

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #239
07/18/16**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Ryan Bielagus, Kris Blomback, Raymond Donald, William Smagula, Deborah Chabot, Georgia Murray (via. Conf. Call)

MEMBERS NOT PRESENT: Mark Lambert, Carmela Amato-Wierda

NHDES – ARD PERSONNEL: Michael Fitzgerald, Evan Mulholland, Karla McManus
Gary Milbury, Padma Baru

OTHERS PRESENT: Anne Keach, Kelly Karnin (Legal Unit Intern),
Michael Nutter (Legal Unit Intern)
Anna Luhacker (Legal Unit Intern)

Call to Order:

Chairman Duval called Meeting #239 of the Air Resources Council (ARC) to order at 9:07 a.m. on Monday, July 18, 2016. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

Deborah Chabot entered a motion to accept the minutes of meeting #238. William Smagula seconded the motion. Kris Blomback and Raymond Donald abstained. All others were in favor. The motion carried. The minutes of ARC meeting #238 of May 16, 2016, were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Michael Fitzgerald, Assistant Director of the Air Resources Division (ARD). Mr. Fitzgerald briefly updated members of the ARC regarding issues relative to the ARD, including:

2016 New Hampshire Air Emissions Regulatory Conference

MR. Fitzgerald reported that the *2016 New Hampshire Air Emissions Regulatory Conference* was held on June 2, 2016 at the Radisson Hotel in Manchester, New Hampshire. Approximately seventy attendees participated in the *2016 New Hampshire Air Emissions Regulatory Conference*, which provides beneficial information for consultants, municipal officials, lawyers, environmental compliance officials, and stakeholders by providing the opportunity meet and to focus on key air-related challenges in New Hampshire.

Wheelabrator Technologies, Inc., Claremont

Mr. Fitzgerald reported that the potential sale of Wheelabrator Technologies, Inc., in Claremont fell through and there are currently no buyers interested in purchasing the facility.

Title V Petition for PSNH/Eversource Schiller Station:

Mr. Fitzgerald reported that on July 28, 2015, the USEPA issued an Order in response to a Title V Petition submitted by the Sierra Club requesting that the USEPA object to the Title V Operating Permit that was issued to the Eversource Schiller Station facility on June 6, 2014. Mr. Fitzgerald stated that while the USEPA denied most claims in the petition, it granted one claim on a provision in state rules regarding air quality impact from stationary sources on adjacent state. The USEPA has asked the NHDES to review SO₂ ambient air impacts on the State of Maine and, if warranted, establish new SO₂ limits for Schiller Station, regardless of whether new SO₂ limits are warranted, the NHDES must revise the permit record (application review support document) to reflect the updated analysis, and provide a thirty-day opportunity for the public to comment on its conclusions. Mr. Fitzgerald expects the analysis to be completed and available to the public by August 1, 2016. In the interim, all provisions of the Title V Operating Permit remain in effect.

Title V Operating Permits

Mr. Fitzgerald reported that the Air Resources has issued the following permits:

- Title V Operating permit for Four Hills Landfill (City of Nashua on June 30, 2-16.
- Title V Operating permit for Concord Steam Corporation on July 12, 2016.

Mr. Fitzgerald added that these Title V Permits represent the two oldest Title V Operating permits renewals in the ARD permitting backlog.

Perfluorooctanoic Acid (PFOA) Contamination in Southern New Hampshire

Mr. Fitzgerald informed members of the ARC that the New Hampshire Department of Environmental Services (NHDES) continues negotiations with facilities including Saint-Gobain performance Plastics to remedy and treat contaminated water sources for the long-term.

Volkswagen Settlement

Mr. Fitzgerald reported that as part of Volkswagen's (VW) settlement terms, VW will pay New Hampshire up to \$35 million. The settlement includes approximately \$6.1 million to settle the *Consumer Protection Act* violations, and up to \$29 million in environmental mitigation. Affected VW owners (vehicles made during 2009-2015) in New Hampshire will be compensated with payments ranging from \$5,100 - \$10,000, depending on the age of their vehicles. VW owners can also request that VW fix or buy back their vehicles.

Asbestos Violations

Mr. Fitzgerald introduced Evan Mulholland, Administrator of the Air Resources Compliance Bureau. Mr. Mulholland reported that, acting on a tip received through a complaint, the Asbestos Management Bureau issued a Stop Work Order at a former Hesser College building in Manchester, New Hampshire. Renovation work was being conducted without prior inspection/survey. Mr. Mulholland added that there is a potential for past violations and enforcement action(s).

Env-A 618, Nonattainment New Source Review, Env-A 619, Prevention of Significant Deterioration, and Env-A, 621, Public Notice Procedures

Chairman Duval introduced Padma Baru, New Source Review Program Manager. Ms. Baru presented members of the ARC with amendments to Env-A, 618, 619, and 621. Ms. Baru explained on September 25, 2015, DES received conditional approval of Env-A 618, *Nonattainment New Source Review*, and Env-A 619, *Prevention of Significant Deterioration*, rules from the EPA. The proposed amendments to Env-A 618, Env-A 619 and Env-A 621 are being made to address the issues noted by EPA in the FR notice: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-25/pdf/2015-23176.pdf>

Ms. Baru provided ARC members with Tables 1 & 2 below which summarize the issues and proposed changes to Env-A 618 and Env-A 619:

Table 1 - Nonattainment New Source Review

40 CFR 51.165 Federal Requirement	Proposed Changes to Env-A 618
<p>1.) <u>40 CFR 51.165(a)(5)(i)</u> Each plan shall include enforceable procedures to provide that: Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the plan and any other requirements under local, State or Federal law.</p>	<p>Add the following language to Env-A 618.04 <i>Owner or Operator Obligations</i> (b) Approval of an application with regard to the requirements of this part shall not relieve the owner or operator of responsibility to comply fully with the other applicable provisions of these rules and any other requirements under local, state, or federal law.</p>
<p>2.) <u>Reasonable possibility</u> a) <u>40 CFR 51.165(a)(6)</u> Each plan shall provide that, except as otherwise provided in paragraph (a)(6)(vi) of this section, the following specific provisions apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of paragraph (a)(6)(vi) of this section, that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs (a)(1)(xxviii)(B)(1) through (3) of this section for calculating projected actual emissions. Deviations from these provisions will be approved only if the State specifically demonstrates that the submitted provisions are more stringent than or at least as stringent in all respects as the corresponding provisions in paragraphs (a)(6)(i) through (vi) of this section.</p>	<p>Add the following language to Env-A 618.02 <i>Applicability</i> (c) Except as otherwise provided in 40 CFR 51.165(a)(6)(vi), the specific provisions of 40 CFR 51.165(a)(6)(i) through (v) shall apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a plant-wide applicability limit (PAL) as per Env-A 618.09) in circumstances where there is a reasonable possibility, within the meaning of 40 CFR 51.165(a)(6)(vi), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.</p>
<p>b) <u>Reasonable possibility recordkeeping</u> <u>40 CFR 51.165(a)(7)</u> Each plan shall provide that the owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph (a)(6) of this</p>	<p>Add the following language to Env-A 618.04 <i>Owner or Operator Obligations</i> (d)The owner or operator of the source shall make the information required to be documented and maintained pursuant to 40 CFR 51.165(a)(6) available for review upon a request for inspection by the department or the general public pursuant to the</p>

Table 1 - Nonattainment New Source Review	
40 CFR 51.165 Federal Requirement	Proposed Changes to Env-A 618
section available for review upon a request for inspection by the reviewing authority or the general public pursuant to the requirements contained in §70.4(b)(3)(viii) of this chapter.	requirements contained in 40 CFR 70.4(b)(3)(viii).

Table 2 - Prevention of Significant Deterioration		
40 CFR 52.21 & 40 CFR 51.166 Federal Requirement	Proposed Language	
Issue	Env-A 619	Env-A 621 (Public Notice)
1.) Env-A 621.04 currently does not include affected states notification 40 CFR 51.166(q) <i>Public participation</i> . The plan shall provide that— Send a copy of the notice of public comment to the applicant, the Administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: Any other State or local air pollution control agencies, the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.	Amend Env-A 619.07(d) to correct a typo (d) A permit application filed in accordance with this part shall be subject to the public notice procedures specified in Env-A 621.04 03 .	Add the following to Env-A 621.04 (e) The department shall distribute copies of the public notice to the following parties: (3) Any state or Indian Governing Body whose lands may be affected by emissions from the source or modification;
2.) On December 9, 2014, DES withdrew Env-A 619.03(c)(2) and (3). DES will IBR the definitions of “potential to emit” and “allowable emissions” as defined in 40 CFR 52.21 into the SIP.	Delete from Env-A 619.03(c) (2) The definition of “potential to emit” in 40 CFR §52.21(b)(4) shall include the phrase “or enforceable as a practical matter” at the end of the second sentence; and (3) The definition of “allowable emissions” in 40 CFR §52.21(b)(16) shall not include the word “federally”.	
3.) PM _{2.5} Significant Monitoring Concentration i. Env-A 619 rule includes the provisions of October 20, 2010 final rule <i>Prevention of Significant</i>	Amend Env-A 619.03 <i>PSD Program Requirements</i> (a) In furtherance of RSA 125-C:11 and except as provided in (b), below, the provisions of 40	

Table 2 - Prevention of Significant Deterioration		
40 CFR 52.21 & 40 CFR 51.166 Federal Requirement	Proposed Language	
Issue	Env-A 619	Env-A 621 (Public Notice)
<p><i>Deterioration for Fine Particle Pollution – Final Rule to Establish Increments, Significant Impact Levels and a Significant Monitoring Concentration.</i> The October 20, 2010 rule established increments, SILs, and an SMC for PM_{2.5} to facilitate ambient air quality monitoring and modeling under the PSD regulations for areas designated attainment or unclassifiable for PM_{2.5}.</p> <p>ii. On January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit granted a request from the EPA to vacate and remand to the EPA portions of Prevention of Significant Deterioration regulations, promulgated in 2010 regarding the Significant Impact Levels for PM_{2.5}. The Court further vacated the portions of the PSD Regulations establishing a PM_{2.5} Significant Monitoring Concentration.</p> <p>iii. On December 9, 2013, EPA removed the vacated elements (i.e., PM_{2.5} SILs and SMC provisions) from the CFR. SMC for PM_{2.5} was changed from 4 µg/m³ to 0 µg/m³. PM_{2.5} SILs in §52.21(k)(2) were removed.</p> <p>iv. December 9, 2014 letter from DES to EPA - DES to implement only PM_{2.5} increments from the October 2010 rule.</p>	<p>CFR §52.21(a)(2), (b) through (e), (h) through (k)(1), (l) through (p), (r), (v), (w), (aa), and (bb), July 1, 2014 2015 edition, as amended by 76 FR 43490 on July 20, 2011 80 FR 50199 on August 19, 2015, shall apply for the purpose of implementing a PSD permit program that meets the requirements of Title I of the Act.</p>	

Chairman Duval asked if the proposed amendments align the rule with the federal rules. Ms. Baru responded that the proposed revisions represent general housekeeping changes, and both the state and federal rules are aligned. She added that outreach to stakeholders has commenced.

Raymond Donald entered a motion to accept the proposed amendments to Env-A 618, 619, and 621 for review by the ARC. William Smagula seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman Collins with further comments regarding proposed amendments within fifteen days.

Status of Appeals

Currently, there are no appeals before the ARC.

New Business

No new business was discussed by members of the ARC.

Other Business

Vice-Chairman Collins scheduled the next meeting of the ARC to be held on Monday, September 19, 2016.

Public Commentary

No members of the public were present.

Adjourn

Having no further business to discuss, David Collins entered a motion to adjourn, seconded by Raymond Donald. All were in favor. Meeting #239 of the Air Resources Council adjourned at 10:15 a.m., on July 18, 2016.