

**Clean Air Act Advisory Committee**  
**January 12, 2011**  
**Crowne Plaza Washington National Airport Hotel**  
**Arlington, VA**

**Welcome and Opening Comments**

Rob Brenner, United States Environmental Protection Agency (USEPA) Office of Air and Radiation (OAR), welcomed the committee members and began the meeting with introductions. Mr. Brenner welcomed the many new members and introduced Gina McCarthy, Assistant Administrator of USEPA OAR.

Ms. McCarthy began by thanking the Clean Air Act Advisory Committee (CAAAC) members for their participation and efforts in the committee. Ms. McCarthy then discussed a few USEPA staffing changes. First, she acknowledged and thanked Brian McLean, who worked at USEPA for 41 years, and had one of the most distinguished careers of anyone in public service. Beth Craig, USEPA, is taking on Mr. McLean's position in an acting capacity. Ms. Craig is very solid and versatile, and was able to be the deputy at OAR during multiple periods of great flux.

Next, Ms. McCarthy specifically recognized one of the CAAAC reports recently done on voluntary measures. USEPA asked the committee to look at voluntary programs and understand how they can better invest their resources to get the reductions they want to achieve. USEPA has done a lot of work internally to apply the principles identified in that report. USEPA will be providing the CAAAC with a more complete response to their report in the future, but she wanted to extend USEPA's appreciation as well.

Voluntary programs continue to exist as USEPA reviews them. The review has allowed many of the programs to display how well they have achieved reductions as a result of applying USEPA's principles. Most of the programs continue to be very relevant, and Ms. McCarthy mentioned Energy Star in particular. USEPA challenged the program to redo itself in order to recognize the current value of its brand. Under the leadership of the incredible team at Energy Star, they have instituted a third party verification process for all 15 product categories in the Energy Star program. This is a tremendous accomplishment.

USEPA has also been busy working on the greenhouse gas permitting issues. Ms. McCarthy recognized the related work group in which many CAAAC members were involved, and commented that they really helped to inform the Best Available Control Technology (BACT) guidance that USEPA released. The BACT website is also up and running and USEPA will continue building on the information over time.

In terms of our priorities, the passing of January 2<sup>nd</sup> meant that model 2012 engines could be certified. There has been a huge change in the automobile industry in the past year; according to USEPA staff, 15 of the automobile manufacturers at this year's auto show talked about the jobs being created in their industry. This year was all about lighter, smaller, and more efficient cars, and the Chevrolet Volt was even named car of the year.

In September, USEPA will put out a proposal for the next light duty vehicle rule for 2017-2025. Ongoing research is bubbling up that will play into the science that will underpin that rule. With regard to the upcoming heavy duty vehicle rule for 2014-2018, USEPA will take advantage of fuel savings and pollution reductions as much as possible and will translate the concepts used in the light duty vehicle rule to the heavy duty vehicle rule.

USEPA is also on target with the carbon monoxide National Ambient Air Quality Standards (NAAQS) and have a new schedule for ozone NAAQS in which the final standard should be out by the end of July.

USEPA has also been working on the Boiler Maximum Achievable Control Technology (MACT) rule. When the proposal went out, it prompted a tremendous amount of comments and data, which provided USEPA the opportunity to look at what changes could be made, but also caused USEPA to realize that some fundamental changes needed to be made to the rule.

Regarding utility regulations, USEPA has been moving forward with a number of rules. The transport rule was proposed last year and is planned to be finalized in June. Ms. McCarthy encouraged the CAAAC members to take a look at the notices associated with this rule and provide comments.

There is also a toxics rule coming out, which USEPA calls the "utility MACT rule." The court ordered the rule to be finalized in November, and Ms. McCarthy thanked industry for providing a wealth of data which USEPA is currently sifting through.

The utility New Source Performance Standards (NSPS) is also going out at the same time. USEPA will use a sector based approach on this to make sure they understand the synergies of what would need to be done with technologies.

The Administrator also announced that USEPA will be looking at a greenhouse gas NSPS for utilities. If investments are going to be made in that sector, industry should be fully informed. The proposal for that rule is set to be released in July with a final rule in May of 2012. USEPA expects to begin this process shortly with some listening sessions, and they will announce when these are to take place. USEPA would like these sessions to be substantive and to have time for

comments and discussion. USEPA wants to take advantage of the CAAAC's thoughts before USEPA begins working on the proposal.

The Administrator also announced a refinery NSPS. USEPA has been asked, through a number of litigations and petitions, to take a look at a greenhouse gas NSPS in a number of sectors. They have been asked to identify where the largest emitters are and where the smallest facilities are so USEPA can be as strategic as possible in looking at an NSPS. They determined that utilities and refineries are the top two sectors in terms of greenhouse gases. The timeline for the proposal would be in November with a final rule released around November of 2012. Similar to utilities, USEPA will begin with listening sessions regarding refineries.

Ms. McCarthy then took questions from the CAAAC members.

Howard Feldman, American Petroleum Institute, asked whether there would be a hearing on ozone reconsideration and if that has been scheduled. He also commented that when USEPA talks about listening sessions for greenhouse gas NSPS and refineries, committee members and members of the public and relevant organizations would like to be made aware of these dates in advance.

Ms. McCarthy responded that the Administrator asked for extra time regarding ozone reconsideration because she wanted the ability to ask for additional advice. USEPA staff is currently working on devising questions for that committee and USEPA will release the questions and meeting notices and ask the committee to go through the normal process of releasing a report. The committee meeting will be sometime in February. In terms of the listening sessions, USEPA has been looking at a schedule and the CAAAC will be consulted.

Eddie Terrill, Oklahoma Department of Environmental Quality, commented that the timing of the utility MACT and transport rule is very important. The rules give states the opportunity to enact statewide plans to control all of the units in their state for the first time ever.

Ms. McCarthy responded that USEPA is getting a lot of outreach from the energy sector itself and there is an opportunity to work more closely with states regarding these issues.

Bill Becker, National Association of Clean Air Agencies, asked Ms. McCarthy to provide a prediction of how the appropriations process might affect USEPA's ability and the states' ability to carry on these initiatives.

Ms. McCarthy responded that USEPA will be doing the best they can to work with the staff of appropriations, and that they have already had meetings to talk about USEPA's budget, what they are doing, what the impacts might be, certain cuts in different programs, and other issues.

One of the most important things USEPA has to do when there are a significant number of new members and as much change as the agency is going through right now, is build a relationship with and educate decision makers so that they know what USEPA's goals are and what everyone is working against.

Rob Kaufmann, Koch Industry, commented on NAAQS implementation and modeling, and stated that his organization recently heard that Region 4 will take at least four months to review their modeling protocols, and stated that they are seeing the same situation in Region 6.

Ms. McCarthy responded that there are permits being issued at this time, and that there are permits being issued that have done the modeling and have set standards. USEPA is going to continue to refine the model in a way that makes it more workable, and they have a timeline to make the model more sophisticated and will be laying out a strategy for that soon. Part of the challenge USEPA faces is that while facilities are sometimes fairly remote, particulate matter (PM) does not necessarily stay close to the facility, and it is difficult to account for that in the modeling. However, USEPA has learned a lot and they are going to apply that knowledge moving forward.

Ms. McCarthy concluded by stating that Ms. McCabe will be available later in the meeting to address more specifically the fact that as USEPA moves forward, they are seeing bumps in the road in some areas. However, USEPA has not been ignoring them; instead, they are moving them up to the top of their priorities so they can be addressed.

### **Subcommittee Report Outs: Economic Incentives and Regulatory Innovation, Permits/NSR/Toxics**

Keith Mason, USEPA, began by thanking all who participated in the previous day's discussions. One overarching conclusion of the sessions was the need to hold additional sector based roundtable discussions in the future. He informed the committee that USEPA has been organizing its resources to develop multi-pollutant rules like the cement MACT and the NSPS rules. This multi-pollutant rulemaking marks the beginning of a new approach for melding together old and new ideas. The purpose of the Economic Incentives and Regulatory Innovation committee is to provide USEPA information regarding opportunities and challenges that arise from the sector approach. Since May 2010, the subcommittee has selected members and held a series of four conference calls. He specifically highlighted a working group within the subcommittee that is focusing on policy developmental issues associated with risk and technology review processes and relating them to the multi-pollutant approach. Lastly, the subcommittee has also been evaluating how the ideas of clean energy and air fit together.

Mr. Mason continued with a briefing summary from Nicky Sheats, New Jersey Environmental Justice Alliance, on environmental justice issues in cumulative risk assessments. The briefing particularly focused on how perspectives and policy objectives of climate change can be integrated into local and global concerns. He encouraged each work group to consider the many issues that arise with sector based regulations, some of which are familiar to many regulatory bodies. It is important to remember that risk analysis becomes increasingly complex when evaluating more than one pollutant at a time. Additionally, other issues arise when changing from a unit by unit approach to a source-wide approach or when evaluating localized, regionalized, and global air toxin issues.

The subcommittee plans to conduct three one-day discussions focused on investigating the chemical, iron and steel, and oil and gas industries. Two companies from each industry will be asked to share their perspectives and strategies for allocating the necessary talents and resources in order to tackle many issues simultaneously. A report is expected in June 2011, which will contain preliminary information gathering specifically for greenhouse gas BACT for refineries.

The roundtable discussion tried to evaluate how this type of approach may optimize or improve air pollutant reduction. Among topics discussed were: risk, impacts, environmental justice, cost, certainty, and operational and compliance flexibility. Topics to be discussed in the future include: incentives, what mechanisms seem to be driving decisions, and how to evaluate outcomes. There needs to be more investigation into the coordination of stationary air pollution source control regulation and finding where the intersection of the MACT and NSPS rules are. The important near-term items include: increasing the coordination and integration of pollutant monitoring and reporting, finding the best ways to group emission sources within communities, and deciding whether to control pollution at a single part of a facility or apply controls facility-wide.

Mr. Mason continued by stressing the importance of identifying the benefits and disadvantages of each course of action as well as identifying the regulatory and legal challenges that may arise from these actions. Other considerations include: policies and regulations with the best chance of producing multiple benefits, applicability to local, tribal, and state authorities, how well strategies can be implemented, and evaluating which local capabilities can be best utilized.

Mr. Mason concluded with a list of early observations including: a strong interest in multi-pollutant sector approaches, familiar questions of industry regulation, effects on risk and emissions, stress on disproportionate impacts, regulatory flexibility, and the need for new approaches.

Roundtables will be held in February and March, both of which CAAAC members are welcome to attend. The group will focus on these remaining questions and try to have a report back by June 2011.

Mr. Brenner then asked for questions or comments from the committee members.

Ned Helme, Center for Clean Air Policy, had a comment for the presenters concerning the direct reduction in emissions from the iron industry.

Mr. Mason responded that emission reduction from iron manufacturers is part of the overall agenda.

Mr. Brenner introduced the next presentation on OAQPS. Unfortunately, the original presenter, Bill Arnett, was unable to attend the meeting due to a canceled flight, but Anna Marie Wood, also from OAQPS, presented in his place.

Ms. Wood commented on how good the sessions and ensuing dialog were the previous day. Three topics were covered: greenhouse gas mitigation strategies, the clearinghouse, and advancements made to the clearinghouse sector and the input to make the database more user-friendly by providing information on permitting abilities and sources.

Ms. Wood continued with highlights from the subcommittee members. The most salient point from USEPA was that the database is a good tool to keep resources in place and in real-time. The database should be downloadable or accessible on the web, and the accessibility is important in order to avoid security concerns. Additional sectors are to be included in the database, and any suggestions from the subcommittee on which sectors should be included would be appreciated moving forward. USEPA has placed a disclaimer regarding the seven sector white papers that are included in the database as a resource, not to suggest or presume it contains the official position of USEPA. A similar disclaimer is also needed on the temporal and/or unofficial status developments, as there is a lag time in posting decisions.

David Svendsgaard, OAQPS, provided an update on the changes made since the 2010 guidance was posted. The comments have been reviewed and the Office is in the process of making technical changes to fix the errors and clarify nebulous language. The guidance will be reissued by the end of January 2011. The corrections needed were minor, so in the meantime states can rely on it as they move forward with greenhouse gas permitting.

OAQPS is also conducting a guidance outreach campaign. There will be three webinars for state, local, tribal, industry, and environmental organizations. USEPA has also been engaged in training the different USEPA regions and permitting personnel.

## **OAR Update on Environmental Justice related Activities**

Will Wilson, USEPA OAR, began by stating that environmental justice at the agency is facing a very exciting and challenging time. The initial action plans for the OAR environmental justice programs started in 1992 and have been evolving into a living, breathing document ever since.

Mr. Wilson spoke about their action plan, and about the robust results-oriented activities that lie at its center. In addition, the action plan has 40 activities that frame their mission. He mentioned several common threads that run through all the initiatives and activities that constitute their environmental justice program: the effort to reduce exposure to air pollution, providing resources and funding for environmental justice communities, building capacity and enabling technical assistance, and finally outreach and communication efforts.

He also spoke about the substantive efforts occurring within the agency. First, the 100 day challenge, a commitment the agency made to environmental justice leaders in March, that they would publish a report on ongoing integration efforts and the opportunity for new ones. These efforts are divided into science, policy and regulatory efforts, sustainable communities, and capacity building. This runs concurrent with a larger effort, which is Plan 2014. This four year strategic plan captures opportunities and the ongoing initiatives for promoting environmental justice integration efforts.

OAR analyzed their efforts within the last year, and found that they primarily fall into four categories: communities, homes, tribal issues, and schools. Mr. Wilson gave a brief overview of the initiatives underway in each of these categories. Each of the four categories is framed by focus areas, which are detailed on the slides.

Mr. Wilson further spoke about reducing environmental justice exposure to air pollution, and summarized each of these initiatives in a packet passed around to the committee. The wood stove change out initiative was one effort he highlighted, as it has a very significant impact on Native American populations. Next he discussed Community Action for a Renewed Environment (CARE), which was the product of a collaborative effort looking at how to engage the community.

Mr. Wilson then spoke about sustainable living grants and the multitude of programs and resources that accompany these. One central goal of environmental justice is to have a meaningful seat at the table starting early on in the process. Factoring community participation into the rulemaking process is another goal of OAR environmental justice, and they have committed to test piloting five different rules to refine their ability to screen.

Mr. Brenner thanked Mr. Wilson and introduced Gregory Green, who will be discussing the environmental justice community learning center.

Mr. Green, USEPA OAQPS, introduced the concept of the environmental justice community learning center, which he described as an organization established and supported by the agency that is responsible for providing education and outreach, technical assistance, and other assistance to the environmental justice community. The goal of the community learning center is to provide communities the tools to understand the basics of the issues, and how to use air quality data and other information that they provide. The ultimate goal is to increase the capacity of the communities to where they can understand and comment on the technical products that they produce.

The vision is to increase the capacity of communities in a variety of different ways. First, they want to educate them on the structure of the USEPA and on how to get involved in USEPA activities. They want to increase the communities' basic knowledge and technical background to further enable them to provide input. The learning center will provide a mixture of classroom and web based training as well as national workshops. They will provide support for travel and per diem to enable trainees to attend the training sessions, and will maintain a resource library and clearinghouse to enable peer sharing. Lastly, they plan on publishing a community oriented newsletter to keep the communities up to date on current activities and initiatives.

The next step is to go out into the communities and touch base with as many internal and external stakeholders as possible to gain input and suggestions on how to implement the program. They are in the process of developing a request for applications for a cooperative agreement, and hopefully significant colleges and universities will apply for this. The goal is to have the center up and running by 2012.

Ms. McCabe presented on the agency-wide environmental justice 2014 initiative. OAR has been asked to co-lead with the Office of General Council to focus on environmental justice in permitting. Region 1 is also co-leading with them, because the regional offices at USEPA are much closer to the permitting process than headquarters. The goal is to determine ways to ensure environmental justice considerations are given full consideration in the permitting process, both from a process perspective and a substantive perspective.

The charge given to them was divided into two phases: nearer term and longer term. The nearer term involves looking at the kinds of permits that USEPA itself issues, and what they ought to be doing as the Federal government. They will translate this into thinking about how they should look at other federally issued permits. They will model this off of what the states and local permitting agencies are already doing. Ms. McCabe informed the group that USEPA is already forming an internal work group to look at these issues, and that the work group will look at both



access issues and recommendations for how environmental justice considerations should be considered within the permits themselves. They will spend the first half of 2011 coming up with recommendations and reaching out to organizations that already have extensive comments on this topic. This is an incredibly important initiative of the 2014 environmental justice plan, and they will be dealing with very significant issues.

Dan Johnson, WESTAR, commented that the state and local agencies and USEPA are currently working together to develop a learning management system that will allow state and local agency personal one-stop shop for training, and asked whether Mr. Green was planning to integrate the environmental justice community learning center into the learning management system.

Mr. Green responded that they plan to develop training and training systems that allow them to reach as many people in as many different forms as possible. He added that they absolutely plan on integrating the community center and the learning management system as much as possible.

Mr. Sheats stated that many people view this time period as an opportunity to engage with USEPA and the Federal government in ways that they could not before, and that Ms. Jackson is making environmental justice issues more high profile than they have been in the past. Now, the question is whether or not this will be reflected in policy. Mr. Sheats sees the permitting as a key issue in establishing concrete gains, and believes a key group for this committee to interact with is the environmental justice leadership forum on climate change, because it is a national environmental justice committee that focuses on climate change and other air issues.

Joy Wiecks, Fond du Lac Reservation, agreed with Mr. Sheats that they need to see some actual concrete developments in permitting.

Julie Simpson, Nez Perce Tribe, commended USEPA for all their efforts. She also noted that there were four graduates of ITEP in the room and that it is absolutely an effective program, and added that attendance at the working effectively with tribal governments trainings offered by USEPA has been low and that it would be encouraging to see more USEPA staff attend.

Ms. Watson asked if the environmental justice learning center provides training for USEPA staff, as well as environmental justice communities and anyone interested in these issues.

Mr. Green responded that they want to provide the training that is most useful to the community. They have to be careful about using grant money to train USEPA staff, since that impacts the number of community members being trained with those funds. The aim is to develop separate training programs in-house for the staff, but then share curriculum and tools between the two.

Carolyn Green, EnerGreen, recognized Mr. Green's point, but argued that in order for the in-house training to be most effective, you need to have input from the people who it will target. Environmental justice resources could be spent on training USEPA staff, who then go out and train their peers.

Mr. Green agreed with Ms. Green's comments.

### **Continuation of Opening Comments**

Ms. McCabe stated that communication, whether it be within USEPA or outside USEPA, is always a challenge; USEPA staff can never do enough communication and it is difficult to include all stakeholders at all times. USEPA is conscious of this and is trying hard to notify all interested parties at all times.

In terms of specific issues that are arising and how USEPA is moving these issues forward, USEPA is trying very hard to anticipate issues that might cause bumps in the road. One mechanism that will advance prioritization and get decisions made is to look over the universe of guidance documents that exist, and USEPA is trying to do that in a methodical fashion. One issue that is at the top of USEPA's list is dealing with NO<sub>2</sub> and SO<sub>2</sub> permitting. USEPA is close to releasing a second document on modeling, and they are trying to address emergency generators and intermittent emissions.

USEPA had a court-ordered deadline to finalize the extension of the boiler MACT rule by Friday, January 14<sup>th</sup>. USEPA has asked for more time, but they are waiting for a decision from the court. The court will take another couple of days to decide and thus, the date has not been moved to Friday, January 21<sup>st</sup>.

There is considerable debate among stakeholders surrounding how biomass fuel facilities should be treated in the greenhouse gas world, and USEPA has received a lot of input that will be useful moving forward. Administrator Jackson made an announcement on January 12<sup>th</sup>, laying out future steps for biomass in greenhouse gas permitting. She indicated that USEPA will grant a petition and immediately begin a rulemaking related to biomass in greenhouse gas permitting for biomass for three years. During that three year period, the Administrator intends to ask experts in the field of CO<sub>2</sub> emissions and biomass issues to provide advice and consider the issues surrounding CO<sub>2</sub> emissions from biomass. The agency will undertake appropriate rulemaking based on this, and they intend to have this in place prior to step 2 of the Tailoring Rule.

Mr. Helme questioned how Ms. McCabe anticipated the biomass issue playing a role in the current BACT reviews. As the NSPS comes up in July, many people would like to see USEPA

come up with a performance standard. He wondered whether biomass would be excluded from these standards.

Ms. McCabe responded that there is an applicability issue in the BACT process. Sources that are already going through Potential Significant Deterioration (PSD) already include biomass as part of the permit, and therefore biomass should be part of the BACT process. The permitting agencies will be making decisions about what they feel is appropriate in terms of biomass in BACT.

Ann Weeks, Clean Air Task Force, agreed that some biomass has carbon benefit potential, but commented that the definition of biomass is very important. She agreed that the agency should take a very hard look at the science and think through the issue.

Mr. Kaufmann referred back to the modeling issue, and commented that the process to which issues are looked at by senior USEPA staff seems convoluted. Eventually the modelers do reach a decision and the permit goes forward, however, in situations in which modeling problems are addressed successfully, there is no way to communicate that success to others in the industry. It would be beneficial to set up a way so that the whole regulated community can be made aware of those successes.

Ms. Giblin questioned what the schedule is for the approval of the State Implementation Plans (SIPS) on greenhouse gases. Ms. McCabe responded that the schedule depends on the states because each state has its own calendar, but that the SIPS are turning around very fast, in general. Ms. Giblin asked specifically about California's schedule and Ms. McCabe responded that she would find out more information.

### **“Meet the Members”: Tribal Air Quality – Joy Wiecks**

Ms. Wiecks presented on behalf of the Fond du Lac Band of Minnesota, a sub-entity of the larger Minnesota Chippewa tribe. She began her presentation by explaining the history of the Indian Air Quality Policy. On November 26, 2000, a new type of interaction emerged between tribal authorities and USEPA that established a regular coordinated attempt to implement Federal policies that had “tribal implications”. USEPA interpreted “tribal implications” as allowing tribes to take on the regulatory roles of USEPA. However, under the set parameters established, there were some interpretational errors that tribal authorities and USEPA are still hoping to rectify. Currently, the implementation policy changes are still in draft form.

The Tribal Authority Rule (TAR) of 1998 identified areas of the Clean Air Act where federally recognized tribes may be treated as states with a few exceptions: tribes do not have to have the tribal equivalent of a SIP, and tribes are not mandated to adhere to certain state level timelines.

The rule also defined eligibility requirements for tribes to participate in many Clean Air Act programs, allowed for tribes to pick which authorities they would like to obtain (e.g. permitting, enforcement), and allow them to apply for such authority. The rule also allowed USEPA to maintain authority where tribes could not or chose not to implement their own programs. TAR helped to highlight regulatory gaps in Indian Country, which has proved useful. It also explicitly stated that SIPs and state permits have no authority in Indian Country, unless negotiated between the two parties. TAR also enables tribes to address upwind sources of pollution that contribute to air conditions on the reservations.

Fond du Lac was the first tribe to receive 105 authority and commenting authority applicable anywhere within 50 miles of the reservation. States bordering the reservations under TAR need to be notified of any draft permits. Since not all tribes have discrete boundaries and many are held in trusts, the TAR spells out the procedures for how tribes may implement this authority. In order to be eligible, tribes must be federally recognized, have an effective governing body, and be capable of implementing the program to which they apply. The tribes must also identify the exterior boundaries of the reservation or demonstrate the appropriate off reservation jurisdiction. This often times proves very difficult as border disputes are the most contentious issues.

With their air quality programs, tribes conduct air emission inventories, monitor ambient air, review and comment on local permits and environmental impact statements, review proposed regulatory actions, perform education and outreach within the tribal community, serve on community work groups, perform on-reservation special studies, expand tribal regulatory authority, designate attainment and non-attainment areas, conduct indoor air quality monitoring, develop climate change adaptation plans (especially Alaskan tribes), and hold trainings. The trainings teach new personnel how read air quality monitors, conduct air quality modeling, and effectively evaluate data.

Ms. Wiecks continued by explaining why tribes are pursuing environmental quality so vigorously. Self-regulation provides tribes with much sought after autonomy and sovereignty and protects on and off reservation resources for cultural relations and subsistence purposes. Self-regulation helps build a sense of self determination by taking an active role in land-use planning and regulation, which often times is more stringent than state and Federal policies. Self-regulation also is part of many tribes' history and culture. Clean water, for example, is used in many religious ceremonies.

The Fond du Lac reservation covers 100,000 heavily wooded acres. It contains 108 wetlands and 843 acres of wild rice waters. The total ceded territories from the treaties of 1854 and 1857 cover nearly 8 million acres; to these lands the tribes maintain all rights not specifically relinquished in the language of the treaties. The reservation covers a portion of Voyager National Park, which contains a part of the boundary waters and has a no motor policy. The area has been classified as

having Class 1 air quality according to USEPA. Local natural resources include taconite (iron ore) mines, pulp and paper, and shipping and rail.

Currently, the Fond du Lac Air Quality Program employs two people. With these two employees the program has been able to complete an emission inventory, monitor mercury deposition, ozone, PM<sub>2.5</sub>, and NO<sub>x</sub>. Unfortunately, after ten years of data collection the funding was cut. Currently, they are active in the permitting, EIS, and regulatory review processes, as well as greenhouse gas mitigation measures and regional haze and mercury issues. Additionally, they have experience in indoor air quality testing for lead, radon, mold, secondhand smoke, and other asthma triggers. Of particular importance are the health risks associated with mold. While a good effort has been made in terms of detection, there is currently not enough funding to fix the problems when they arise.

Current challenges facing the Tribal Air Programs include: stagnant funding, or loss of project funding, tribal jurisdictional or political issues with the surrounding states, difficulty attracting and maintaining technically trained staff, and limited training opportunities. Ms. Wiecks specifically stressed the importance of staffing issues.

Mr. Johnson inquired whether tribes have the authority to pursue 126 petitions or their equivalent. Darrel Harmon, USEPA OAR, responded that tribes are able to seek delegation for several elements of the Clean Air Act as well as pursue 126 petitions. Mr. Becker clarified for the committee that section 126 of the Clean Air Act is a type of toll. It allows for a downwind governmental entity that feels it is being inversely impacted by an upwind source of pollution to petition USEPA or another relevant agency to seek mitigation action against the upwind source. This is also a tool to address interstate issues as well.

Mr. Terrill commented that the presenter made a good point that monitoring tribes' performance is not only important for rural issues, but also helps the states because it minimizes the resources they need to gather air quality data in rural areas. He stated that the Department of Environmental Quality in Oklahoma uses tribal data to provide citizens with real-time data for air quality advisories and ozone forecasting.

Don Neal, Calpine Corporation, inquired about the population of Fond du Lac. Ms. Wiecks responded that the population is nearly 4,000, but is a bit discontinuous geographically. Within the privately owned land the population is close to 3,500.

Mr. Sheats asked whether, in practice, there was sufficient timely funding granted by the Federal government. Ms. Wiecks said that a new rule will be finalized in March of 2011. Many tribes have an interest in taking over these authoritative roles, but the funding issues are preventing them from doing so.

Mr. Sheats responded by asking if all of this is done by the tribes, or if they receive assistance. Ms. Wiecks answered that in Minnesota, the pollution agencies have provided assistance with PM, NO<sub>x</sub>, and ozone.

Kelley Green, Texas Cotton Ginners Association, commented that the funding issue is a serious one. If tribes cannot attract qualified people to perform these tasks then USEPA must find the resources to conduct these activities themselves. He questioned whether a tribe can create its own implementation plan and have the state administer it on their behalf.

Ms. Wiecks doubted that the tribes could create their own implementation plans and have the state administer them, mostly because it would become an issue of sovereignty, which tribes want to preserve. They want these programs run by people who are familiar with their cultural traditions and identity.

### **Mobile Sources Technical Review Subcommittee**

John Koupal, Director Air Quality and Modeling Center, presented on the Motor Vehicle Emission Simulator (MOVES). MOVES is a computer model that is used to estimate vehicle emissions from all on-road sources for SIP and conformity. The Clean Air Act requires emission factors be developed and updated regularly for SIP and conformity purposes, so they create these models every three years. This ensures they have the most relevant information on vehicles for implementation purposes. The models are also important as USEPA considers regulatory action for all of the regulations they put out, as they provide a picture of what emissions look like currently and how they will look in the future with continued and discontinued regulatory actions.

The MOVES model was developed over the last decade to replace the mobile series of models that began in the 1970s. They wanted a more flexible platform that was more responsive to new research and data, and could ultimately be spread to all mobile sources. A huge impetus for the model was a national research council report that came out in 2000 and recommended an overhaul of USEPA's vehicle emission modeling platform. This report made several recommendations to USEPA that became the basis for why the new model was developed. They had to develop a model that would do better analysis at much finer scales, since there was a lot of emphasis on hot spot modeling and PM and CO conformity at very small scales.

MOVES looks at a huge list of pollutants and toxics. When they talk about vehicle emissions, it is not just what is coming out of the tailpipe. He spoke about the emissions inventory and how they consider differences between the running emissions when a vehicle is on the highway, start-up emissions, extended idling emissions, evaporative emissions, and many other types.

He spoke of their efforts to collect the most recent data for MOVES, and they have reviewed data from hundreds of thousands of cars and trucks from all over the country, and historical lab data. They also have done a landmark study of gasoline PM emissions in Kansas City on about 500 vehicles in 2004 and 2005. Another landmark development in the last decade is the advent of Portable Emissions Measurement Systems, which are boxes that can be attached to a car or truck and gather emissions while they drive around the area. The new data drives a lot of the updated emissions estimates, so there has been a step change as they switch from the old models to MOVES. Mr. Koupal provided examples of data from three different cities.

He gave an overview of the history of MOVES. The recommendation to overhaul USEPA's modeling system was released in 2000, and in 2005 the first version of MOVES was released, focusing on energy and greenhouse gases. A demonstration version of the model was released in 2007, and the FAAQA work group was also established. A draft of the model was released in April 2009, and based on comments from the work group, a peer review, and the public, they finalized it, and this is the official model that is available for use in SIPS.

That model was designed so that updates could be incorporated. There will be official releases of the model that coincide with the SIPS. Additionally, they have plans for long term data collection. They are looking into the latest technology surrounding evaporative leak detection and worked with Colorado on an evaporative leaker field study. Mr. Koupal gave a website for members to reference (<http://www.epa.gov/otaq/moves.htm>) and then asked for questions.

Dave Foerter, Institute of Clean Air Companies, asked if permeability and evaporative emissions captured ethanol, and if so, what the impacts were.

Mr. Koupal responded that they have done a lot of work with the coordinated research council on this topic. The initial finding is that the E10 does increase permeation emissions overall for volatile organic compounds (VOCs). This is reflected in the model and was a significant relative increase overall.

Mr. Sheats asked why the MOVES model did not show nitrogen associated with PM or PM associated with nitrogen. Mr. Koupal responded that there is delineation between them and the air quality modeling group. MOVES provides the raw data from vehicles to that process, but secondary organics is not their focus.

Mr. Childers then asked the members of the committee to raise their hands if anyone was uncomfortable with USEPA taking into full consideration these recommendations. (No one raised their hands; the vote was unanimous that the report could be moved to USEPA).

## **CAAAC Operation/Future Topics**

Mr. Childers began the discussion on CAAAC operations and future topics by stating that all CAAAC members were appointed by the Administrator. There are currently three standing subcommittees within the CAAAC, and all full committee members are invited to these subcommittee meetings. The mobile source technical review committee only meets twice a year, and that subcommittee is very specific to technical mobile sources.

When USEPA identifies a topic of interest on which they would like advice, the committee generally forms an informal work group to address these issues. These topics are generally not addressed by the full committee.

Committee members can serve three two-year terms, and membership is generally renewed up until that six year limit unless a member is not attending meetings or has changed jobs or roles.

Mr. Childers would like the group to take some time to discuss the meeting agenda. Usually, Ms. McCarthy opens the meeting with the current events happening at OAR. Then, the agenda moves on to subcommittee report outs, and they hear about any reports that are currently moving forward. USEPA uses these meetings as a forum to respond to the advice the CAAAC has provided them. Meetings are also used to discuss new issues as they come up.

Meeting only three times a year makes it difficult to compile reports on timely and important issues, and the group should have a way to have thoughtful discussions on timely issues, that way Ms. McCarthy can at least review the meeting summaries to gain insight from the group members.

Mr. Terrill commented that he would like the group to use the time they have with Ms. McCarthy for USEPA to hear from the CAAAC about implementation issues. One way they could do that would be for the CAAAC to submit questions ahead of the meeting and vote on 1-3 issues to talk about more in depth. It might be helpful for Ms. McCarthy to hear from a more diverse group about the problems they are seeing when trying to implement regulations.

Ms. Giblin suggested that it may be helpful to provide the committee with more insight as to what types of initiatives USEPA is considering. For example, whether or not there are any unique features on secondary standards for the NAAQS.

Mr. Becker commented that in the CAAAC is a tremendous opportunity that allows members to constantly learn from the other members. There is a lot of experience around the room, and they should be far more strategic about how they use their time and should do away with report outs. If people are interested in the subcommittees, they can go to the subcommittee meetings. The



hour spent on report outs could be spent on more relevant issues. The CAAAC should have a two hour discussion on how the greenhouse gas permitting is going. He would love to hear from industry about how permitting is going so that the CAAAC can try to ameliorate the problems. The group should hear about USEPA's great activities, but should also discuss them. It is important to take advantage of the fire power around the room.

Mr. Johnson agreed, but stated that there will be topics members are interested in, but do not have time to participate in at a work group level. It is still important to hear about work group issues, whether it is at this meeting or not. As for specific topics, he does not recall having a discussion about international emissions, such as climate change and international transport of smoke, dust, mercury, and other pollutants. He would also like to hear more about critical loads and secondary emissions.

Mr. Childers responded that international emissions would be a topic at either the May or October meeting.

Mr. Sheats commented that there is time to do something substantive with environmental justice topics. He suggested that maybe there should be an environmental justice/tribes work group, but noted that it should take place after the multi-pollutant group because there might be significant overlap in interest.

Mr. Feldman commented that hearing or seeing the report outs is helpful, and that it is helpful to get them in a slide-type package so they can be shared with others. It is also interesting to see how USEPA interprets everything. He would also be interested in hearing about greenhouse gas permitting from different sectors, and suggested that maybe it should be an ongoing item for as long as it is relevant.

Ms. Weeks commented that the report outs could be shorter, but it is true that it is interesting to hear how USEPA interprets what was said the day before. Also, the administrator announced looking at biomass, so maybe the CAAAC could discuss biomass at the next meeting.

Lisa Gomez, San Diego Gas and Electric, made three comments. (1) It would be helpful to solicit feedback from the committee about the agenda items a certain number of days in advance of the meeting. (2) Similarly, a number of CAAAC members represent organizations or constituents that need some time to process new initiatives, so it would be nice to establish a committee "norm", or an expectation regarding how many days prior to a meeting members can expect to receive the agenda and a report (when members are voting on one). (3) Since the CAAAC only meets a few times a year, USEPA may have more immediate needs, and we should be open to something other than an in-person meeting.

Mr. Childers responded that he will attempt to send materials out sooner, and agreed that establishing a committee “norm” is a wonderful idea, and that USEPA is looking into some potential technologies to use as alternatives to in-person meetings, such as list serves and possibly Facebook. He also noted that once he pulls in the attention of a majority of the CAAAC members, he is required to put a notice in the Federal Register 15 days in advance of any meetings. However, if CAAAC members pull in the attention of each other, the group can meet without placing a Federal Register notice.

The group decided that for future meetings, materials will be provided seven days in advance of the meeting.

John Walke, Natural Resources Defense Council, commented that he would like to maximize the time spent with the senior management during the meetings. He also suggested that the CAAAC have regular sessions or at least multiple sessions over the coming year and beyond to discuss activities in congress.

John Busterud, PG&E, commented that the CAAAC should keep a balance between urgent matters and the important or more deliberate work that must be maintained.

Ms. Simpson agreed that suggestions regarding alternative meeting formats were great, but commented that the idea of using Facebook may not be feasible for everyone.

Mr. Green commented that there was a really good presentation several meetings ago which outlined all the relevant USEPA rules that had come out recently and included important dates and progress in a clear and succinct format, and that having a similar presentation at future meetings would be beneficial.

Mr. Jones commented that as an advisory committee, if there is going to be a presentation, presenters should pass out questions to CAAAC members ahead of time to solicit feedback and information from the CAAAC members at the end of the presentation. Every presentation should direct some form of a question to the CAAAC.

Mr. Becker commented that a major issue with the meetings is that there is not sufficient participation throughout the day from USEPA staff. It would be really helpful if Ms. McCarthy or another Assistant Administrator attended the meeting for the entire day. He strongly urged that every USEPA office and the lead USEPA region be represented at the meetings, and that there be more USEPA participation throughout the day. There was significant member agreement on this point.

Syndi Smallwood, Pechanga Band of Luiseno Indians, commented that tribes have this problem in all of the regions – they frequently go to USEPA meetings and USEPA is not present 90 percent of the time. This makes it very difficult to get things done and get answers. She also commented that it would be beneficial to make a summary of the current work group actions available to CAAAC members.

Ms. Giblin commented that having presentation slides available in advance would also be helpful. It is frustrating to frantically scramble to take notes on a PowerPoint, and having it in advance would allow members to think of questions and react to the presentation, opposed to focusing on taking notes.

Ms. Simpson added that an interactive agenda would be helpful so members could follow links to the presentations off of their laptops during the meetings. She also supported Mr. Sheats' idea to have an environmental justice and tribal work group.

Mr. Childers responded that work groups are usually small and temporary, and that the CAAAC might want to instead establish a subcommittee for this topic because it is more of a standing issue. He instructed members to let him know if anyone has suggestions on other work groups or subcommittees.

Mr. Childers stated that he and Mr. Brenner would review the suggestions and brief Ms. McCarthy regarding the group's ideas. They have been having some of the same thoughts as the members, but it is helpful to have the comments come directly from the group.

The next meeting will be on a Wednesday and Thursday, during either the first or second week in May. Mr. Childers asked the group to inform him about their schedules. This meeting will include the annual Awards Ceremony, and as always, attendance is appreciated.

The meeting was adjourned.

**Clean Air Act Advisory Committee**  
**January 12, 2011**  
**Crowne Plaza Washington National Airport Hotel**  
**Arlington, VA**

**List of Attendees**

Bill Becker	National Association of Clean Air Agencies (NACAA)
Robert Brenner	United States Environmental Protection Agency (USEPA)
John Busterud	PG&E
Pat Childers	USEPA
Beth Craig	USEPA
Howard Feldman	American Petroleum Institute (API)
David C. Foerter	Institute of Clean Air Companies (ICAC)
Pam Giblin	Baker Botts LLP
Terry Goff	Caterpillar Inc.
Jack Goldman	Hearth, Patio & Barbecue Association, Inc.
Lisa Gomez	San Diego Gas and Electric
Carolyn Green	EnerGreen
Kelley Green	Texas Cotton Ginners Association
Wick Havens	Ozone Transport Commission (OTC)
Vince Hellwig	Michigan Department of Natural Resources and Environment
Steve Hensley	USA Rice Federation
Ned Helme	Center for Clean Air Policy (CCAP)
Jim Hunter	International Brotherhood of Electrical Workers
Dan Johnson	WESTAR
Gary Jones	Graphic Arts Technical Foundation
Robert Kaufmann	Koch Industry
Keith Mason	USEPA
Janet McCabe	USEPA
Gina McCarthy	USEPA
Don Neal	Calpine Corporation
John Paul	Regional Air Pollution Control Agency
Vickie Patton	Environmental Defense Fund

Nicky Sheats	New Jersey Environmental Justice Alliance (NJEJA)
Lisa Simpson	Nez Perce Tribe
Syndi Smallwood	Pechanga Band of Luiseno Indians
Eric Svenson	PSEG
Eddie Terrill	Oklahoma Department of Environmental Quality
Valerie Ughetta	Alliance of Automobile Manufacturers
John Walke	Natural Resources Defense Council
Jason Walker	Northwestern Band of Shoshone Nation
Kathryn Watson	Improving Kids' Environment (IKE)
Ann Weeks	Clean Air Task Force
Joy Wiecks	Fond du Lac Reservation
Anna Marie Wood	USEPA