

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #184
12/14/09**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins
William Smagula, Linda Thomas, Steven Walker,
Georgia Murray (via conf. call), Robert Hickey, Ryan Bielagus,
Terry Callum, Raymond Donald

MEMBERS NOT PRESENT: Debra Hale

NHDES – ARD PERSONNEL: Robert Scott, Anne Keach, Amy Samson,
Ryan Trombley, Pamela Monroe, Jeffrey Underhill,
Michele Andy, Gary Milbury

OTHER INTERESTED PARTIES: Atty. Anthony Blenkinsop, Atty. Timothy Fortier,
Atty. Linda Landis, Catherine Corkery, Katie Lajoie

Call to Order:

Chairman Duval called Meeting #184 of the Air Resources Council (ARC) to order at 9:05 a.m. on Monday, December 14, 2009. Chairman Duval announced that a quorum was present. Chairman Duval expressed his congratulations to Raymond Donald on his recent reappointment to the Air Resources Council.

Division Activities & Legislative Update:

Chairman Duval introduced Robert Scott, Director of the Air Resources Division (ARD). Director Scott provided members of the ARC with an update regarding the following issues relevant to the Air Resources Division:

Permitting Activities

Mr. Scott stated that the Air Resources Division is planning to revise the existing rules regulating rock crushing operations. Current State regulations require site-specific permits, which must be obtained prior to the start of rock crushing operations at any new location. He added that the NHDES would like to amend the rules to create a permitting system which is easier and less expensive for operators to comply with, but still adequately limits dust emissions and fulfills NHDES' obligation to enforce the federal regulations. Director Scott informed members of the ARC that the NHDES will convene a stakeholder meeting on January 14, 2010 to discuss the proposed changes and to solicit feedback from the regulated sources.

- The public comment period for the draft Title V Operating Permit for PSNH Merrimack Station in Bow, NH ended on October 20, 2009. The NHDES received over one hundred specific comments on the draft permit and is currently drafting responses to these comments. The NHDES has requested additional information from PSNH so that the NHDES can provide more detailed responses to some of the comments that were received. The NHDES expects to issue a decision in February 2010.
- Laidlaw Berlin BioPower is preparing an air permit application for a 70 MW wood-fired power plant at the former Fraser Paper pulp mill site in Berlin, NH. Since this facility is larger than 30 WM, the company needs to obtain approval from the New Hampshire Site Evaluation Committee (SEC). The applicant expects to submit their application for a site certificate, which includes the air permit application, to the SEC by the end of December 2009. Air Resources Division permitting and modeling staff have been working with Laidlaw over the past few

months to answer technical questions and provide modeling data and guidance for the required ambient air quality impact analyses.

This facility will be classified as a new major source under the New Source Review program, and as such will involve the office of the Federal Land Manager to ensure that any concerns with impacts to nearby Class I areas (i.e., national forests) are addressed. Director Scott Stated that the NHDES has been coordinating with the Federal land manager in an effort to ensure that the permit application review can proceed in a timely manner.

- Several school districts, as well as the Glencliff Home for the Elderly in Benton, NH have submitted applications for new wood-fired boilers. Many of these projects hinge on obtaining federal stimulus funds, so it is unclear at this time how many of these boilers will actually be installed.

Director Scott informed members of the ARC of the following major pending EPA regulatory actions:

Climate and Energy

- Prevention of Significant Deterioration/Title V Greenhouse Gas Tailoring Rule
 - Limits regulations on greenhouse gas emissions to cover only very large industrial sources (over 25,000 tons of GHGs/year).
 - Defines when Clean Air Act (CAA) permits under the New Source Review (NSR) and Title V operating permit programs would be required for new or existing industrial facilities.
 - EPA estimates that 400 new sources and modifications would be subject to PSD review annually for GHG emissions. Less than 100 of these would be newly subject to PSD.
 - Approximately 14,000 large sources would need to obtain operating permitting for GHG emissions under the operating permits program.
 - Will come into effect once EPA regulates GHGs.
- EPA/Department of Transportation's National Highway Safety Administration Joint Rulemaking to establish light-duty GHG Emissions Standards and Corporate Average Fuel Economy Standards
 - Would apply to passenger cars, light-duty trucks, and medium –duty passenger vehicles, covering model years 2012 through 2016
 - Will require these vehicles to meet an estimated combined average emissions level of 250 grams of carbon dioxide per mile, equivalent to 35.5 MPG.
 - Will satisfy all requirements under both the National Program and the standards of California and other states.
- Renewable Fuel Standards Program
 - Will increase the volume of renewable fuel required to be blended into gasoline from 9 billion gallons in 2008 to 36 billion gallons by 2022.
- Endangerment and Cause or Contribute Findings for GHGs under Section 202(a) of the CAA
 - In Massachusetts v. EOA, 549 U.S. 497 (2007), the Supreme Court found that GHGs are air pollutants covered by the CAA.

- The Court held that the EPA Administrator must determine whether or not emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare.
- The Administrator is proposing to find that the current and projected concentrations of the mix of six key greenhouse gases in the atmosphere threaten the public health and welfare
- The Administrator is further proposing to find that the combines emissions of CO₂, CH₄, N₂O, and HFCs from new motor vehicles contribute to the atmospheric concentrations of these key greenhouse gases and hence to the threat of climate change.
- Mandatory Reporting of Greenhouse Gases Rule
 - Require large emitters of heat-trapping emissions to begin collecting GHG data under a national reporting system
 - Will apply to approximately 10,000 facilities

National Ambient Air Quality Standards (NAAQS) Reviews

- Carbon Monoxide
- Particulate Matter
- Sulfur Dioxide
- Oxides of Nitrogen and Oxides of Sulfur
- Ozone
- Nitrogen Dioxide

Criteria Air Pollutant Rules

- Clean Air Transport Rule
- Implementation Rule for reconsidered Ozone NAAQS in 2010
- Air Quality Designations for the 2008 Lead National Ambient Air Quality Standards
- Revisions to Pb Ambient Monitoring Requirements
- Control of Emissions from New Marine Compression-Ignition Engines at or above 30 liters per Cylinder

Prevention of Significant Deterioration (PSD) Rules

- Reconsideration and Interpretation of Regulations that Determine Pollutants Covered by the Federal PSD Permit Program
- PSD for PM_{2.5}-Increments, Significant Impact Levels and Significant Monitoring Concentrations

Air Toxics

- Combined rulemaking for Industrial, Commercial, and Institutional Boilers and Process Heaters at Major Sources of HAP and Industrial, Commercial, and Institutional Boilers at Area Sources
 - Boiler maximum Achievable Control Technology (MACT) I 40 CFR 63, Subpart DDDDD) was vacated in July 2007 and a replacement Boiler MACT II is scheduled.
 - EPA failed to establish limits for all subcategories and HAP groups and provided a MACT floor with no emission reductions
 - EPA adopted health-based compliance alternatives
 - EPA regulated solid waste incineration units under the Boiler MACT, instead of the CISWI rule (should have been covered under Section 129 of the CAA).
- National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-fired Electric Utility Steam Generating Units
 - EPA has decided to develop emissions standards for power plants under the Clean Air Act 9Section 112) in lieu of the previously proposed Clean Air Mercury Rule.

Legislation

Director Scott announced that the deadline for filing Legislative Service Requests is next week. He provided members of the ARC with the following list of potential air quality-related bills to be taken up in the 2010 Legislative Session.

- HB 1251 - Relative to the sale and transfer procedures for shutdown emission credits. (Rep. Kaen)
- HB 1534 - Relative to the issuance of air permits and certain fees relative to air permits. (Rep. Kaen)
- HB 1542FN - Repealing NOx emitting generation source requirements. (Rep. Kaen)
- HB1202 – Relative to renewable energy credits (Rep. Harvey)
- HB1240 FN – Relative to the use of state-owned vehicles (McGuire)
- HB 1265 – Requiring school boards to develop a policy to address air quality issues in schools. (Rep. Day)
- HB 1270 - relative to permitting existing hydroelectric plants to receive grants from the renewable energy fund for the installation of upgrades. (Rep. Harvey)
- HB1284 – Relative to posting of minutes under the Right To Know Law (Rep. Merry)
- HB 1289 – Relative to air quality in public schools. (Rep. Day)
- HB 1316 _Requiring new construction and renovations of commercial buildings over 4,000 SF to follow the LEED guidelines relative to VOCs. (Rep. Thomas)
- HB 1353 – Relative to group net energy metering. (Rep. Harvey)
- HB 1375 – Establishing a committee to study regional planning commissions. (Rep. Cloutier)
- HB 1377 – permitting utilities to establish loan programs for owners of residential and business property engaging in renewable energy and energy efficiency projects (Rep. Cali-Pitts)
- HB 1396 – Relative to the extension of study committees. (Rep. Drisko)
- HB 1401 FN – Limiting corn-based ethanol as an additive to gasoline sold in NH.
- HB 1422 – Establishing a committee to study the establishment of a Department of natural Resources. (Rep. McMahon)
- HB 1439 – Relative to tax exemptions for water and air pollution control installations. (Rep. Webb)
- HB 1554 – Allowing municipalities to establish energy efficiency and clean energy districts. (Rep. Pastor)
- HB 1573 – Relative to the greenhouse gas emissions reduction fund and the renewable energy fund. (Cali- Pitts)
- SB 44 – Establishing a commission to review all fees charged by the NHDES. (Sen. Fuller-Clark)
- SB 73 FN – Requiring state departments to reduce energy consumption and to make an annual report on their energy consumption efforts. (Sen. Fuller-Clark)
- SB 150 – Relative to the definition of “neighborhood electric vehicle”. (Sen. Letourneau)

Approval of Minutes:

Terry Callum entered a motion to accept the minutes of meeting #182. Linda Thomas seconded the Motion. Raymond Donald abstained. All other members present were in favor. The minutes of meeting #182 were accepted by the ARC.

Status of Appeals:

Docket No. 09-40 ARC Appeal of Anthony Caplan and Katherine Lajoie

Amy Samson, Appeals Clerk of the Legal Unit, Office of the Commissioner, provided members of the ARC with a copy of the appeal of the Director's Decision to issue the Final Title V Operating Permit to

Wheelabrator Concord Company, filed by Anthony Caplan and Katherine Lajoie on November 9, 2009, Docket No. 09-40 ARC.

Linda Thomas entered a motion to table acceptance of the appeal in order to have an opportunity to review the filing. Terry Callum seconded the motion. All present were in favor. The Docket No. 09-40 ARC was tabled until the next regular meeting of the ARC on January 25, 2010.

Docket No. 09-18 ARC, Appeal of Public Service of New Hampshire

The ARC voted to table acceptance of the appeal because the parties requested that the ARC delay acting on this appeal, and hold it in abeyance until the NHDES takes the opportunity to reconsider the Decision. Raymond Donald entered a motion to continue to table the appeal. Linda Thomas seconded the motion. All present were in favor.

Docket No. 08-48 ARC, Appeal of Russell Thomas

Ms. Samson reported that Atty. Maloney and Atty. Somers have reached an agreement and expect to file same with the ARC soon. Ms. Samson offered to request another status report from the parties. Linda Thomas entered a motion to request a status update from the parties to be presented at the next meeting of the ARC. Robert Hickey seconded the motion. All present were in favor.

Docket #09-10 ARC, Appeal of NH Sierra Club et al., and 09-11 ARC, Appeal of Conservation Law Foundation

Ms. Samson reported that pending motions will be addressed at the next meeting of the ARC. She stated that a hearing was scheduled for today, but has been delayed until further notice.

Linda Thomas asked why the pending motions have been delayed until further notice.

Chairman Duval responded that the presiding officer's reappointment had been delayed; therefore, the proceedings concerning the appeals have also been delayed.

Linda Thomas expressed that she had concerns about Raymond Donald remaining as presiding officer in the PSNH appeals and entered a motion to have the full Council discuss the issue.

Atty. Anthony Blenkinsop stated that there are pending motions before the ARC and reminded those in attendance that it is not appropriate for members who are recused to discuss matters related to Docket Nos. 09-10 ARC and 09-11 ARC.

Chairman Duval ruled that this motion was out of order because of the recusal of ARC members. The discussion ended.

Other Business:

Having no further business to discuss, Chairman Duval set the next date of the ARC to be held on January 25, 2010, at 9:00 a.m. in conference rooms 112 and 113.

Adjourn:

Having no further business to discuss, Terry Callum entered a motion to adjourn. Raymond Donald seconded the motion. All were in favor. Meeting #184 of the ARC adjourned at 10:30 a.m. on December 14, 2009.