

## NEW JERSEY CLEAN AIR COUNCIL

<b><u>Clean Air Council Members</u></b> Allen Weston, Chair Maria Connolly, PP, AICP, Vice-Chair Leonard Bielory, M.D. Robert Campbell Michael Egenton Timothy Fekete	<b><u>Clean Air Council Members</u></b> Toby Hanna, P.E. Andrew McNally Stephen Milgrom Richard Opiekun, Ph.D. Scott Ross John Valeri Jr., Esq.
<b><u>Clean Air Council Liaison</u></b> Heidi Jones, 609-777-0598 <a href="mailto:Heidi.Jones@dep.nj.gov">Heidi.Jones@dep.nj.gov</a>	<b><u>NJ Clean Air Council Website:</u></b> <a href="http://www.state.nj.us/dep/cleanair">http://www.state.nj.us/dep/cleanair</a>

### New Jersey Clean Air Council Meeting Record Meeting via Microsoft Teams

Wednesday, November 17, 2021

CALL TO ORDER	Allen Weston opened the meeting.
COUNCIL MEMBERS PRESENT	All Council members were present with the changes noted below.
EXCUSED	Robert Campbell Stephen Milgrom
ABSENT	Andrew McNally Scott Ross
REPRESENTED	Michael Egenton represented by Kimberly Scarborough, PSEG
PUBLIC	Adam Newman, IBEW
NJ DEP Staff	Francis Steitz Ken Ratzman Helaine Barr Linda Miller

### Meeting Record

- Richard Opiekun made a motion to approve the October meeting minutes; Leonard Bielory seconded the motion. Minutes were approved with a unanimous vote.
- 2021 hearing topic was discussed and will be related to COVID Air Quality Impacts. The hearing is scheduled for Tuesday, April 12, 2022, via Microsoft Teams with in-person options, if available.
- John Valeri has been named chair and Michael Egerton will be vice-chair of the hearing. The council was talking about speakers for the hearing. Tentatively mentioned were DOT, Port Authority, League of Municipalities, etc.
- The council made edits to Hearing Brochure during the meeting, Leonard Bielory will be providing edits to the Brochure before COB Monday to allow the council to review before finalizing draft.
- Frank Steitz will run the draft of the hearing brochure past Communications.
- Possible Speaker for next meeting will be Peter Beltin from NJTPA.
- Leonard Bielory made a motion to adjourn; Richard Opiekun seconded the motion. Meeting was adjourned at 10:55am.

### Administrative Report

*Presented by Francis Steitz, Director of Air Quality*

1. **USEPA Proposes Disapproval of 2008 Ozone "Good Neighbor" SIP for NY and NJ** - On November 3, 2021, USEPA proposed disapproving the portions of New York and New Jersey's SIP submittals pertaining to ozone interstate transport (often called "Good Neighbor" SIP) for the 2008 ozone NAAQS. New Jersey asserted in its May 13, 2019, Good Neighbor SIP that statewide control measures were more stringent than other upwind and nearby states and go beyond previously established EPA cost effectiveness thresholds. Although USEPA acknowledged that New Jersey's control measures may be "nominally more stringent" than federal transport rules, USEPA disapproved the SIP revision on the basis that it did not evaluate whether additional control measures could reduce the impact of New Jersey's emissions on out of state receptors to which it significantly contributes.  
  
Disapproval does not start a mandatory sanctions clock and does not trigger a duty for the USEPA to promulgate FIPs. The USEPA has amended FIPs, in a separate action finalizing the Revised CSAPR Update for the 2008 ozone NAAQS, to reflect the additional emissions reductions necessary to address New York's and New Jersey's significant contribution to nonattainment and interference with maintenance. DAQ will prepare comments objecting to the denial ahead of the comment deadline of December 3, 2021.
2. **Diesel Enforcement of Tampering Regulations**- Since July 2021, the Diesel Enforcement Program with the assistance of Bureau of Mobile Sources staff have been using social medial postings to include Facebook, craigslist, and eBay to identify private citizens that are offering for sale and/or operating tampered vehicles on New Jersey public roadways in violation of New Jersey Administrative Code 7:27-14.3 and 14.4. These are all medium duty diesels that are not subject to DMV inspections but require self-certification only. Nineteen Notices of Violations (NOV) have been issued to date, affording the citizens 60 days to return the emission controls to the original manufacturer configuration. Failure to comply with the NOV will result in the issuance of a \$1500 penalty.
3. **BPU Expands Clean Fleet program** - The NJ Board of Public Utilities approved a \$7 million expansion of its Clean Fleet program which will provide rebates to government agencies of \$2000 per Level 2 charger; up to \$5000 for the make ready costs associated with Level 2 chargers; \$75,000 for fast chargers; and \$4000 for EVs. There will be a cap of 10 vehicles and 7 chargers per program (not per agency) with the application period opening November 4<sup>th</sup>. Treasury will submit applications on

behalf of the agencies/programs for vehicle and charger purchases that align with the requirement in the EV Law to electrify the state fleet by 2025.

4. **EPA proposes to remove emission offset requirements for offshore wind farm**-On October 20, 2021, the US EPA's Region 1 office (EPA) reopened the public comment period on a revised draft permit for the construction and operation of South Fork Wind's 130 megawatts (MW) offshore windfarm in the Rhode Island-Massachusetts Wind Energy Area. EPA is reopening the public comment period to request comment on a revision to the draft permit that removes the requirement to obtain emission offsets for construction emissions.

The first draft permit was issued in June 2021. Since then, EPA Regional Offices and Headquarters undertook an assessment of the application of the offset requirements under the Nonattainment New Source Review (NNSR) program to OCS sources. EPA has now interpreted that, for OCS sources, the NNSR CAA requirements only require offsets for operating emissions, not construction emissions.

DAQ has started a more in-depth review of the South Fork Wind's revised draft permit and associated technical documents, with particular emphasis on understanding the implications of EPA's revised interpretation of NNSR offset rules on New Jersey's permitting and emission offset requirements for OCS sources.

5. **FY2022 CPI Adjustments of Annual Emission Fees and Threshold Dollar Amount for Reconstruction**-NJ Air Pollution Control Act requires major air facilities to pay an annual emissions fee. This emission fee is adjusted each fiscal year for CPI changes. For FY 2022, the per ton fee is \$130.39, 3% greater than in FY 2021, and a total revenue of about \$3 million is anticipated in FY 2022 from emission fees. Approximately 30% of the Department's major facilities air program's funding comes from annual emission fees.

The Department is also required to publish the threshold dollar amount for reconstruction each November in the same NJ Register notice in which it publishes the annual emission fee. Applying the CPI adjustment since 1995 to the base amount of \$80,000 results in the threshold dollar amount of \$140,568 for FY 2022. A facility must use this dollar amount when calculating reconstruction thresholds relative to fixed capital cost.

A notice was published in the November 15, 2021, NJR and the Air Program will mail emission fee invoices by December 31, 2021, as facilities are obligated by rule to pay emission fees by January 31, 2022.

6. **Request for Risk Assessment on Fumigation Operations Using Sulfuryl Fluoride** - On November 3, 2021, the Division of Air Quality (DAQ) sent out deficiency letters to ten (10) facilities with pending air permits that list the use of sulfuryl fluoride (SF) to fumigate commodities in the State. The letter requests that the facilities perform air quality modeling to determine the risk impact from their operations to the surrounding areas. The facilities were asked to use the reference concentration of 3.128 mg/m<sup>3</sup>, which was determined to be scientifically acceptable by the Division of Science and Research based on the review of documents from the California Department of Pesticide Regulation. The facilities also have the option to propose a different short-term or long-term reference concentration but must provide technical justification with supporting documentation to the Department for review and approval prior to the modeling.

One of the facilities is a major facility located in an EJ area, which makes it subject to Administrative Order 2021-25. The other nine facilities are minor facilities, seven of which are in EJ areas (with an additional one bordering an EJ area); however, since fumigation is not a listed category for EJ under the definition of “facility” in the EJ Law, these facilities would not be subject to Administrative Order 2021-25.

7. **Preconstruction Permit Application for Cannabis Extraction Operation (PI 36448, PCP210001)** - On October 22, 2021, Verano NJ submitted an air preconstruction permit application to the Division of Air Quality (DAQ) for their cannabis extraction operation, located in Branchburg, Somerset County. The application was submitted pursuant to the Administrative Order and Civil Administrative Penalty Assessment (AONOCAPA) issued by the Division of Air Enforcement (DAE) on August 23, 2021, for operating without a valid air permit for the cannabis extraction process. DAQ will coordinate with DAE during the review of this application.
8. **Offshore Structures Expansion** - On October 25, 2021, the Division of Air Quality (DAQ) received an air permit application from EEW Group American Offshore Structures (EEW), a support facility to offshore wind located in Paulsboro, Gloucester County, to add new abrasive blasting equipment and to increase emissions from the existing paint booths. As part of its review, Air Quality will conduct air dispersion modeling and facility-wide health risk assessment. While located in an EJ community, the EJ Law is not applicable as this is a type of minor facility not specifically listed under the “facility” definition in the EJ Law.
9. **Bayshore Regional Sewerage Authority** – On November 4, 2021, Bayshore Regional Sewage Authority (BRSA) applied for a modification to their Air Quality Operating Permit to expand the operation of three (3) natural gas generators beyond emergency use to include demand response and storm preparations. Originally permitted for emergency use only under the emergency generator general operating permit, the new application requests to operate the generators during peak demand voltage reduction periods. As the generators are not directly connected to the electrical grid, all power generated will be used onsite. If approved, storm preparation would allow BRSA to start operating the generators 24 hours prior to a large storm event. While the generators are equipped with emission controls, the application will be reviewed to ensure that it meets all applicable requirements, including emission control requirements and health risk impact analysis.
10. **Quarterly Meeting with EPA Region 2** - The Division of Air Quality (DAQ) held its Quartey meeting with staff from US EPA Region 2 Air Staff on October 21, 2021. Air Quality Leadership from both agencies met virtually to discuss and coordinate issues including New Jersey’s air quality monitoring network, State Implementation Plans to attain and maintain air quality standards, permitting of air pollution sources and strategies to reduce air emissions from transportation sources. AQ meets regularly with EPA staff as part of ongoing coordination across the Air Pollution Control Program. DAQ and the Division of Air Enforcement (DAE) plan to conduct a joint meeting with EPA staff later this year in an effort to foster better coordination between the program elements.
11. **RGGI update** - The second public listening session soliciting public feedback on the program review was held virtually on Nov 8th from 6-8pm. State staff presented the timeline for the program review process. There were 97 attendees. Four written comments were submitted ahead of the meeting, and 2 comments were presented during the meeting, some of the Key topics raised include:

- RGGI needs to do more for EJ communities Including mandating emissions reductions in low-income areas
- ECR/CCR threshold prices should be increased to allow for higher price flexibility
- Expand the program to include smaller generators less than 25 MW in the program (similar to NY which qualifies 15MW generators)
- How would leakage be addressed in the program review?

Written comments from the public will be accepted until November 29<sup>th</sup> and the next public meeting on IPM modeling assumptions will be held on December 13<sup>th</sup>. There will be two sessions, 10-12.30 am and 6-8.30 pm

### **2021 MEETING DATES & LOCATIONS (tentative)**

**Meeting will be 9:30am – 12pm, every 3<sup>rd</sup> Wednesday of the month.**

January 20	Microsoft Teams Meeting.
February 17	Microsoft Teams Meeting.
March 17	Microsoft Teams Meeting.
April 21	Public Hearing - Microsoft Teams Meeting.
May 19	Microsoft Teams Meeting.
June 16	Microsoft Teams Meeting.
July 21	Microsoft Teams Meeting. - present report to commissioner (tentative).
August 18	No meeting. (Microsoft Teams Meeting, only if needed)
September 15	Microsoft Teams Meeting.
October 20	Microsoft Teams Meeting.
November 17	Microsoft Teams Meeting.
December 15	Microsoft Teams Meeting.

### **2022 MEETING DATES & LOCATIONS (tentative)**

**Meeting will be 9:30am – 12pm, every 3<sup>rd</sup> Wednesday of the month.**

January 19	Microsoft Teams Meeting.
February 16	Microsoft Teams Meeting.
March 16	Microsoft Teams Meeting.
Tues., April 12	Public Hearing - Microsoft Teams Meeting.
May 18	Microsoft Teams Meeting.
June 15	Microsoft Teams Meeting.
July 20	Microsoft Teams Meeting. - present report to commissioner (tentative).
August 17	No meeting. (Microsoft Teams Meeting, only if needed)
September 21	Microsoft Teams Meeting.
October 19	Microsoft Teams Meeting.
November 16	Microsoft Teams Meeting.
December 21	Microsoft Teams Meeting.