

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

October 25th, 2016

Attending:

Committee Members

Ray Lambert, Chairman
Dwight Evans, Vice Chairman
Dwight Davis
Rob Leebern
Aaron McWhorter
Mike Phelps
Brother Stewart
Philip Watt

Board Members

William A. Bagwell, Jr., Chairman
Bodine Sinyard, Secretary
Duncan Johnson, Jr.
Bill Jones
Mark Mobley
Matt Sawhill
Miki Thomaston
Philip Wilheit
Dee Yancey

Guests

Molly Samuel, WABE
David Word, Joe Tanner and Assoc.
Dink NeSmith, The Press-Sentinel
Eric NeSmith, The Press-Sentinel
Ronny Just, Georgia Power
Harold Reheis, Joe Tanner and Assoc.
Aaron Mitchell, Georgia Power
Doug Fulle, Oglethorpe Power
Toni Presnell, Oglethorpe Power
Andrew Schock, TCF
Chris Manganiello, Chattahoochee Riverkeepers
Jillian Kysor, Southern Environmental Law Center
Christopher Bowers, Southern Environmental Law Center
Mark Woodall, Sierra Club
Leah Dixon, Georgia Conservancy
Alex Bradford, Georgia Farm Bureau

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
John Martin
Cpl. Kate Hargrove
Doug Haymans
Thomas Barnard
Stephen Adams
Antoinette Norfleet
John Bowers
Shellby Johnson
Richard Dunn
Lauren Curry
Jac Capp
Jeff Cown
Karen Hays
Doralyn Kirkland
Chuck Mueller
Erin Ruoff
Bert Langley
Eric Coinwell
Jon Ambrose

The October 25th, 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 Ms. Karen Hayes, 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.

Ms. Hayes stated that industrial processes in air pollution control equipment are designed to be very efficient when they are operating normally. She further stated that equipment is not always operating normally; equipment must shut down and start back up. She added that when malfunctions occur during these processes, emissions can result that are in excess of the underlying emissions standard.

Ms. Hayes stated that EPD has developed a rule to address this time when excess emissions occur as a result of startup, shutdown, or malfunction events under certain limited conditions. She further stated that in May of last year, the Environmental Protection Agency issued a Finding of Substantial Inadequacy for Georgia State Implementation Plan (SIP). She added that this requires EPD to revise or remove the Excess Emissions Rule.

Ms. Hayes stated that the EPD disagrees with EPA's finding and Georgia is pursuing a dual track approach. She further stated that Georgia joined litigation led by Florida challenging the EPA's Startup, Shutdown, and Malfunction (SSM) SIP Call. She added that currently they are working with stakeholders to revise the Rule to meet EPA's November 22, 2016 deadline.

Ms. Hayes stated that they will preserve the existing Excess Emissions Rule in case courts overturn EPA's SSM SIP Call. She further stated that they will replace the current rule with these options for startup and shutdown: 1) Comply at all times; or, 2) Follow General work practice standards; or, 3) Follow work practice standards in federal regulations for similar equipment; or, 4) Develop case-by-case work practices. She added that there is an option to develop case-by case work practices for periods of malfunction.

Ms. Hayes stated that EPD does preserve the option to default back to existing Excess Emissions rule if the courts overturn EPA's SSM SIP Call. She further stated that the new rules become active and supersede existing Excess Emissions Rule when they are formally approved by the EPA.

Ms. Hayes stated that the Board was initially briefed on June 28 and the initial public hearing was on August 3. She further stated that the Board was re-briefed on August 30 and a second public hearing was held on October 3. She added that on October 4, the comment period ended; two sets of comments were received and no changes recommended.

Ms. Hayes stated that she requests favorable consideration of the proposed amendments.

A motion was made by Mr. Stewart, 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 Quality Control, Chapter 391-3-1, as presented.

Mr. Lambert called on Ms. Karen Hayes, 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.

Ms. Hayes stated that her second item today is a request for action on the proposed amendments to the Rules for Enhanced Inspection and Maintenance. She further stated that EPD's vehicle emissions inspection and maintenance program covers 13 counties in the Atlanta Metro Area. She added that 2.8 million vehicles are tested each year.

Ms. Hayes stated that Phase V upgrades are required to keep up with technological advances. She further stated that this will require upgrade of software and/or testing equipment used by station owners and inspectors. She added that Phase V implementation has been underway since last year.

Ms. Hayes stated that the rule updates remove obsolete language and add new definitions and terminology. Ms. Hayes further stated that the Board was briefed on August 30, a public hearing was held in Atlanta on October 3 and that one set of comments was received during the public comment period and no changes were recommended. She added that she requests adoption of the rule revisions by the DNR Board.

A motion was made by Mr. Watt, 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 Enhanced Inspection and Maintenance, Chapter 391-3-20, 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 he has one action item before the Board, the proposed amendments to Rules for Solid Waste Management. He further stated that on October 19, 2015, U.S. EPA's Final Rule for the Disposal of Coal Combustion Residuals from Electric Utilities ("CCR Rule") became effective. He added that the CCR Rule regulates CCR as a solid waste and provides rules for disposal and that states can choose whether or not to adopt the CCR Rule by reference.

Mr. Cown stated EPA's proposed amendments includes the following: 1) EPA's CCR Rule requirements by reference; 2) Requirements to manage the disposal of CCR at solid waste facilities in Georgia; 3) Requirement that a municipal solid waste landfill (MSWL) proposing to accept CCR, or to continue to accept CCR, shall submit a CCR Management Plan to EPD and notify the local government upon this submission; and 4) Recent changes to the Comprehensive Solid Waste Management Act that require a MSWL owner/operator to notify the local government of a release. He further stated that the

Georgia rule would include four additional criteria not included in the EPA rule: 1) Inactive CCR Landfills; 2) NPDES-CCR Surface Impoundments; 3) Dewatered Surface Impoundments; 4) Municipal Solid Waste Landfills.

Mr. Cown stated that the Georgia CCR Rule would require permits for all CCR units, financial assurance for all CCR units, groundwater monitoring for all CCR units, reporting for active CCR units, and MSWLs that accept CCR will be required to perform additional monitoring, submit a CCR Management Plan, and notify the host/local government. He further stated 1,012 comments were received from local governments, citizens, non-profit organizations, consulting firms, and other affected entities. He added that the comments included the following topics: concern regarding CCR disposed at MSWLs and onsite at electric utilities, requests for information on when and where CCR will be disposed, requests to clarify closure deadlines, and requests for additional monitoring requirements.

Mr. Cown stated that no changes to the proposed rules are recommended in response to comments received. He further stated that a stakeholder meeting was held in May and the Board was briefed on June 28. After two public hearings in July and August, he comes before the Board to request favorable consideration today.

Mr. Lambert called on the public speakers.

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

Mr. Mark Woodall, Sierra Club, spoke in opposition of the proposed regulation changes.

Ms. Jillian Kyson, Southern Environmental Law Center, spoke in opposition of the proposed regulation changes.

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

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

Mr. Davis asked for clarification on regulations for transportation of CCRs.

Mr. Cown stated that there is regulation of substances on trains by the US Department of Transportation and on trucks by the Department of Public Safety. He further stated that there are requirements about containerized waste as it travels that are already written in the rules.

Ms. Thomason asked if citizen enforcement would go away with the new rule.

Mr. Cown stated that citizen enforcement will continue.

Discussion ensued pertaining to groundwater monitoring.

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 Solid Waste Management, Chapter 391-3-4, as presented.

There being no further business, the meeting was adjourned.