

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH, Executive Director and Chief Medical Officer



COLORADO AIR QUALITY CONTROL COMMISSION

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Colorado Department
of Public Health
and Environment

Colorado Air Quality Control Commission

May 19, 2011

MEETING MINUTES

Location: Colorado Department of Public Health & Environment
4300 Cherry Creek Drive South, Sabin Room
Denver, CO 80246

Members Present: Robert Arnott Ashley Campsie John Loewy Dawn Meyers
Barbara Roberts Jon Slutsky Jim Wilson

Members Absent: Saeed Barhaghi Teresa Coons

Commission Staff: Garry Kaufman Theresa Martin

Division Staff: Paul Tourangeau Mike Silverstein Jim Kemper Jim Dileo

Attorney General's Office: Will Allison

CALL TO ORDER AND DETERMINATION OF A QUORUM

Chair Roberts called the meeting to order at 9:30 AM and determined that a quorum of Commissioners was now present with eight Commissioners.

APPROVAL OF MEETING MINUTES FOR MARCH 17, 2011

Chair Roberts asked the Commission if there were any modifications to the minutes. Arnott provided comments to Kaufman for incorporation.

Motion: To approve the March 17, 2011 Meeting Minutes
Moved: Commissioner Arnott
Second: Commissioner Campsie
Discussion: none
Carried: 7-0

PUBLIC COMMENT

Chair Roberts asked if there were any members of the public who wished to make a comment on any air pollution issue not on the agenda. There were no public comments.

REQUEST FOR PUBLIC HEARING – JULY 21, 2011

Denver Regional Council of Governments (DRCOG)

Jim Dileo of the Division and Emily Chen of the DRCOG requested that the Commission hold a public hearing in July regarding conformity determinations associated with its Cycle I Amendments to its 2012-2017 Transportation Improvement Program and 2035 Regional Transportation Plan to the 8-Hour Ozone SIP, Denver and Longmont Carbon Monoxide Maintenance Plans, and the Denver PM10 SIP.

Motion: To approve the motion for hearing on July 21, 2011
Moved: Commissioner Slutsky
Second: Commissioner Arnott
Discussion: none
Carried: 7-0

REQUEST FOR RULEMAKING HEARING – SEPTEMBER 15, 2011

Regulation Number 11: Estes Park

Jim Kemper of the Division requested the Commission set a rulemaking hearing to consider whether the Estes Park area should continue to be included in the Enhanced North Front Range IM program. The Division is also requesting technical modifications to Regulation Number 11, Part A, Section V.A. to clarify that the emissions program would apply to Estes Park area vehicles commencing with January 2012 registration renewals.

Motion: To approve the motion for hearing on September 15, 2011
Moved: Commissioner Wilson
Second: Commissioner Meyers
Discussion: none
Carried: 7-0

BRIEFINGS, DISCUSSIONS AND REPORTS

Permit Streamlining

Kirsten King of the Division provided the Commission with a handout and briefed the Commission about what the Division had been doing over the past few years regarding permit streamlining including the Kaizen recommended actions, improvements that had been made to oil and gas permitting, and actions to address the continued backlog. King began with discussions about permit loading for oil and gas noting that there had been considerable growth in the monthly applications received both for general permits and individual permits. King commented that general permits were quick and easy to process however individual permits were not easy to complete and with the increase in federal regulations and the complexity of those regulations the processing was taking much longer. King commented that the backlog with permits existed with the oil and gas permits, that construction permits were not affected, and that there was some backlog in Title V renewals but those sources were able to operate under their permit application.

Wilson asked about the supervisor sign-off process and why there was a waiting period. King noted that those permits awaiting supervisor sign-off either had new processes associated with them or were associated with new or in-training engineers. Wilson asked how often permits were rejected by supervisors and King noted that it was fewer and fewer as the engineers were getting through their training and becoming more familiar with the permit processes. Tourangeau commented as a result of the Kaizen process a requirement was instituted in the oil and gas sector to do a regulatory impact analysis and that helps the permit engineers to expedite the process of preparing permits. Wilson asked about lost revenue to Colorado because of the backlog and Tourangeau commented that not every permit reflects that but the Division is very aware and have been coming up with actions to alleviate the backlog. Meyers expressed concerns about the permits that were awaiting processing and asked what the current timeframe was that the permits “sit in the box” before being assigned to an engineer and King commented that it was approximately 6-8 months but on average once they are assigned it takes about 40 hours to process. Meyers asked if there was a review of the applications upon receipt such as if they had a regulatory analysis completed they would be move to the front. King commented it was first come first served, that there weren’t any exceptions made. Slutsky commented that if the regulatory analysis expedites the processes then that should be made an incentive to oil and gas sources to complete one in order to be moved forward of other permits. King commented that there was an informal/completeness review to make sure the applications appeared to be in order and that something as simple as a signature wasn’t missed. Tourangeau noted that the graphs reflected information from March 2010 and that there had been improvements made since to help alleviate the backlog.

Arnott asked if funding had been approved to request additional FTE’s. Tourangeau noted that they would have to go through a fee change in order to support any additional resources. Arnott expressed his concerns that if funding is not available then how would this kind of backlog ever dissipate. Tourangeau noted that there had been discussions with the Colorado Oil and Gas Association (COGA) that on a term limited basis they would assist in assignment of permitting engineers to augment the Divisions resources to help alleviate the backlog. Tourangeau noted that this would inform the Division how they were coping with the oil and gas sector which has significant fluctuations and growth and then build that into any future fee bill. Roberts asked if there could be problems with bringing in an outside entity to assist such as COGA. Tourangeau commented that it was complicated and the options were slim and also noted that the Colorado Petroleum Association (CPA) had been brought into the discussions as well. Wilson asked if COGA had provided any proposals to the Division that had been rejected. Tourangeau noted that the only thing not on the list provided to the Commission was the hiring of term limited employees. Roberts asked if the funding or employees were provided by COGA, would the Division still manage the processes. Tourangeau commented that it was determined by the Division as well as COGA that it would be efficient and more effective for the Division to manage the process. Wilson asked about the Operation and Maintenance (O&M) Plan and the enforceability of it. King noted that the O&M Plan was a great asset to the Division and the sources and believed that it should retain its flexibility rather than become more stringent or be made a part of the State Implementation Plan. King also noted that the Division was working with EPA to maintain the flexibility of the O&M Plan.

Wilson suggested that the Commission act as a facilitator to move things forward. Roberts expressed concerns about the 18 months to clear the backlog as well as that the permits “sit in a box” for 6-8 months before they’re dealt with and hope that others are seeing that this is serious. Tourangeau noted that as was already mentioned COGA and CPA were already involved, this now had the attention of the Governor, and the Executive Director of CDPHE had been made aware of the seriousness of this issue. Tourangeau commented that he didn’t believe it was necessary for the Commission to facilitate any dialogue. Roberts commented that she would like to have discussions in Executive Committee about COGA coming to the Commission for discussions.

Commissioner Informational Items

Loewy noted that he and Campsie were re-appointed and enlightened the Commission about questions that were addressed by the Senate at their confirmation. Slutsky noted that he was sitting in on a visioning group named Embrace Northern Colorado which was a spinoff of the NFRMPO and that a state demographer attended and had made note that northern Colorado would double in the next 30 years and Weld County would surpass Larimer County soon. Arnott noted that he had been approached about folks that would like to provide an overview to the Commission about alternative energies and fuels and felt that the Commission should be more receptive to this.

Martha Rudolph, Environmental Program Director for CDPHE announced that Mike Silverstein had accepted the position of the Administrator and Technical Secretary to the Commission. Rudolph discussed the transition of Kaufman and Silverstein noting that it would occur over the next month and that Silverstein would begin in this new role on June 1. Rudolph commented that she had a goal of strengthening the relationship between the Commission and the Division, the Division’s role of serving the Commission, and that the relationship is one of respect, trust and responsibility. Rudolph commented that she believed Silverstein would do a great job for the Commission and that Kaufman’s new role as Deputy Director for the Division would be an adjustment but she believed he had learned a great deal in working with the Commission and that would add to his new role. Roberts noted her gratitude for Rudolph attending the Commission meeting and made her aware of the Commission’s appreciation to Kaufman and Silverstein.

Division Director’s Report – Paul Tourangeau

- Ian Thompson complaint about wood burning smoke in Jefferson County. Confirmed that Jeffco has a home rule in place meaning that the enforcement falls onto Jeffco. Noted that there had been numerous conversations with John Moody of Jeffco including discussions about smoke visibility. Bob Jorgenson of the APCD had conversations with the neighbor in question. Jorgenson believed that Jeffco had done a good job communicating with the neighbor and with Thompson. Kaufman noted that Thompson had not had any issues since February.
- Discussed the letters that had been provided to the Commission regarding the San Juan Generating Station and Navajo Station. Tourangeau noted that EPA would be implementing a FIP.
- Reviewed the air quality related legislation and what the outcomes were for each of the House Bills.

Attorney General's Report – Will Allison

- Introduced two new attorneys' that would be working with the Division from the AG's Office.
- Discussed the suit brought against the Commission by CMA with a couple of pending motions to dismiss.
- Discussed the suit brought against the Commission by AGNC and is in front of the courts at this time with a motion to dismiss as well.
- Discussed a suit against the CDPHE, AQCC, and APCD by WildEarth Guardians regarding the public trust doctrine and GHG's. Noted that these suits were all District Court cases. Loewy asked how the AG would file a response. Allison noted that this was a broad case and the AG would determine what the response would be and just notify the parties involved.

Administrator's Report – Garry Kaufman

- Review June agenda items
- Review of Action Items from Today's Commission meeting including update AQCC about permit backlog and possible discussion with COGA, letter to DRCOG all of which will be discussed at the Executive Committee meeting. Arnott asked about alternative energies to be discussed at the Retreat.

Adjourn at 11:41 AM