

Air Quality Management Subcommittee
Minutes from Meeting on October 18 - 19, 2006
Hilton Downtown Indianapolis
120 West Market Street
Indianapolis, IN

Attendees:

See list of participants at end of the meeting minutes.

Tribute to Gregg Cooke: – Greg Green

After a brief introduction and identification of attendees, Greg Green (AQM Subcommittee Co-Chair) noted that since the last subcommittee meeting Gregg Cook had passed away. Gregg had been a major participant in subcommittee activities. John Seitz, Greg Dana, Janice Nolan, and others noted that this was devastating news and that Gregg would be missed by the environmental community. Gregg believed in cleaner air and a better environment. He always wanted to try things and to build bridges between the various interest groups. He was a major force in EPA Region VI and in formulation of early action compacts. He also took pride in his family, was an active participant in church activities, and was a good friend. He was a great man and will be missed by Texas in particular and by the environmental community as a whole.

Various proposals for honoring Gregg were identified. It was suggested that a Clean Air Act Advisory Committee (CAAAC) award should be established in his name. The work of the subcommittee might be dedicated in his name. The Texas Emissions Reduction Plan (TERP) could be renamed in his honor. The subcommittee discussed endorsing one or more of these ideas. In the end, various subcommittee members volunteered to pursue the proposals independently and through CAAAC and TERP. Subsequently, Environmental Defense and Koch Industries, Inc. formally requested that the EPA Administrator create the *Gregg Cooke Award for Clean Air Excellence through Collaboration*.

Introduction: – Greg Green

Greg Green indicated that the purpose of this meeting was to formalize the subcommittee's recommendations, particularly as they related to the "air quality management plan" and the "boundaries" discussions. It is anticipated that this will be the last formal meeting of the Air Quality Management (AQM) Subcommittee as a whole. A first draft report will be prepared and circulated to members for comment. Greg plans to make a presentation to the CAAAC meeting in January 2007. Recommendations where there is agreement will be noted; where there isn't agreement, input from the CAAAC members will be sought. A final report will be developed before the CAAAC meeting in May 2007; this will provide 4 to 5 months for review and comment by subcommittee members. The final report will be submitted to CAAAC in May 2007; CAAAC will be requested to accept the report and to formally pass it on to EPA.

Air Quality Management Plan (AQMP) Discussion: -- Brock Nicholson

Overview. Brock Nicholson indicated that he, and Dan Johnson, would be facilitating the discussion on air quality management plans and that he would be speaking from the recommendations in the meeting notebook; see [indy book.pdf](#). This topic had been discussed previously at length and there was generally a good response; however, it is important to make sure that all points are included and appropriately stated. Key elements of the recommendations on AQMP include the following:

- It is a process. It is manifest as a plan.
- It is a State plan.
- It should get the community involved.
- It should reflect a multi-pollutant approach.
- It should be a broad plan involving air quality, transportation, land use, energy, climate, etc.
- It is an air plan which should reflect influences of other plans.
- It is “the” State air quality plan for the whole State.
- SIPs should be for the whole State, not just individual air quality areas.
- The plan can be updated periodically and include input from the public.
- It is voluntary.
- Given other demands, the incentives for doing a plan need to be addressed.
- The plan is voluntary/comprehensive and it is for the SIP, so the State could submit only the part for nonattainment.

There is broad consensus on the desirability of such a plan. It follows the California approach. Desirable aspects could include (1) public access through the Internet, (2) an enhanced role for local entities, and (3) one-stop shopping for public and regulated communities. Areas that have not been developed include: (1) allocation of 105 funds; (2) in-kind services from EPA; (3) acceptable ways for streamlining the process; (4) tradeoff ways for enhancing public health; (5) Section 110 authority for AQMPs, e.g., tradeoffs; and (6) no designation of an alternative approach, e.g. no offsets. Also, this is a “State-owned” plan; a distinction needs to be made between parts that are a SIP submittal and those that need to be approved by EPA.

Issues Concerning Tradeoffs With Other Programs. One member noted that promises of tradeoffs are not always kept by EPA. A state should demonstrate equivalency of tradeoffs before signoff; this needs to be coordinated with EPA’s Office of General Counsel (OGC). Concern about tradeoffs for PSD was also expressed. An AQMP would not be an obligation. The incentives for AQMPs should identify tradeoffs with strict rules on equivalent health protection. Where the control organization is composed of multi-State interests and federal land managers (FLMs), different ideas might be prevalent. WESTAR, for example, feels that PSD doesn’t work well; it is resource intensive with multiple years for issuing a permit and extensive follow-up. It does not provide real air quality protection. Resources could be better spent. For example, there could be periodic review with an ongoing process and an obligation to take action. There should be a commitment to continuously track air quality or commit to

a cap-and-trade program to control increases in emissions; the land management agency should be concerned about degradation in Class I areas.

A BACT determination should be woven in, and how to achieve other goals concerning AQRVs should be addressed. Any new source should have state-of-the-art controls. There should be a demonstration of meeting health standards. Brock's draft may not articulate enough of a role for federal agencies (FLMs). It needs to be more specific about how to get AQMPs going. Perhaps EPA should identify pilot projects and show support. Also, this should not be just a State activity, but it should involve interstate and regional participation. There is a need for a common technical base for planning. Finally, it should be stated that it is desirable to foster AQMPs in future CAA changes. In response, Brock emphasized that this is a State plan, but includes statements that States work with other States, tribes, etc. Incentives should be given in the context that this is voluntary. It is hoped that this concept can move forward without CAA amendments. Other incentives need to be considered.

Another member applauded the AQMP concept, but was not sure what it is and how it works for other pollutants, e.g., those from area and transportation sources. Examples are needed to reduce murkiness. How do we make this work in individual communities, e.g. early action compacts. Transportation conformity is a problem; there may be issues with local government versus state actions. How do other entities, e.g., local agencies, business, etc. get involved? What about dealing with HAPs? In response, Brock noted that SIPs won't change. Much more involvement with locals is desirable. Incentives would encourage local involvement as they begin to understand the benefits of AQMPs. This is a process!

Examples, Incentives, and More Tradeoffs (related to Section 110). Other members noted that there are a lot of specialty types of SIPs and special interests that need to be brought under one umbrella. A State that wants to be a model should be found and have EPA provide incentives. Various roles for local agencies should be identified which may be different in different States. Concepts versus examples should be addressed. Examples of where aspects of AQMPs have worked are needed. A repeating theme was that everyone can agree on a concept, but the need for examples to serve as a basis for a "standard" was emphasized several times. We need to identify what it isn't. However, it was thought that regulatory "tradeoffs" should not be emphasized. Tradeoffs on regulatory approaches are highly contentious and we are not advocating relaxation of regulations. The degree of specificity and optics are important. Brock agreed that the AQMP approach needs minimum guidelines and standards, even though we may not be able to identify them right now. Under a voluntary approach, we need good incentives which may ease the burden, since everyone is busy. We need to give this serious thought and take a careful look.

AQMPs could be done on a voluntary basis (with incentives) or they could be mandatory. We need a pilot program to set the AQMP path. Do we have the ability under Section 110 to include AQMPs as an equivalency? We need more information on Section 110 and what is possible. Tradeoffs are thought to be a problem. We should be

careful about the need for changes to the Clean Air Act; we need to identify what is wrong, agree that it is wrong and make recommendations. Brock noted that alternative equivalents to tradeoffs should be documented and shown how they are better. However, the bar to demonstrate greater benefits is high and difficult to show. How can we reduce reporting requirements, but not reduce emission requirements. This would require a case-by-case look at reduction in requirements.

Since AQMPs are voluntary, we need some incentives that are equivalent or better than what is included in streamlining. This should be incorporated into a pilot program which identifies costs and additional incentives for other groups. Is this a state program or one involving local and other entities? Brock answered that this is a state program; some states may involve local development. This is “the” state (tribal) plan! Local development is “adopted” by the state; nothing local supersedes the State program. Tribes have sovereignty for their own plans, but could collaborate. Also EPA should get involved with states. As a result, we can have a state/tribal/local/federal plan. The key is how it gets implemented. A state/tribal partnership already works in WRAP.

There was a question as to what triggers a review for long term planning which may occur at 5 year intervals. Brock answered that this is an ongoing process which is periodically considered at 5, 7, or 10 year intervals; it is simply triggered by these increments of years. There could be periodic supplements or updates.

Once again there was support for issues associated with tradeoffs. Benefits need to be documented and the concept of tradeoffs needs to be reconsidered. Greg asked if we can support the concept today and work on wording during the 4 to 5 month review process. There is agreement that AQMP is a good idea and that this is not about skirting regulation. This approach is a good idea because it is a better way; it is more efficient and is not piece-by-piece. Also, it was noted that AQMP emphasizes the impact of local land use planning; this should be made clearer.

John Seitz reinforced the consensus that conceptually this is a good idea. He emphasized the following points:

- Identification of problems.
- Pilots to serve as examples.
- Within a pilot information on cost, etc.
- The next step is to decide how to agree with the regulatory process.
- How does this fit under Sections 110? OGC should review this, otherwise this concept may be dead.
- What is the demonstration of equivalency? This involves a high bar.
- Leave the door open for EPA to present this concept to CAAAC.

One member noted that a pilot is a good concept, but it will take a long time to determine whether or not it worked. Something like continued improvement could be included rather than just compliance. However, it was indicated that continuous improvement of an area’s air quality is not part of control requirements and is not being

addressed under AQMPs. Also, EPA resources (in kind) could be used to bolster incentives; increased costs should be recognized as a consequence. Examples of EPA resources could be added.

Janet McCabe noted that AQMPs go to the heart of the NRC recommendations; it is not up to the AQM Subcommittee to detail every point. Everyone should be doing AQMPs. Make this point clear. The issue of “voluntary” doesn’t need a lot of detail on incentives or pilots. Contract dollars should be used, not Section 105 funds. Also, we must include toxics and multi-pollutants. Transportation can be included, but not solely for the State. Everyone should end up this way. Don’t rely on Section 110. Another member asked if an AQMP isn’t really a “SIP +”, adding benefits to SIPs. The multi-pollutant aspect is a good attribute rather than individual pollutant SIPs. Consider multi-pollutant benefits for individual control programs. Do things once, not multiple times. For the PSD example, periodic review is good; this is a benefit that doesn’t happen today. Also, the issues concerning tradeoffs could be changed to focus on efficiencies associated with multi-pollutants. PSD is a process by itself; it is not an incentive.

Funding for AQMPs through RPOs and States. Each state has examples of where resources were used toward little benefit; we may need a better word than “tradeoff”. Also, we shouldn’t overlook the extent to which this is already occurring. We need a common technical basis for planning. This is hurt by the fact that EPA is disinvesting from RPOs in funding; AQMPs are already going on and EPA support needs to continue. RPO’s are being penalized by EPA for regional level activities; RPOs have been accused of operating beyond their scope. As a result, a statement to CAAAC about benefits of RPOs is appropriate. It was noted that EPA wants to support regional planning, but it is taking some significant fiscal hits. Another approach might be to examine current barriers. Examples could be provided of successes to how regional activities have worked without specific funding required. Point out efficiencies of RPOs and the need to continue. We can’t ignore what is working “on the ground” today. There is a need for resources if a state is going to approach an AQMP. If EPA is going to dramatically reduce funds for RPOs, this needs to be addressed in this report. On the other hand it might be argued that funding for States and RPOs need to be addressed at a high level, not in this report. This report might address funding needs in a more generic sense.

We also need to address funding issues associated with AQMPs. States won’t do AQMPs without funding or other incentives. A lot of technical capability has been developed through prior funding. We don’t want to lose technical capacity, which might happen without funding. Should this be addressed through AQMPs or more generically? There is an EPA concern about air toxics under RPOs. Benefits of RPOs should be made clear to higher levels of EPA. The position that RPOs shouldn’t be doing broader planning should be rebutted. We should emphasize the role and necessity of RPO benefits and that this is the way to do business. The technical foundation of air quality management is based on partnerships; perhaps the need for dollars should not be emphasized in the report. This should be brought up in front of CAAAC and they should decide if they want to bring this up in front of the EPA administrator. How do we separate out the funding issues concerned with using regional haze money for other types

of planning? There is a need for incentives to have States do additional pollutants. We need to broach the fact that funding is needed for AQMPs. New work is coming, the States are losing resources, and they may give programs back to EPA. Changing to a new more efficient system will require new resources. The argument should be made that initial funding will lead to savings in the long term. Implementation is the challenge. Planning groups are already doing some of this work. How does AQMP work with these already on-going activities? How do we measure success or incremental improvements? The report needs to support funding.

The draft report has a section on barriers and funding is mentioned. Additional funding can be used as an incentive which is important. We need more ideas; perhaps a committee subgroup could come together after this meeting to provide input. Is PSD the best example? Characterizing the funding issues could be important and noting the benefits of AQMP would be useful. We need to stay away from issues involving trading programs, e.g., PSD versus what? We should focus more on the goal. What would this look like? How will it work? Identify later what it is we are willing to do to get there. Brock noted that we need to recognize that to get this operating we must recognize that this is worthwhile; we need incentives for the states. We need to recognize the proper role in incentives; otherwise states won't do AQMP, since it involves additional expenses. We must recognize the need for incentives; we need to have a more thorough review of benefits of alternative programs. But the more specific we get, the more discussion and papers we'll have. We need more detail on what we want people to do.

John Seitz attempted to summarize the conversation with the following major points:

- Incentives need to be in place.
- Based on a concept, as stated by NRC, why are incentives good?
- Incentives are needed as to why we do this.
- Acknowledgement of resource constraints and the need more resources should be addressed; there is a high bar for demonstration of benefit.
- Why and how are good results demonstrated? How are benefits shown?
There is a need for more funding
- Show regulatory incentives to CAAAC.
- Section 110 will be an issue in the end.

One member indicated that incentives are a major issue. How can we find a middle ground to articulate the intension of and limitations of incentives? A rapid reaction group such as the CAAAC economics group may be needed. We should stop at identifying conceptual appropriate incentives. Brock is to summarize what was heard and decide where to go from here.

Summary. Brock summarized the recommendations with the following observations:

- Everyone subscribes to the AQMP concept, but the concept needs tuning.
- The emphasis is on states, but there needs to be federal input.

- There needs to be a pilot project.
- The nature of the pilot project could either be for a state, or it could be surgical.
- Implementation can be without Clean Air Act Amendments, but amendments may be helpful; in the future when amendments come around, they should be considered.
- Provide examples of how this would expand workload.
- What are minimum standards for AQMPs?
- Provide sufficient specification on the nature of alternatives.
- Address the need for incentives; but do not provide too many specifics. Recognize in the report that there may be incentives to move forward due to costs; “assistance” is good.
- If AQMPs are voluntary, guidelines are needed; if AQMPs are regulatory, standards are needed.
- Identify what a good plan is, as part of incentives; if resource constrained, then identify other incentives.
- We need some understanding of a minimum program.
- We need to add information on what information States need.

In summary,

- We need to insure inherent benefits of AQMP as a better program.
- Note that it will be more expensive in administrative costs; incentives are needed.
- We need cooperative, multi-state efforts that can save on resources; each state/tribe puts together its own plan, but we can have a joint state/tribal plan.
- We are agreeing that implementation can occur prior to Clean Air Act Amendments; there is no target date to begin implementation.
- EPA should identify opportunities to move AQMP forward.

Greg Green concluded by indicating that this is a recommendation that the subcommittee agrees upon. The recommendation will be moved forward.

Boundaries Discussion: – Jeff Underhill

Overview. Jeff Underhill began by reprising that one-half to two-thirds of attendees have participated in prior discussion of this topic. There is agreement on some key issues, but they have stayed at the “30,000 foot level” in describing the topic; details remain to be tested. Ideas presented at the September meeting have been modified. For discussion materials, see [handouts](#). In reviewing circumstances as they are currently applied, he noted that (1) nonattainment boundaries are indicated for localized pollution, but this doesn’t work for regional issues, and (2) boundaries tend to be geopolitical and are not based on science, e.g., they may not include the whole area or all contributing sources. Consequences include a reluctance to add monitors, development is pushed outside the nonattainment county, and the unwind/downwind battle is perpetuated.

Basic principles to guide evaluation of alternatives include: (1) revisions to the current nonattainment approach should be improved through timely/effective reduction, less dispute, flexibility, and facilitating the airshed approach; (2) informing the public of NAAQS violations; (3) restricting growth where NAAQS is violated; (4) defining the area where air quality is unhealthful and where control is necessary based on science; and (5) facilitating air quality on a multi-pollutant basis as recommended by the NRC. Areas of agreement include the use of areas of violation (AOVs) and control regions. States should address AOVs and transport where responsibility is assigned; there should be no emissions increases, in order to assure that appropriate sources are controlled. In the refined airshed concept, control regions should be based on technical analyses or state/tribe boundaries; either of these ideas can be refined into more defined areas.

Option 1 is focused on airsheds and implements the “areas of interest” / “areas of violation” (AOI/AOV) concept from FACA; it expands on “control regions”. Airsheds (AOVs) are areas with poor air quality and trigger monitoring, air quality control requirements, and SIPs, etc. On the other hand, airsheds (control regions) have a broader area of controls. They start with a large area to bring states/tribes together. The consultation process determines the extent of the control region. Airsheds involve periodic review with AOVs and control region boundaries. Key elements for AOVs did not have a group consensus. This includes monitoring, public advisories, new source controls that are state-of-the-art, reasonable controls for existing sources, no net emission growth, conformity, SIPs, and regular progress toward meeting emission reduction goals. Key elements for control regions also did not have a consensus.

Option 2 involves state/tribe boundaries that may be a single state or state groups. The goal is to reduce the contributions to the AOVs. States have responsibility for emissions generated within their borders. This is best for air pollution problems where transport is not significant, e.g., CO, Pb, SO₂, toxics; this empowers states/tribes. It can be used in combination with other states/tribes.

AOI / AOV Concepts. One member commented that we have a standard procedure, but have different needs. The offset requirement can be an issue that is different for various states; some states have local problems versus statewide controls. This is not a process issue, but a substance issue. It is unclear what we are recommending, but some things can be recommended. Jeff answered that the origins of Option 2 are from Greg Green, who clarified that we may consider not establishing boundaries at all. We may leave it to States to determine which sources to control. Review and ultimate enforcement may be left to EPA, e.g., withholding funds. We are open to other ideas. If there is no recommendation, where is the conversation to go? We are set on the principles as presented with AOIs as a component; we are waiting for discussion by the subcommittee.

Another member indicated that conceptually they agree on the AOI/AOV concept. States involved need a requirement that moves forward to take action. Areas with violations need to be protected. We need to focus on AOIs by considering the key elements listed. We also could consider the option of looking at state boundaries; multi-

state issues could be defaulted to the full state. There is a need to take politics out of this system. This is a science-based process. Also, how do we deal with sprawl? When are we actually talking about cleaning up the air? The proposal is not an improvement; sources end up trying to prove that they are not part of the AOI. Can we do this better than the way the Clean Air Act says we should? In developing the plan, we set boundaries before we really needed to know who should be controlled. AOVs could be determined by a monitor, however violations can occur where there is no monitor; inadequate monitoring should be rectified. Jeff answered that for an AOV everyone should control, but this is not political reality. We need to set the goal to improve on what we have now, especially considering the new NAAQS. He also agreed that we want to beef up monitoring where there are potential problems.

Another member agreed in principal, but in practice there is disagreement. When we get into details, things start to get misused. Airshed control (Option 1) should be based on source impacts, not specifically on interstate issues. We should establish a system that identifies the contribution, draws boundaries, and establishes a process for controls; we don't always practice this well. We have nonattainment and then try to bring into attainment by a certain date, more efficiently or quicker. But, how? Also, we shouldn't give up anything on health. We have considered various options. There is some argument for a "no-boundaries" option in which we identify contributing states, require that these states do something, determine contributions and most effective source controls, and reduce contributions at state boundaries. The end is to get to attainment by a certain date. We should allow states to determine sources to control; drawing a boundary line through a state results in a political process.

Use of Sections 110 and 126. Other members noted that we need some mechanism to compel states to do the right thing; a SIP call could be used. Also, the designation debates tend to get political. For the geographic boundaries debate, what we have is what we get. For the new NAAQS, States are informed to work with nonattainment areas. We should give states mechanisms to commit to controls outside of nonattainment areas. The AQMP process could help this. Also, as far as OGC is concerned, it would be good to state that EPA should explore mechanisms under Section 110. Section 110 can be used to address violations; we should also consider Section 107. If we use Section 110, the obligation to control is placed on the States. Also Section 110 is a forcing function to do traditional nonattainment areas. How can data be used to support upcoming designations? The rationale for Section 110 could claim that a state SIP is deficient if it doesn't consider nonattainment in another state.

Section 126 can serve as a backstop. However, one member expressed concern about things getting worse. Section 126 doesn't apply within a state. If we institutionalize between AOV and AOI, then we create a wall where the political process holds sway. How do we solve the political issues and impacts between states. One option is for enforceable requirements with Section 126 as a backup. For example, if Charlotte has a violation, NC/SC/TN could all get a notification to address a Section 110 action. However, it is difficult to get all counties within a state to control. Individual states should have requirements to control. Greg suggests that this be tied back to the

AQMP and to an enforceable action. We don't need boundaries. Public notification of health problems due to a violation should be pursued. On another point, the AQMP process should consider how to protect both good air and improve bad air. Theoretically, the state should address its nonattainment areas, plus downwind nonattainment areas to which it contributes, and what it means to control emissions.

There appears to be a heavy focus on stationary sources. With supplemental papers on state-of-art controls, where are we trying to get to on controls? Qualified control on those needing control is desirable, not blanket control on all sources, especially not those already highly controlled. The answer is that we did not want to change the current process. The purpose of the boundary discussion was not to focus on major stationary point sources, but to include other source categories. One member indicated that we don't want to get to more specificity, but to get away from the standard offset provision. Conceptually, some sources should be well controlled and new sources should be better controlled than existing sources. A rebuttal was that the reasonable performance level (RPL) concept was tabled. We are looking at all sectors holistically.

Factors on defining nonattainment boundaries have been identified. Should the group make recommendations on how nonattainment boundaries are specified; looking at the criteria for designation and nonattainment boundaries is a good idea. A lot more is known now and how to include better science. It was thought that we can use studies like the Southern Oxidant Study to define nonattainment. Another example was for Memphis with an impact from a Mississippi county that would require action; this would require that Mississippi get a letter to take action on that county. Findings letters are typically sent out to all states.

Summary Discussion. This is the last meeting and we are not there yet on AOIs. We like the direction that this goes in, but it is not all together. We really need a table that shows what the world looks like today versus how it would look with the two Options. AQMP, by starting earlier, can improve information. But we need some demonstration projects for AQMPs.

Brock Nicholason attempted to provide the following interim summary for defining a control area?

- Don't define a control area; consider Options or obligation on all states;
- Use state boundaries for all states;
- Define nonattainment and where in the control is needed;
- Use more complete information about sources.

It was asked how this is different from what we are supposed to be doing today. Should we try and fix what we are doing. Science does not always have the necessary answer. We will never rely strictly on it.

Perhaps the criteria for nonattainment area designations should be reviewed and a more collaborative process among states and EPA on boundaries should be considered.

EPA could do an overall regional review and let states do specific details; EPA/States could work over 1 to 2 years together. It was reiterated that state boundaries are not sufficient. There are other tools that can be used to define control measures. There is still concern about politics ruling. Greg Green responded that EPA should be given principles for considering nonattainment boundaries. Also we should request that OGC investigate the use of Section 110 determinations. We should provide documents on nonattainment determinations in electronic form.

Jeff provided the following preliminary findings from the discussion:

- We should look into the use of Sections 107/110 and should review the EPA criteria for nonattainment areas.
- We didn't go into a lot of details and we need more details to go forward.
- Do we need to make a recommendation without going forward?
- How can we go forward?
- Nonattainment areas are being pressed to get smaller and smaller.
- We tried working on details of control regions to define sources to control.
- We would like a green light to look at more details.
- We are tired of working in a system that can be done better.

Greg Green noted that we can develop a “concept” around Brock’s options (above) and circulate it for comment. Recommendations on EPA’s criteria for nonattainment area designations are desired; these criteria are considered if the state wants to vary from EPA’s presumptive boundaries. Recommendations on collaborating/consulting could be included. Kimber Scavo will circulate the criteria for nonattainment area designations and provide information on the process for a decision (the criteria were subsequently circulated to subcommittee members and comments requested by November 9). There was positive response to the AQM Subcommittee making recommendations on the criteria document and that it could be escalated at the January CAAAC meeting. However, this won’t help with issues the boundary group was set out to address. How we structure areas within states and across states could help EPA. There is still a need to define how large the area of control should be and how to get a hook into it. Technical tools should be used to define the level of control. In the end this may be area-specific and case-by-case.

In conclusion Greg requested that (1) John Seitz summarize and articulate a statement on AQMPs (see Attachment 1) and (2) Brock Nicholson prepare a slide on Options on which there is enough agreement to develop a “boundaries concept (see [handouts for the second day](#) and also Attachment 2).

Tools Follow-up: – Deb Stackhouse

At the September meeting in Washington it was decided to “drill down” on three to four tools. A contract mechanism has been identified and funded; it should be available in about three weeks for completion by about the end of the year. Bob Wyman and Debbie Wood have agreed to identify the work that the contractor is expected to do

in terms of gathering information, providing a discussion, and preparing a write-up. The topics are (1) financial tools for retrofits, (2) financial tools for land use and transportation planning, and (3) emission limits for industrial boilers.

Consensus on AQMP and Boundaries: – Greg Green

On the second day of the meeting, the subcommittee returned to these topics to try to bring closure. Brock initiated the discussion with a presentation on boundaries; see **Table and Figures**. Brock presented a table with various options on how to define boundaries by AOV or control region for designation. This included “Status Quo”. In “Status Quo + SIP” there is a SIP call and it adds responsibility to contributing states; there is pressure to minimize the area. “Sub-State” area is similar to the previous option. With “Whole State” there is no recommendation on boundaries and it removes pressure to minimize the area; the responsibility for the SIP is placed on contributing States.

It was noted that there is not a mandatory requirement for state-wide control. The principles applied here include: (1) prompt steps to sort things out; (2) each state will decide what is best to reduce their impact; and (3) built in is a “collaboration” mandate. It is unclear how a Section 110 option would work. The “No Boundaries” option avoids pressure, but includes responsibility for states to come together to address problems in order to get SIP approval. Some confusion was noted about the last two options and differences; the last option does not have an AOV.

John Seitz next discussed regulatory steps to support boundary discussions. First of all, there is a need to put states on notice as early as possible based on initial rough modeling. We shouldn’t wait until the designation process. States need to get an early start. The early use of Section 110 could be desirable. There are requirements for early action. Options include: (1) Section 110 SIP call for new NAAQS at the time of the NAAQS decision and (2) Section 110 designation process with the normal times. Again it is suggested that OGC be asked to consider Section 107.

One member indicated that the “hook” required to make this work is Section 110. For the Clean Air Interstate Rule (CAIR) it was thought that: (1) the foundation is crumbling with administration interpretation of Section 110; (2) “No Boundaries” is a non-starter; and (3) Jeff Underhill’s paper in the Spring, 2006 was approved by the AQM Subcommittee and should be considered since we are not moving toward a consensus recommendation. Also, we haven’t addressed conformity, etc., and we don’t have much time left. However, Section 110 plans put States on the hook to address the downwind transport. We should explore ways to get a statutory hook into the process. We need to broaden regulatory control and provide public information on violations. It was then asked whether this topic is worth more time for discussion? Greg indicated that we should continue discussion for this morning, continue dialogue over the next 1 to 2 months, then discuss in the report to CAAAC, and move on.

Another member indicated that this is an important discussion and can improve the process for attainment and control. Have we done everything that we can? We can

(1) have a system to determine how far beyond AOV and AOI things can be defined and (2) note that technical analysis can help define AOI without hard boundaries. The public needs to know about unhealthful areas. We need a process to better develop and we shouldn't close on this issue. Another member indicated that the Clean Air Act was written to define AOV. Political interests have refused to use technical tools; we need the will to use these technical tools. We may not want to use Section 110. There is a fear of measures that can reduce the size of AOVs and source areas. Monitors by themselves are insufficient to define AOVs. The Clean Air Act, as written, has all tools needed, but is frustrated by political will; we need to avoid approaches that allow gerrymandering the process. New systems have flaws that are not better than the current system; the current system has worked even with its flaws. It was thought that CAIR did not go far enough. The proposals considered here do not address lack of political will, while at the same time they introduce new problems. Therefore, there is reluctance by some to consider other options, even though the current system has problems. Also there is a need to discuss offsets; what is being offset needs to be replaced by something equivalent.

Concern was expressed that the current system is detrimental to health with problems that are different in different parts of the country. There are doubts that this group can get to consensus on this topic in a reasonable time frame and there are questions about the value of continuing. Concerning the criteria for nonattainment boundaries, EPA should work more collaboratively over the next year with states and work with ROs and states on designation. This should be made a recommendation; the issues and the process should be included in the report to CAAAC. There is a lot of interest in this subject and we don't have another form in which input can be provided. This topic can be done "100" different ways and gets confusing with many factors that need to be considered.

On the other hand, it can be argued that it depends on where you sit geographically. It needs to be well thought out and reported so that stakeholders understand. We don't have something supportable to put into the report. We should defer to Brock on the value of continuing and we should try to make the current processes work; industry likes certainty. Brock responded that we have gotten close to considering a new tool to include "groups" of states in a variety of boundary options. We should recommend that OGC explore State groups as a useful tool for the future. The current system has failed to use groups of states. We could go beyond OGC and ask other lawyers outside of EPA to consider options for transport issues. We should also explore better ways to use available tools.

Another member indicated that the discussion should stop, since the tools are available; we are trying to implement them but are frustrated by the process. Although we should address the nonattainment issues, we also should be very clear about what is reported to CAAAC concerning this topic. Jeff Underhill recognized that agreement on this subject may not be possible, and it may not be possible to revise the current system to work everywhere. We should use more science to define the contribution to AOVs and explore how to make politics work with science. We need to capture the spirit of how this discussion has taken place.

John Seitz noted that we should review the nonattainment criteria. For boundaries there is a lot of background. The CAA assumes that CMSAs are the basis for nonattainment. How do we get outside control; we should ask OGC to notify all states through Section 107/110 that action is necessary. Does the group agree that this statement should be used to indicate that authorities exist and need to be more fully implemented? We need to avoid “keeping areas small” and be realistic about how much can be done. John Seitz will work with Amy Vasu to prepare a write-up and include examples (see Attachment 2).

Jeff Underhill noted that there are still some administrative things that need to be addressed including: (1) disincentives to monitoring; (2) getting states to work together (EPA must act); and (3) transport as the major issue in the eastern U.S. For example, CAIR is fine tuned for 8-hr ozone, but not for future action. In the future, is action an EPA responsibility or is it left to State action? Another member noted that the Section 107/110 discussion is a way of dealing with transport. This is limited though by EPA’s final decisions on acceptable areas and controls and is left to the EPA administrator or the ROs. There was a final recommendation to ask OGC to look at Section 110 for use in multi-state actions.

Draft Report Outline and Conclusions: – Greg Green and Jeff Whitlow

In conclusion Greg indicated that:

- (1) There are no future meetings planned; they would not be productive. There are no new issues to be considered.
- (2) A discussion should be added to the final report that addresses (a) issues, (b) holes, (c) principles, (d) collaboration with States, and (e) Seitz language on CAA authorities which is to be prepared.
- (3) Prior to the CAAAC meeting in January 2007, there will be a conference call briefing for the AQM Subcommittee on recommendations and what will be in the draft report.

One member requested an early outline of the final report. Kimber Scavo noted that the principles will be in an early draft and recognize the early points made. Greg Green indicated that there are issues with the boundary process and that we shouldn’t set up a process to address issues, but rather include that in the background discussion. The exact drafting process is to be determined. But there will be at least two months to review drafts, etc. We should include the point that OGC should be requested to review Section 110 and recommend that EPA apply, depending on OGC findings. Both the nonattainment designation criteria and the Seitz summary should be reviewed. We should review current guidance of which the nonattainment criteria are part and this should be included in the report recommendations. We should also include multiple states and assignment of responsibility, and consider these as part of Section 110. Greg indicated that conversation with OGC would be started soon, but only for the purpose of education at this time; this is an early discussion to determine legal possibilities with OGC before getting others involved. This topic might be extended to more broadly

explore the authority that EPA has beyond Sections 107/110 to address boundaries issues; the issue is really “control beyond the AOV”. After checking with OGC on policy implications of Sections 107/110, an e-mail on the issues and next steps will be sent to AQM Subcommittee members.

Kimber Scavo will send out the nonattainment area designation criteria and get independent comments; it will be determined if EPA can include comments in the next round of designations. (The criteria were subsequently sent out in an electronic version and comments requested by November 9.)

Regarding the draft report outline, Jeff Whitlow noted the following:

- Changes to the outline have occurred.
- Work on the AQMP in Section 5 is still on-going.
- Narratives from Garcia and Hornback were used.
- Recommendations were worked through the subcommittee.
- Is working through recommendations and comment by the subcommittee a good approach?
- Do some recommendations go away after today’s discussion? Could some go into unresolved issues?
- The electronic file will be distributed in WORD format.
- We should make sure that the consensus words on climate are properly included.
- Is it possible to merge sections and make the report more concise?
- There is a need to reconcile the draft report outline with the latest subcommittee drafts.

Members commented that the recommendation on episodic controls doesn’t appear to be reflected under supplemental measures; communities should consider episodic controls. Final issue papers need to be included; for example, the Group 3 document is an old version and the newer version should be included before a draft report is sent out. In some cases, concepts were approved but final wording is left to review of the final report. This is a draft report outline which is expected to change before January and between January and May. Jeff noted that he is looking for feedback, especially on the AQMP section. Comments are especially sought on (1) the structure for recommendations and (2) wording on recommendations where there have been changes. There is a need to rework the discussion of situations where non-agreement has occurred. Members asked how unresolved issues will be identified, especially where there was a fuller discussion of the issues, discussion of definitions, and an indication of why there was not agreement.

One member suggested that discussion of the Phase I recommendations could be addressed in an appendix and that status could be shown on the CAAAC website. Another member indicated that AQMP needs to be identified as a driver and pilots should be included. Jeff Whitlow also indicated that the Executive Summary will be written later. An appendix will include the tools-scoping project. The South Coast Air Quality Management District (SCAQMD) plan should be recognized as an example document.

However, concerning this example, there are concerns that this plan is limited to two pollutants and a single area and that it may be best if it were not included; it has good elements, but is not broad enough. The statutory authority section includes the outline from Pat Cummings and John Hornback; some material can be included in the “barriers” section.

Greg Green concluded by indicating that preparation of a draft final report could take a couple of months to put together and a complete draft should be developed before going to redline/strikeout; Jeff had previously indicated that the draft report outline in its most recent status would be sent out in the next week. Recommended changes and comments on the draft report outline should be sent to Jeff in a week or so. Next steps include:

- Thanks to the AQMP and boundary teams which went way beyond issues outlined.
- John Seitz is to recap AQMP findings (see Attachment 1) and send them to Amy Vasu and Jeff Whitlow; everyone endorses AQMP and it needs pilots and a benchmark, examples, incentives, equivalent, and OGC review.
- We should look into the Section 107/110 issues and associated legal policy (see Attachment 2 drafted by John Seitz); Greg will send out an e-mail with recommendations and possible language for the report.
- We should start drafting the report; it will take a little time, but is not resource intensive.
- A presentation for the January 2007 CAAAC meeting will be prepared which describes (1) our work, (2) recommendations on which there is consensus, and (3) recommendations on which there is not consensus, including discussion that took place and the issues identified (to be included in the report).
- A draft report is expected for January 2007 and a final report for May 2007 with two or three opportunities for the committee to review.

Participants -- Air Quality Management Subcommittee Meeting

October 18 - 19, 2006
Hilton Downtown Indianapolis
120 West Market Street
Indianapolis, IN

Greg Green, Co-Chair
Pat Cummins, Co-Chair
Debbie Wood (phone)
Jeff Underhill
Mike Sheehan
Dan Johnson
Lisa Gomez
Pat Strabbing
Mark MacLeod
Janice Nolen
Jim Hendricks
John Hornback
Greg Dana
Janet McCabe
Brock Nicholson
John Seitz
Leah Weiss

Chris Stoneman
Kimber Scavo
Deb Stackhouse
Jeff Whitlow
Joe Tikvart
Amy Vasu
Douglas Aburano
Steve Rosenthal
IDEM representative
Jon Averback (phone)
Leah Anderson (phone)

Attachment 1

AQMP PROCESS

1. The committee agrees with concept of the AQMP Process
2. The committee further agrees that in drafting of the AQMP paper the work group and committee should further enhance the paper by providing examples of how the process would work. In drafting these examples, the committee/work group should be considered the experiences of areas such as South Coast and RPOs.
3. The committee further agrees the AQMP process should be piloted in selected states to further refine the process and that EPA should support the pilots. In developing guidance for the program, EPA should ensure the guidance contains a description of the elements of an AQMP.
4. The committee further agrees that as the pilots are conducted the overall benefits of the program in terms of resource expenditures, program efficiency and other benefits should be documented.
5. In promoting the voluntary program, the program should set forth the benefits of developing of such programs.
6. In the event there is a need for additional regulatory based incentives to encourage states to pursue the program, the paper should list some examples of some regulatory based equivalent programs that could be included these plans.
7. In the event a state wished to pursue some of the regulatory incentive based options, the guidance should be clear that these programs would have to provide equal or greater protection than the current program and also the standards EPA would use to approve the program.
8. EPA should explore the use of Section of 110 or 107 of the CAA to formally approve these equivalent measures into the SIP. EPA should develop a “high bar” for approval of these alternatives to ensure the measures provide equal or greater protection than the CAA program. (examples discussed were PSD, growth allowance, EPA oversight) In addition, EPA could establish a quick response team such as the one used for review of economic incentive programs to review these programs on a case by case basis since the programs will probably specific to an individual SIP.

Attachment 2

Recommendation:

The committee recommends that EPA explore CAA authorities (such as 110 or 107) that would require states to develop emission reduction strategies to address emissions that are contributing to non attainment areas within there state or neighboring states.

Discussion Points:

1. The committee agrees that there is a need to develop strategies to address emissions that are not located within the boundaries of the designated non attainment areas and impacting the ability of non attainment areas within their state or a neighboring state.
2. The committee agrees that there are current technical data such emission inventories, monitoring or modeling that provides a basis for identification of these areas or states.
3. The committee agrees that developing these emission reduction strategies prior to the final designation process being completed would inform the final decisions on the boundaries of the non attainment area and the final non attainment SIP.
4. The committee agrees that such action would foster the collaborative efforts among local stakeholders and neighboring states.
5. The committee agrees this process continue to foster the CAA principal that the primary responsibility rests with state and local agencies.
6. The committee agrees that EPA efforts such as the CAIR rule and the NOx SIP call have been effective tools; however, these are not tailored to the individual state issues and are not necessarily on the same time line as the state SIP development process.

Conceptual Framework:

1. As soon as practicable (best time would be at the time the NAAQS is published) after the promulgation of a NAAQS, EPA utilizing the data discussed above would initiate a SIP call or similar regulatory tool that would require the state to develop strategies to address transport emissions impacting non attainment areas within their state or neighboring states. The EPA would identify the technical basis for the finding and set forth the time line for submission of the rules addressing these emissions.
2. Designation Process- EPA would evaluate the states recommended designation area considering the rules that are developed under step 1.
3. The final non attainment area approval would evaluate the final non attainment SIP approval based on the rules adopted under step 1 and consider appropriate action if final adoption of the rules had not taken place.