

**CAAAC MEETING NOTES 7/15/10**  
**Metcalf Building, Room 35, 10:00 a.m.**

Compiled by Oline Barta

**ATTENDEES:** Jim Parker and Gordon Criswell, *PPL Montana*; Ken Morrison, *Morrison Consulting*; Don Allen, *WETA*; Bill Mercer, *Holland and Hart*; Jeff Chaffee and Hal Robbins, *Bison Engineering*; Gary Arneson, *Colorado Energy Management*; Greg Gannon, *Holcim*; Jeff Briggs, *Ash Grove Cement*; Thomas Dzomba, *US Forest Service*; Dave Galt, *Montana Petroleum Association* and Jessie Luther, *BKBH*. Go-To-Meetings attendees were: Randall Richert, *ConocoPhillips*; Don Quander, *Holland & Hart*; Stacy Aguirre, *WBIP*; Terry Hart, *Colorado Energy Management*; Kathy Dolan, *EPA*; Joe Lierow, *Exxon Mobil*; Abbie Krebsbach, and Jon Madison, *MDU*, Clark Snyder, *Riverstone Health*; and Melissa Hillman, *Trinity Consultants*. DEQ attendees: Eric Merchant, Chuck Homer, Vickie Walsh, Karen Wilson, Dave Klemp, Hoby Rash, Julie Merkel, Deb Wolfe, Dave Aguirre, Dan Walsh, Paul Skubinna, John Coefield, Becky Frankforter, Brain Spengler, Kathy Montgomery, and Oline Barta.

**I. WELCOME AND INTRODUCTIONS:** Eric Merchant welcomed the group and asked participants to introduce themselves. He checked with phone attendees to identify who had joined by Go-To-Meeting.

**II. GREENHOUSE GAS REGULATION:** Vickie Walsh stated that her power point presentation and the others were already posted on the CAAAC website. She said she has been adding to this presentation as more information became available; with the June 3, 2010 finalization of the "Tailoring Rule", permitting of GHG begins. She said this would happen according to a phased-in approach under the NSR and Title V operating permit programs. The first to be affected would be larger industrial source emitters. Vickie said this would not necessarily mean that only established already-permitted sources, but that some new sources would be included.

Vickie said that the first step of the program would occur between January 2 and June 30 of 2011. She stated that PSD "anyway sources" seeking permit modifications for other pollutants would have to also consider GHG. She noted that Title V has not changed, but this new requirement would have to be considered for renewals and sources three year out from renewal. She said the Department was looking ahead to identify those facilities. She indicated that the Department would address the GHG issue in current permitting action for Title V renewals. Vickie said that ARMB hoped to make the new process simple, possibly sending out a fill-in form letter. The GHG regulation would most likely be included in the Title V Technical Review Document (TRD).

The second step, Vickie said, would take place from July 1, 2011 to June 2013. During this time, changes to PSD permits could be triggered by GHG alone. She noted that Montana has some landfill sources that after July 1 will be considered major sources. The trigger for new PSD sources will be 100,000 tpy CO<sub>2e</sub> with a 75,000 tpy significant emissions increase for a modified PSD source.

She said the EPA plans to issue guidance for GHG BACT by the end of this year. BACT will be a case by case review. She said the new regulations will present a challenge to ARMB permittees. Vickie also mentioned that August 2 was the deadline for states to send EPA letters stating whether or not they had the authority to regulate GHG. ARMB is still working with Legal

on this issue, but Vickie does not see a problem with the authority issue. She said ARMB was also studying the Subchapter 6 and 7 permitting thresholds to see how these new regulations might affect the open burning program and minor permitting programs and would inform CAAAC of their findings

Vickie concluded her presentation by announcing that the Department is planning a one-day GHG workshop this fall with a general morning session and specific industry break out sessions in the afternoon. It is planned for September 21 or later. She asked for feedback on acceptable dates.

Ken Morrison asked if rulemaking would be necessary. Vickie responded that it may not be necessary, but she felt it would eventually be desirable for clarity. Don Quander asked Vickie to comment on whether she thought the Legislature should address GHG regulation. Vickie did not think this would be necessary, except maybe to clarify within the Rules as to whether GHG should be listed as a pollutant. Don, then asked if the Legislature did take some GHG action, how DEQ would proceed. Vickie replied that this would be a wait-and-see situation. ARMB believes the state can regulate GHG. As time goes on, more information would be available through EPA's dealings with states that do not feel they have the authority to regulate GHG. Kathy Dolan, US EPA, agreed with the wait-and-see approach.

**III. NAAQS REVISIONS:** Eric Merchant started his presentation by saying that EPA is required to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and welfare and review and revise them as necessary every five years. He said EPA has an aggressive revision schedule. New standards for nitrogen dioxide (NO<sub>2</sub>) and sulphur dioxide (SO<sub>2</sub>) have just been promulgated and new ozone (O<sub>3</sub>) standards will be become final in August. Ozone standards are proposed to be reduced from 75 parts per billion (ppb) to 60-70 ppb. Eric said that Montana is the only state in the nation with no monitors violating the proposed 8-hour standards. All Montana counties are either in attainment or unclassifiable at this time. Eric said 2-3 new monitoring sites may be needed. He also noted that one of the impacts of this revision is that permitted sources must use highly complex modeling to demonstrate compliance.

Eric said that since Montana has no major highways, it is not required to monitor for NO<sub>2</sub> near roadways. The new 1-hour NAAQS standard for NO<sub>2</sub> is 100 ppb. Eric noted again that it will not be easy for industry to demonstrate compliance with the new more stringent standard. He said the Department is evaluating modeling guidance for minor sources. Eric stated that the registration program may be affected by the new standards. Monitoring is being done for both NO<sub>2</sub> and O<sub>3</sub> in Montana's southeastern oil and gas fields.

Eric reported that Yellowstone County is currently violating the new 1-hour standard for SO<sub>2</sub> of 75 ppb. He talked about the process of creating a control plan should this area be designated nonattainment. Both monitoring and modeling would be required. He anticipated meetings with the industry and other stakeholders. In unclassifiable areas, EPA is calling for maintenance SIP for large emitting sources. Eric said a major change in monitoring requirements will be to report hourly averages and a maximum 5-minute block average each hour. This is scheduled to happen soon after the rule is final in August. Addressing industry impacts, he said one of the more important things will be that title V permits must include enforceable emission limits showing modeled compliance with NAAQS. Asked to clarify the term "maintenance SIP", Eric responded in areas that have large sources of SO<sub>2</sub> over 100 tons or a combination of smaller sources, DEQ will have to demonstrate modeled compliance and enforceable emission limits. This will be due June 2013, while nonattainment SIP's are due the following year. Don Allen

asked if GHG issues would be intermingled with these maintenance SIPs. Eric said that these changes were not intentionally combined. Vickie Walsh added that as of next July, GHG will be another gas that industry will have to consider. Eric said a registration program rule change for 1-hour limits may also need to be addressed.

Eric finished his presentation with near, mid and long-term objectives over the next seven years. Immediate activities will be a technical evaluation and modeling demonstration, followed by area designations, rule making, maintenance and NAA SIP development and implementation. Continuing, EPA's aggressive schedule, three more NAAQS revisions are scheduled for next year: CO, PM 2.5 and secondary SO<sub>2</sub>/NO<sub>2</sub>.

Thomas Dzomba asked about the secondary ozone standards. Eric replied that ARMB was just starting to look at that. It is a very complex and cumulative standard. He has heard that other states have shown compliance with the primary standard, but not the secondary standard. ARMB is now working to evaluate Montana's stance with it. Hal Robbins pointed out a possible methodology problem between modeling and monitoring in the secondary ozone standard. The preamble to the rule only mentions monitoring. Eric thought that EPA had received a lot of comment protesting the substantial increase in monitoring. He said ARMB was engaged in looking at this standard and would be involving the CAAAC group. Don Quander asked if either monitoring or modeling would result in nonattainment. Eric thought that both would be necessary for a nonattainment area. Don also asked if the burden was on the source or DEQ to affirmatively demonstrate attainment. Eric said that his reading of the rule was that an attainment demonstration required three things: enforceable emission limits, monitoring data and modeling. Hal Robbins added that he thought either modeling or monitoring could lead to non-attainment. Eric agreed.

Joe Lierow asked if the Department or individual sources would be doing the modeling for compliance. Eric replied that he foresaw the huge workload of modeling being done by both industry and ARMB. Asked if the Department would provide guidance for SO<sub>2</sub> modeling, Eric said ARMB was working on that now and would have a stakeholder's meeting when more information was finalized and understood. Jim Parker asked what would happen if EPA didn't agree with an attainment proposal, Eric replied that EPA would provide reason. Asked if the time frames could be pushed back, John Coefield said no and Kathy Dolan confirmed that the EPA was bound by their timeframes.

**IV. ARMB RULEMAKING/SIP ACTIONS:** Deb Wolfe said that EPA was reviewing the SIP backlog of 12 rules in response to the lawsuit from Wild Earth Guardians. She said that consent decrees and settlements are available online by following the dockets in: <http://www.regulations.gov> on EPA's website. She said the DeMinimis Rule is now final and was sent to EPA last week. DEQ's responses to EPA's comment can be found on DEQ's website at: <http://deq.mt.gov/meetings.mcp>. Deb said that EPA was also reviewing Subchapter 7. In March 2010, EPA partially approved and partially disapproved it. It is not final yet. The consent decree is due in March 2011. Another rule being considered is the Oil and Gas registration, due February 2011. For the October Board of Environmental Review meeting, Deb is preparing the annual Incorporation by Reference (IBR) rule and a fee report instead of the usual fee rule.

**V. OPERATING FEES:** Chuck Homer explained that the large increase in operating fees last year due to increased personnel costs and decreased emissions would be followed this year by no increase. He said that ARMB understood how difficult it would be for industry to absorb another fee increase this year. Avoiding a fee increase was accomplished only by keeping an

abnormally-high vacancy rate, severely limiting travel and other expenses and not implementing one of ARMB's decision packages approved from the last Legislative session. He said the CAAAC subgroup studying fee restructuring had completed its short-term goal and would be reconvening for long-term considerations. He also noted that emissions have continued to decline this year due more to the economy than emission control this time.

Dave Galt pointed out that the base year was 2010. Chuck acknowledged that the 2010 base year expenditures would be substantially lower than 2008. He said that DEQ was still considering the base adjustments for FY12-13 and no decisions have been made yet. Chuck said that ARMB does not see a decrease in overall workload. Dave Galt asked if ARMB had done an analysis to determine how the new EPA rule changes would affect the workload. Vickie Walsh replied that she and Eric were doing some deadline analyses to try to assess how the work could be accomplished. Chuck replied that in any event, DEQ would not be requesting additional FTE. Jim Parker expressed his appreciation for ARMB's effort to keep fees down. Chuck, in turn, thanked the CAAAC members for their help in solving problems and working together with DEQ. Thomas Dzomba asked if EPA was expected to provide more money. Chuck responded that at least after 2011, EPA has clearly stated that state-support federal money will be reduced. He also speculated that general fund would go down. Dave Klemp added that he expected competition to be stiff for the few available dollars. Don Allen added his thanks for the zero-increase in fees and asked that the group be informed as soon as possible about new base adjustment decisions. He also expressed his frustration over EPA's unfunded mandates.

**V. ICI BOILER MACT:** Karen Wilson spoke about EPA's new boiler MACT rules and associated rules. She said a 2004 Boiler MACT was vacated by a Circuit Court of Appeals and EPA was court ordered to propose new rules. The new rules proposed on June 4, 2010 divide the Boiler MACT rule into Major Source New Emission Standards for Hazardous Air Pollutants (NESHAPS) for industrial, commercial, and institutional boilers and process heaters and Area Source Boiler MACT NESHAPS for industrial, commercial and institutional boilers. The other new rule is a 2010 revised Commercial and Industrial Solid Waste Incineration (CISWI) Units New Source Performance Standards (NSPS) emission guidelines. Karen also noted an updated definition of "nonhazardous solid waste" under Subtitle D of the Resource Conservation & Recovery Act (RCRA). She said the new definition clarifies which secondary materials are solid wastes when burned in combustion units, potentially moving units that burn solid waste into the category of commercial and industrial sold waste incinerators.

Karen said the Boiler MACT for Major Source facilities is divided into two categories: those that burn certain fuels to produce steam to create electricity or heat and process heaters that heat material during an industrial process. She summarized the major source requirements affecting some of the categories concerning work practice standards, tune-up requirements, testing, monitoring and continuous compliance. Karen said the Boiler MACT Area Source facilities have different emission limits based on boiler size and type of fuel used. This rule does not include process heaters or natural gas boilers. She summarized the requirements for new area source boilers, detailing the basis for pollutant controls, testing, monitoring and continuous compliance.

Karen said the new CISWI revisions cover five subcategories and establish emission limits for a number of pollutants for each subcategory. Stack testing, monitoring annual and inspections are among other requirements. She pointed out that all CISWI units and air curtain incinerators must obtain a Title V permit. Karen concluded by saying that EPA will take public comment on these rules until August 3, 2010. The court requires the final rules to be completed by December 16, 2010.

Gorden Chriswell asked when compliance with these rules was required. Karen replied that facilities that existed before June 4, 2010 will have three years to comply. Thomas Dzomba commented after that date facilities are considered new and that the new regulations and emission standards are stricter for new than existing sources. Karen also pointed out that comments to these rule changes are lengthy and may lead to some changes before the December 16, 2010 promulgation date. Don Allen asked how information about the new rules was disseminated. Karen replied that this was DEQ's first presentation, but that some industry groups are already having discussion meetings. Don Quander asked if any GHG requirements or considerations had been worked into Boiler MACT rule changes. Vickie Walsh replied that it was still a wait-and-see situation as to how this single pollutant or group of pollutants will be pulled into permitting regulations. She said the list of pollutants in Karen's presentation were not indicative of GHG. Gordon Chriswell wondered if the emissions limitations in these MACTs would be different for each individual pollutant or just HAPs altogether. Karen thought it would be pollutant by pollutant.

**VI. ADDITIONAL BUSINESS:** None

**VII. NEXT MEETING:** Eric said the Department would look at some dates and contact CAAAC members concerning the next meeting. He asked attendees to contact him or other ARMB members with feedback about subjects for future meetings. Jim Parker commented that he would like to see one more meeting before the end of the year. Chuck Homer said there would be a budget meeting. The meeting was adjourned at noon.