

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

August 30, 2016

Attending:

Committee Members

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

Board Members

Nancy Addison
Duncan Johnson, Jr.
Bill Jones
Matt Sawhill
Bodine Sinyard
Miki Thomaston
Philip Wilheit

Guests

Bill Hodges, Hodges, Harbin, Newberry & Tribble
Harold Reheis, Joe Tanner and Associates
Debbie Phillips, Georgia Industry Environmental Coalition
Ronny Just, Georgia Power
Chris Manganiello, Georgia River Network
Andrew Schock, TCF
Leah Dixon, Georgia Conservancy
Robert Ramsay, Georgia Conservancy
Jonathan Harding, Georgia Agribusiness Council
Alex Bradford, Georgia Farm Bureau
John Eberhart, Georgia Earth Alliance
Carolyn Pait, Oglethorpe Power Corporation

Staff Members

Mark Williams
Walter Rabon
Terry West
Kyle Pearson
Melanie Johnson
Wes Robinson
Cathy Barnette
Amber Carter
Dave Crass
Steve Friedman
Rusty Garrison
Col. Eddie Henderson
Becky Kelley
Spud Woodward
John Biagi
John Bowers
Karl Burgess
Lt. Wayne Hubbard
Capt. Johnny Johnson
Capt. Bob Lynn
Jan McKinnon
Maj. Stephen Adams
Lt. Col. Jeff Weaver
Antoinette Norfleet
Mark Walker
Richard Dunn
Lauren Curry
Jac Capp
Jeff Cown
Doralyn Kirkland
Dika Kuoh
Chuck Mueller

The August 30, 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 Jac Capp, Branch Chief of the Water Protection Branch of the Environmental Protection Division, to present the proposed amendments to Rules for Dam Safety, Chapter 391-3-8.

Mr. Capp stated that the first action item is proposed amendments to Rules for Dam Safety. He further stated that the proposed rule changes only apply to identify Category 1 dams. He added that 473 Category 1 dams are on current inventory.

Mr. Capp stated that Rule 391-3-8-.10 requires periodic inspection of Category 1 dams and reporting of findings to EPD. He further stated that owners will be required to do a quarterly inspection using forms provided by EPD. He added that every 2-4 years, a required inspection will need to be completed by an engineer depending up on the size and compliance history.

Mr. Capp stated that the second change is to Rule 391-3-8-.11 and requires that every dam will have an Emergency Action Plan (EAP). He further stated that this is necessary in the event a dam fails.

Mr. Capp stated that the third change is to Rule 391-3-8-.04 and clarifies that the governmental entity that has an easement from a land owner for a dam is the dam owner or operator. He further stated that the land owner is not responsible for operating, maintaining, and /or inspecting the dam in such situations. He added that there are other small, non-significant, miscellaneous clean ups to this section of the rule.

Mr. Capp stated that during the public comment period, 3 comments were received. He further stated that the first one was supportive, but expressed desire for the regulatory reach to extend to Category II dams. He added that a private entity requested more educational opportunities for dam owners through offerings geared more to lay persons than to engineers.

Mr. Capp stated that the Board was briefed on May 24, 2016. He further stated that the comment period ran from June 13-July 14, 2016. He added that he is requesting favorable consideration of the proposed amendments.

A motion was made by Mr. Evans, seconded by Mr. Phelps and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to Rules for Dam Safety, Chapter 391-3-8, as presented.

Mr. Lambert called on Jac Capp, Chief of the Water Protection Branch of the Environmental Protection Division, to present the proposed Grant Criteria for the Award of Regional Water Plan Seed Grants.

Mr. Capp stated that the next item is proposed Grant Criteria for the Award of Regional Water Plan Seed Grants. He further stated that this comes from funds given to EPD by the Georgia Legislature

to help encourage our regional water planning efforts. He added that they appropriated \$150,000 for this grant.

Mr. Capp stated that there are matching fund requirements for both in-kind donations and cash. He further stated that ideal projects will address critical information needs or data gaps and develop regional guidelines for regional water plan implementation. He added that public agencies (local, regional and State units of government, regional commissions, resource conservation and development councils, schools etc.) are all eligible and must be endorsed by the applicable Regional Water Planning Council.

Mr. Capp stated that the grant schedule includes the solicitation of applications starting September 30. He further stated that applications are due to EPD by December 31 and awards will be announced March 1.

A motion was made by Mr. Watt, seconded by Mr. Evans and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed grant criteria for the Award of Regional Water Plan Seed Grants, as presented.

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

Mr. Cown stated that his first action item would address the Rules for Solid Waste Management. He further stated that under existing rules, the options are limited in rural counties for disposal of leaf, limb and other debris accumulated from roadway maintenance. He added that in order to address this hardship, EPD is proposing a revision to the recovered materials portion of the rule to allow for more flexibility when storing materials that will be recycled or reused; and the addition of a new category of inert landfill.

Mr. Cown stated that comments received from an association, a local government, and an environmental consultant included the following: 1) EPD should clarify the materials included in the definition of yard trimmings; 2) The longer period allowed to recover and recycle materials provides a more practical timeframe for reuse; 3) EPD should consider allowing for stockpiling of materials to extend beyond one calendar year; and 4) They requested that EPD remove population based limit on location of yard trimmings landfills. He further stated that no changes to the proposed rules are recommended in response to the comments received. He added that the Board was briefed on May 24, the comment period took place in July, and that he requests favorable consideration today of the proposed amendments.

A motion was made by Mr. Shailendra, 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 Solid Waste Management, Chapter 391-3-4, as presented.

Mr. Lambert called on Mr. Jeff Cown, Chief of the Land Protection Branch of the Environmental Protection Division, to present the proposed FY 2017 Solid Waste Trust Fund Spend Plan.

Mr. Cown stated that the Solid Waste Trust Fund (SWTF) was established in 1990. He further stated that funds come from \$1.00 fee on each new tire sold by retail tire dealers. He added that the \$1.00 fee was reauthorized in 2014 for five years.

Mr. Cown stated that the Fiscal Year (FY) 2017 priorities focus on illegal scrap tire dump prevention and cleanup in addition to the continuation of the scrap tire abatement reimbursement program to fund local government clean ups. He further stated that the FY 2017 will also clean up abandoned landfills and respond to solid waste emergencies. He added that they also plan to reduce the amount of solid waste disposed in landfills and increase recovery of materials.

Mr. Cown stated that there are more than 100 illegal scrap tire dump sites with more than 200,000 tires. He further stated that the estimated cost to clean up the dump sites would be \$800,000. He added that the proposed budget is \$1,985,995 for EPD Program Execution and Management.

Mr. Cown stated that the budget also includes \$1,080,944 for Scrap Tire Abatement. He further stated that the total budget is \$3,066,939. He added that he requests favorable consideration of the proposed budget.

A motion was made by Mr. McWhorter, seconded by Mr. Evans and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed FY 2017 Solid Waste Trust Fund Spend Plan, as presented.

Mr. Lambert called on Mr. Dika Kuoh, Assistant Chief of the Air Protection Branch of the Environmental Protection Division, to present the proposed amendments to the Rules for Air Quality Control, Chapter 391-3-1, pertaining to Startup, Shutdown, and Malfunction Emissions.

Mr. Kuoh stated that he would be re-briefing the Board on the proposed rule changes because changes were made to the rule since the original briefing. He further stated that in May 2015, the EPA issued a Finding of Substantial Inadequacy for Georgia State Implementation Plan (SIP). He added that this requires EPD to revise or remove the Excess Emissions Rule.

Mr. Kuoh stated that Georgia joined litigation led by Florida challenging the EPA's Startup, Shutdown, and Malfunction (SSM) SIP call. He further stated that currently they are working with stakeholders to revise the Rule to meet EPA's November 22, 2016 deadline.

Mr. Kuoh stated that the Board was briefed on June 28, 2016 and the public comment period ended on August 5, 2016. He further stated that EPS reviewed 7 sets of written comments received during the comment period. He added that he will detail how the rule has developed in response to the comments.

Mr. Kuoh stated that they have decided to keep Section 7, which is the Excess Emissions Rule in case courts overturn EPA's SSM SIP Call. He further stated that they decided to move options for startup and shutdown to a new section. He added that they also decided to move case-by-case work practices for malfunctions to a new section.

Mr. Kuoh stated that they also clarified that the new rules apply to emissions resulting from startup, shutdown, and malfunction. He further stated that they decided to preserve the option to default back to existing Excess Emissions rule if the courts overturn EPA's SSM SIP Call. He added that the new rules become active and supersede existing Excess Emissions Rule when they are formally approved by the EPA.

Mr. Kuoh stated that they will go back out for public comment during September. He further stated that in October they will request adoption of the revised rule by the Board.

Mr. Lambert called on Mr. Dika Kuoh, Assistant Chief of the Air Protection Branch of the Environmental Protection Division, to present the proposed amendments to the Rules for Enhanced Inspection and Maintenance, Chapter 391-3-20.

Mr. Kuoh stated that he is briefing the board on the Rules for Enhanced Inspection and Maintenance, which is essentially the Vehicle Testing program. He further stated that they are going through technological upgrades for that program.

Mr. Lambert stated that a speaker was signed up to speak on the previous rule presented. Mr. Lambert called on the speaker, but the speaker stated he would wait until Mr. Kuoh was finished with this briefing.

Mr. Kuoh stated that EPD's vehicle emissions inspection and maintenance program covers 13 counties in the Atlanta Metro Area, which handles 2.8 million vehicle emissions tests per year. He further stated that the Phase V upgrades are required to keep up with technological advances. He added that this requires EPD to upgrade the software and/or testing equipment used by station owners and inspectors.

Mr. Kuoh stated that the rule updates removes obsolete language and adds new definitions and terminology. Mr. Kuoh further stated that the public comment period will go through September and they will return before the Board to request adoption of the revised rule by the DNR Board.

Mr. Davis clarified that the cost would be \$3,000-\$15,000 per lane to the operator to update the facilities.

Mr. Kuoh stated that those figures are correct if the operator is replacing equipment, but there is also a leasing option.

Mr. Davis asked if that was a one-time cost.

Mr. Kuoh stated that it is a one-time cost.

Mr. Lambert called on Mr. Harold Reheis with Joe Tanner and Associates to speak on the matter.

Mr. Reheis stated that Joe Tanner and Associates is a member of the Georgia Coalition for Sound Environmental Policy (GCSEP). He further stated that this is an association of businesses, industries, and utilities in Georgia who are interested in sound environmental policy. He added that they focus on air quality and water quality arenas.

Mr. Reheis stated that his group is in support of the Startup, Shutdown, and Malfunction Emissions rule. He further stated GCSEP thinks the EPA got it wrong. He added that they have appealed the changes in the federal court systems.

Mr. Reheis stated that they understand EPD's need to comply with the EPA and supports their responsible action to proceed with rulemaking. He further stated that they appreciate their efforts to work with stakeholders. He added that GCSEP has done an admirable job at working with competing interests to come to a good resolution on this rule.

Mr. Lambert called on Senator Frank Ginn for his comments on the Rules for Dam Safety presented at the beginning of the Committee meeting.

Mr. Ginn stated that there are 357 dams throughout the state that were built with SCS funds so the state has an ownership interest in them. He further stated that he has personal experience working on many of these dams. He added that so many of these dams are Category II dams.

Mr. Ginn stated that the only difference between a Category I dam and a Category II dam is a mobile home below the bridge zone. He further stated that he would request the Board's help in doing a breach analysis of these dams across the state where they can map out the breach zones. He added that this would allow local governments to create an overlay district.

Mr. Ginn stated that this solution would save taxpayers millions of dollars. He further stated that action should be taken soon. He added that he is glad to speak about this with any Board member at their convenience.

There being no further business, the meeting was adjourned.