

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #214
03/18/13**

- MEMBERS PRESENT:** Chairman Robert Duval, Vice-Chairman David Collins, Georgia Murray, Steven Walker, Deborah Chabot, Carmela Amato-Wierda
- MEMBERS NOT PRESENT:** Ryan Bielagus, Raymond Donald, Debra Hale
William Smagula
- NHDES – ARD PERSONNEL:** Craig Wright, Anne Keach, Paula Scott, Karla McManus, Barbara Hoffman, Michele Roberge, Gary Milbury, Pamela Monroe, Michael Fitzgerald, Mark Ledgard
- OTHER INTERESTED PARTIES:** David Conley, Esq.

Call to Order:

Chairman Duval called Meeting #214 of the Air Resources Council (ARC) to order at 9:13 a.m. on Monday, March 18, 2013. Chairman Duval announced that a quorum of the ARC was not present to conduct the regular business of the ARC. Chairman Duval asked Acting Director, Craig Wright to provide members present with an update of activities relevant to the Air Resources Division.

Division Activities & Legislative Update:

Chairman Duval introduced Craig Wright, Acting Director of the Air Resources Division (ARD). Mr. Wright updated members of the ARC on the following issues relative to the ARD:

Regional Greenhouse Gas Initiative (RGGI)

Acting Director Wright reported that on February 7, 2013, RGGI, Inc., released the results of the two-year program review of the nine Northeastern and Mid-Atlantic states participating in the RGGI.

The program improvements include:

- A reduction of the 2014 regional CO₂ budget, RGGI cap from 165 million to 91 million tons (a 45% reduction) and the cap would decline 2.5% each year from 2015 to 2020.
- Additional adjustments to the RGGI cap from 2-14-2020 will account for the private bank of allowances held by market participants before the new cap is implemented in 2014. From 2014-2020 compliance with the applicable cap will be achieved by use of “new” auctioned allowances and “old” allowances from the private bank.
- A Cost Containment Reserve (CCR) of allowances that creates a fixed additional supply of allowances that are only available for sale if CO₂ allowance prices exceed certain price levels (increments are; \$4 in 2014, \$6 in 2015, \$8 in 2016, and \$10 in 2017, rising by 2.5%, to account for inflation each year thereafter).
- Updates to the RGGI offsets program.
- Not re-offering unsold 2012 and 2013 CO₂ allowances.
- Requiring regulated entities to acquire and hold allowances equal to at least 50% of their emissions in each of the first 2 years of the 3-year compliance period and demonstrate full compliance at the end of the 3-year compliance period.
- Identifying and evaluating potential tracking tools for emissions associated with electricity imported into the RGGI region to bring about a workable legal mechanism to address such emissions.

- Generating \$1.6 billion in net economic benefit region-wide through the end of the decade.
- Returns \$1.1 billion in electricity bill savings back into the pockets of consumers in the region.
- Creates 16,000 jobs-year in the region.
- Keeps \$765 million in the local economy due to reduced fossil fuel demand.

Mr. Wright added that the RGGI states conducted a comprehensive program review, supported by an extensive regional stakeholder process. The RGGI states convened over twelve stakeholder meetings, webinars and learning sessions during the program review.

RGGI 19th Auction

Acting Director Wright reported that 100% of the allowances sold at \$2.80, 30% of allowances purchased by non-compliance entities. He added that New Hampshire is using RGGI auction proceeds to establish the Greenhouse Gas Emissions Reduction Fund (GHGERF). The administrator of the GHGERF is governed by Chapter PUC 2600, which directs a minimum of 10% of program allocations to low income energy efficiency programs, and the balance to electric and fossil fuel energy efficiency programs including:

- Energy audits
- Weatherization of buildings
- Building code compliance
- Education and outreach
- Demand response programs to reduce peak load
- Energy efficiency related workforce development
- Revolving loan funds for energy efficiency investment

Legislation

Acting Director Wright reported the following activity regarding legislation affecting the Air Resources Division:

HB306 – relative to New Hampshire’s regional greenhouse gas initiative. Passed the House Science, Technology and Energy, to Senate Energy and Natural Resources Committee.

HB663 – relative to appeals within the Department of Environmental Services. An Executive Session was held on March 5, 2013. The legislation was retained in Committee.

Mr. Wright stated that all seven of the House Bills filed concerning the Site Evaluation Committee have been retained by the Science, Technology and Energy Committee.

Budget

Emission-Based Fees:

Acting Director Wright reported that since the conception of emission-based fees from the 1994 *Clean Air Act*, as the emissions inventory decreases the fee rate has increased. This year the per ton emissions fee is \$205. Acting Director Wright added that the Center for Policy Studies at Dartmouth reported that other states are charging as much as \$300/ton (RI) and as little as \$200/ton (CT).

Federal Grants:

Acting Director Wright reported that the Department of Environmental Services sustained a 5% cut in federal grants. The Air Resources Division’s Section 103 and 105 Grants have been reduced.

The Official Meeting of the ARC Opened at 9:30 a.m., at which time a quorum was present. Chairman Duval introduced Karla McManus, Planning and Rules Manager. Ms. McManus presented the following proposed rules:

Env-A 1600, Fuel Specifications, and amendment to Env-A 903.03

Env-A 1600, *Fuel Specifications*, is due to expire on April 23, 2013. The Air Resources Division is proposing to readopt Env-A 1600 with minor changes. DES is proposing to remove gaseous fuel sulfur standards from Env-A 1600. The sulfur content of natural gas, which is the primary target of this section, is set by the Federal Energy Regulatory Commission, not by DES. Other minor edits, such as changing the title of the section *Scope* to *Applicability*, were made for purposes of clarity. Env-A 903.03, *General Recordkeeping Requirements for Combustion Devices*, was amended to reflect the minor change to Env-A 1600.

After discussing the amendments to Env-A 1600, Steven Walker entered a motion to accept the amendments. Carmela Amato-Wierda seconded the motion. All were in favor. The motion carried.

Env-A 1800, Asbestos Management and Control

The ARD is proposing amendments to Env-A 1800, *Asbestos Management and Control*, which protects the health of the general public by ensuring that asbestos is managed in a manner that minimizes the release of asbestos fibers to the environment and human exposure thereto.

The proposed amendments to Env-A 1800 will amend the definition of “facility” as referenced in Env-A 1802 to include “utility infrastructure”, establish a 30-day timeframe for disposal of abated Regulated Asbestos-Containing Material (RACM) per Env-A 1805.08, clarify training provider approval per Env-A 1809.06, and allow for partial credit of certain other work experiences toward Asbestos Disposal Site (ADS) Experienced Worker certification in Env-A 1812.08. Other minor edits were made for purposes of clarity.

After discussing the amendments to Env-A 1800, Steven Walker entered a motion to accept the amendments to Env-A 1800. Debora Chabot seconded the motion. All were in favor. The motion carried.

Env-A 2000, Fuel Burning Devices

Env-A 2000, *Fuel Burning Devices*, is due to expire on April 23, 2013. The ARD is proposing to readopt Env-A 2000 with minor changes.

The United States Environmental Protection Agency (USEPA) will be requiring some states, including New Hampshire, to revise certain opacity regulations. The Department of Environmental Services (DES) is also evaluating whether and how it may be appropriate to update New Hampshire’s particulate emission standard for new fuel burning devices. USEPA will not be issuing the final state implementation plan (SIP) call relating to opacity until August 2013, so we do not yet know exactly what changes will be required. DES held a stakeholder meeting prior to publication of the proposed SIP call, but now intends to request more stakeholder input on opacity standards and regarding the need for, and form of, an updated particulate emission standard for new devices.

Because of the present uncertainty regarding the SIP call, DES has decided to readopt Env-A 2000 with some minor changes for now. DES intends to continue working on the opacity and particulate issues and propose those rule changes in a future, separate rulemaking.

Ms. McManus provided members of the ARC with a copy of the Stakeholders Update and Summary of the February 5, 2013 Stakeholder Meeting.

After discussing the amendments to Env-A 2000, Georgia Murray entered a motion to accept the amendments to Env-A 2000. Carmela Amato-Wierda seconded the motion. All were in favor. The motion carried. Chairman Duval reminded members of the ARC to contact Vice-Chairman Collins with any comments concerning the proposed rules within fifteen days.

Approval of Minutes:

David Collins entered a motion to accept the minutes of meeting #214. Deborah Chabot seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #214 were approved and accepted by the ARC.

Status of Appeals

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report is due by April 1, 2013.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Even Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2-013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013 at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members.

New Business

No new business of the ARC was discussed.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on April 15, 2013.

Public Commentary

No members of the public in attendance provided comment.

Adjourn

Having no further business to discuss, Georgia Murray entered a motion to adjourn. Debora Chabot seconded the motion. All were in favor. Meeting #214 of the Air Resources Council adjourned at 10:25 a.m. on March 18, 2013.