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Air Quality Control Advisory Council Meeting Minutes January 8, 2024 @ 9:00 am Virtual meeting held by MDE

AQCAC MEMBERS PRESENT

Todd Chason, Esq. – Chair
Ross Salawitch, PhD
Sania Amr, M.D.
Anne Klase
Megan Latshaw, PhD
Weston Young, PE
Thomas Killeen
Anna Marshall, AICP
Arielle Wharton
Nicole Cook, JD
Larry Schoen, PE
Sunhee Park, PE, BCEE

AQCAC MEMBERS ABSENT

Adrienne Hollis, PhD, JD
Ben Hobbs, PhD – Vice Chair
Thomas Dernoga, JD

MDE

Randy Mosier
Carolyn Jones
Kelsey Sisko
Eddie Durant
Chris Hoagland
Suna Sariscak

Roger Thunell
Kara Dorr
Scott Thompson
Megan Ulrich
Joe Winters

VISITORS

Cliff Engle
Leah Kelly
Mark Huncik
Matthew Abresch
Charles Peng
Frances Sherman
JT Schoenberger
Jason Freeman
James Wagner
Mr Trivedi
Eric Frase
Robert Wright
Krystal Stankunas
Joshua Gliptis
Eric Jackson
Keith Roumfort
Kerry Maguire
Caitlin Rayhart

Bolaji Edwin
Dave Mason
Niti Blackwell
Jeffrey Landis
Andrew Milstead
Seth Logan
Cory Daviau
Sari Amiel
Steve Sprague
Lee Zimmerman
John Carlson
John Scott
Jim Valerio
Karen Finlan
David McCabe
Craig Marker
Anne Havemann
Hannah Allen

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Michael K. Abiola
John Agnoli
Gary Lasko
Kenny Toro

Charles Ingram
Pam Kasemeyer
7 telephone callers

This is a summary of the January 8, 2024, 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. Todd Chason, AQCAC Chair, opened the meeting by welcoming everyone to the Air Quality Control Advisory Council (AQCAC or the Council) meeting at approximately 9:00 a.m.

Mr. Randy Mosier announced that Dr. Ben Hobbs is the new Vice-chair of AQCAC, followed by Mr. Chris Hoagland thanking Mr. Chason and Dr. Hobbs for their new responsibilities in the Council and introducing the new Council members, Ms. Anne Klase and Ms. Arielle Wharton. Mr. Hoagland also thanked Mr. Robert Wright for his five years of service on the Council as a General Public representative.

Mr. Hoagland provided a Maryland Department of the Environment (MDE or The Department) policy update on the State's Climate Plan and encouraged Council members to review the document. Mr. Hoagland noted that two prominent items from the plan that the Department will be pursuing are Zero Emission Equipment Standards and a Clean Heat Standard that will be brought to the Council towards the end of the year.

<https://mde.maryland.gov/programs/air/ClimateChange/Pages/Maryland's-Climate-Pollution-Reduction-Plan.aspx>

Mr. Mosier made an announcement that Ms. Carolyn Jones has taken over as the new Division Chief of the Air Quality Regulations Division. Introductions were then conducted for the new Council members (A record of virtual attendance is recorded by the GotoMeeting log-ins).

MEETING MINUTES

Mr. Chason asked the Council to review the previous meeting minutes and if there were any questions or comments.

The Chairman motioned for approval of the meeting minutes. All members voted in favor to approve of the meeting minutes from September 11, 2023 at approximately 9:13 a.m.

ACTION ON REGULATIONS

Amendments to COMAR 26.11.42 Control of Methane from Municipal Solid Waste Landfills

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Before the presentation, Mr. Chason asked how those wanting to comment should sign up. Mr. Mosier reiterated that the Department would present the information and Council members may interject throughout the presentation to ask questions, but once the presentation is completed the Council will deliberate and review. Questions and comments will then be open to the public, followed by formal recommendation from the Council. Ms. Jones stated the webinar chat box is open for monitoring as well.

Mr. Eddie DuRant presented to the Council amendments to control methane emissions from municipal solid waste (MSW) landfills. COMAR 26.11.42 - Control of Methane Emissions from MSW Landfills became effective June 12, 2023. There are two components of the regulation: federal rules for MSW landfills (Emission Guidelines (EG), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAP)) and more stringent State requirements.

Maryland's regulation is based on similar requirements established in Oregon and California's landfill methane regulations, which are geared towards more methane reduction. The Department has and will continue to engage in regulatory outreach to counties, landfill owners and operators, and professional organizations. Outreach has been beneficial to the sources as they can allocate resources and better prepare. MDE also works with the landfill owners and operators to address concerns and issues related to enforcement and compliance. Some of the concerns were recordkeeping, reporting, and emissions testing.

The proposed amendments have been developed to:

- Correct typographical and stylistic errors that were identified, clarify certain standards and requirements, and in some instances align them with federal requirements for MSW landfills for consistency.
- Add a new definition for "Controlled MSW Landfills" (there is already a definition for active and closed MSW landfills).
- Clarify the timeline for specific compliance actions based on surface emissions monitoring results (clarified the wording), the submittal of design plans for MSW landfills required to install and operate a gas collection and control system (GCCS) (added 3 months to the 1 year for requirements for the design plan to install and operate a GCCS), and the installation of new components in landfill areas required to be controlled (changed to 60 days).
- To clarify the types of unplanned shutdown events that MSW landfills with GCCS need to report (based on comments from the commenting period) (require 10 day notification for shutdowns that are result of emergency, catastrophic event, or landfill fire).
- Modifications were also made to the temperature after stakeholder comments to be more consistent with federal regulations and some State requirements.

Dr. Ross Salawitch commented that the 200 ppmv limit for methane detection is a very weak limit and suggested that facilities should be enhanced with state-of-the-art equipment at sites. Mr. Mosier stated that the 200 ppmv limit is part of the adopted regulation and is not part of the amendments being presented today, and therefore not a part of the regulation open for discussion at this time. Dr. Salawitch acknowledged that the 200 ppmv limit was not open for today's vote, but stated that he believes that this methane monitoring threshold will not move the State

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forward in President Biden's methane pledge. Mr. DuRant explained that the 200 ppmv threshold is for surface emissions testing and is conducted quarterly. If an MSW landfill measures surface methane emissions greater than 200 ppmv, the facility must then install a GCCS. Ms. Jones added that 200 ppmv limit is lower than any of the United States Environmental Protection Agency's (EPA) requirements, as they require a 500 ppmv standard. The 200 ppmv limit for the closed and capped landfills is one of the more stringent standards the State has introduced. Ms. Jones also mentioned that California is hosting workshops to investigate the 200 ppmv limit universally for all landfills whether there is a GCCS installed or not. The Department will continue to monitor CARB's development of SEM regulatory levels and will review with regards to potential applicability of more stringent thresholds for Maryland if appropriate. Ms. Jones mentioned that the proposed amendments are primarily for clarification purposes, as well as better aligning with EPA requirements allowing the Department to submit an approvable State Plan to EPA.

Dr. Salawitch added that research shows high amounts of methane coming from Brown Station in Prince George's County and permission was never granted by the facility for state-of-the-art equipment to be put on site to see where the methane was coming from. Dr. Salawitch asked if anyone knew why the collection of methane was being flared at Brown Station. Mr. Scott Thompson, MDE compliance department, responded in the chat stating that there is a leaky pipeline between the landfill and the correctional facility, and this is why the gas is not being used at the facility pending the repair of the pipeline.

Dr. Megan Latshaw commented that she would like to see future discussions on methane monitoring and capture options. Dr. Salawitch stated there may be opportunities for more discussion to be proactive and brought up diversion of waste and if there is opportunity to talk beyond today's meeting on this topic. Mr. Hoagland stated that MDE can follow up with the Council on this topic. Mr. Hoagland mentioned the Food Residuals Diversion Regulation that was adopted through MDE's Land Program requiring large generators of food residuals to compost and utilize other reuse activity. As a follow up to the Council's request, MDE agreed to monitor California's regulatory process and prepare an update on the implementation of the Food Residuals Diversion Regulation and Law. Throughout the stakeholder process for the MSW Landfill Regulations development, the Department had discussed the topic of waste diversion. MDE staff from the Land Administration presented information to stakeholders on Maryland government regulations and executive actions that address recycling and waste diversion. The state has put forth extensive efforts in diverting waste in order to reduce emissions and achieve zero waste goals, such as the Maryland Recycling Act (MRA) and the MDE Land Administration's new regulation focusing on organics recycling and waste diversion. The waste diversion programs in the State are a major part of the technical support document (TSD) for this regulation and will be shared again with the Council.

Ms. Leah Kelly, an attorney with the Environmental Integrity Project (EIP), made a comment that the new "Controlled MSW landfills" definition is a little confusing noting that calculated or measured methane generation rates might not be appropriate. Ms. Jones responded to Ms. Kelly's comment in the chat and noted the Department would review the definition for conflicts. As part of the proposed amendments, the Department included a new definition for "controlled MSW landfill" for consistency with federal and similar state regulations. Ms. Kelly also added

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that EPA approved a drone base method (OTM 51) for conducting surface emission monitoring (SEM) and requested that the Department consider this option in Maryland. Also, EIP has submitted a petition on a rulemaking to the EPA to improve their national standards and organics diversion as an alternative compliance method. Ms. Kelly also added a comment on the temperature change and the considerations in this decision. The Department's rationale for changing the operating standard is under the previous MSW landfill NESHAP, EPA and some states received a significant number of requests from affected MSW landfills for an alternative operating temperature standard for wellhead monitoring greater than 131°F. Based on an analysis of reported data, EPA found that many of these affected landfills reported operating value temperatures greater than 131°F, which triggered a significant volume of corrective action reports. Mr. Hoagland thanked Ms. Kelly for sharing the information about the drone-based method and the petition to EPA. Mr. Mosier described the process to submit the MDE regulations to EPA and explained the next administrative steps following this AQCAC meeting, and that the Department plans to submit a State Plan to EPA at the end of the summer or early fall this year. Ms. Jones also added that the State is aware of the drone monitoring method and that it would be able to be conducted as an alternative monitoring method for landfills as currently specified in our regulations. Ms. Jones addressed the issue of the higher temperature amendment, noting that this temperature has been approved by EPA and is being used in NESHAP, as well as ensuring that the temperature reading matches other sections of the regulation.

A motion to approve the regulation as presented was made by Dr. Sania Amr and seconded by Ms. Sunhee Park. 10 members present voted in favor, Mr. Salawitch opposed, and Mr. Larry Schoen abstained at approximately 9:53 a.m. The majority of the quorum voted to approve the amendments.

Removal of Title V Emergency Affirmative Defense Provisions

Ms. Suna Sariscak presented a repeal to the Council dealing with the removal of Title V emergency affirmative defense provisions and noted this action is required by the EPA to move forward with MDE's Title V Program. Title V of the Clean Air Act requires major sources of air pollutants to obtain and operate compliance with an operating permit and Maryland has the authority to issue these federal operating permits to major sources of air pollution in the State for the EPA. EPA first promulgated the emergency affirmative defense provisions when it finalized its Title V regulations for state operating permit programs in 1992 and in the regulations for the federal operating permit program in 1996. These provisions established an affirmative defense that sources could have asserted in enforcement cases brought for noncompliance with technology-based emission limitations in operating permits, provided that the exceedances occurred due to qualifying emergency circumstances.

Maryland's regulations are inconsistent with EPA's interpretation of the enforcement structure and there was a Circuit Court Case in 2014. The U.S. Court of Appeals for the D.C. Circuit vacated the affirmative defense provisions and since this decision EPA has been proposing rules to remove those defense provisions from their Title V federal regulations. On March 28, 2022, EPA repropoed to remove the affirmative defense provisions from their regulations and on July

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12, 2023, they finalized the removal of those provisions and set up guidelines for states to come into compliance with the change that was approved in their regulations. Some states include affirmative defense provisions in each permit, so those states are required to go back out and reissue those permits without that information in them since it is no longer a valid regulation. Fortunately, Maryland did not have those provisions in each individual permit that we issue, it is only in our Code of Maryland Regulations (COMAR) in Chapter 3. Maryland is proposing to remove 26.11.03.24 from the regulations that allows for affirmative defense to be consistent with EPA's change and it must be done within a year of when EPA finalized the rule on July 12, 2023. MDE is proposing this regulation now to be in place by summer 2024 and would then meet EPA's requirement to remove it within the year.

Mr. Chason asked if the Council had much of a choice on the matter. Ms. Sariscak stated not really, and EPA could tell Maryland their operating permit program is no longer approved if this regulation is not removed. The State must be consistent with the federal operating permit program in order to have the authority to issue these permits. Mr. Huncik asked if this will only effect Title V sources and Ms. Sariscak stated yes.

A motion to approve the regulation as presented was made by Mr. Weston Young and seconded by Dr. Amr. All members present voted in favor at approximately 10:00 a.m.

Mr. Chason motioned for the meeting to adjourn at 10:01 a.m.

The meeting was adjourned.

The next AQCAC meeting is tentatively scheduled for March 11, 2024. Future meetings are scheduled for June 10, September 16, and December 9, 2024.