

Summary

Air Management Study Group Meeting

Thursday, December 11, 2014

9:00 am

Wisconsin Department of Children and Families Conference Room (D203)
201 E. Washington Avenue, Madison, WI

Attendees

David Bizot, DNR
Anne Bogar, DNR
Eric Bott, WMC*
Danielle Clark, American Lung Association
Tim Clay, Cooperative Network*
Tyson Cook, Clean Wisconsin*
Rob Harmon, Bemis Company, Inc.
Kristin Hart, DNR
Chris Hiebert, SEWRPC*
Tracey Holloway, UW-Madison*
Erik Hoven, Dairyland Power Cooperative
Gail Good, DNR

Joseph Hoch, Alliant Energy
Jeff Jaeckels, MGE*
Jeremy Niemeier, Unimin
Todd Palmer, Michael Best*
Maria Powell, citizen
Diane Sackmann, Silgan Containers
Renee Smits, Spectrum Engineering
Bart Sponseller, DNR
Kathleen Standen, We Energies
Andrew Stewart, DNR
Robert Thiboldeaux, DHS
Karen Walsh, DNR

* Air Management Study Group (AMSG) members

Action Items

- **Proposed 2015 ozone standards:** study group members and other stakeholders that have comments on the proposed standards should contact David Bizot (608-267-7543, david.bizot@wisconsin.gov) by January 30, 2015. The proposed rule can be viewed at the following link: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-17/pdf/2014-28674.pdf>.
- **PM_{2.5} background concentrations:** the guidance document updating the background concentrations has been finalized, and the Air Programs is now using the new concentrations.
- **Air quality trends report:** the Air Program will send study group members a copy of the next trends report before it is released in early 2015.
- **Permit streamlining initiative:** the official rulemaking documents for the first phase of the initiative are available at the following link: <https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=14543>
- **Remote meeting attendance:** while members are encouraged to attend study group meetings in person as much as possible, members that need to call in to a meeting can contact Karen Walsh before the meeting to arrange a conference line (608-267-7547, karen.walsh@wisconsin.gov).

Meeting Summary

Opening remarks and agenda review

Bart Sponseller, Bureau Director

Sponseller opened the meeting and reviewed the agenda.

Member feedback

Sponseller asked study group members to get in touch with any feedback about the meetings (whether they are useful, suggested improvements, and/or ideas for agenda items). He also welcomes members to provide feedback during the member update portion of each study group meeting.

Air Management hires and departures

Sponseller updated the group on recent hires, departures, and open positions in the Air Management Program.

Sponseller explained that two regional managers left the agency in October. Neil Bauduin retired and Jeff Johnson accepted a new position. Their duties have been temporarily assigned to other staff, including Rick Wulk, who will be filling in as the supervisor for industrial sand mine field compliance activities. Andy Stewart is a good contact for questions about the temporary reassignments (608-264-8884, andrew.stewart@wisconsin.gov). Stewart added that the Air Program will be recruiting for the two regional supervisor positions early next year, and asked members to spread the word about the openings.

Sponseller reported that three additional staff members from the central office are retiring. Muhammed Islam, fuels and mobile sources expert in the central office, retired in October. The Air Program is evaluating what to do with the position. Anne Bogar, AMSG coordinator and outreach specialist, is retiring in January. Karen Walsh is filling in on AMSG work. Finally, Sharon Reeve, financial specialist in the central office, is retiring in December.

Sponseller stated that a construction permit engineer was hired to work in the central office. In addition, five entry-level permit engineers were hired to work on the backlog of Title V operation permits, three in Green Bay and two in Fitchburg. Stewart added that the hires are a direct result of permit fee increases. Palmer asked whether the operation permit engineers might be reassigned to construction permits after the backlog is addressed. Sponseller responded that it depends on where funding is available; the Air Program is currently at capacity for construction permit staff.

Palmer asked when the Air Program expects to catch up with the Title V operation permit backlog. Hart pointed out that it takes two years to fully train the permit engineers. Sponseller remarked that the program will have a better sense of the timing in a few months. Stewart added that it will take more than a year, and probably more than two years. While the Air Program has not reduced the backlog over the last few years, it has made good progress on complex, time-consuming permits, which will speed up the process. The program plans to get and stay current with Title V operation permit applications.

Clay asked whether the program is filling additional positions. Sponseller responded that the program will be recruiting for some positions, for example in the Small Business Assistance Program, and that it will reach the maximum authorized staffing level soon. Less than four years ago, the vacancy rate was about 38 percent, and the program will now be maintaining a rate of about 10 percent. However, there may be a large number of retirements in the near future, as about 40 percent of the current staff is eligible for retirement. Stewart added that the program wants to maintain a quick recruitment process. Currently, the process takes about four months; in the past it took about a year.

Additional recent hires include two new monitoring staff members, and a new grant and budget manager in the central office.

Administrative items

Karen Walsh, AMSG coordinator

Walsh stated that members who would like to attend a quarterly meeting but are unable to do so in person should contact her before the meeting about setting up a conference line. Sponseller added that while he encourages members to attend meetings in person, he understands that it is not always possible.

Program updates

PM_{2.5} modeling background guidance

Kristin Hart, Permits and Stationary Source Modeling Section Chief

Hart announced that the Air Program will be posting the final guidance document updating background concentrations for PM_{2.5} this week (see the Action Items section on p. 1). The program addressed the comments that were received on the draft guidance, but did not make any changes to the guidance other than a technical correction that lowered the “low” annual background concentration by 0.3 µg/m³. Hart stated that anyone preparing a permit application should now use the updated background concentrations for PM_{2.5}.

Stewart asked if the Air Program had determined whether the update could apply to existing permits. Hart responded that if a permit has not yet been issued, the facility could submit new information for the Air Program to evaluate whether the updated background concentrations could be used. For permits that have already been issued, setting a new emission limit using the updated background concentrations would probably require a new permit.

Infectious waste management

Kristin Hart, Permits and Stationary Source Modeling Section Chief

Hart reported that in response to the Ebola epidemic, the DNR and Department of Health Services (DHS) are reviewing relevant regulations to ensure that the state would be prepared to handle any waste management issues that could arise. DHS has taken the lead on compiling regulatory information from both agencies. The Air Program is involved because the preferred disposal method is incineration (though hospitals and nursing homes currently use contractors to transport the waste out-of-state because there are no licensed medical or infectious waste incinerators in-state). Hart is the staff contact for the relevant air issues (608-266-6876, kristin.hart@wisconsin.gov).

Air quality trends report

Gail Good, Monitoring Section Chief

Good announced that the Air Program made some revisions to the DNR’s [air quality trends](#) webpage based on suggestions received at the study group meeting in May. The program will be listing Grant Hetherington as a staff member viewers can contact about accessing data used on the site (the study group suggested providing direct access to the data, but the Air Program determined that accessing the data is not straightforward enough to simply provide web links).

Good provided an update on this year's air quality trends report. The Air Program is changing the schedule for issuing the report to provide the information to the public sooner. The air quality data is certified May 1st, and the program would like to release the report in the fall. The program is working towards that goal, and will be issuing this year's report in January, which is a few months earlier than last year.

Based on feedback, the program is also working on additional improvements to the report. The first report, (two years ago) provided information about PM_{2.5} and ozone. Last year's report incorporated SO₂. This year's report includes all criteria pollutants. The program also tried to provide more user-friendly information. For example, the report will show trends for the lakeshore counties and trends farther away from the lakeshore. Good emphasized that the program welcomes additional feedback on this year's report, and whether it is understandable and useful to both technical professionals and laypeople.

Holloway asked whether the Air Program would consider including satellite data in the report. Good responded that the report addresses only Air Program data, but the program could look into providing links to additional data.

Sponseller stated that the Air Program will send a copy of the report to the study group before releasing it in January.

Monitoring network approval

Gail Good, Monitoring Section Chief

Good reported that each year the Air Program updates the monitoring network plan, and prepares a report that is released for public comment and discussed at a public meeting. The completed report is sent to EPA on July 1. EPA approved this year's report on October 31.

There are a few changes to the network in the new plan. The Air Program currently has three sites that monitor PM_{2.5} daily, and EPA approved a requested reduction in sampling frequency. EPA also approved a new ozone monitoring location in Racine County. The program was concerned about health and safety issues (e.g., electrical problems) at the previous site, and did not operate the site this year. The new site is about four miles north of the old site, and the same distance to the lakeshore.

Good noted that three of the five PM_{2.5} chemical speciation network monitoring sites had been on EPA's nationwide list of sites to defund (the Waukesha, Perkinstown, and Green Bay-East sites). The Air Program solicited comments about the value of the data provided by these sites, and worked with EPA and LADCO to recommend that two of the sites continue to be funded. As a result, EPA removed the Perkinstown and Green Bay-East sites from the defund list. Sponseller added that EPA is cutting about 40 percent of the national monitoring network, so the successful removal of the two sites from the list is significant, and allows the Air Program to maintain federally funded sites that provide important data. Researchers such as Holloway, LADCO, and others use this data to contribute to decision-making. Holloway seconded that these monitoring sites are essential for modeling.

Hiebert asked about the status of the temporary monitor in Kenosha. Good explained that the Air Program has two sites in Kenosha County, Chiwaukee Prairie and Kenosha-Water Tower. The Water Tower site is a special purpose site that the Air Program can operate for up to 24 months before it becomes a regular monitor. Before 24 months have passed, the program can operate or shut down the monitor as needed. The program is currently quality assuring the data from the monitor and will probably finish in January. The values at that monitor were lower, and the Air Program needs to analyze the data and work with Kenosha County to determine the monitor's value.

Hiebert stated that Kenosha wanted the monitor so that EPA might consider narrowing the county's nonattainment area if monitored concentrations are lower away from the lakeshore. He asked whether EPA would consider narrowing the area. Good responded that the Air Program is collecting data from the

monitor to possibly present to EPA in the future, but that it is not clear whether EPA would consider narrowing the nonattainment area. They might allow the monitor to be granted a longer-term special research status. Harrington added that negotiating the Kenosha nonattainment area was a difficult process, when the whole county was originally proposed for the nonattainment area. He thinks it would be a tough sell to narrow the area further, but welcomes anyone's effort on that front. Hiebert asked whether the concentrations monitored at that site were under the standard. Good responded that the Air Program does not have a design value because there are only two years of data, but the concentrations were below the current standard, and different than the monitored concentrations at the Chiwaukee site.

The 2015 Air Monitoring Network Plan can be accessed at this link:

<http://dnr.wi.gov/topic/AirQuality/documents/2015NetworkPlanSubmittedFinal.pdf>

Electronic compliance documents submittal pilot

Andy Stewart, Deputy Bureau Director

Stewart stated that over the last decade, the Air Program has developed electronic databases with the goals of increasing the efficiency and transparency of the program's operations, and reducing their cost. The program is still leveraging this investment in IT. About a year ago, a Lean Six Sigma team examined options for allowing electronic compliance document submissions. The team proposed developing a pilot using stack test reports, annual compliance reports, and monitoring reports. The team reached out to facilities and consultants about the idea, and received positive feedback. Ten companies are participating in the pilot, and will be able to submit reports electronically within a few months. During the second half of 2015, the Lean Six team will talk to sources about implementing the project statewide.

Stewart added that as a separate project, the agency has been developing an electronic signature option for sources' permit and compliance documents. The program is hoping that the agency will be able to roll out the electronic signature option next year.

Member updates

Clean Power Plan presentation

Arthur Harrington, Godfrey & Kahn S.C.

Harrington reported that he recently attended a presentation on the Clean Power Plan that EPA Region 5 administrator Susan Hedman gave to industry representatives at the University Club of Milwaukee. After the study group meeting, he provided the following link to the presentation slides:

<https://www.dropbox.com/s/kcbzn3vufa4v3ud/20141209-Milw-Univ-Club.pdf?dl=0>. He also mentioned the following Milwaukee Journal Sentinel article, which addresses the state of Wisconsin's opposition to the plan and Hedman's comments: <http://www.jsonline.com/business/epa-emissions-plan-receives-earful-official-says-in-milwaukee-visit-b99406320z1-285299131.html>.

EPA MOVES model revisions

Todd Palmer, Michael Best & Friedrich LLP

Palmer mentioned that his firm has a client that is concerned about EPA's revisions to the MOVES (Motor Vehicle Emission Simulator) model. The client sent a letter to EPA asking that the model be revised. They have also filed a challenge in the DC Circuit under the Data Quality Act, requesting a court order that EPA stop using the revised model. Palmer wants to bring the controversy to the attention of the study group, because many planners rely on the model. The issue will probably be resolved in the next year.

UW air quality course

Tracey Holloway, University of Wisconsin-Madison

Holloway reported that study group members made a helpful contribution to her Introduction to Air Quality course this semester, which means the group is helping to train future air management professionals. Todd Palmer, Tyson Cook, and Angie Dickens (Air Program analyst) came to speak to the class. Over the course of the semester, students analyzed an air episode, using information from the DNR website.

EPA rules update

David Bizot, Regional Pollutants and Mobile Sources Section Chief

Bizot provided an update on three EPA rules. The presentation slides are available on the AMSG website under the December 11 meeting at <http://dnr.wi.gov/topic/airquality/amstudygroup.html> (starting on slide 2). The information presented in this summary supplements the information in the slides.

Proposed GHG standards for existing power plants

Slides 4 to 10 provide an overview of EPA's proposed regulation of CO₂ from existing power plants. Bizot noted that this proposal follows previous proposals addressing CO₂ emissions from both new and modified or reconstructed power plants. The comment period for this proposal was extended to December 1, and the final rule is due June, 2015. However, there is talk that EPA may need more time and will finalize the rule later in the summer. Bizot stated that there have already been legal challenges to the rule, and expects there will be more.

Bizot explained that slide 5 shows the "building blocks" of CO₂ emission reduction measures that EPA used to develop reduction targets for each state. These measures represent EPA's proposed "Best System of Emission Reductions (BSER)" as applied to a 2012 baseline. However, states are not required to use the building blocks to achieve their target rate. For example, the building blocks do not include waste-to-energy as a reduction measure, but it could potentially be used as a compliance mechanism. Bizot noted that the proposal differs from standards that regulate emissions from the source; instead, reductions can be achieved elsewhere "outside the fence line." Bizot stated that the DNR's and PSC's joint comments on the proposal expressed appreciation for the compliance flexibility, but request additional guidance as to what compliance strategies EPA would and would not approve.

Slide 6 shows the compliance timeline for EPA's proposal. Bizot explained that EPA included an interim goal to prevent states from waiting until the last minute to comply. The DNR's and PSC's comments expressed concern about the "compliance cliff" caused by the interim goal. State plans for a rule finalized in 2015 would be approved in 2018 or 2019, leaving little time to achieve reductions needed by the start of the interim compliance period in 2020.

Slide 6 also shows Wisconsin's CO₂ emissions rates over the past decade. Bizot noted that one of the Department's criticisms of EPA's proposal is that the rate was unusually low in the proposed baseline year (2012). Natural gas use increased that year because prices were low, which resulted in lower CO₂ emissions. Bizot explained that EPA typically uses a multiyear average for base periods. The comments submitted by DNR and PSC suggested that EPA reconsider using a single year as the baseline.

Slides 8-10 provide an overview of DNR's and PSC's joint comments on the proposal. Bizot said the Department received less stakeholder feedback than expected, and told study group members to reach out to the Air Program if they would like to discuss the comments.

Bizot pointed out that one of the compliance challenges of the proposal is that the rule places the compliance burden on states, while the grid does not respect state boundaries (Wisconsin is a net importer

of electricity). He noted that the proposal both allows and encourages states to work together to comply as a group. Jaeckels asked whether there has been any momentum regarding a multistate approach to compliance. Bizot responded that there is definitely interest, but that regulators need to see the final rule first. There have been a number of discussions, among the MISO states for example. There is a strong feeling that a regional approach would be the cheapest and most efficient, though the math gets complicated with such an approach.

Palmer asked a question about EPA imposing a Federal Implementation Plan (FIP) if the state did not develop a State Implementation Plan. Bizot responded that the state asked EPA what a FIP would look like, but has not yet received guidance.

Harrington highlighted the importance of the education and outreach needed on the new regulations – especially in light of the potentially tight compliance timeline – and thinks the study group should be thinking about this issue. He said his firm is telling clients that they need good modeling to demonstrate CO₂ emissions reductions. While it is not clear who will have rights to the reductions, they need to be well documented in order to claim those rights. Bizot agreed that such documentation is never a bad idea.

Cross-State Air Pollution Rule

Bizot reported that in April, 2014, the U.S. Supreme Court upheld the Cross-State Air Pollution Rule (see slide 11). The court did leave open the option for individual states to challenge their specific obligations under the rule. Other states that are significantly affected by the rule are making these challenges.

Palmer added that his firm is representing industry challenges, and filed briefs this week. He offered to send the briefs out to the study group.

Bizot noted that the Air Program determined that by and large, Wisconsin is in good shape in terms of its emissions allocations.

Proposed ozone standards

Slides 12-15 address the ozone NAAQS EPA proposed in late November. Bizot stated that the maps presented on slide 15 represent potential best and worst case scenarios, depending on the severity of the ozone season. The 2012-2014 map represents potential designations if Wisconsin had a bad ozone year. The Air Program would work with EPA to determine the boundaries of the designations, which are not necessarily represented on the maps.

Bizot noted that there will be interstate transport issues associated with the standard, and EPA will develop a new transport rule to address them. EPA has not yet proposed a transport rule to assist states in attaining the 2008 ozone standard, but the Air Program is already engaging with other states on that topic.

Bizot stated that EPA is suggesting that background concentrations would not affect designations under the new standard. In response to a member question, Sponseller noted that interstate transport is one reason why the Kenosha nonattainment area for the 2008 ozone standard was narrowed; EPA did recognize that the area primarily receives pollution from out of state, and is starting to acknowledge the importance of transport issues in this area.

Sponseller also pointed out that Holloway is involved in research addressing the issue of background concentrations nationwide. Holloway added that Daniel Jacob and Arlene Fiore at Harvard and Columbia respectively are researching background concentration issues pertaining to ozone in Wisconsin. These researchers and the Air Program are collaborating as members of the NASA Air Quality Applied Sciences Team, and people are impressed that Wisconsin is one of the few states participating and taking advantage of this academic expertise. Bizot added that the Air Program has resources that allow it to offer Wisconsin

as a case study to researchers (regarding, for example, the potential significance of marine vessel emissions on Lake Michigan).

In response to a question about how emissions reductions will be achieved to meet the new standard, Bizot stated that EPA expects that existing rules (e.g., Tier 3 vehicle emissions and fuel standards and light and heavy duty vehicle emission standards) will bring many areas into attainment by the deadlines. However, the Air Program does anticipate that there will be some problem areas in Wisconsin. Sponseller reiterated that the Air Program will be working with other states on compliance planning to address transport issues.

Holloway commented that EPA Region 6 has been talking about using a multistage approach for SO₂ area designations that uses information from both modeling and monitoring. She asked whether that approach is being considered in this region (Region 5), and whether it would be used for the ozone standard. Bizot responded that the multistage approach is more appropriate for SO₂ than ozone, because SO₂ is not a regional pollutant.

In response to a question about the Air Program's schedule for reaching out to stakeholders about the proposed ozone standard, Bizot stated that anyone who has comments about the proposal should reach out to the Air Program, ideally in early 2015. EPA's deadline for comments will probably be in March. He pointed out that the proposal also addresses other issues, such as monitoring requirements and grandfathering PSD permits, and the Air Program welcomes comments on those topics as well. See the ozone standard action item on p. 1 for follow-up information about submitting comments.

Air permit streamlining rule

Kristin Hart, Permits and Stationary Source Modeling Section Chief

Hart provided a brief status update on the permit streamlining initiative. The presentation slides are available on the AMMSG website under the December 11 meeting at <http://dnr.wi.gov/topic/airquality/amstudygroup.html> (starting on slide 17). The information presented in this summary supplements the information in the slides.

Hart reviewed the topics that are being addressed in the first phase of the initiative (slide 18). She reported that the draft rule checklists – which provide draft rule language and explanations of the proposed revisions – were posted on the permit streamlining webpage in the fall. The webpage is located at <http://dnr.wi.gov/topic/AirQuality/PermitStreamlining.html>.

Hart then reviewed the timeline for the first phase revisions (slide 19). The Air Program prepared the board order and rule package, and received hearing authorization by the Natural Resources Board. The program may begin holding hearings towards the end of January or February, and will be holding one hearing in the northern part of the state. DNR rules coordinator Bob Eckdale is reviewing the draft rule language to ensure the language reflects the intent of the revisions.

The official rulemaking documents, including the board order, are available at the following link: <https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=14543>

Palmer asked whether the Air Program is still planning to work with the study group on the second phase of rule revisions. Hart responded that she is hoping to focus on procedural streamlining that does not require rulemaking from about January to June, 2015. The procedural topics include permit applications, internal procedures, and electronic tools. The Air Program would start working on the second phase of rulemaking after June, 2015 and would appreciate the study group's feedback. She clarified that while the topics that will be addressed in the second phase are not more contentious than the first phase topics, they will require more research and a greater contribution from the study group.

Adjourn

Sponseller closed the meeting by reiterating that the Air Program welcomes feedback about topics that should be addressed at study group meetings and approaches for conducting the meetings. The Air Program would like the meetings to be valuable to the study group members.