



# Meeting Summary

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## ADEQ EPA CLEAN POWER PLAN STAKEHOLDER MEETING SUMMARY

**DATE:** February 10, 2016  
**TIME:** 9:30-11:30 a.m.  
**LOCATION:** ADEQ, Room 3175, 1110 West Washington Street, Phoenix

### STAKEHOLDER ATTENDEES

(See attached)

### ADEQ Staff

Eric Massey  
Steve Burr  
Kamran Khan  
Marina Mejia

### ADDITIONAL ATTENDEES

Theresa Gunn, GCI  
Kelly Cairo, GCI  
Ashley Dunn, GCI

### AGENDA

The complete [agenda](#) is available online and includes:

- Review Agenda and Introductions
- Update
  - ADEQ Progress/Events, Consultation Work Group and Technical Advisory Group
- Evaluation of Potential Compliance Options based on 10 Principles
  - Stakeholder questions and comments
- Work Plan Review
  - CPP Work Plan Update
  - Vulnerable Communities Work Plan Update
- Next Steps/Upcoming Meetings
- Evaluation

### REVIEW AGENDA AND INTRODUCTIONS

Meeting facilitator Theresa Gunn welcomed attendees and facilitated introductions. Approximately 50 stakeholders attended in person with an additional 75 via conference call.

### UPDATE

Air Quality Division Director Eric Massey announced that on the evening of February 9, the U.S. Supreme Court granted a stay on proceedings related to the Clean Power Plan. All deadlines previously associated with the CPP are also held in abeyance. ADEQ has not had

time to officially react to this news. Thoughtful consideration will be required in plotting the most beneficial course of action.

Massey asked stakeholders for input on what they would do if they were in the department's role. Highlights of stakeholder discussion included:

- I would be very surprised if we have a final decision from the Supreme Court in two years. If the process stops now we lose the work that's been done. When the timeline resumes, how will it continue – day for day?
- The case is now at D.C. Court of Appeals on an expedited schedule and will be heard in June. It is possible the CPP will get back on track within the year. There is a chance the Supreme Court will not take the cert.
- The stakeholder groups have done a lot of tremendous work on these projects. The risk of proceeding at this point is that the rules may end up being very different than they are now. I suggest we wait and see.
- The Supreme Court has already ruled 5-4 on whether the EPA has the authority to regulate greenhouse gases. Due to changes in the makeup of the court there may be a shift in future rulings. ADEQ should poll the technical work group on whether the department should continue. It is likely the Supreme Court will take the case. The TWG is made up of individuals and organizations that have to do the work and spend the money on proceeding.
- Regardless of the legal issues, it makes sense for Arizona to reduce emissions.
- House Bill 2024 is being considered, which require a congressional enactment, executive signature, and be in pursuance of the Constitution in order for a state agency to act.
- There are a variety of incentives that are most advantageous with early adoption. We should answer the question of: Where do we want to go as a state?
- How do we take advantage of progress and work completed to date?
- Arizona should be the solar capital of the country. How will we create the conditions to achieve this?
- Given the uncertainty of the CPP, I would prefer to move forward with the SIP due next year. We need to have a plan for reducing carbon that Arizona can live with, in the context of the federal bureaucracy that is moving forward without direction from the courts or legislative branch. In absence of federal direction, let's give them state direction.
- From a policy/budget perspective, we should continue forward with the SIP, actions will continue and could use some certainty regarding carbon. State sovereignty matters.
- The state should slow the CPP process without an EPA CO2 rule in place. There is no Arizona imperative to reduce carbon emissions, so until the state legislators and governor pass legislation or the federal rule is finalized, it is a tremendous waste of resources to be working on a plan that no longer exists. The plan passed by the state Legislature or a new federal rule will be different and it would be best to wait for those rules to be put in place. If the state Legislature wants stakeholder meetings, they can ask for such a process to begin. The group should not continue without clear directive from the Legislature.

- The legal basis for moving forward would be unclear; however, the additional time afforded to review the rule would be welcome. I am in favor of moving forward. I am not in favor of finalizing the SIP without a federal plan.
- The D.C. Circuit Court is expected to rule at the end of 2016/early 2017. Then, the case goes to the Supreme Court to be decided.
- The Arizona Utilities Group has done analysis that is close to completion. If there are changes to the plan, it would be useful to understand what the costs would be under this plan.
- Many elements of a new CPP are unlikely to change.
- From the industry standpoint, it seems we would get some flexibility. It seems those with coal plants may want to continue down this road in anticipation of retiring these plants anyway.
- ADEQ should continue to get stakeholders together, sitting and waiting does not seem like the best plan.
- There is value in being proactive. Reaching out to vulnerable communities is timely and shouldn't be lost. Regardless of a plan, ADEQ should continue to pursue outreach.
  - ADEQ may continue with outreach to vulnerable communities, though the message will be complicated.
- There is a legal question whether the EPA has the ability to dictate each state's energy mix. To continue pursuing stakeholder and TWG meetings would continue the illusion that EPA has this authority.
- The Attorney General of West Virginia sued the EPA stating harm to the state and the Supreme Court issued a stay recognizing this. To continue with stakeholder meetings and the TWG – spending time and money on meetings and staff efforts – while a stay is in place, would ignore this.
- I like the idea of polling the TWG. ADEQ should look at what lower grass strategies can be done, what will be done anyhow, and what is likely to be part of a plan in any iteration.
- Arizona should move forward with the things that make sense
- We should look at how far we've come. If we resume these meetings in two years, how much will be lost? If we continue on, we can make adjustments if the plan changes and be well prepared.
- It seems the agency will need to reach out to our attorney general, governor, and Legislature for direction. A national direction may change as well.
- Finalizing some current direction would be a good idea.
- Is ADEQ vulnerable to a law suit if they go forward under a stay?
  - This one question, among others, we haven't had time to consider.
  - State statute authorizes the development/enforcement of a plan in compliance with rules promulgated by EPA.
- Arizona should take the opportunity to define their operating space much like California has. It is doubtful than any new rules will deviate significantly from the current rule. Carbon reduction will occur sooner or later and the significant amount of work already done should not go to waste.

- Pausing ADEQ's planning processes would be appropriate while the stay is in place and the legal process runs its course. It would amount to a waste of resources to continue planning for a rule that is stayed.
- I would be in favor of continuing the current work toward a clean power plan. It seems inefficient to have to start all over again down the road. Perhaps there could be benefit to us at the state level if this process continues.
- I don't like a process where some participants are anonymous and others aren't.
- It does amount to a waste of resources to continue, since issue of harm was cited. The usefulness of analyses during a rule stay is in question.
- We will be urging the Legislature and governor to stop this work during the stay.
- Things do change during a stay.

Gunn noted that stakeholders were offering three perspectives: stop work on the CPP; continue work to avoid loss of synergy; and, continue with some changes that would benefit the state regardless of a federal plan. She asked for other points of view and input. There was no disagreement.

Massey acknowledged stakeholders' efforts and the tremendous progress Arizona has made on the CPP. He explained that in light of the stay announcement, remaining pertinent agenda items would be discussed.

Massey updated the stakeholders on additional issues. Presentation highlights and stakeholder comments and questions included:

- The TWG includes utilities and many other groups such as SWEEP, RUCO, and ASU
- ADEQ and others have submitted comments on the federal plan. ADEQ's comments included issuing ERCs for EE in the federal plan, supporting the forest service on biomass issues, and finalizing a model rule for both a mass-based and a rate-based rules.
- The TWG discussed pros and cons of approaches.
- SRP reviewed their proposal to EPA regarding trading.
- Energy Strategies will demonstrate a model tool at the February 11 TWG meeting.
- The consultation work group met and primarily received a status update.
- Can you quickly summarize trading ERCs?
  - In mass to rate trading, we subtract from numerator. In rate to mass, the proposal makes it the responsibility of the seller to demonstrate there is not leakage.
- Comment: WRA had a different proposal to EPA that includes the concept of not exceeding 770 pounds.

### **EVALUATION OF POTENTIAL COMPLIANCE OPTIONS BASED ON 10 PRINCIPLES**

Massey asked stakeholders to provide input on how consistent the CPP compliance options are with Arizona's 10 Principles. The [evaluation](#) was also available online. Responses are considered early feedback.

One participant commented that the utilities' perspectives were needed before completing the evaluation. Four individuals responded. Not all respondents answered all questions. The evaluation showing average scores is attached.

### **WORK PLAN REVIEW**

Steve Burr reviewed the [CPP Work Plan](#) and [Vulnerable Communities Outreach Work Plan](#), both of which are available online. Highlights of the presentation, comments and questions include:

- A vulnerable communities outreach group is meeting in February to make plans. This meeting will take place as scheduled.
- The current schedule includes a meeting to finalize and approve outreach in March, with outreach beginning in April.
- Methods of outreach include a brochure with basic information and a questionnaire to get feedback. This would be available through ADEQ community liaisons, other organizations, and direct mail.
- A presentation that others in the field can use to supplement existing meetings, plus newsletter blurbs will be developed.
- Are you targeting the audience?
  - Yes. For example, areas near natural gas may be affected due to a shift from coal to natural gas.
- The CPP Work Plan includes both planning items and milestones achieved.
- Changes to the work plan include: Information from the PACE study is forthcoming; and, we have reached an agreement with ASU to do modeling/cost information.

### **NEXT STEPS/UPCOMING MEETINGS**

Massey thanked the stakeholders for their candid remarks regarding the stay announcement. One of his concerns is losing the progress made to date. He noted that he would like to summarize the work that has been done to date so ADEQ can either continue its work or be prepared for when the process resumes.

The next stakeholder meeting will be held Tuesday, March 1. ADEQ will discuss plans on how to proceed at the next meeting. Information from the utilities study will be available and should prove valuable. Massey asked for additional feedback on the 10 Principles/Potential Compliance Options Evaluation at that time as well.

The April 5 meeting should be considered tentative.

### **EVALUATION**

Massey encouraged stakeholders to complete meeting evaluations. The meeting evaluation was also available online through February 12. Results are attached.

## STAKEHOLDER ATTENDEES (IN PERSON AND BY PHONE) AND ORGANIZATION

Keith Alexander	Eastern Arizona College
Sandy Bahr	Sierra Club
Matthew Bailey	TEP
Andy Berger	Tri-State Generation and Transmission Association
Mike Blank	Peabody Energy
Clare Breidenich	Western Power Trading Forum
Barbara Burkholder	Arizona Public Health Assoc.
Jan Bush	(representing self)
Mukonde Chama	Civil & Environmental Consultants
Nonso Chidebell-Emordi	ACC
Susanne Cotty	Pima Association of Governments
Gary Crane	Southwest Power Group
Jo Crumbaker	MCAQD
Patrick Cunningham	Law Office of Patrick J. Cunningham
Michelle De Blasi	Gammage & Burnham
Cosimo Demasi	TEP
Michael Denby	APS
Lew Dodendorf	SRMATERIALS
Tom Dorn	Dorn Policy Group
Doug Fant	Southwest Power Group
Phillip Fargotstein	Fennemore Craig P.C.
Robert Geake	ACC
Joe Gibbs	City of Phoenix
Joe Giudice	City of Phoenix
Bob Gray	ACC
Kevin Hengehold	Arizona Community Action Association
Katherine Hoffmaster	NextEra Energy Resources
Emily Holden	E & E Publishing
Rebecca Hudson	Southwest Gas
Chico Hunter	SRP
Patrick Kahne	City of Phoenix
Major Kindsfater	Orizon
Jill Kipness	Robert S. Lynch & Associates
Matthew Laudone	ACC
Anita Lee	EPA Region 9
Tina Lee	Star West Generation
Lynne L'Esperance	Arcadis

Beth Lewallen	Italicized Consulting
Mark Lewis	Central Arizona Project
Toby Little	ACC
Maren Mahoney	ASU Energy Policy Innovation Council
Megan Martin	SRP
Steve Michel	Western Resource Advocates
Hugh Miguel	Kenergy
Rick Moore	Grand Canyon Trust
Noah Mundt	Siemens
Brad Musick	Western Resource Advocates
Geoff Oldfather	Arizona's G&T Cooperatives/AEPCO/SSW
Amanda Ormond	Advanced Energy Economy
Lawrence Ornellas	Yuma Cogeneration Associates
Jeff Page	City of Phoenix
Jerry Payne	Arizona State Forestry
Bruce Plenk	Solar Possibilities
Henry Provencio	USDA Forest Service
Bruce Robinson	Inter Tribal Council of Arizona
Reuben Ruiz	Central AZ Project
Ron Schott	Arizona Technology Council
Maureen Scott	Arizona Corporation Commission
John Shepard	Sonoran Institute
David Slade	Yuma Cogeneration Associates
Robert Smith	Trans Canyon
Barbara Stockwell	(representing self)
Jaret Sullivan	Arlington Valley Energy Facility
Chad Teply	Pacificorp
John Underhill	Arizona Power Authority
Leslie Watson	Merjent
Todd Weaver	Freeport-McMoRan Inc.
Shaina White	Inter Tribal Council of Arizona
Sandy Whitley	Sierra Club Energy Team
Jacob Williams	Peabody Energy
Jeff Yockey	TEP
Ellen Zuckerman	Southwest Energy Efficiency Project
<b>Total</b>	<b>72<sup>1</sup></b>

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<sup>1</sup> Based on information provided by the conference call service, guests from 74 different telephone numbers dialed in to the meeting. Only 22 identified themselves. Additionally, 50 participants attended in person and signed in.

# Consistency of CPP Compliance Options with 10 Principles

Indicate how consistent you believe each compliance option is with each of the 10 Principles. *Enter one number in each cell.*

1 = Very Consistent      2 = Consistent      3 = Neutral      4 = Inconsistent      5 = Very Inconsistent

Principle	Mass-Based Existing Only	Mass-Based with New Source Complement	Rate-Based Performance (Subcategorized) Standards	Rate-Based State Goal
1. Achieve meaningful emissions reductions	3.8	1.5	2.3	2.7
2. Maintain grid reliability, with portfolio diversity	2.2	2.0	2.0	2.0
3. Maintain the affordability of electricity	3.0	2.0	2.7	2.3
4. Recognize and respect the roles and authorities of all branches of government	2.8	1.8	2.0	2.0
5. Respect current investments and try not to create stranded investments	3.7	2.3	3.5	2.5
6. Ensure that costs are equitably distributed	2.3	1.0	3.5	4.0
7. Create incentives for all consumers to positively change AND maintain their electricity usage behaviors	3.8	1.8	2.3	2.0
8. Take credit for existing programs that have resulted in measurable emissions reductions	3.3	1.7	2.5	2.5
9. Phase-in the impacts of the Clean Power Plan over time to allow more precise and thoughtful implementation of its requirements	2.7	1.7	2.5	2.0
10. Work with other States or Tribes to make mutually beneficial emissions reductions	2.3	1.0	3.0	3.0

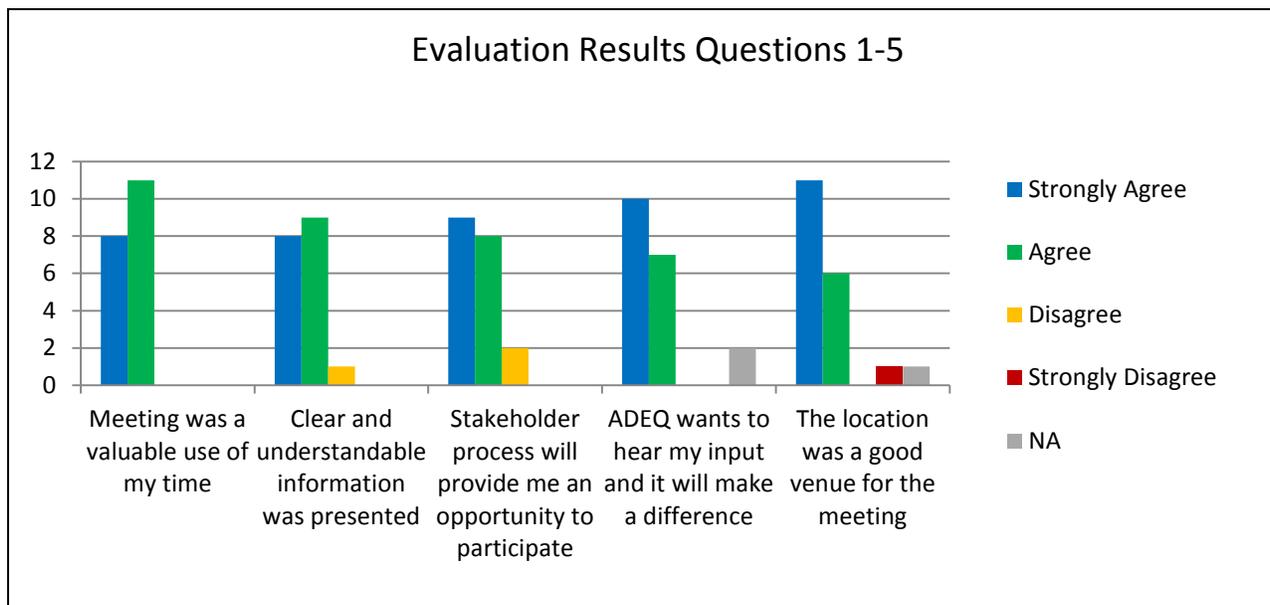
Please return this form at the end of the meeting or e-mail to [kcairo@gciaz.com](mailto:kcairo@gciaz.com) by close of business Thursday, Feb. 11.

## ADEQ STAKEHOLDER MEETING EVALUATION RESULTS

Nineteen stakeholders returned meeting evaluation surveys including five who participated online. Some stakeholders did not answer all questions.

Attendees were asked to rate their agreement (Strongly Agree, Agree, Disagree, Strongly Disagree, Not Apply) with the following statements:

- Meeting was a valuable use of my time
- Clear and understandable information was presented
- Stakeholder process will provide me an opportunity to participate
- ADEQ wants to hear my input and it will make a difference
- The location was a good venue for the meeting



### What was the best thing about today?

- Discussion of how to proceed after Supreme Court's decision to stay Clean Power Plan. This is an important and relevant question that needs to be addressed
- Discussion on Supreme Court stay and next steps
- Good dialogue by participants. The group seems to be jelling
- Good dialogue regarding Supreme Court decision re: stay of CPP
- Hearing that there is a "hold" on the CPP. It is very hard to hear on the phone, clarity of voices, erratic volume of voices. Not ADEQ fault! I am always pleased at the number and variety of stakeholders who participate. I think much of the work should go forward: surely to document, after all numbers have been crunched, that fossil fuels are essential to our state to provide the quantity of reliable, affordable energy needed for our constantly growing population. Also to continue the consideration of vulnerable communities. We don't all live in Tucson or Phoenix or even the smaller cities of AZ
- Honesty

- Making connections
- Open discussion good
- Open to considering everyone's input, but Theresa did her usual excellent job of keeping people civil and on task

### **What should be changed for future meetings?**

- I agree with Sandy from Sierra Club that anonymous comments present a strange dynamic in a meeting which is intended to facilitate dialogue. I do not think the comments should be dismissed but if there is a way to have each participant check-in virtually I believe that would provide additional information to ADEQ and accountability on the part of the participant. Also it remains difficult to hear clearly when joining by phone
- I am a telephone participant. Much of the conversation is not very clear and I have a difficult time understanding what is said. I get about 60-70% of it. When a fellow telephone presenter speaks, I hear it loud and clear. Perhaps if speakers spoke directly into a microphone (is there a microphone? I don't know) us telephone participants would feel more included and able to address the issues better when asked for our opinion
- Keep up the good work!
- No ideas
- Nothing
- State of affairs with regards to where utilities stand in vote mass-based SIP brief would be appreciated
- Suggest that the introductions are not necessary and a loss of 10-15 minutes of productive time