

FINAL

**Air Quality Control Advisory Council Meeting Minutes
September 11, 2023 @ 9:00 am
In-person/Webinar hybrid meeting held at MDE**

AQCAC MEMBERS PRESENT

John Quinn – Chairman
Todd Chason – Vice Chairman, Esq.
Anna Marshall, AICP
Ben Hobbs, PhD (Joined after approval of meeting minutes)
Megan Latshaw, PhD
Lawrence (Larry) Schoen, PE
Nicole Cook, JD
Sania Amr, M.D.
Sunhee Park, PE, BCEE
Thomas Dernoga, JD
Ross Salawitch, PhD
Weston Young, PE

AQCAC MEMBERS ABSENT

Adrienne Hollis, PhD, JD
Thomas Killeen
Robert Wright, PhD, PE (ret)

MDE

Chris Hoagland
Randy Mosier
Mark Stewart
Allison Tjaden
Kelsey Sisko
Carolyn Jones
Scott Zacharko

Steve Lang
John Artes
Pars Ramnarain
Emily Bull
Catherine Salarano
Megan Ulrich
Angelo Bianca

VISITORS

IN PERSON

Rev. Catherine Manhardt
Shehla Khan
Sergine Yango
Jose Corando
Cynthia Marshall
Topae Manford
Pilar Olmedo
Dave Cramer
Eric Kattleson
Jordan Miller
Prina Dexton
Prina Dexton
Eric Kattleson
Jordan Miller
Prina Dexton

See Attached List for webinar attendees

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This is a summary of the Sept. 11, 2023, 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 9:08 a.m.

Mr. Randy Mosier welcomed everyone to the meeting and announced that the long standing AQCAC Chair Mr. John Quinn will be retiring. Mr. Mosier thanked Mr. Quinn and presented him with a plaque for his outstanding leadership and service on the Council.

Introductions were conducted for all those attending in person and for the Council members that joined virtually. (A record of virtual attendance is recorded by the GotoMeeting log-ins)

MEETING MINUTES

Mr. Quinn then asked the Council to review the meeting minutes.

A motion to approve the June 12, 2023 minutes was made by Dr. Sania Amr and seconded by Dr. Ross Salawitch. All members present voted in favor at approximately 9:22 a.m.

Mr. Chris Hoagland, the MDE Air Director, mentioned that MDE has been focused on climate work recently and the proposal today is part of that. Since the passing of the Climate Solutions Now Act (CSNA) there have been various briefings and regulations to the Council that help achieve our climate goals. Mr. Hoagland thanked Mr. Quinn for all the important work he has done with the Council over the years.

ACTION ON REGULATIONS

Regulations Amendments to COMAR 26.11.40 Non-trading Large Nitrogen Oxides (NO_x) Units

Mr. Randy Mosier presented the proposed amendment to existing COMAR 26.11.40. Mr. Mosier explained that the purpose of this action is to propose amendments to Regulations .02 - .03 under Chapter COMAR 26.11.40 - NO_x Ozone Season Emission Caps for Non-trading Large NO_x Units to update certain facilities ozone season emission caps and update a reference to the EPA's Cross State Air Pollution Rule trading program.

The Department proposes the amendments to remain current with the requirements under the code of federal regulations. The origination of the NO_x ozone season emissions budget comes from the federal NO_x Budget Trading Program, where EGU's (electric generating units) and Non-EGU (industrial sources large boilers or those units not in the trading program) were given a NO_x ozone season emission cap. Maryland has been given a federal NO_x budget tonnage cap

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of 1013 tons. MDE will re-allocate the NO_x ozone season emission caps under COMAR 26.11.40.03 due to one large industrial source – Luke Paper Mill - shutting down.

The Department will reallocate the 656 tonnage cap from the closed Luke Paper Mill to a new unit set aside. Should a new source with a Non-trading large unit wish to open in Maryland, there will be 752 tons of NO_x available from the new unit set aside.

The following “Affected Sources and Units” have been identified in Maryland: American Sugar Refining (Domino Sugar), located in Baltimore, Maryland, Cove Point LNG Terminal, BHE GT&S – previously Dominion Energy, located in Lusby, Maryland, National Institutes of Health, located in Bethesda, Maryland, and a person who owns or operates a new unit subject to this Chapter.

The Department is also updating the reference to the federal program in the amendments. All existing affected sources are in compliance with this regulation and there is no change to their requirements.

A motion to approve the regulation as presented was made by Dr. Sania Amr and seconded by Dr. Megan Latshaw. All members present voted in favor at approximately 9:32 a.m.

New Regulations COMAR 26.28.01- .04 Building Energy Performance Standards

Mr. Todd Chason, Vice Chair, noted that he will not be participating in this discussion and abstaining from the vote today but listening.

Mr. Mark Stewart began the presentation for MDE on the new regulations for Building Energy Performance Standards (BEPS). Mr. Stewart explained that he will present the components of the BEPS proposal today. Previous updates to the Council prior to this proposed action have been presented over the past 9 months.

BEPS regulations are an important tool to reduce energy consumption in buildings and decrease greenhouse gas (GHG). The 2022 CSNA requires MDE to develop regulations to include energy use intensity (EUI) standards and direct emissions reductions standards.

Covered buildings are buildings in Maryland that are 35,000 square feet or larger (excluding the parking garage area). Historic properties, public and nonpublic elementary and secondary schools, manufacturing buildings, and agricultural buildings are exempt. Owners of covered buildings will need to report data to MDE each year beginning in 2025.

Mr. Stewart explained that the CSNA required that MDE must develop standards for buildings that, among other requirements, achieve:

- A 20% reduction in net direct greenhouse gas (GHG) emissions by January 1, 2030, as compared with 2025 levels for average buildings of similar construction and;
- Net-zero direct GHG emissions by January 1, 2040.

MDE will conduct an updated analysis after the 2025 benchmarking data are submitted in 2026

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to determine if the interim and/or final standards need to be modified based on actual 2025 benchmarked building energy performance.

Mr. Stewart provided an overview of the exemptions in the BEPS proposal. Additionally, Mr. Stewart provided an overview of the TM 23-01 Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards and all members of the Council received copies of the draft of this document.

Mr. Josh Kase presented the key findings from the Department of Energy National Labs technical analysis including a summary of the estimated energy and emissions reduction, previously presented to the Council.

The Lawrence Berkeley National Lab (LBNL) worked with the Pacific Northwest National Laboratory (PNNL) on integrating cost modeling for a cost-benefit analysis of the Maryland BEPS proposal. The findings of this study are a Net Cost Savings of All Investments of \$4.5B total, or \$4.47 / SF, state-wide from 2025-2050.

Dr. Ross Salawitch, Mr. Larry Schoen, and Mr. Ben Hobbs asked for follow-up information from LBNL including the assumptions used and data sources for the analysis. The Department will include additional details about the analysis in its Technical Support Documentation for the regulation.

Mr. Stewart summarized the economic impact finding and indicated that the significant funding from the federal Bipartisan Infrastructure Law and Inflation Reduction Act are expected to reduce costs of compliance with BEPS and speed their return on investments, which were not included in the National Labs economic modeling. Additionally, the Building Energy Transition Implementation Task Force will recommend programs, policies, and incentives aimed at reducing GHG emissions from the buildings sector and develop a plan for funding the retrofit of covered buildings to comply with BEPS.

In closing his presentation, Mr. Stewart provided an overview of the continued and detailed stakeholder engagement plans for 2024 and beyond.

The Council discussion included the following topics and questions:

- How can a building exclude its food service activities: Instructions provided in the TM 23-01 Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards
- What is included in each property type: Refer to US EPA ENERGY STAR Portfolio Manager for detailed guidance, information, and training.
- How did MDE incorporate stakeholder comments to the draft proposed regulation shared: Meaningful changes to the regulation itself and comments informed the TM23-01 Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards.
- Why are there alternative compliance payments for net direct greenhouse gas emissions but not for site energy use intensity: The CSNA law allowed ACP for direct energy use but not for EUI
- Is solar energy considered for site energy use intensity: While MDE supports solar

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energy, there is no crediting for on-site renewable.

The Council discussed the interim and final EUI targets and the process for noncompliance with EUI targets. The Department has an established corrective actions process through its Compliance Program.

The following people requested to give comments to the Council. The list of speakers in order are noted with some supporting comments and some request for deferral:

Rev. Catherine Manhardt
Shehla Khan
Sergine Yango
Jose Corando
Adama Harouna (& Tanushree Isaacman)
Josh Tulkin
Rebecca Rehr
Tom Ballentine
Michael Powell
Ben Roush
Scott Waitlevertch
Hannah Allen
Todd Nedwick
Mike O'Halloran

Starting around 11:50 a.m. several motions were proposed by the Council but there remained concerns. Discussions ensued on full deferral, approve as proposed with deferral of EUI, and approve as proposed with several EUI adjustments. Additionally, the Council discussed an advisory opinion to the legislature on the EUI targets and alternate fee allowance. Prior to the final recommendation vote the following Council members had to leave the meeting due to time constraints: Hon Thomas Dernoga – District 1, Dr. Latshaw and Weston Young.

At approximately 12:25, after hearing discussion and different proposed motions, Mr. John Quinn proposed a motion to pass the regulations as proposed removing the non-compliance for not meeting the EUI targets, rather requiring a plan for compliance with-in 3 months of reporting the non-compliance.” Mr. Quinn then repeated, “the motion is to approve the regulations as presented with the change that not meeting the EUI interim targets would require submittal of the plan for compliance within 3 months.”

The Council and MDE continued discussions and a final proposal was announced. Mr. Quinn repeated the motion for vote as the following: “The motion is to approve the regulations as presented with the addition of an option for a plan for compliance for not meeting the interim EUI targets. The plan for compliance would have to be submitted within 3 months of reporting non-compliance.”

Mr. Quinn asked for the Council’s vote for his motion and Dr. Ross Salawitch seconded. Seven (7) members present voted in favor: John Quinn, Dr. Salawitch, Dr. Amr, Anne Marshall,

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Sunhee Park, Nicole Cook and Dr. Hobbs. One (1) abstain, Larry Schoen. At approximately 12:31 p.m.

Therefore, the majority of the quorum voted to approve the proposal with the amended EUI interim target approach.

Please note: MDE ARA Staff only recorded the final vote due to the complexity of the voting discussion. If you are interested in listening to the entire discussion, the meeting recording is available online at <https://www.youtube.com/watch?reload=9&v=Um3h5FeXIBQ>.

Mr. Quinn motioned for the meeting to adjourn at 12:35 p.m.

The meeting was adjourned.

The next AQCAC meeting is scheduled for – December 11.