

Air Pollution Control Advisory Council (APCAC) Meeting
Thursday November 18, 2010 – 1:00 p.m.
Helena – Lee Metcalf Building – Room 35
Montana Department of Environmental Quality (DEQ)

Members present were: Rich Southwick, Chad Doheny and Don Potts. Members attending by Go-To-Meeting were: Michael Barton and Mary Jane McGarity. ARMB staff attending were: Bob Habeck, Eric Merchant, Deb Wolfe, Dave Klemp, Becky Frankforter, and Oline Barta

Eric Merchant called the meeting to order at 1:00 p.m. He asked Oline Barta to explain the reimbursement process to the attendees. Following that, he explained that he would be focusing today on the purpose of the Air Pollution Control Advisory Council (APCAC), welcomed the group, and asked Bob Habeck to address the group. Mr. Habeck said he has a long history with APCAC and was a former Secretary to the Council. He was hoping to invigorate the group by clarifying expectations of what the Governor has asked them to do, by further explaining what ARMB does, and by charting together a course to make their meeting time worthwhile, but not overly demanding. He thanked the members for coming out on a stormy day to the meeting. Eric also thanked the APCAC members for attending by phone or in person and asked them to introduce themselves.

Deb Wolfe started her power point presentation with some history of air pollution in Montana. She said pollution control was a matter of balancing health and industry. She showed a slide of the size of coarse particulate matter (PM10) and the even more dangerous fine particulate matter (PM2.5) as compared to a human hair. Ms Wolfe said the 1970 Clean Air Act was a major attempt to clean up the dirty air. It was significantly amended in 1990. She said the Clean Air Act established pollution limits or National Ambient Air Quality Standards (NAAQS), air quality permit programs, toxic air pollutants limits, visibility protection, and ways to enforce compliance with these limits.

Ms. Wolfe said the Clean Air Act of Montana, passed in 1967, predates the Federal Clean Air Act. It established the Board of Environmental Review (BER) to adopt air quality rules and the Department of Environmental Quality (DEQ) to implement those rules. She said that the Montana Ambient Air Quality Standards (MAAQS) established ambient pollution levels for Montana. In some cases, she said the MAAQS are more stringent than the NAAQS. The Clean Air Act of Montana established emission limits for pollutants and local air quality programs as well as enforcement and compliance.

Ms. Wolfe said that states are required to research and plan, monitor air quality, and adopt and enforce rules. The legislature empowers the BER to adopt state rules. She said the Montana's counterpart to the Code of Federal Regulations (CFR) is the Administrative Rules of Montana (ARM). APCAC's role is to advise the Air Resources Management Bureau (ARMB) during the rule-making process.

Ms. Wolfe detailed some of the air pollution regulated by ARMB. She explained the structure of ARMB. She said the stationary source permitting program included both major and minor sources. Oil and gas wells are tracked through a registration process. She said Montana has a few major open burn permits. Ms. Wolfe explained the State Implementation Plan (SIP) as federal adoption of state rules which makes the rules enforceable on the Federal level as well. Future issues include: wood stove combustion pollution, Climate Change and Greenhouse Gas issues, and air toxics.

Bob Habeck explained that during the rule-making process, ARMB notified Interested Parties of rule actions and public hearings and said that APCAC members were included in this list. He advised Council members to think in terms of the groups they represent as they consider comments on rules. Notices are sent through e-mail.

Eric Merchant showed a power point presentation to clarify the purpose and intent of APCAC. He quoted the statute 75-2-121 from the Clean Air Act of Montana which says the APCAC is to act "in an advisory capacity to the department in matters relating to air pollution." The statute requires DEQ to notify advisory council members of the rules as they are considered by the BER and at public meetings but he said the Council was not *required* to comment. The Council is to consist of a representative of: labor, agriculture, the fuel industry and the manufacturing industry as well as: a physician, a veterinarian, a chemical or environmental engineer, a meteorologist, a conservationist and an urban planning consultant. Mr. Merchant said the labor and conservationist positions were currently vacant awaiting another Governor's appointment.

Mr. Merchant detailed the compensation advisory members were entitled to receive which includes \$50 per day and travel expenses. He stated APCAC is required to have two meetings per year and to elect a presiding officer at the first meeting of the year. Eric pointed out that the statute requires the rule changes could not take place until advisory council members had been given an opportunity to comment. He said APCAC members could comment through the council's presiding officer and Eric Merchant in his capacity as Secretary to APCAC.

Eric Merchant said that a majority of the membership was necessary for a quorum to do business. A discussion ensued as whether the five members present at this meeting constituted a quorum. Bob Habeck suggested that because of the two vacancies, only eight members would be present if everyone had come and five was a majority of eight. He felt it was important to choose a presiding officer as a point of contact with the Department. Dave Klomp suggested electing a temporary presiding officer now and when the vacancies are filled the APCAC could hold another meeting. Mr. Habeck asked the group if anyone was interested in being chair pro tempore. He explained that the duties would be to make other council members' comments known to ARMB through contacting Eric Merchant. Don Potts volunteered to be pro tempore presiding officer. Rich Southwick seconded the nomination. The Council accepted Mr. Potts as pro tempore presiding officer with no one objecting.

Mr. Merchant opened up the meeting to questions. Deb Wolfe explained that on December 6, a public hearing will be held for the annual incorporation by reference rulemaking. The Board is proposing to adopt changes in Federal rules used by ARMB's permitting program. The notice has been published in the Montana Administrative Register (MAR). Mr. Potts asked if ARMB emailed links to these documents. Oline Barta confirmed that the emailed link sent to the Interested Parties and APCAC members was to the DEQ's public notice web page which contained another link with the text from the notice as published in the MAR. He was told that other information concerning rule changes was available as attachments in the agendas of BER meetings which are under the DEQ Home tab. Mr. Merchant demonstrated these things on the DEQ website. Mr. Potts asked how to approach the BER with questions or comments. Ms. Wolfe thought it best to comment through DEQ, since APCAC is designed to be an advisor to DEQ. Dave Klomp commented that DEQ staff should be able to communicate with APCAC members and articulate and explain their positions in front of the BER. Mr. Merchant explained that DEQ acts as staff to the Board. Mr. Potts asked if the rules then had to go back to the Legislature. Ms. Wolfe said no. Mr. Klomp added that the Legislature has oversight of the BER through the Environmental Quality Council. Discussion ensued as the how the rules process begins. Mr. Merchant said it was rare for the BER or a private individual to begin a rule action.

Bureaus within the DEQ generally request rule actions in response to issues that involve the regulation of air and water pollution.

Eric Merchant mentioned some of the current issues affecting ARMB including greenhouse gases and climate change and EPA's changes in NAAQS for sulfur dioxide (SO₂), ozone (O₃) and nitrogen dioxide (NO₂).

Deb Wolfe told the Council about two new rule actions that would be initiated at the December 3, 2010 BER meeting. She said the change proposed to the open burning rules would allow piles of wood to be moved and burned in a different area and a change to the permit revocation rules would allow the Department to publish a newspaper notice to revoke the permit of a facility with no valid mailing address.

Don Potts asked if Montana's rules would have to be changed when EPA made its NAAQS standards for SO₂ more stringent. Mr. Merchant replied that the Clean Air Act requires the state to have the same or more stringent standards as federal requirements. Bob Habeck said at one time the state rules were ahead of the federal rules, but now Montana's rules need some updating.

Eric Merchant showed the group some of the information concerning air quality and particulate matter available on ARMB's Today's Air website. Chairman Potts thanked the presenters for the information and adjourned the meeting. Mr. Merchant added some information in preparation for the next meeting. He told the Council members that any two members could request a meeting through the presiding officer and himself. He said that two meetings are the minimum required yearly. Spring was mentioned as a good time for the next meeting. Mr. Merchant suggested scheduling the next meeting around the time of either a BER meeting or a Clean Air Act Advisory Committee (CAAAC) meeting to allow for Council members to also attend one of those meetings. Chairman Potts expressed an interest in attending a BER meeting. The date of the next meeting is to be decided.

Eric Merchant thanked the APCAC members for attending. The meeting ended at 2:45 p.m.