

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

May 23, 2018

Attendees:

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
Joe Hatfield
Bill Jones
Bodine Sinyard
Paul Shailendra
Miki Thomaston

Guests

Mike Worley, GA Wildlife Federation
Debbie Phillips, Georgia Industry Environmental Coalition
Ryan Gesser, Georgia Industry Environmental Coalition
John Jolly, GEI Consultants, Inc.
Bill Hodges, Hodges, Harbin, Newberry & Tribble
Rosa Chi, Georgia Power
Tim Earl, Georgia Power
John Eberhart, GA Earth Alliance
Jennett Gayer, Environment Georgia
Alex Bradford, Georgia Farm Bureau
Blake Raulerson, Georgia Farm Bureau
Abit Massey, Georgia Poultry Federation
Todd Holbrook
David Waller

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
Doug Haymans
Eddie Henderson
Becky Kelley
Jeff Weaver
Thomas Barnard
Kevin Dyer
Adam Loudermilk
Doyte Chaffin
Matt Thomas
John Bowers

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

The May 23rd, 2018 meeting of the Environmental Protection Division was called to order by Chairman Aaron McWhorter.

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

Mr. Lambert called on Karen Hays, 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 NAA NSR Rule Removal.

Ms. Hays stated EPD is requesting consideration of a proposal to revise the Nonattainment New Source Review Permitting requirements. She further stated since the 90's, counties in the 13 county Atlanta metropolitan area have been subject to more stringent permitting requirements because the Atlanta area was designated by US EPA as not meeting the Federal National Ambient Air Quality Standards for ozone. She added Atlanta was labeled as "serious" nonattainment for the 1990 1-hour standard and because of the severity of the designation, the Rules required Title V permits for sources located in the 13-county metro area if they emitted more than 25 tons per year of oxides of nitrogen or volatile organic compounds, and this is much lower than for the rest of the state where the major source permitting threshold for the rest of Georgia is 100 tons per year.

Ms. Hays stated Atlanta is now attaining the 1-hour standard, the 1997 standard, and the 2008 ozone standard, and this means that the existing 25 tons per year major source threshold is now obsolete and EPD is proposing to remove it. She further added major source permits will be required at 100 tons per year for NOx and VOC to match the requirements in the rest of the State. She added this change has the potential to simplify permitting for over 100 sources in the Atlanta metro area.

Ms. Hays stated we received one comment on the proposed rule changes, and the commenter requested confirmation that subparagraph (8)(e) imposed no requirements beyond those in subparagraph (8)(c)15 for utilities in Barrow, Carroll, Hall, Spalding and Walton counties, and that was confirmed as true. Ms. Hays further stated no changes were being made as a result of this comment. She added she briefed the Environmental Committee at the February 28th meeting, a public hearing was held on April 12th, the written comment period closed April 19th, and requests consideration of the proposed amendments at this time.

Mr. Lambert called for a motion.

A motion was made by Mr. Davis, seconded by Mr. Leebern 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, pertaining to NAA NSR Rule Removal.

Mr. Lambert called on Karen Hays, 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 Permit Fees.

Ms. Hays stated the Federal Clean Air Act requires the state permitting programs collect sufficient revenue in the form of permit fees to fund the direct and indirect costs of the permitting program. She further stated Georgia's fees are based on a dollar per ton emissions. She added that air quality in Georgia has improved significantly over the past decades and it continues to improve.

Ms. Hays stated our revenue stream is tied to emissions, and emissions have declined and that has significantly impacted revenue. She further stated although emissions have decreased, the workload has not decreased proportionately. She added in FY 2018 permit program expenses are expected to exceed permit fee revenue.

Ms. Hays stated we have taken a number of actions to address the fee shortfall. She further stated we convened a Permit Fee Advisory Committee made up of industry representatives to explore options for additional fee revenue and we met with the Permit Fee Advisory Committee six times over the past 3 years. She added in November of last year we convened a larger stakeholder meeting.

Ms. Hays stated we are amending the fee rule to include FY 2019 annual fees, adopt 2017 fee manual by reference, adding a permit application fee to be effective March 1, 2019, and discussed the proposed application fees. Ms. Hays further stated we met with the Permit Fee Advisory Committee starting in 2015, November of last year we had a larger stakeholder meeting, briefed the Environmental Committee at the February 28th Board meeting, had a public hearing April 9th, and the public comment period closed a week later with no comments. She added that she would like to request consideration of the proposed amendments.

Mr. Lambert opened the public comment period and requested commenters limit comments to 3 minutes.

Ryan Gesser, speaking on behalf of the Permit Fee Advisory Committee, spoke in support of the proposed rule.

Mr. Lambert commended the Air Protection Branch on a job well done.

A motion was made by Mr. Mobley, 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, Pertaining to Permit Fees.

Mr. Lambert called on Chuck Mueller, Director of Cross Media Programs, to present the proposed amendments to the Rules for Petroleum Pipeline Eminent Domain Procedures, Chapter 391-3-23.

Mr. Mueller stated the background for the Rule, including the legislation, HB 1036. He further stated some of the highlights in the rule include: permits will be required whether or not the company intends to exercise eminent domain, applicants will submit an application fee of \$5000, application requires an evaluation of the environmental effects of all reasonable alternatives, include all areas identified in the guidance document, application shall be made available for a 30-day public comment period prior to submitting to EPD, evidence of financial responsibility, and a 150-day clock begins once an application is determined to be complete. He added that the process includes ensuring the application is complete as prepared in accordance with the guidance, develop and submit a public comment plan to EPD, conduct public process and respond to all comments, submit application, application reviewed against guidance, application filed, 150-day clock starts, applicant posts in legal organ, EPD posts public notice.

Mr. Mueller stated EPD received ten written comments during the public comment period. He further stated six of those opposed all pipelines, three supported the rule but requested stricter eminent domain requirements, and one comment opposed any additional regulations that hindered future energy supplies. He added no changes were made as a result of the comments.

Mr. Mueller stated there were a few stakeholder meetings in September and December, and he briefed the Environmental Committee at the February Board meeting. He further stated there was a public hearing in April, the close of the public comment period was in April, and he is now requesting action. He added that he requests consideration of the proposed amendments at this time.

Mr. Davis asked about the appeal process and Mr. Mueller responded it is covered by the statute.

A motion was made by Mr. Evans, seconded by Mr. Davis and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to Rules for Air Petroleum Pipeline Eminent Domain Procedures, Chapter 391-3-23.

Mr. Lambert called on 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 the proposed amendment clarifies the intent of the rule regarding buffers and addresses stakeholder concerns regarding interpretation. He further stated we added item (x), which is a performance standard for buffers in landfills. He added we had two public comments, both in favor of the change and no changes were made to the rule in response to comments.

Mr. Cown stated he briefed the Environmental Protection Committee in March and the public comment period opened in April. He further stated the public hearing was held April 17th and the comment period ended May 1st. He added that he requests favorable consideration of the proposed amendments at this time.

A motion was made by Mr. Bagwell, seconded by Mr. Yancey 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.

Mr. Lambert 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 Hazardous Site Response, Chapter 391-3-19.

Mr. Cown stated purpose of the rule is to provide scientifically defensible, health-protective, and cost-effective cleanup standards for hazardous sites in Georgia by: bringing Georgia's risk assessment methods into alignment with science, federal standards, and common practice in other states; correcting values in current tables that cannot be replicated; increasing flexibility under site specific scenarios; simplifying calculations and decreasing costs by providing expanded state lookup tables and aligning standards to allow easier use of the free, online EPA calculator to determine risk. He further stated that changes include: references to new abbreviations; clarifying the soil notification requirement exclusion for properties that have applied for a Brownfield limitation of liability; allowing the Director to designate removal actions; correspond with the wording of the property notice; provide the basis for risk reduction standards calculations and modernize those standards; reflect changes to the Risk Reduction Standards Methodology; adding features that increase flexibility in site specific scenarios. He added that additional lookup tables to be provided on the EPD website and the changes align the method of calculating the risk-based values so that the free, online, EPA tool can be used.

Mr. Cown stated there were a number of stakeholder meetings on this topic, which started last March, and once those were done a Risk Work Group was convened. He further stated that today he is briefing the Board and will have a public hearing in June and request adoption in August. He added that he will answer any questions.

Ms. Thomaston asked about contamination and cleanup numbers.

There being no further business, the meeting was adjourned.