regarding potential litigation. Mr. Kitzmiller responded that MADA has concerns that if dealers were to mistakenly certify a tampered vehicle, that they would be in violation of the regulation and subject to a \$25,000 fine. Mr. Todd Chason requested the Council move forward on a vote since there was a motion and a second in place.

Ten members voted in favor (John Quinn, Sania Amr, Todd Chason, Tom Dergoga, Ben Hobbs, Tom Killeen, John Kumm, Megan Latshaw, Ross Salawitch, Bob Wright), two members opposed (Nicole Cook and Adrienne Hollis), and one member abstained (Nicole Hebert).

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Mr. Quinn let the Council know that Mr. John Kumm (Vice Chair) will be taking over as Mr. Quinn had to leave the meeting early.

Briefings

Advanced Clean Cars II – Justin Mabrey

Mr. Justin Mabrey presented on the Clean Cars Program - 2022 Regulation Update. Mr. Mabrey provided the Council some background information on the Maryland Clean Cars Program prior to detailing the regulatory changes that need to be made due to California adopting new and more stringent light-duty vehicle emission standards. Mr. Mabrey also explained the Zero Emission Vehicle (ZEV) program flexibilities that California Air Resources Board (CARB) plans to put in place, and the next steps to be taken by the Department.

New Transparency, Air Toxics and Fugitive Dust Requirements – Tad Aburn/Kelsey Sisko

Mr. Tad Aburn and Ms. Kelsey Sisko presented on the New Transparency, Air Toxics, and Fugitive Dust Requirements that will begin to address environmental justice issues in the state of Maryland. Before the presentation started, Ms. Adrienne Hollis was introduced to the Council as a new Council member representing the General Public. Mr. Aburn began the presentation by explaining the Department's recent efforts related to environmental justice and community engagement. Mr. Aburn detailed enhanced compliance and monitoring initiatives, the Port Partnership, hyper-local air monitoring programs, diesel emission reduction efforts, and several community partnerships. Mr. Aburn then informed the Council why these regulations are a priority at the Department.

Mr. Aburn explained to the Council why amendments are needed to the air toxics regulations and then presented the basic requirements of the Department's current toxic air pollutants regulations, including ambient impact analysis and the screening analysis option. Mr. Aburn mentioned how these regulations have greatly reduced toxics since the late 1980s, though amendments are needed to address current toxic concerns. Mr. Aburn detailed potential regulatory concepts that may provide further protection to areas overburdened by air pollution sources (stationary and mobile) and reviewing tools and factors related to air pollution in overburdened areas.

Ms. Sisko presented to the Council potential transparency requirements under consideration to ensure existing and new permitted sources demonstrate how their operations ensure continuous compliance of air regulations. Part of this process may include a community engagement plan to increase community input.

Mr. Aburn completed the presentation by detailing potential fugitive dust amendments and current Department efforts to address fugitive dust.

The meeting was adjourned at 11:36 a.m.

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Next meetings are scheduled as a 9 a.m. webinar for:

- September 12, 2022 – Rescheduled for October 24, 2022
- December 12, 2022