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

August 24, 2010

Attending:

Committee Members

Ray Lambert, Chairman
Earl Barrs
Dennis Billew
Warren Budd
Dwight Davis
Walter Hudson
Phyllis Johnson
Jenny Lynn Bradley, Board Chairman, ex-officio

Board Members

Bill Archer
Gene Bishop
Bill Carruth
Joe Hatfield
Mabel Jenkins
Loyce Turner
Philip Watt
Steven Woodruff

Visitors

Charles J. Russo, Jr., Seafood Distributor
Clara M. Russo
Bill Hodges
Debbie Phillips, Georgia Industry Environmental Coalition
Brad Spooner, MEAG Power
Andrew Schock, The Conservation Fund
Doug Fulle, Oglethorpe Power
Ronnie Just, Georgia Power Company
Katie Kirkpatrick, Metro Atlanta Chamber of Commerce
Stephanie Kirijan, Georgia Power Company

Staff Members

Chris Clark
Allen Barnes
Paul Burkhalter
Todd Holbrook
Spud Woodward
Dan Forster
Becky Kelley
Dave Crass
Marlin Gottschalk
Emily Hitchcock
Kyle Pearson
Jac Capp
Linda MacGregor
Mark Smith
Jim Ussery
Doralyn Kirkland
Terry West
John Bowers
John Biagi
Homer Bryson
Steve Friedman
Brad Gane
Lauren Curry
Hellen Harris
Jeff Weaver
Jimmy Johnson
Mark Whitney
Marzieh Shahbazaz
Connie Buck
Doug Haymans
Matt Thomas
Larry Hedges
Jan Sammons
Mindi Crean

Scott Tanner, Joe Tanner & Associates
John Eberhart, Georgia Earth Alliance
Aaron Mitchell, Georgia Power Company
Jill McMaster, Window World
Doug Cloud, M2C2
Bettie Sleeth, Home Builders Association of Georgia
Walter Jones, Morris News Service

Lon Revall
Cathy Holtzclaw
Mary Ann Evans

The August 24, 2010 meeting of the Environmental Protection Committee was called to order by Board Chairman Phyllis Johnson.

Chairman Johnson called on Ray Lambert, Chairman of the Environmental Protection Committee. Mr. Lambert called on Jac Capp, Chief, Air Protection Branch, for several presentations.

Mr. Capp stated that the first item for consideration was action on proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to miscellaneous revisions. He further stated that the proposed amendments were as follows:

- Rule 391-3-1-.01, "Definitions," is being amended revising the definitions of "Procedures for Testing and Monitoring Sources of Air Pollutants."

- Rule 391-3-1-.02(2)(ss), "Gasoline Transport Vehicles and Vapor Collection Systems," is being amended to correct a numbering error.

- Rule 391-3-1-.02(2)(sss), "Multipollutant Control for Electric Utility Steam Generating Units," is being amended to insert a missing word.

- Rule 391-3-1-02(8)(b), "New Source Performance Standards," is being revised to update the incorporated standards to be consistent with federal standards.

- Rule 391-3-1-.02(9)(b), "Emission Standards for Hazardous Air Pollutants," is being revised by adding new standards, reformatting and updating the incorporated standards to be consistent with federal standards.

- Rule 391-3-1-.14, "General Conformity," is being revised to update the incorporated requirements to be consistent with federal requirements.

Mr. Capp stated that these proposed amendments had been sent out for public comment and that none had been received. He further stated that he would like to request that the Committee recommend that the Board adopt the Resolution to approve these changes.

A motion was made by Mrs. Johnson, seconded by Mr. Hudson and carried unanimously that the Committee recommends that the Board adopt the Resolution to approve the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to miscellaneous changes and updates. (Resolution attached hereto and made a part hereof)

Mr. Capp stated that the next item for consideration was proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to transportation conformity. He further stated that Rule 391-3-1-.15, "Transportation Conformity," is a new rule being added to implement the requirements of Section 176(c)(4)(E) of the Clean Air Act, with respect to the conformity of transportation plans, programs, and projects developed, funded or approved under Title 23 United States Code or the Federal Transit Laws to the State's Air Quality Implementation Plan.

Mr. Capp stated that these proposed amendments had been sent out for public comment and that none had been received. He further stated that he would like to request that the Committee recommend that the Board adopt the Resolution to approve these changes.

A motion was made by Mr. Billew, seconded by Mrs. Johnson and carried unanimously that the Committee recommends that the Board adopt the Resolution to approve the proposed amendments to Rules for Air Quality Control, Chapter 391-3-1, pertaining to transportation conformity. (Resolution attached hereto and made a part hereof)

Mr. Capp stated that the next item was a briefing and did not require action at this time. He further stated that the briefing was on proposed amendments to the Rules for Air Quality Control, Chapter 391-3-1, pertaining to prevention of significant deterioration and Title V operating permits (Greenhouse Gas Emissions).

Mr. Capp stated that EPD was working with the Attorney General's Office regarding Rule language to be inserted that would provide for discontinuation of State regulation of Greenhouse Gas Emissions if legislation, litigation, or executive order stopped regulation of Greenhouse Gas Emissions at the Federal level and that this language would be provided to the Board prior to public notice of the proposed Rule.

Mr. Capp stated that EPD will be soliciting public input and holding a public hearing on October 5 or at a later date based on receipt of the language described above from the Attorney General's office, and expects to present the following amendments to the Board for action at the December meeting:

- Rule 391-3-1-.02(7), "Prevention of Significant Deterioration of Air Quality," is being amended to incorporate the Prevention of Significant Deterioration provisions for fine particulate matter, to incorporate the provisions of the Federal Greenhouse Gas Tailoring Rule, other minor revisions to make the State rule consistent with the Federal rule, and to include an effective date of the Federal provisions incorporated by reference.

- Rule 391-3-1-.03(10), "Title V Operating Permits," is being amended to incorporate the provisions of the Federal Greenhouse Gas Tailoring Rule and to include effective dates of the Federal provisions incorporated by reference.

Mr. Capp stated that it was not EPD's choice to bring these proposed amendments to the Committee and Board, but they were required by the Federal government. He further stated that this is a very complicated and controversial issue and gave background from Federal government documents on the subject.

Lengthy discussion ensued with Committee and Board Members expressing concern that they be informed earlier in the process when controversial items are coming before them.

Mr. Lambert called on Linda MacGregor, Chief, Watershed Protection Branch, for a briefing on proposed amendments to Water Quality Control, Chapter 391-3-6, pertaining to major spills.

Ms. MacGregor stated that under existing Rule 391-3-6-.05, a single daily excursion of specific permitted effluent limits for Publicly Owned Treatment Works (POTW) triggers requirements for publication of a notice in the legal organ of the County where the major spill occurs, establishing a monitoring program, and providing notice to downstream public water supplies. She further stated that these actions are appropriate for major spills and daily excursions can warrant these actions when the effluent limits are conventional secondary limits; a daily excursion in those instances may have significant impact. She added, however, that for POTWs with very stringent limits, a daily excursion does not always warrant the same actions, therefore, EPD proposes a revision of their emergency action requirements for POTWs.

Ms. MacGregor stated that currently POTWs are required to notify the media if a minor spill occurs. The further stated that the media usually does not broadcast such information; however, this requirement increases the operational costs for POTWs and is a burden to them. She added that for major spills stream sampling is required upstream and downstream of the spill's discharge point. She further added that occasionally, some part of the rivers are dangerous for the sampling staff and POTWs have requested a change in the rule language to give them more flexibility to choose appropriate sampling locations as long as the samples represent the impact of the spill on the receiving waters.

Ms. MacGregor stated that these modifications are designed to:

- Reduce the overall operational cost for POTWs

- Reduce the regulatory burden to POTWs regarding notification of minor spills to the media

- Provide flexibility to POTWs for selecting sampling points for safety considerations

Ms. MacGregor stated that the Georgia Association of Water Professionals (GAWP) has participated in the drafting of this rule change. She further stated that the RiverKeepers, Georgia Municipal Association and Association of County Commissioners of Georgia were invited to provide input and that all POTWs have been notified by GAWP of this proposed rule change.

Ms. MacGregor stated that the proposed amendments would be sent out for public notice and comment, and would be presented to the Committee and Board for action at the December 8, 2010 meeting.

Ms. MacGregor stated that the next briefing would be regarding proposed amendments to Rules for Erosion and Sedimentation (E&S) Control, Chapter 391-3-7, pertaining to stream buffer variances. She further stated that EPD is proposing to amend the Buffer Variance Procedures and Criteria Rule and the Definitions Rule in the Georgia Rules for Erosion and Sedimentation Control.

Ms. MacGregor stated that the Buffer Variance Procedures and Criteria Rule will be amended to add one new criterion, two new exemptions will be added and one removed. She further stated that a minor revision is being made to the general variance section for clarification. She added that the Definitions Rule will be amended to add one new definition.

Ms. MacGregor stated that a recent court decision resulted in Waters of the United States jurisdictional calls that conflict with state water calls. She added that the proposed criteria (k) will allow projects that are not under Federal jurisdiction to be eligible for a stream buffer variance. She added that the proposed revisions are not expected to result in significant additional costs to the Department of Natural Resources (DNR) or to the regulated community.

Ms. MacGregor stated that the proposed Rule amendments include the following:

- Rule 391-3-7-.01, “Definitions” is proposed for amendment by adding a new definition (k) “infrastructure,” associated with the amendment of Rule 391-3-7-.05. The remaining definitions will be re-lettered accordingly.

- Rule 391-3-7-.05, “Buffer Variance Procedures and Criteria (1)” is proposed for amendment by removing exemption (a) because the general variance for small

trout streams do require approval from either the local issuing authority or EPD. The remaining exemptions will be re-lettered accordingly. Exemption (d) is being added to reflect language passed in HB 1359 earlier this year to exempt seawall construction on Lake Oconee and Lane Sinclair. Exemption (e) is being added to exempt the construction of public water system reservoirs in order to be consistent with the Georgia E&S Act and the National Pollutant Discharge Elimination System (NPDES) General Permits for Construction Activity.

- Rule 391-3-7-.05, "Buffer Variance Procedures and Criteria (2)" is proposed for amendment by adding new criteria (k) to allow EPD to require mitigation for certain projects that cannot qualify for a buffer variance under criteria (h).

- Rule 391-3-7-.05, "Buffer Variance Procedures and Criteria (10)" is proposed for amendment by adding language to clarify that EPD is the regulating entity when there is no local issuing authority dealing with a general variance.

Ms. MacGregor stated that the proposed amendments would be sent out for public notice and comment, and would be presented to the Committee and Board for action at the October 27, 2010 meeting.

Mr. Lambert called on Mark Smith, Chief, Land Protection Branch, for a briefing on proposed amendments to Rules for Lead-Based Paint Abatement & Renovation, Chapter 391-3-24, pertaining to renovation, repair & painting.

Mr. Smith stated that environmental exposure to lead is the leading cause of childhood lead poisoning, and the most significant source of environmental lead exposure is lead-based paint, particularly in housing built prior to 1978. He further stated that renovation activities, if not conducted properly, can significantly increase exposure to lead. He added that to address this public health threat, a bill amending the Lead poisoning Prevention Act (O.C.G.A., Section 31-4-1 et seq.) was passed by the General Assembly and signed into law by the Governor in May 2010 requiring DNR to adopt regulations addressing renovation activities in older housing.

Mr. Smith stated that EPD proposes the following revisions:

- Chapter 391-3-24, "Lead-Based paint Abatement, Certification & Accreditation," as amended to read "Leas-Based Paint Hazard Management" to reflect the broader scope of regulatory responsibilities resulting from the addition of the Federal renovation Rule requirements.

- Rule 391-3-24-.01, "Scope and Applicability," is amended to include Federal lead-based paint renovation requirements and to make housekeeping changes to the rule.

- Rule 391-3-24-.02, “Enforcement,” is amended to include lead-based paint renovation activities.

- Rule 391-3-24-.03, “Definitions,” is amended to add new definitions for adoption of the new Federal renovation Rules and to add new and revised lead-based paint abatement definitions to the existing rule.

- Rule 391-3-24-.04, “Accreditation of Training Programs for Target Housing and Child-Occupied Facilities,” is amended by revising the Rule title to read “Accreditation of Training Programs,” and by adding the new Federal renovation requirements for training providers, revising administrative procedures, and correcting typographical errors.

- Rule 391-3-24-.05, “Certification Requirements and Application Procedures for Persons and Firms,” is amended by changing the Rule title to “Certification of Persons and Firms Conducting Lead-Based Paint Activities” to clarify that the rule only applies to lead-based paint abatement activities. This amendment also revises specific certification, application, and administrative requirements and corrects typographical errors.

- Rule 391-3-24-.08, “Information Distribution Requirements Before Conducting Renovation Activities,” is a new Rule adding the Federal renovation requirements for persons conducting renovation activities to notify and distribute pamphlets to owners or occupants. Subparagraph (3)(b) is revised to clarify that if the owner of the child-occupied facility is not the manager of the building then the pamphlet should be provided to the manager or management representative.

- Rule 391-3-24-.09, “Certifications of Persons and Firms Conducting Renovation Activities,” is a new Rule adding Federal requirements for certification of renovation firms, renovators, and dust sampling technicians. This proposed Rule recognizes the certifications issued by EPD prior to Division authorization and sets State fees and certification procedures.

- Rule 391-3-24-.10, “Standards for Conducting Renovation Activities” is a new Rule that adds Federal standards for conducting renovation activities. The Division revised the Federal requirements in paragraph (3) by replacing the word “remove” with “disturb” to reflect actual work practices; and in paragraph 4, which adds the cleaning of “window troughs.”

- Rule 391-3-24-.11, “Recordkeeping and Reporting Requirements for Renovation Activities,” is a new Rule that adds the Federal recordkeeping and reporting

requirements for renovation activities; adds appropriate cross references; and clarifies the Federal language in paragraph (2)(b).

- Rule 391-3-24-.12, "Lead-Based Paint Hazard Management Program Fees" is a new Division Rule summarizing the fees contained in this Chapter.

Mr. Smith stated that the proposed amendments would be sent out for public notice and comment, and would be presented to the Committee and Board for action at the October 27, 2010 meeting.

Mr. Lambert called on Bettie Sleeth, Home Builders Association of Georgia (HBAG), for comments.

Ms. Sleeth stated that the proposed amendments deal primarily with renovation or remodeling and in today's economy the vast majority of HBAG's members are much more into these type projects than new construction. She further stated that this issue has been extremely controversial on the Federal level and the National Association of Home Builders and other such groups have been very involved in the Federal Rule.

Ms. Sleeth stated that HBAG agrees that it is far better to deal with State regulators than Federal regulators and that the communication level is much stronger. She further stated that she would like to thank EPD staff for organizing a stakeholder group on this issue. She added that EPD was very cognizant of the effect of the Rule on the home building industry. She further added that HBAG fully supports the proposed amendments to the Rule.

There being no further business, the meeting was adjourned.