

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #204
01/23/12**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Deborah Chabot, Georgia Murray (via conf. call), Steven Walker, Debra Hale, Raymond Donald, Carmela Amato-Wierda

MEMBERS NOT PRESENT: Ryan Bielagus, William Smagula

NHDES – ARD PERSONNEL: Robert Scott, Anne Keach, Paula Scott, Craig Wright Michael Fitzgerald, Michele Roberge, Karla McManus, Gary Milbury, Todd Moore

OTHER INTERESTED PARTIES:

Call to Order:

Chairman Duval called Meeting #204 of the Air Resources Council (ARC) to order at 9:05 a.m. on Monday, January 23, 2012. Chairman Duval announced that a quorum was present.

Approval of Minutes:

Raymond Donald entered a motion to accept the minutes of meeting #203. Steven Walker seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #203 were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Robert Scott, Director of the Air Resources Division (ARD). Director Scott announced that he has been nominated as a Commissioner of the Public Utilities Commission and expects his confirmation hearing to be held in February 2012.

Director Scott provided members of the ARC with an update regarding the following issues relevant to the Air Resources Division:

Fine Particulate Air Pollution in Keene Area

Director Scott provided members of the ARC with an overview of the PM_{2.5} exceedances in the Keene area which are linked to homeowner wood burning practices. Director Scott explained the following issues related to these events:

PM_{2.5} Attainment Issues

- PM_{2.5} standards was recently lowered to 35 ug/m³ from 65 ug/m³
 - Based on 3-year average of 98th percentile data
 - A new review could further lower the standard to around 33 ug/m³ in the future

- If the standard were to change to a 24-hour rolling average from midnight to midnight, Keene/Cheshire County would likely be designated as non-attainment for PM_{2.5}.

Director Scott informed members of the ARC that a meeting was held on January 20, 2012 with Senator Molly Kelly, Rhett Lamb (City Of Keene), Tim Murphy (Southwest Regional Planning, and Art Nichols (Cheshire Medical Center). Additional meetings are planned with surrounding towns including Hinsdale, Swanzey, Winchester and Marlow in order to develop a method for dispensing public information to burn clean wood and voluntary no-burn days to avoid PM_{2.5} exceedances.

Chairman Duval asked if these exceedances pose a health threat to Cheshire County residents. Director Scott explained that EPA's standards are health-based standards, and that exceedances indicate health impacts to sensitive populations. However, Director Scott added that since there has been no increase in actual emissions, rather it is the standards for measurement that have changed, and no new health effects, e.g. increased hospital admissions, would be expected.

Carmela Amato-Wierda asked what the health standard is based on. Director Scott responded that the standard is a 24-hour standard from midnight to midnight, not a rolling 24 hour period.

Georgia Murray asked when the EPA is expected to release the proposed Maximum Achievable Control Technology (MACT) Standard. Director Scott responded that the MACT Standard is expected to be released by 2014.

Legislation

Director Scott discussed the following Legislative issues impacting the Air Resources Division this session, including:

HB 1490 – repealing New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions.

HB 1487 – relative to prior legislative approval for the expenditure of funds for low carbon fuel standards programs.

HB 1428 – relative to public utilities commission orders concerning renewable portfolio standards.

HB 1214 – relative to banning corn-based ethanol as an additive to gasoline sold in New Hampshire.

HB 1238 – relative to divestiture of Public Service of New Hampshire (PSNH) generation assets.

HB 1239 – requiring the site evaluation committee to consider economic impact prior to issuing a certificate for an energy facility.

HB 1234 – establishing a department of environmental services oversight and grievance committee.

HB 1435 – establishing a committee to oversee the department of environmental services.

HB 1693 – changing the annual motor vehicle inspection requirement of a biennial requirement and raise the fee for inspection stickers from \$3.25 to \$6.50.

HB 1144 – establishing a commission to study the taxation of alternative fuel and electric-powered motor vehicles for the purpose of funding improvements to the state's highways and bridges.

Env-A 1200, VOC RACT Minor Core Activities

Chairman Duval introduced Karla McManus, Planning and Rules Manager. Ms. McManus informed members of the ARC that the Air Resources Division (ARD) is proposing to amend miscellaneous sections of Env-A 1200, *Volatile Organic Compounds Reasonably Available Control Technology (VOC RACT)*, as follows:

1) Extend by one year, from June 1, 2012 until June 1, 2013, the requirement to apply for a permit to opt out of VOC RACT for sources that first became subject to Env-A 1200 on June 1, 2011;

- 2) Expand the definition of “minor core activity” to include all VOC RACT categories covered by Env-A 1200, not just coating categories; and
- 3) Clarify that actual, rather than potential, emissions should be calculated in determining whether an activity is “minor core” under Env-A 1201.04(c) and Env-A 1203.38.

Other minor edits were made for purposes of clarity and streamlining. Members who may have questions concerning the proposed amendments to Env-A 1200, were asked to contact Karla McManus at 271-6854 or Todd Moore at 271-6798.

Raymond Donald entered a motion to accept the revisions to Env-A 1200. Debra Hale seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman Collins with further comments regarding Env-A 300 within fifteen days.

Chairman Duval introduced Michele Roberge, Administrator of the Permitting and Environmental Health Bureau. Ms. Roberge informed members of the ARC that due to staffing issues in the Legal Unit, the amendments to Env-A 600 are not ready for formal presentation to the ARC until the next meeting in February.

Ms. Roberge provided members of the ARC with the following overview of the proposed revision to Env-A 600, *Statewide Permit System* as follows:

Air Dispersion Modeling Requirements: (Env-A 606)

- In an effort to address concerns with changes to the national ambient air quality standards (new 1-hour standards), the proposed changes to the air dispersion modeling regulations will clarify when an air dispersion modeling analysis is required and what sources are included in the modeling demonstration.
- These proposed changes include:
 - Adjustments to focus modeling on sources whose actual emissions will be greater than ½ the Prevention of Significant Deterioration (PSD) Major Source Thresholds;
 - Sources with low emissions rates of certain pollutants will be exempt from the modeling requirements.
 - Sources will qualify for the above exemptions if they achieve good dispersion through well designed stacks (vertical, unobstructed).
- Clarifications were also proposed on how a modeling analysis should be completed, including the requirement to submit a modeling protocol with a permit application in an effort to accelerate the permit application review process.

Non-Attainment New Source Review (Non-Attainment NSR) Program: (Env-A 618)

- The proposed revisions to the Non-attainment NSR program primarily reflect changes to NH's National Ambient Air Quality (NAAQS) pollutant designation. Tables have been included with varying applicability thresholds (major source and significance thresholds) and emissions offset ratios depending upon an area's attainment designation. Proposed changes to the Non-Attainment NSR regulations also reflect other NAAQS pollutants, not just ozone. The main benefit of these changes are that once NH has been designated as attainment for ozone, it will allow NH sources to take advantage of less stringent applicability thresholds and emission offset requirements without necessitating a rule change.
- Proposed revisions also address clarification of incorporation by reference of the most recent federal regulations (“NSR Reform”) including WEPCO-like (actual vs. future actual) and Plant-wide Applicability Limits (PAL) provisions.

Prevention of Significant Deterioration (PSD) Program: (*Env-A 619*)

- The proposed revisions to NH's PSD program mainly address/incorporate the federal PSD program revisions including:
 - Inclusions of the Green House Gas federal permitting requirements ("Tailoring Rule" requirements and exemption of biogenic GHG emissions (such as biomass) from PSD review.)
 - Proposed revisions also address clarification of incorporation by reference of the most recent federal regulations ("NSR Reform") including WEPCO-like (actual vs. future actual) and Plant-wide Applicability Limits (PAL) provisions.

Permitting Applicability for VOC RACT Sources: (*Env-A 607.01*)

- Proposed revisions include provisions to exempt Volatile Organic Compounds (VOC) Reasonably Available Control Technology (RACT) sources with emissions less than 10 tons per year of actual emissions before controls from obtaining a permit. Applicable sources would still be required to meet all VOC RACT compliance obligations.

Limitation on Potential to Emit: (*Env-A 625*)

- A new section (Env-A 625) has been proposed to address sources with low actual Volatile Organic Compound (VOC) and Hazardous Air Pollutant (HAP) emissions. Often times although these sources have low actual emissions, their potential to emit of these pollutants are above the major source thresholds. As proposed, Env-A 625 would apply to surface coating, printing, laundry, or solvent cleaning operations or autobody shops. This proposed rule allows an applicable facility to show that their potential to emit is below the major source thresholds through purchase records, or customer records without necessitating a permit.

General State Permits: (*Env-A 610*)

- The proposed revisions to the permitting regulations streamline the permitting process for sources registering under a General State Permit. Under the proposed rules sources will no longer need to obtain a Temporary Permit (construction permit) prior to obtaining a General State Permit.
- Additional categories for developing General State Permits have been proposed (mainly for VOC sources).

General Permitting Program Changes:

- **Minor Source Reopening for Cause: (*Env-A 612.07*)**
In an effort to streamline the permitting process, proposed revisions allow DES to reopen a permit for a minor source to make any necessary adjustments to the permit. There is a similar provision currently under NH's Title V Operating Permit Program. In accordance with the proposal, sources will be notified and would have an opportunity for a hearing to discuss reasons for the reopening. The Department's primary reason for this proposal is to be able to address any problems/errors with existing permits.
- **Multiple Responsible Official Designation: (*Env-A 605.04*)**
Proposed clarifications allow sources to appoint more than one responsible official and include specific designation procedures.
- **Minor Permit Amendment Process - Incorporation of TP into a SPO: (*Env-A 612.03*)**
Sources are currently required to submit an application for a State Permit to Operate (SPO) to incorporate the requirement of a Temporary Permit (TP) into an existing SPO. The proposed revision would streamline the process and allow sources to incorporate the requirement of a TP into their existing SPO via the minor permit amendment process (easier process – only requires a letter).

- **Clarifications to Permit Amendment Process for Minor Sources: (Env-A 612.03,04,05)**
The proposed revisions clarify what types of amendments would be necessary for various types of permit revisions (administrative, minor and significant permit amendments). The goal of these proposed revisions is to reserve the significant permit amendment process for increases in emissions and/or the addition of new applicable requirements.

Status of Appeals:

Chairman Duval introduced Paula Scott, Appeals Clerk. Ms. Scott provided members of the ARC with an update regarding the following appeals before the ARC:

Docket No. 09-40 ARC – Appeal of Katie Lajoie and Tony Caplan regarding the issuance of the Final Title V Operating Permit TV-0032 for Wheelabrator Concord. Ms. Scott stated that on November 9, 2009 the appeal was received. After the related appeal on the Proposed Title V Permit was adjudicated, on June 14, 2010, the ARC discussed the Docket 09-40 appeal and determined that there was no basis for the appeal because the Final Title V permit was an EPA action, not a DES action. The ARC requested that Ms. Samson, the former Appeals Clerk, notify the parties that the correct process would be to file an objection with the EPA, not the DES. The Order denying the Appeal was issued on October 12, 2011. A Motion for Reconsideration was received on November 1, 2011. On November 7, 2011, the DES filed an Objection to Motion for Reconsideration and the applicant filed an Objection to the Motion for Reconsideration. On November 14, 2011 a Rebuttal to Wheelabrator and DES' Objections was filed. On November 21, 2011, the ARC voted to deny the Motion for Reconsideration.

Vice-Chairman David Collins entered a motion to accept and issue the Decision and Order to deny the Appeal of Katie Lajoie and Tony Caplan. Raymond Donald seconded the motion. All were in favor. The motion carried.

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH) regarding the NHDES Final Determination of Baseline Mercury Input. On August 22, 2011, the ARC accepted the Appeal. Ms. Scott reported that a Pre-Hearing Conference was held on October 17, 2011 and a hearing on the matter is scheduled for March 19, 2012. On October 31, 2011, the Appellant's Request for information was received. No action by the ARC was required.

Docket No. 10-13 ARC – Kalwall Corporation regarding payment of emission-based fees. Pamela Monroe, Administrator of the Compliance Bureau provided members of the ARC with a status report at the September 19, 2011 meeting. Negotiations continue. No action by the ARC was required.

Old Business

Chairman Duval stated that the 2011 ARC Annual Report was complete and ready for posting to the ARC website. Deborah Chabot entered a motion to accept the 2011 Annual Report of the Air Resources Council for submission to Governor Lynch and the Executive Council. Steven Walker seconded the motion. All were in infavor. The motion carried. Chairman Duval added that members of the Environmental and Agriculture Committee requested copies of the report and instructed Anne Keach to send copies the committee members.

Other Business

Chairman Duval stated that he attended the hearings concerning the establishment of an oversight committee for the Department of Environmental Services. He reported that the general sense of the testimony at the hearing was that establishing an oversight committee to hear grievances and appeals would not be in the public interest if it were only to add another layer to what is already

accessible to the public through the existing committees and councils. The matter was referred to a subcommittee for further deliberation.

Chairman Duval set the next meeting of the Air Resources Council to be held on February 13, 2012, and requested that an electronic meeting notice be sent to all members of the ARC in order to determine that a quorum will be present.

Public Commentary

No interested parties were in attendance.

Adjourn

Having no further business to discuss, Deborah Chabot entered a motion to adjourn. Raymond Donald seconded the motion. All were in favor. Meeting #204 of the Air Resources Council adjourned at 10:10 a.m. on January 23, 2012.