

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

March 27, 2018

Attending:

Committee Members

Ray Lambert, Chairman
William Bagwell, Vice Chairman
Dwight Davis
Dwight Evans
Duncan Johnson
Rob Leebern
Mark Mobley
Mike Phelps
Brother Stewart
Philip Wilheit
Dee Yancey
Aaron McWhorter, Board Chairman, Ex-Officio

Board Members

Nancy Addison
Bill Jones
Bodine Sinyard
Miki Thomaston

Guests

Mr. and Mrs. Bert Langley
Linda MacGregor, City of Gainesville
David Word, Joe Tanner & Associates
Hutton Brown, Southern Environmental Law Center
Neill Herring, Sierra Club
Joe Cook, Georgia River Network
Chris Manganiello, Chattahoochee Riverkeeper
Mark Woodall, Sierra Club
Gordon Rogers, Flint Riverkeeper
Jen Hilburn, Altamaha Riverkeeper
Randy Quintrell, GMA & GA Paper & Forest Products Assn.
Clay Jones, GA Association of Manufacturing
Andrew Morris, Metro Water District
Tim Perkins, Forsyth County Water
Bryan Tolar, Georgia Agribusiness Council
Ronny Just, GA Power

Staff Members

Mark Williams, Commissioner
Terry West
Walter Rabon
Kyle Pearson
Wes Robinson
Melanie Johnson
Cathy Barnette
Amber Carter
Artica Gaston
Matt Smith
Dave Crass
Steve Friedman
Rusty Garrison
Doug Haymans
Eddie Henderson
Becky Kelley
Jeff Weaver
Will Smith
Ricky Boles
Jon Ambrose
John Bowers
Kathy Knowlton
Jodie Gardner

Richard Dunn, Director
Lauren Curry
Jac Capp
Jeff Cown
Karen Hays
Chuck Mueller
Laura Williams
Sydney Brogden
Erin Ruoff
Dika Kuoh
Jim Cooley
Sarah Visser

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Leon Watkins, Whitestone Landfill
Megan Huynh, Southern Environmental Law Center
Calista Moore, Wayne County High School Senior
Debbie Phillips, GIEC
Doug Mrell, Georgia Chamber
Bill Hodges, Hodges, Harbin, Newberry & Tribble
John Eberhart, GA Earth Alliance

The March 27, 2018 meeting of the Environmental Protection Committee was called to order by Chairman Aaron McWhorter.

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

Mr. Lambert called on Jac Capp, Chief of the Water Protection Branch of the Environmental Protection Division, to present the proposed amendments to the Rules for Water Quality Control, Chapter 391-3-6.

Mr. Capp stated the purpose of the amendment is to clarify the rule language, and it is a clarification only and we are not changing the stringency of the rule as it is implemented in our NPDES wastewater permits. He further stated we discovered the existing rule language could lead to incorrect interpretations. He added that when we say incorrect, we mean: wrong interpretation, not consistent with the historical way the agency has implemented the rule, and third it is not workable in practice, and those three reasons have statewide implications.

Mr. Capp stated the phrase we are targeting describes “objectionable conditions which interfere with legitimate water uses”, and we will be modifying this phrase slightly and the phrase could be interpreted incorrectly that if one person finds an aesthetic condition of the water objectionable at any time, then the Water Quality Standard is not being met. He further stated that we are changing a condition as it relates to aesthetics. He added that we are concerned that interpretation, that if one person does not like it, the Standard is not being met, the interpretation is wrong legally, not consistent with historical application by the agency or its not workable for our regulatory process.

Mr. Capp stated that since the rules have to have some level of predictability on both the agency's part as we develop permits, as well as the permittee's side to make sure they are meeting Water Quality Standards, we need to make this rule change. He further stated we are inserting the word “unreasonably” immediately before the word “interfere” in paragraphs (b) and (c) of Rule 391-3-6-.03. He added that the second thing we are doing is to substitute “the designated use of the water body” in place of “legitimate water uses” and that “designated use” is defined in the Federal Clean Water Act and has a legal definition and forms the basis of our Water Quality Standards, and “legitimate use” is a term that is not defined anywhere and can lead to potential misinterpretations.

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Mr. Capp stated that he briefed the Board in December, went to public notice and had a public hearing on January 25, comment period closed on January 31 and he comes before the Board today with the action item to request favorable adoption of the proposed amendments. He further stated that we received a number of comments from a wide variety of people. He added that a number of the comments received were opposing the rule, and that these came from mostly environmental groups associated with rivers and law firms that work with those groups.

Mr. Capp stated we also received comments supporting the rule from a broad section of permittees and associations that represent permittees, both municipalities and industries. He further stated we received a number of comments from long term EPD employees that were supportive. He added that he will present a summary of the comments.

Mr. Lambert asked how long was the public comment period.

Mr. Capp responded that the comment period was for almost two months.

Mr. Lambert said that we will now begin taking public comment and asked that the comments be limited to 3 minutes each.

Linda MacGregor, a licensed professional engineer, EPD's Water Branch Chief from 2005-2013, and currently the Water Department Director for the City of Gainesville, spoke in support of the proposed amendments.

Hutton Brown, Southern Environmental Law Center on behalf of Georgia Water Coalition, spoke in opposition to the proposed amendments.

David Word, former Assistant Director of EPD, spoke in support of the proposed amendments.

Neill Herring, lobbyist and resident of Jesup, spoke in opposition to the proposed amendments.

Joe Cook, Coosa River Basin Initiative and Georgia River Network, spoke in opposition to the proposed amendments.

Chris Manganiello, Chattahoochee Riverkeeper, spoke in opposition to the proposed amendments.

Mark Woodall, Sierra Club, spoke in opposition to the proposed amendments.

Gordon Rogers, Flint Riverkeeper, spoke in opposition to the proposed amendments.

Jen Hilburn, Altamaha Riverkeeper, spoke in opposition to the proposed amendments.

Randy Quintrell, Georgia Mining Association and Paper Products, spoke in support of the proposed amendments.

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Clay Jones, Georgia Association of Manufacturers, spoke in support of the proposed amendments.

Andrew Morris, Metropolitan North Georgia Water Planning District, spoke in support of the proposed amendments.

Tim Perkins, Water and Sewer Director for Forsyth County, spoke in support of the proposed amendments.

Mr. Lambert called for a motion.

A motion was made by Mr. Bagwell, 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 Water Quality Control, Chapter 391-3-6, as presented. Mr. Davis abstained from the vote.

Mr. Lambert called on Jac Capp, Chief of the Water Protection Branch of the Environmental Protection Division, to brief the Board on the proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Triennial Review of Water Quality Standards.

Mr. Capp stated that the Federal Clean Water Act requires every state to update their water quality standards every three years. He further stated that water quality standards include: designated uses, criteria either numeric or narrative that protects the designated use and antidegradation policy that applies if water quality is proposed to be lessened. He added that we held a public hearing February 26, 2016, various stakeholder meetings, and public meetings in November and January.

Mr. Capp stated that we are: clarifying the state's antidegradation requirements to be consistent with a federal change; incorporating compliance schedules into rules for Water Quality Standards; clarifying the definition of "estuarine waters"; including pH in definition of "natural conditions"; adopting EPA's 2016 recommended aquatic life cadmium criteria; revising bacteria for drinking water and fishing; revising units for bacteria measurement to a non-method specific count. He further stated we are revising and correcting specific water use classifications, which includes updating the designated use of the Chattahoochee River for a section from "fishing" to "recreation". He added the final proposed change is to adopt site-specific lake standards for Lakes Oconee and Sinclair, and the public notice period begins in April and we will be coming back to the Board to request adoption in June.

Mr. Bagwell asked about the section of the Chattahoochee River being changed from fishing to recreation.

Mr. Bagwell called on Jeff Cown, Chief of the Land Protection Branch of the Environmental Protection Division, to brief the Board on the Proposed Amendments to the Rules for Solid Waste Management, Chapter 391-3-4.

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Mr. Cown stated the purpose of the proposed rule is to clarify the intent of the rule regarding buffers and to address stakeholder concerns regarding interpretation. He further stated we are proposing to add a performance standard, which basically states that buffers are added at the time of permit issuance. He added we will go out for public notice this week, hold a public hearing on April 17, the public comment period will end on May 1, and we hope to come back for favorable consideration at the May Board meeting.

Mr. Bagwell called on Ms. Karen Hays, Chief of the Air Protection Branch of the Environmental Protection Division, to brief the Board on Proposed Amendments to the Rules for Air Quality Control, Chapter 391-3-1.

Ms. Hays stated this is our annual miscellaneous rule update, we periodically update our Rules for Air Quality Control by adopting by reference new federal regulations and amendments to existing federal regulations, and this is part of our obligations under the Clean Air Act. She further stated key changes include: adopting by reference updates to the New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAPs); duties of the Small Business Assistance Program are being revised to ensure consistency with the Georgia Air Quality Act; clarify that equipment used in firefighting is exempt from permitting and updating some definitions and rule titles. She added that today we are briefing the Board, we have a public hearing tentatively scheduled on May 7, public comment period closes about a week after the public hearing, and if no revisions are needed, we plan to request adoption at the June Board meeting.

There being no further business, the meeting was adjourned.