

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #205
02/13/12**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Georgia Murray, Steven Walker, Raymond Donald, Carmela Amato-Wierda, Ryan Bielagus, William Smagula

MEMBERS NOT PRESENT: Deborah Chabot, Debra Hale

NHDES – ARD PERSONNEL: Robert Scott, Anne Keach, Paula Scott, Craig Wright, Karla McManus, Gary Milbury, Todd Moore, Barbara Hoffman

OTHER INTERESTED PARTIES:

Call to Order:

Chairman Duval called Meeting #205 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, February 13, 2012. Chairman Duval announced that a quorum was present.

Approval of Minutes:

David Collins entered a motion to accept the minutes of meeting #204. Steven Walker seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #204 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 provided members of the ARC with an update regarding the following issues relevant to the Air Resources Division:

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. A hearing is scheduled on February 14, 2012.

HB 1428 – relative to public utilities commission orders concerning renewable portfolio standards. A hearing was held on February 9, 2012, and an Executive Session February 15, 2012.

SB 218 – relative to electric renewable portfolio standards. A hearing is scheduled for February 16, 2012.

HB 1234 – establishing a department of environmental services oversight and grievance committee. Report due out of committee on February 23, 2012.

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

HB 248 (Ch. 263) – establishing a commission to study business regulations in New Hampshire.

Permitting

Director Scott announced that the Air Resources Division will be issuing a Temporary Permit for the NCES Landfill in Bethlehem, NH by next week, which will be followed by a Title V Permit. He added that at this point, the stakeholders appear to be in agreement and it seems less likely the permit will be appealed.

Chairman Duval asked if there were appeals before the Waste Management Council concerning the solid waste permit for the NCES Landfill.

Paula Scott, Appeals Clerk stated that there are two petitions currently filed in court, and two appeals before the Waste Management Council concerning the NCES Landfill.

Director Scott informed members of the ARC that he has participated in two confirmation hearings regarding his nomination as a Commissioner for the Public Utilities Commission (PUC). He announced that the final confirmation hearing is scheduled for February 22, 2012; and a final vote by the PUC is scheduled for March 7, 2012.

Env-A 600, Statewide Permitting System

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 readopt and amend Env-A 600, *Statewide Permitting System*, as follows:

Multiple Responsible Official Designation: (Env-A 605.04)

The proposal would allow sources to appoint more than one responsible official by following specific designation procedures.

Air Dispersion Modeling Requirements: (Env-A 606)

Current rules require all devices that meet air permitting thresholds to demonstrate compliance with National Ambient Air Quality Standards (NAAQS) via air dispersion modeling. The Air Resources Division (ARD) is proposing rule revisions that will adjust modeling thresholds to focus on larger sources and not require modeling of certain smaller sources and devices with cleaner than typical emission rates which have stacks designed for good dispersion. This will allow ARD and the regulated community to focus air dispersion modeling resources on sources with a higher potential for negatively impacting air quality.

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

Proposed revisions include exempting 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. These sources would still be required to meet all applicable VOC RACT requirements.

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 for specific VOC sources.

General Permitting Program Changes:

- **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 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.
- **Minor Source Reopening for Cause: (Env-A 612.07)**
In an effort to streamline the permitting process, proposed revisions would 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 would 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.

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

- 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 Nonattainment NSR regulations also reflect other NAAQS pollutants, not just ozone. The main benefit of these changes is 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 incorporate by reference 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:
 - Greenhouse Gas federal permitting requirements ("Tailoring Rule" requirements and exemption of biogenic GHG emissions (such as biomass) from PSD review.)
 - Incorporation by reference of the NSR Reform regulations, including WEPCO-like (actual vs. future actual) and PAL provisions.

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

- A new part (Env-A 625) has been proposed to address sources with low actual VOC and Hazardous Air Pollutant (HAP) emissions. Often times these sources have low actual emissions, but their potential to emit these pollutants is 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 its potential to emit is below the major source thresholds through purchase or customer records without necessitating a permit.

Other minor edits were made for purposes of clarity and streamlining. She added that a public informational meeting to discuss revisions to Env-A 600 is scheduled for March 8, 2012, and a formal Public Hearing will be scheduled. Ms. McManus asked members with any questions about the proposed amendments to Env-A 600, to contact her at 271-6854 or, or Todd Moore at 271-6798.

William Smagula informed Ms. McManus that Public Service of New Hampshire (PSNH) will have comments concerning the amendments to Env-A 600, and expects that PSNH submit comments within the ARC's fifteen day review period.

Steven Walker entered a motion to accept the initial proposal of amendments to Env-A 600. Raymond Donald seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman David Collins with further comments regarding Env-A 600 within fifteen days.

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. The ARC approved the Order at its January 23, 2012 meeting. The Decision and Order was issued and mailed on January 23, 2012.

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. On January 27, 2012, an Assented-To Motion to Reschedule Hearing was filed. On January 31, 2012, PSNH submitted Expert Disclosure. On February 10, 2012, an Order on Motion to Reschedule Hearing was issued with a new hearing date of May 21, 2012.

William Smagula mentioned that there may be an issue with the State's Attorneys availability on May 21, 2012 and expects that a Motion will be filed to postpone the hearing date until June 18, 2012.

Paula Scott reported that no Motion to reschedule the hearing in June has been filed with the Legal Unit.

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.

Ms. Scott stated that Docket No. 10-13 ARC was filed on July 1, 2010, as a Petition For Declaratory Ruling, or in the alternative, as a Notice of Appeal.

Chairman Duval requested that Ms. Scott notify the parties in this matter and inform the parties that the ARC will take up Docket No. 10-13 ARC at its next regularly scheduled meeting.

Old Business

There was no old business before the ARC.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on March 19, 2012, pending matters before the ARC. If there are no time-sensitive matters before the ARC in March, the meeting will be cancelled and the ARC will meet on April 16, 2012.

Public Commentary

No interested parties were in attendance.

Adjourn

Having no further business to discuss, Raymond Donald entered a motion to adjourn. Steven Walker seconded the motion. All were in favor. Meeting #205 of the Air Resources Council adjourned at 10:15 a.m. on February 13, 2012.