

Minutes
Environmental Protection Committee
2 Martin Luther King, Jr. Drive, S.E.
Suite 1252 East Tower
Atlanta, GA 30334

June 28, 2016

Attending:

Committee Members

Ray Lambert, Chairman
Dwight Evans, Vice Chairman
Dwight Davis (via conference call)
Aaron McWhorter
Mike Phelps
Paul Shailendra
Brother Stewart
William Bagwell, Board Chair, ex-officio

Board Members

Nancy Addison
Duncan Johnson, Jr.
Mark Mobley
Matt Sawhill
Bodine Sinyard
Miki Thomaston
Philip Wilheit

Guests

Don Rapier, Environment Georgia
Ronny Just, Georgia Power
Jodi Killen, Devils Backbone Hunting Club
Debbie Phillips, Georgia Industry Environmental Coalition
Ross Smith, Potash Corp
Dink NeSmith, the Press-Sentinel
Grant Coyle, GSU
Chris Manganiello, Georgia River Network
David Word, Joe Tanner and Associates
Mark Woodall, Sierra Club
Truitt Eavenson, Georgia Power
Bryan Tolar, Georgia Agribusiness Council
Doug Fulle, Oglethorpe Power
Scott Tanner, Joe Tanner and Associates
Aaron Mitchell, Georgia Power
Ryan Gesser, Georgia Pacific
Lewis Massey, Massey, Watson and Hembree

Staff Members

Mark Williams
Walter Rabon
Kyle Pearson
Melanie Johnson
Wes Robinson
Cathy Barnette
Amber Carter
Dave Crass
Dan Forster
John Biagi
John Bowers
Steve Friedman
Eddie Henderson
Wayne Hubbard
Spud Woodward
Terry West
Richard Dunn
Jeff Cown
Chuck Mueller
Doralyn Kirkland
Karen Hays
Bert Langley

Russ Pennington, MWC
Jonathan Harding, Georgia Agribusiness Council

The June 28, 2016 meeting of the Environmental Protection Division was called to order by Chairman William Bagwell.

Chairman Bagwell called on Ray Lambert, Chairman of the Environmental Protection Committee.

Mr. Lambert called on Chuck Mueller, Director of Cross-Media Programs for the Environmental Protection Division, to present the proposed amendments to Rules for Safe Drinking Water, Chapter 391-3-5.

Mr. Mueller stated that the Board was briefed previously about these rules related to trust indentures. He further stated that the proposed rule amendments remove the requirement that all non-governmentally owned community public water systems acquire and maintain a trust indenture in order to be permitted. He added that the proposed rule amendments incorporate the performance bond or letter of credit requirement exactly as described in the Act.

Mr. Mueller stated that the rule went out for public comment and public hearings were held; no comments were received. He further stated that they ask favorably for consideration.

A motion was made by Mr. Evans, seconded by Mr. Stewart and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to Rules for Safe Drinking Water, Chapter 391-3-5, as presented.

Mr. Lambert called on Karen Hayes, Chief of the Air Protection Branch of the Environmental Protection Division, to present the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to Miscellaneous Updates.

Ms. Hayes stated that periodic updates are necessary for Georgia rules to align with federal rule changes. She further stated that there are multiple changes to Rules 391-3-1-.01 and 391-3-1-.02 that are proposed with details in the Board packet. She added that some examples include: an updated version of the Georgia Procedures for Testing and Monitoring, changes in a regulation that impacts chrome platers, updates to the Mercury Air Toxics Standards Rule, which impacts coal-fired power plants and new standards that regulate hazardous air pollutant emissions from the largest brick plants.

Ms. Hayes stated that no comments were received during the public comment period. She further stated that she requests favorable consideration of adoption.

A motion was made by Mr. Phelps, seconded by Mr. Stewart and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, as presented.

Mr. Lambert called on Karen Hayes, Chief of the Air Protection Branch of the Environmental Protection Division, to present the proposed amendments to Rules for Air Quality Control, Chapter 3919-3-1, pertaining to permit fees.

Ms. Hayes stated that EPD is required to collect sufficient revenue to pay the direct and indirect cost of the Title V permitting program. Ms. Hayes further stated that this proposed rule change sets the permit fees for calendar year 2015 fees to pay the costs of the fiscal year 2017 permitting activities. She added that she requests favorable consideration of these proposed rules.

A motion was made by Mr. Stewart, seconded by Mr. Evans and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, as presented.

Mr. Lambert called on Karen Hayes, Chief of the Air Protection Branch of the Environmental Protection Division, to present the proposed Grant Criteria for the Owens-Brockway Supplemental Environmental Project – Georgia School Bus Retrofit Grant Program.

Ms. Hayes stated that the purpose of this grant is to provide funding for school districts to purchase and install emission controls on school buses, or to pay for the incremental cost of purchasing alternative fuel or hybrid electric vehicles. She further stated that the big picture goal is to reduce school children's exposure to diesel particulate matter. She added that this grant program is funded by a supplemental environment project (SEP) referenced in a Consent Decree between the U. S. Department of Justice and Owens-Brockway Glass Container, Inc.

Ms. Hayes stated that the amount of grant money available is \$200,000. She further stated that the original grant criteria was restricted to Fulton County Schools and Atlanta City Schools; however, they were unable to use the funding because all of their eligible buses were already retrofitted through prior grants. She added that as a result, EPD is recommending that the Board approve the new eligibility and selection criteria for this grant program, extending the eligible school districts to the twenty counties surrounding Atlanta.

Ms. Hayes requested favorable consideration for the proposed criteria.

A motion was made by Mr. Evans, seconded by Mr. Stewart and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed Grant Criteria for the Owens-Brockway Supplemental Environmental Project – Georgia School Bus Retrofit Grant Program, as presented.

Mr. Lambert stated that replacement pages for the Board package related to item E are available at each Board member's place.

Mr. Lambert called on Karen Hayes, Chief of the Air Protection Branch of the Environmental Protection Division, to present the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to permit fees startup, shutdown, and malfunction emissions.

Ms. Hayes stated that in May of 2015, EPA issued a Finding of Substantial Inadequacy for Georgia's State Implementation Plan (SIP). She further stated that EPA asserted that Georgia's Startup, Shutdown, and Malfunction (SSM) provisions in Chapter 391-3-1-.02 of the Georgia Rules for Air Quality Control, the rule we call our "Excess Emissions Rule", creates an impermissible affirmative defense for violations of SIP emission limits. She added that 36 states are impacted by this finding, which is generally referred to as the SSM SIP Call.

Ms. Hayes stated that EPA's SIP call is in response to a settlement agreement between EPA and the Sierra Club. She further stated that Georgia's Excess Emission rule allows excess emissions that result from SSM events, providing that the source takes certain reasonable precautions to minimize those emissions. She added that EPA, in the SIP call, contends that Georgia's Excess Emissions Rule is inconsistent with the requirements of the Clean Air Act, which requires emission limitations to apply continuously (no exempt periods).

Ms. Hayes stated that now EPD disagrees with EPA's contention that our SIP is deficient, and Georgia's State Attorney General has joined with other states in appealing EPA's SSM SIP Call. She further stated that at the same time, EPD is moving forward in developing a revised rule and submitting a SIP revision to EPA, in case the appeal is denied. She added that EPD is committed to submitting a SIP revision by the deadline set by EPA, because if we fail to meet that deadline, EPA may choose to impose a federal implementation plan on Georgia.

Ms. Hayes stated that in the SSM SIP call, EPA laid out its expectations, which include: a state's SIP Rules must apply continuously; states cannot categorically exempt periods from emission limitations, and, in addition, states subject to the SIP Call must submit SIP revisions to EPA by November 22, 2016 or risk having a federal implementation plan imposed upon them.

Ms. Hayes stated that EPA provided 3 options to modify inadequate SIPs. First, modify SIP so that emission limits apply at all times. She further stated that Tennessee, Louisiana, North Dakota, and South Carolina are doing this. She added that another option to modify inadequate SIPs is to develop alternative work practice standards (WPS) that apply during SSM periods – North Carolina, Alabama, and Georgia are doing this. And, the last option for modifying inadequate SIPs is to develop new numeric emission limits that apply during startup and shutdown events, which is not a realistic option. She further stated that very early on EPD began the process of developing alternative work practice standards to apply as emission limitations during SS events.

Ms. Hayes stated that EPD developed our draft rule in coordination with other southeastern states, especially North Carolina and that Eric Cornwell was lead on this project and he and his team have done a great job. She further stated that the draft rule was shared with stakeholders in February 2016 and a stakeholder meeting was held March 1, 2016. She added that comments from stakeholders were integrated into the draft rule.

Ms. Hayes stated that stakeholders and EPA were then provided an opportunity to review the revised draft rule on April 20 for a second round of comments and EPD has revised the draft rule again based on the additional comments received. She further stated that the comments that were received were very productive and we appreciate the efforts made by the stakeholders to provide comments under a tight deadline.

Ms. Hayes stated that the draft rule replaces the current SSM rule with four options for compliance during startup and shutdown events: 1) Comply with emission limitations at all times; or 2) Follow general prescribed WPS based on equipment type; or 3) Follow WPS established in federal regulations for similar equipment; or 4) Develop case by case work practices to be incorporated into a federally enforceable permit. She further stated that the biggest change in the draft rule during the development process is that, in response to comments received, we added the option to develop alternative work practice standards to apply during periods of malfunction, not just during periods of startup or shutdown. She added that the new rule will not take effect until EPA approves our SIP submittal.

Ms. Hayes stated that from here a 30-day comment period with a public hearing will occur during July/August. She further stated that she would come back before the board at the September Board meeting to request adoption.

Mr. Ronny Just, Georgia Power, spoke in support of the proposed regulation changes.

Mr. Doug Fulle, Oglethorpe Power, spoke in opposition of the proposed regulation changes.

Mr. Ryan Gesser, Georgia Pacific, spoke in opposition of the proposed regulation changes.

Mr. Lambert called on Jeff Cown, Chief of the Land Protection Branch of the Environmental Protection Division, to present the proposed amendments to Rules for Solid Waste Management, Chapter 391-3-4.

Mr. Cown stated that on October 19, 2015, EPA's Final Rule for the Disposal of Coal Combustion Residuals from Electric Utilities ("CCR Rule") became effective. He further stated that the CCR Rule was over a decade in the drafting and followed EPA's decision to characterize coal combustion residuals ("CCR") as a solid waste and not a hazardous waste. He added that CCR is regulated under the Solid Waste Rules as opposed to regulating as a hazardous waste.

Mr. Cown stated that the proposed amendments to the rule reflect amendments to the Comprehensive Solid Waste Management Act that require the owner or operator of a Municipal Solid Waste Landfill (MSWL) to notify the local government of a release. He further stated that the proposed amendments also align with the state surcharge requirement found in the code section 12-8-39 of the Official Code of Georgia.

Mr. Cown stated that the proposed amendments will adopt by reference EPA's CCR Rule and include the following additional requirements: 1) Municipal solid waste landfills will be included in the regulatory scheme if they accept CCR which means additional monitoring, a CCR management plan and notification to the host/local government, 2) Also, the proposed rules require financial assurance for all CCR Units at Electric Utilities, 3) Required regulation of all inactive units at Electric Utilities including groundwater monitoring, 4) Required solid waste handling permits for all CCR units at Electric Utilities.

Mr. Cown stated that a public hearing will be held between July and August and he will return to the Board for consideration in October.

Mr. Lambert stated that EPD is requiring four items over the requirements from EPA.

Mr. Lambert called on the public speakers.

Mr. Ronny Just, Georgia Power, spoke in support of the proposed regulation changes.

Mr. Chris Manganiello, Georgia River Network, spoke in support of the proposed regulation changes.

Mr. Dink NeSmith, the Press Sentinel, spoke in opposition of the proposed regulation changes.

Ms. Amelia Shenstone, Southern Alliance for Clean Energy, spoke in support of the proposed regulation changes.

There being no further business, the meeting was adjourned.