

**Meeting Summary**  
**Air Management Study Group Meeting**

Thursday, August 20, 2020

9:00 am

Renee Bashel - DNR	Brenda Kubasik – Madison Gas and Electric
Dave Bittrich - TRC	Scott Manley - WMC
Scott Blankman – Clean Wisconsin*	Anita Martin – Jefferson County Board
David Bizot - DNR	Jason Martin – Foth Infrastructure and Environment
James Bonar-Bridges - DNR	Rita Neff – Manitowoc Public Utilities
Phillip Bower - DNR	Laura Olah - CSWAB.org
Noelle Brigham – Marquette University*	Todd Palmer – Michael Best & Friedrich*
Mike Cassidy - Kohler	Bridget Pankonin – Charter Steel
Megan Corrado - DNR	Katie Praedel - DNR
Natalene Cummings - Forest County Potawatomi	Ray Ramos – Tetra Tech
Craig Czarnecki - DNR	Cherish Schwenn - WRMCA
Steve Dunn – Alliant Energy	Brad Sims – Exxon Mobil
Eileen Rugolo - InSinkErator	Andrea Simon – Interested party
John Gibbons – Tetra Tech	Renee Smits - Spectrum Engineering
Gail Good - DNR	Sheri Stach - DNR
Ashley Grey - DNR	Pat Stevens – Wisconsin Paper Council*
Erik Gulbranson - Dairyland Power Coop	Andy Stewart - DNR
Katie Hager – John Deere and Co.	Patti Stickney - SEH
Rob Harmon - Amcor	Steven Stretchberry – WEC Energy Group
Art Harrington - Godfrey and Kahn S.C.*	Mark Thimke – Foley and Lardner
Kristin Hart - DNR	Karsyn Van Laanen – Georgia Pacific
Curtis Hedman – DHS*	Trent Wickman - US Forest Service
Maria Hill - DNR	Jasmine
Mike Kolb – WEC Energy Group	D Seitz

\*AMSG member

**Action Items**

**Next AMSG Meeting.** The next study group meeting will be held on **Thursday, November 11** at 9 a.m.

**Meeting Summary**

**Opening remarks and agenda repair**

Gail Good opened the meeting. Craig Czarnecki ran through some Zoom procedures. Roll call and introductions were made by attendees. Two new AMSG members were introduced, Pat Stevens (WI Paper Council) and Noelle Brigham (Marquette University professor).

### **Hiring Update**

Air Program Director Gail Good indicated the program has good news to share. While the state is under a hiring freeze, there is some flexibility for critical positions. Monitoring for example has been deemed essential at the federal level. The program has two BioWatch Limited Term Employees posted for recruitment. In addition, the program has been able to utilize its contract with the Lake Michigan Air Directors Consortium (LADCO) to contract for two new hires, for energy policy and data analysis, to assist with ozone and greenhouse gas inventory work.

### **Proposed Guidance, rules and legislative update**

#### Proposed guidance

Kristin Hart provided updates on proposed DNR guidance.

Municipal Solid Waste Landfills - EPA has finalized new NSPS and NESHAPs for new municipal solid waste landfills and will have new guidelines out for existing landfills in 2021. The Air Program is working with the Waste program to update guidance for these facilities and update permit formats.

The workgroup is preparing a survey for Landfill operators to get feedback on the issues they'd like addressed. The goal is to have the guidance completed by early 2021. Those sources have compliance deadlines in September of 2021

Regulation of Non-Road and Motive Engine Testing – Non-road engine testing has been regulated in stationary source permits since the 1990s. The Air Program is planning to do a review of the current and past regulatory framework and draft guidance to ensure consistent treatment of non-road engine testing in stationary source permitting. The program has received numerous requests to remove process lines that do product testing of non-road engines from stationary source air permits. This effort to review the existing guidance is to gain in understanding of the regulatory nuances and air quality impacts of non-road engine testing. The program is not making any additional decisions on these requests until it thoroughly reviews the regulatory record on this topic.

The program will involve stakeholders and will be setting up at least one virtual meeting to discuss and hear concerns with a plan to complete this work by July of 2021.

Two AMSG members raised concerns that this decision would add regulations to this type of source. Companies are interested in having onerous conditions removed from their air permits now and felt delays to review regulations is unnecessary because existing law and guidance clearly indicates that this type of testing operation is not a stationary source.

Next day deviations and insignificant emissions units in emissions inventory – The Air Program is also developing guidance on several compliance topics that have been discussed in the study group before including next day deviation reporting and insignificant emission units interaction with the NR 438 emissions inventory reporting requirements.

#### Proposed DNR rules

AM-24-12b – Permit Streamlining has an anticipated publication date of September 28 with effective date of October 1.

AM-20-18 VOC RACT and AM10-19 2015 Ozone NAAQS are still in the drafting stage.

#### Proposed EPA rules/guidance

Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces – Comments were due July 6, 2020.

Proposal to maintain the ozone NAAQS without revision – comments due October 1, 2020.

#### Finalized EPA rules/guidance

EPA finalized Guidance on Plantwide Applicability Limitation Provisions Under the New Source Review Regulations – re-emphasizes PAL provisions for permitting

Many NESHAP updates were recently approved by EPA. These final rules all include the removal of startup shutdown malfunction provision language, add once in five-year testing and require reporting through EPA's electronic reporting system. Other more substantive changes may also be included. Facilities were encouraged to review new regulations and can contact Kristin Hart if they have questions.

#### **Proposed state legislation**

None

#### **Supervisor/Staff Reassignments**

Field Operations Director Andy Stewart went through the regional supervisor reassignments. The Air Program now also has two additional engineers assigned to minor source compliance to provide compliance assistance. The program has updated this assignment information in many places (including on [the DNR website](#), in the staff directory and the DNR Switchboard).

#### **Ethylene Oxide Webpage**

On March 31, 2020, the Office of Inspector General (OIG) released a report to the public recommending that EPA provide residents in all communities near 25 high-priority ethylene oxide-emitting facilities

with a forum for an interactive exchange of information with the state regarding health concerns related to exposure.

Evonik Corporation located in Milton is the only facility in Wisconsin listed in the report. Evonik is a chemical manufacturing plant.

Wisconsin DNR has regulated ethylene oxide (EtO) under the state toxic rule, NR 445, since 1988 and has worked with Evonik for several years to obtain the best annual emission estimates for EtO. Emissions from Evonik Materials Corporation have dropped by more than 5-fold over the last 10 years due to a systematic verification of assumptions used to calculate emissions.

EPA Region 5 and DNR conducted a June 2019 inspection to ensure compliance with the Clean Air Act and perform leak detection monitoring. No violations were found.

The Air Program has a [new EtO Webpage](#). The new EtO webpage provides high level details and links surrounding EtO and the impact the Evonik corporation may have on the surrounding community. It provides background information on the pollutant, the NATA (National Air Toxics Assessment) and how Wisconsin has historically regulated this pollutant at Evonik including inspection and compliance reports and compliance and enforcement history.

The monitoring data from the Horicon site is also included on a quarterly schedule. The Horicon monitoring site has been monitoring for EtO since October. All data points except one so far have been below detection levels. DNR will continue to work with EPA counterparts to establish a collaborative approach to determine roles, responsibilities and a plan for consistent communication with the public.

Unlike most states, Wisconsin has a state toxic rule which has required 99 percent control of EtO.

The department is working with Evonik on getting away from the single dummy stack representation of emissions the NATA is based on, and breaking up into multiple release points. The department is trying to best characterize the emissions

### **Member updates**

Todd Palmer of Michael Best & Friedrich LLP mentioned the legal challenge to EPA inter-precursor trading in nonattainment areas, interchange NOx and VOC offsets, case has been fully briefed, oral argument in early December. Palmer said the case may be of interest to the AMMSG group.

### **Federal and State Guidance Plans**

Permitting and Stationary Source Modeling Section Chief Kristin Hart and DNR Attorney James Bonar Bridges described recent changes on how the program uses federal and state guidance. Agencies use guidance for the interpretation of existing laws and how laws might be applied, for transparency and a more consistent application of law. On the federal side, two executive orders indicate how guidance is to be used.

The Air Program is continuing to develop guidance and will continue to take stakeholder feedback. The program's original guidance system was developed about 15 years ago and needs to be updated. Certified guidance is still on DNR website. The program is working on a new guidance repository that utilized OnBase to permanently house guidance and hopes this will be available in early 2021. The program is also reviewing commonly cited federal guidance documents to ensure none have been revoked; if the program has any concerns, it will consult with EPA.

An attendee asked what the process will be in light of the legal decisions? How is this being handled with other programs? The agency, with the assistance of Legal Services, is determining how to proceed. It is important to note the Air Program will continue to receive feedback regardless of what the logistics will be. The Bureau of Legal Services is working with other programs and agencies to develop a process for developing and issuing guidance.

Another attendee asked if there will there be a review to see if the federal guidance matches Wisconsin statutes and administrative rules? The Air Program has been undertaking an evaluation of the federal guidance and has been going through the certification process of current guidance. This evaluation is ongoing and part of the process to ensure guidance is up to date and current with state law.

The program looks at federal guidance the program relies on during the permit process recognizing the need to look at formal procedure.

If there is specific guidance externals are concerned about, please let the program know so it can be looked at.

An attendee asked how is the regulated community to know which of the almost 2,000 pieces of federal guidance are certified or endorsed by the state for use? The program has been working through the list for commonly used guidance items and checking against the EPA database. A plan to address all items in the database as to which are used or not has not been developed.

*Observation:* It is important to understand and appreciate how DNR is restricted by using best practices from EPA because of legislative requirements around rulemaking.

## **Ozone Topics**

Air Quality, Planning and Standards Section Chief David Bizot updated the group on the redesignation requests. Wisconsin was first in the nation to have finalized redesignations based on 2019 data. Door County's 2015 ozone standard redesignation to attainment was finalized on June 10, 2020. Redesignation to attainment under 2008 ozone standard for both parts of Sheboygan County was finalized on July 10, 2020. Kenosha County redesignation was submitted, however a Chicago area monitor re-violated so this redesignation was paused by EPA.

### Status of 2020 Ozone Season

- Six monitors have exceeded the 2015 ozone standard
- For areas recently redesignated, this requires a maintenance plan submittal to EPA
- One monitor in Milwaukee is violating now and one in Racine.

### Implications

- 2008 ozone NAAQS – one violation in the 3-state Chicago ozone nonattainment area
  - This affects Eastern Kenosha County. This county is currently “serious” classification with attainment date of July 20, 2021. The area will not attain based on 2018-2020 preliminary data – reviolation of an Illinois monitor. The program anticipates a bump-up to “severe” in late 2021 for eastern Kenosha County, with a new attainment date of July 20, 2027 based on 2024-2026 data).
- 2015 ozone NAAQS – violations in areas of WI, IL, IN, OH, MI
  - Currently “marginal” classification with attainment date of August 20, 2021. Areas will not attain based on 2018-2020 preliminary data. The program anticipates a bump-up to “moderate” in late 2021 with a new attainment date of August 20, 2023 (based on 2020-2022 data).

There was a question of how a wild-fire event might affect this data. DNR is taking a look at this information to see if the monitor violations could be considered an “exceptional event.” DNR is working with EPA and the other LADCO States to explore this further.

The program is having discussions at the 6-state regional Air Director level (LADCO) regarding coordinated ozone planning and actions. They are developing a regional ozone charter that includes:

- Coordinated action on mobile source emissions
- Evaluate the cost-effectiveness and impacts of different emissions reduction strategies
- Support improvements in ozone photochemical modeling
- Adopt a longer-term planning horizon

The program is also coordinating with Illinois and Indiana on the 3-state Chicago-area attainment planning. This includes new ozone modeling based on an updated modeling platform, and ensures all states meet requirements for serious areas and are planning for the bump-up to severe. Wisconsin is already meeting these requirements and the program wants to make sure Illinois and Indiana are also meeting all requirements.

Three major LADCO contract efforts to help inform downstream decisions:

- Ozone-NOx-VOC sensitivity analysis, using LMOS2017 data
- NOx and VOC control programs cost effectiveness/impact update
- Evaluation of ozone modeling sensitivity to NOx and VOC emissions reduction

Other exciting projects on ozone:

- NASA HAQ project (LADCO-NASA-NOAA-UW-DNR) to evaluate use of satellite data to improve accuracy of ozone photochemical modeling results.
- Enhanced Ozone Monitoring - EOM/LMOS data analysis activities. This data, collected in 2017, will likely be used and analyzed for many years to come.
  - Several LMOS2017 papers in development
- State ozone strategic framework to guide/coordinate actions to address ozone nonattainment.

There was a question of how the ozone season was impacted by COVID and the reduced traffic. The program is looking at what the impacts were and the specific causes.

A follow-up question was asked if DNR will be able to learn anything related to the impact of mobile source emissions on overall ozone formation due to the COVID-related decrease in traffic early in the summer? The program didn't see as much of a decreased impact that we thought we might have seen. The program will be analyzing in more depth. It's a complicated issue, since there is natural variability in the data and a nonlinear relationship between emissions and ozone.

#### Enhanced Ozone Monitoring (EOM) update

All planned EOM monitoring is fully underway. As mentioned previously the program partnered with researchers to get the most out of the data this season to understand ozone chemistry over Lake Michigan. Research initiatives include:

- UW-Eau Claire drone study concluded in June – data collection serendipitous with COVID. This particular data set may be able to be used as a baseline and help us in planning for future.
- Pandora and wind lidar has been installed at Chiwaukee and is operated by Brad Pierce of UW and Luke Valin of US EPA. This was accomplished despite not being able to train in person.

Ozone precursor sampling scheduled once every six days and episodic is occurring at Chiwaukee and the MAML located in Sheboygan.

#### Ozone Transport CAA S. 110(a)(2)(D)

States are required to submit "Good Neighbor" SIPs that demonstrate how their emissions will not adversely affect their neighbor states' air quality. EPA's action on regional 2015 ozone NAAQS "Good Neighbor" SIPs is past due.

For the 2008 ozone NAAQS:

- Several court cases determined that EPA has not met its obligations to promulgate a complete remedy for transport for this NAAQS. The CSAPR Close-out Rule has been vacated.
- EPA must finalize a final rule completely addressing transport by March 15, 2021.

Clean Wisconsin v. EPA update – this is a consolidated court challenge to 2015 ozone NAAQS designations in several states.

- EPA asked for a voluntary remand of some county designations: These affect Milwaukee, Ozaukee, Waukesha, Washington, Racine, Manitowoc, and Kenosha.
- EPA defended other designations, including Door and Sheboygan.
- On July 10, 2020, the D.C. Circuit Court of Appeals decision remanded designations back to EPA for some areas of Colorado, Michigan, Missouri, Illinois, and Wisconsin, including all of the Wisconsin area designations. EPA will need to re-promulgate new designations or provide more information to justify why not to designate.
- We are waiting for EPA to respond to this decision and will provide additional information when requested.

- The state's 2015 designations remain in effect.

### **Permit Processing**

Air Permit Section Chief Kristin Hart announced that permit streamlining has been finalized and will be effective on October 1, 2020. She reminded the group the goals for permitting are consistency, accuracy and timeliness (CAT).

A construction permitting goal is meeting the requested construction start date where possible. Permit writers are first looking at the application for the date a source wants to construct. The department will strive to meet this. If the permit writer believes this can be met, they will send an email to the source confirming the department can meet the requested deadline. If no date is provided or the date provided is unobtainable (need a minimum of 50-60 days), the permit writer will contact the source and explain and come to an agreement on a new estimated date for issuance.

An operation permitting goal is increased efficiency for operation permit writers, specifically to issue Part 70 operation permit renewals prior to expiration of a previous permit. New tools are being developed to help applicants produce as complete an application as possible. These tools include checklists, updated forms, direct links to guidance, example language for plans. The main focus is on obtaining updated MTE and PTE calculations, applicable NESHAPs and NSPS requirements and updated CAM plans.

Permitting staff are planning to send out a series of surveys to Title V sources, one on the application process, one on the permitting process, and one on the usefulness of the permit itself. The survey is scheduled to go out this fall and will cover:

- How to assist with better development of the application
- How the permit process is working; timelines, communication, ease of working with staff
- How the operation permit provides value to the source; How is it used? whether there is a better way to lay out permit conditions for easier use

### **Comments/questions**

An attendee suggested a discussion on obtaining permit shield coverage. Another attendee commented that these were great initiatives and offered an opportunity to incorporate federal standards by reference. The attendee added that sources are frustrated with the current way the standards are put into permits and encouraged the department to revisit this issue during this time.

Natalene Cummings added a reminder, saying the Forest County Potawatomi Community's Class I Final Agreement Permit Flow Chart provides the Tribe timelines for responding to a permit application during the review period. These timelines should be taken into consideration when reviewing construction permitting timelines so FCPC's time is not cut short.

Kristin Hart responded the department will keep this in mind and work with the tribe to ensure obligations continue to be met. She will discuss further with the program's tribal liaison and construction permit coordinator.

### **COVID-19 Update**

Compliance, Enforcement and Emissions Inventory Section Chief Maria Hill gave an update on EPA's July 20, 2020 letter which states offsite inspections are encouraged. States must still send inspection data to EPA (ICIS), states should not alter FFY20 commitment plan based solely on COVID. The program is in alignment with this letter and in line to meet the commitment plan. FFY21 plan will look similar as to how it would usually. Protocols have been developed and distributed to staff. For example, for asbestos inspectors going into the field.

Gail Good provided a program update including how critical operations (such as field monitoring) are continuing. The program has been agile to keep core work continuing.

Next meeting date – November 11, 2020.

- Priorities discussion for next CY
- Meeting dates for 2021
- Look at AMMSG charter