

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

August 23, 2011

Attending:

Committee Members

Ray Lambert, Chairman
Steven Woodruff
Dennis Billew
Warren Budd
Phyllis Johnson
Rob Leebern
Jim Walters
Philip Watt
Philip Wilheit
Earl Barrs, Board Chairman, ex-officio

Board Members

Bill Carruth
Joe Hatfield
Walter Hudson
Duncan Johnson
Aaron McWhorter
Mark Smith
Loyce Turner

Visitors

Dr. Teresa Thompson, Georgia Southern University
David Word, Joe Tanner & Associates
Jim Scarbrough, Gwinnett Water
Earnest Eavin, Cobb Water
Ronny Just, Georgia Power Corporation
Daniel Groce, Georgia Agribusiness Council
Phil Zinsmeister, Sierra Club
Doug Fulle, Oglethorpe Power Corporation
Karl Ledford, Georgia Transmission Corporation
Jack Dozier, Georgia Association of Water Professionals
Lewis Jones, King & Spalding
Juliet Cohen, Upper Chattahoochee RiverKeeper
Debbie Phillips, Georgia Industry Environmental Coalition
Corey Babb, Metro North Georgia Water Planning District

Staff Members

Mark Williams
Allen Barnes
Todd Holbrook
Homer Bryson
Spud Woodward
Dave Crass
Becky Kelley
Dan Forster
Emily Hitchcock
Kyle Pearson
Brad Gane
Doug Haymans
Steve Friedman
John Bowers
Jac Capp
Linda MacGregor
Jim Ussery
Doralyn Kirkland
Lauren Curry
Connie Buck
Eddie Henderson
Candy Henderson
John Biagi
Matt Thomas
Jane Hendricks
Mary Ann Evans
Hellen Harris

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Laura Hartt, Upper Chattahoochee RiverKeeper

Katie Kirkpatrick, Metro Atlanta Chamber of Commerce

The August 23, 2011 meeting of the Environmental Protection Committee was called to order by Board Chairman Earl Barrs. Chairman Barrs called on Ray Lambert, Chairman of the Environmental Protection Committee.

Chairman Lambert called on Jac Capp, Chief, Air Protection Branch, for presentation of the proposed Grant Criteria for Railroad-Related Emission Reductions Program, Phase 2 for Atlanta, Macon, Middle Georgia Region, and Floyd County, Chapter 391-3-21-.14.

Mr. Capp stated that the primary purpose of this program is to assist railroads in converting traditional switcher locomotives to lower-emitting generator-set (“genset”) locomotives to reduce emissions of diesel fine particulate matter (PM_{2.5}) and related pollutants. He further stated that the award requires a 20% - 30% match from a participating railroad, depending on the source of the funding. He added that potential applicants include Class I and Class III railroads.

Mr. Capp stated that Class I railroads are carriers with annual revenue of \$346.8 million or more (in 2006), and that two Class I railroads operate in Georgia. He further stated that Class III railroads, also known as short line railroads, are carriers with annual revenue of less than \$28 million and typically only provide links between specific industries or other railroads. He added that there are several Class III railroads operating across the state.

Mr. Capp stated that the Board had previously approved criteria for four sub-programs for rail yard retrofits in the Atlanta, Macon, Middle Georgia, and Floyd County areas, and applications were received for the exiting Atlanta sub-program. He further stated that all of the applications involved projects whereby a railroad would take a locomotive located outside of the Atlanta area, convert it to a cleaner-emitting locomotive, deliver that converted locomotive to be used in Atlanta to replace a higher-emitting switcher locomotive. He added that this process is the standard practice used by railroads for converting traditional locomotives to lower-emitting genset locomotives. He further added that the grant criteria specified that the locomotives to be converted had to be in Atlanta at the time of the application; thus, none of the applications qualified for the grant.

Mr. Capp stated that new grant criteria for the Atlanta, Macon, Middle Georgia and Floyd County sub-programs are, therefore, proposed to reflect the actual conversion practice employed by the railroads. He further stated that in addition to this change, the new grant criteria contain changes in response to comments received from the railroads related to recordkeeping and reporting requirements, and other administrative provisions that were determined not to be applicable.

Mr. Capp stated that the grants are funded through the Georgia Department of Transportation and Federal Highway Administration’s Congestion Mitigation and Air Quality Program (CMAQ) and High Priority Project (HPP) Programs.

Mr. Capp stated that funds received by EPD will be awarded to convert diesel switcher locomotives in the Atlanta, Macon, and Floyd County PM_{2.5} nonattainment areas and the Middle Georgia Area (Bibb, Crawford, Houston, Jones, Monroe, Peach, and Twiggs Counties). He further stated that the total available funding for this program is \$12 Million for Atlanta, \$1,800,000 for Macon, \$3,500,000 for Middle Georgia and \$900,000 for Floyd County. He added that there are two Class I

railroads in the eligibility area for the Atlanta sub-program and one Class I railroad within the eligibility areas of Macon, Middle Georgia, and Floyd County sub-programs. He further added that the funds will be made available through a proposal solicitation and award process.

Mr. Capp stated that he would like to request that the Committee recommend that the Board approve the proposed amendments as presented.

A motion was made by Mr. Woodruff, seconded by Dr. Watt and carried unanimously that the Committee recommends that the Board approve the proposed Grant Criteria for Railroad-Related Emission Reductions Program, Phase 2 for Atlanta, Macon, Middle Georgia Region, and Floyd County, Chapter 391-3-21-.14. (Proposed Grant Criteria attached hereto and made a part hereof)

Chairman Lambert called on Linda MacGregor, Chief, Watershed Protection Branch, for presentation of proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Engineering Reports, Plans, Specifications and Environmental Information Documents requirements.

Mrs. MacGregor stated that the proposed amendments are designed to provide the Director of EPD with discretion to focus resources on the review of select plans and specifications that most warrant review. She further stated that public hearings were held in May and June and comments were received related to delegation agreements with local governments and how the Rule would interface with the delegation requirements of local governments. She added that those local government agreements can be updated to reflect the changes in the Rule.

Mrs. MacGregor stated that the proposed amendments relate to the following sections:

- Rule 391-3-6-.02(2): add definition for delegated local government.
- Rule 391-3-6-.02(3)(a): revise to allow EPD Director discretion in reviewing plans and specifications for sewerage systems.
- Rule 391-3-6-.02(3)(c): delete the requirement for a meeting that may not be needed.
- Rule 391-3-6-.02(3)(d): clarify design requirement.
- Rule 391-3-6-.02(3)(f): delete the redundant language.
- Rule 391-3-6-.02(10): add language regarding changes to approved plans or specifications.
- Correct formatting errors.

Mrs. MacGregor stated that she would like to request that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments as presented.

A motion was made by Mr. Woodruff, seconded by Dr. Watt and carried unanimously that the Committee recommends that the Board adopt the Resolution to approve the proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to requirements for Engineering Reports, Plans, Specifications, and Environmental Information Documents. (Resolution attached hereto and made a part hereof)

Mrs. MacGregor gave a briefing on proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Water Use Classifications and Water Quality Standards (antidegradation analyses and tiers of state waters).

Mrs. MacGregor stated that Federal regulations require states to adopt an antidegradation policy to ensure that:

1. At a minimum, the water quality necessary to support existing water uses is maintained.
2. High quality waters are maintained and protected unless lowering of water quality is needed to allow important economic or social development.
3. Water qualities in water bodies with exceptional recreational or ecological significance is protected.

Mrs. MacGregor stated that EPD's antidegradation policy, Chapter 391-3-6-.03 of the Rules and Regulations for Water Quality Control was revised in 2005. She further stated that the implementation procedures are described in the "State of Georgia Antidegradation Implementation Procedures," dated June 23, 1997. She added that the existing Rule and procedures need revision because it lacks clarity and the implementation procedures are out of date.

Mrs. MacGregor stated that the implementation procedures need revision not only because they reference the Rule that was in effect prior to the 2005 Rule, but because they do not consider important alternatives to discharging wastewater, like water conservation, and do not allow the consideration of the advantages of returning flows to streams that experience water quality shortages.

Mrs. MacGregor stated that on April 19, 2011, EPD held a multi-sector stakeholder input meeting to solicit input on revision of the Rule and procedures, with 20 stakeholders attending. She further stated that based on the feedback received and informal discussions with USEPA, proposed Rule revisions and procedures were e-mailed to 89 stakeholders for additional input, and that written comments had been received from six stakeholders.

Mrs. MacGregor stated that based on the stakeholder meeting, other input received from stakeholders, and discussion with USEPA and the State Attorney General's Office, EPD proposes amendments to Chapter 391-3-06-.03 that will:

- Clarify the purpose of antidegradation analysis.

- Incorporate antidegradation implementation procedures regarding wastewater discharges for the State's high quality waters (Tier 2). All waters in the state are currently considered high quality waters.
- Create a higher level of protection for waters designated significant natural resource waters (Tier 2.5).
- Allow for temporary or short-term changes in water quality in Outstanding National Resource Waters (ONRW) (Tier 3).
- Add to the attributes of waters considered for ONRW designation, clarify that waters designated as ONRW will be included in the Rules and reword and renumber requirements for new and expanded point source discharges upstream of or tributary to an ONRW.

Mrs. MacGregor stated that following this briefing, the proposed amendments will be public noticed for a 45-day comment period. She further stated that three public hearings will be held in mid-October, and the proposed amendments will be presented to the Board for action at the December meeting.

Discussion ensued.

Chairman Lambert called on Jack Dozier, Executive Director, Georgia Association of Water Professionals, who voiced his support of the proposed amendments, with the exception of his concern to the addition of Rule 391-3-6-.03(3)(j) – To define the term “not significantly lowering water quality.” Mr. Dozier presented what he feels would be clarification of that Rule.

Chairman Lambert called on Lewis Jones with King & Spalding, representing Forsyth County, who voiced his support of the proposed amendments, stating that he also supports the clarification proposed by Mr. Dozier.

Director Barnes stated that EPD would certainly take Mr. Dozier's proposed clarification into consideration.

Discussion ensued.

Mrs. MacGregor and John Biagi, Chief of Fisheries in the Wildlife Resources Division (WRD), gave a briefing on proposed amendments to Rules for Water Quality Control, Chapter 391-3-6, pertaining to Water Use Classifications and Water Quality Standards for temperature in portions of the Chattahoochee River.

Mrs. MacGregor stated that Georgia's current Rules for Water Quality Control do not allow any increase for in-stream temperatures in primary trout streams and only a 2°F increase for secondary trout streams. She further stated that the Chattahoochee River from Buford Dam to Peachtree Creek is currently classified as a secondary trout stream.

Mrs. MacGregor stated that in 2001, WRD discovered that trout were reproducing in the section of the Chattahoochee River from Buford Dam to Hwy 400 and suggested that the classification of secondary trout waters might be changed to primary trout waters. She further stated that in May 2002, the Board of Natural Resources directed EPD and WRD to conduct studies to develop an appropriate temperature standard that would protect the fishery. She added that fieldwork began on these studies in 2003 and concluded in 2007. She further added that since that time EPD and WRD have performed extensive data analysis, modeling, and have worked on refining a new temperature standard.

Mr. Biagi stated that WRD was charged with documenting that brown trout in the Chattahoochee River below Lake Lanier and above Morgan Falls Dam continue to reproduce, and to evaluate the temperature needs of the trout in the river to protect the natural reproduction. He further stated that the classification between secondary and primary trout waters is based on natural trout reproduction and, in fact, WRD continues to study and document that brown trout below Lake Lanier is a self-sustaining population.

Mr. Biagi stated that WRD also evaluated the temperature tolerance of trout by stocking them in the River and performed electro-fishing to monitor their survival. He further stated that creel surveys were conducted to determine angler harvest. He added that WRD worked with professors from the University of Georgia to do modeling and analysis to recommend temperature criteria that would be protective of the trout in the River.

Mrs. MacGregor stated that EPD conducted detailed flow monitoring and in-stream temperature monitoring at length and also developed a water quality-type temperature model. She further stated that as a result of this work, WRD and EPD are proposing two new designations and associated temperature standards for trout waters below Buford Dam.

Mrs. MacGregor stated that one designation and its associated standard will protect the fishery from Buford Dam to Island Ford Shoals where cold water releases from Buford Dam exert their greatest influence. She further stated that the second designation and its associated temperature standard will protect the seasonal fishery below Island Ford Shoals where cold water releases are currently unable to maintain a year-round fishery under all conditions. She added that each of the two temperature standards includes exceptions that would apply when adequate amounts of cold water are not being released from Buford Dam, when flows are less than 750cfs at Peachtree Creek, or during prolonged drought.

Mrs. MacGregor stated that EPD and WRD would discuss the proposed standards with stakeholders during September and November to ensure they understand how the standards were developed and solicit their input to make certain that they have considered all relevant and available information. She further stated that EPD and WRD will then refine the draft Rule based on stakeholder input and present it to the stakeholders again to guarantee that their concerns have been addressed. She added that after once again receiving stakeholder feedback, needed changes will be made and the detailed proposed Rule will be presented to the Committee as a briefing in December 2011 and for final action in March 2012, after having been public noticed having public hearings.

Discussion ensued.

Director Barnes gave a briefing on the status of the State Water Plan and the Governor's Water Supply Bill.

There being no further business, the meeting was adjourned.