

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

December 3, 2009

A meeting of the Board of Environmental Protection was held on Thursday, December 3, 2009 at the Holiday Inn / Ground Round, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, P. Andrews Nixon, Sue Lessard, Lissa Widoff, Frank Woodard, and Nancy Ziegler

Absent: Matt Scott

Staff: Jeff Crawford, Bureau of Air Quality
Ron Severance, Bureau of Air Quality
Don Witherill, Bureau of Land and Water Quality

Others: David P. Littell, Commissioner
Pete LaFond, Assistant Attorney General
Cindy Bertocci, BEP Executive Analyst
Terry Hanson, BEP Administrative Assistant

(Meeting adjourned at approximately 11:00a.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS:

The Commissioner reminded Board members about the December 7th annual staff day.

Safer Chemicals: The Maine Department of Environmental Protection issued a press release yesterday regarding principles for safer chemical reform. Maine is one of 13 signatories on a submission to the U.S. Congress setting forth recommendations for reforming the nation's outdated toxic chemical policy for protecting public health and the environment. Commissioner Littell noted that the American Chemistry Council recently acknowledged that reform of the Toxic Substance Control Act (TSCA) is in order. The Department will make copies of the recommendations available to Board members at their request.

Regional Greenhouse Gas Initiative (RGGI): The sixth RGGI auction was held yesterday. Results of that auction will be reviewed today at noon with outcomes issued tomorrow.

Commissioner Schedule: Commissioner Littell noted the number of important matters for Board consideration at the regular meeting on December 17th and advised that he will be out-of-state that day, but the appropriate program bureau directors will attend the Board meeting.

QUESTIONS:

Board member M. Wing Goodale asked if the RGGI auction process is working well and if the pricing is holding up.

Commissioner Littell confirmed that the five prior auctions went well procedurally and explained that the price in secondary markets (private sales last week) was trading at \$2.19 -- noting that secondary markets for RGGI have become robust. The allowance sale price this auction may be lower than the average for the previous auctions due to several factors including uncertainty over pending legislation in the Congress and the economic recession, which has led to a decrease in electrical consumption. The mild weather may also be impacting electricity consumption. All of these factors shape pricing.

A follow-up question from Mr. Goodale: What impacts does a federal cap have on RGGI?

Currently, under a federal cap and trade program state cap and trade programs would be pre-empted for six years. The Senate Kerry/Boxer bill incorporates state recommendations that would tie pre-emption to the federal system actually going live with auctions. Another provision allows for trading of all state allowances under the federal system. It is anticipated that federal allowances will be more expensive. Trading of state allowances would be based on the value paid for the state allowance.

Board member Nancy Ziegler commented about Harvard University's commitment to purchase 10% of its power from Stetson Ridge.

Commissioner Littell explained that he understood a number of private universities have adopted their own climate change reduction plans noting that Bowdoin has an agreement with Mars Hill and Colby is considering bio-mass.

B. COMMENTS FROM THE BEP CHAIR: None

C. EXECUTIVE ANALYST COMMENTS:

Ms. Bertocci noted that at the next meeting there will be a discussion of topics for inclusion in the annual report to Legislature (summary of activities). A follow-up email about issues raised in the past will be provided in an effort to prompt future discussion.

D. BOARD CALENDAR: Reviewed noting the public hearing to begin at 10:30 a.m.

E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: No questions.

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS:

The Board voted (9-0-0-1) on a motion to approve consent agenda item 1 as presented.

The vote was taken pursuant to 38 M.R.S. A. §341-D(6).

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, Frank Woodard, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent.

1. MICHAEL EMMONS, Scarborough - Administrative Consent Agreement (BLWQ – Land)

III. Regular Agenda

1. CHAPTER 123, CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM PAPER, FILM AND FOIL COATING OPERATIONS / amendment (post to public hearing)

Staff: Jeff Crawford, Bureau of Air Quality

The Board voted (9-0-0-1) on a motion to post to public hearing amendments to Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations rule. This rule establishes requirements for testing, evaluating and limiting volatile organic compound emissions from paper, film and foil coating operations. The proposed amendments incorporate additional source categories identified by the U.S. Environmental Protection Agency's Control Technique Guideline. Modifications include adding control and work practice requirements for surface coating of film and foil surfaces (tapes, labels, decorative laminates photographic film etc.), updates to the definition, recordkeeping/reporting sections,

and compliance deadlines. A January 7, 2009 hearing date is anticipated and the Board established January 19, 2009 as the deadline for receipt of written comments.

The vote was taken pursuant to 38 M.R.S. §341-D(1-B), §585-A and Section 184 of the Clean Air Act.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, Frank Woodard, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent.

2. CHAPTER 150, CONTROL OF EMISSIONS FROM OUTDOOR WOOD BOILERS / amendment (post to 30-day written comment period)

The Board voted (9-0-0-1) on a motion to post amendments to Chapter 150, Control of Emissions from Outdoor Wood Boilers to a 30-day written public comment period. These regulations establish particulate emission standards and siting criteria/labeling requirements for outdoor wood boilers/pellet boilers. Amendments to this regulation were promulgated by the Legislature to: address qualifications for individuals who install and inspect units, amend the definition of commercial outdoor wood boiler to exclude outdoor wood boilers used solely for space heating or domestic hot water, and include the addition of voluntary technology-forcing emission standards and setback requirements for cleaner units. The vote established a public comment deadline of January 19, 2010.

The vote was taken pursuant to 38 M.R.S. §341-D(1-B), §585-A and Section 184 of the 1990 Clean Air Act Amendments.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, Frank Woodard, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent.

CHAPTER 160, OUTDOOR WOOD BOILER REPLACEMENT AND BUY BACK PROGRAM / amendment (post to 30-day written comment period)

Staff: Ron Severance, Bureau of Air Quality

The Board voted (9-0-0-1) on a motion to post amendments to Chapter 160, Outdoor Wood Boiler Replacement and Buy Back Program to a 30-day written public comment period. These regulations establish a replacement and buy back program including provisions regarding eligibility for use of the fund and procedures for certification and verification of removal of eligible nuisance outdoor wood boilers. Amendments include updates to the definitions section and changes to provisions governing outdoor wood boiler fund eligibility.

The vote established a public comment deadline of January 19, 2010. The vote was taken pursuant to 38 M.R.S. §341-D(1-B), §585-A and Section 184 of the 1990 Clean Air Act Amendments.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, Lissa Widoff, Frank Woodard, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent.

3. CHAPTER 521, APPLICATION FOR WASTE DISCHARGE LICENSES // SECTION 9. STORM WATER DISCHARGES / Amendment (post to public hearing)

Staff: Don Witherill, Bureau of Land and Water Quality

The Board voted (9-0-0-1) on a motion to post to public hearing amendments to Chapter 521, Application for Waste Discharge Licenses, Section 9 Post Construction Storm Water Discharges in Urban Impaired Stream Watersheds. This regulation establishes procedures and requirements for applying for a waste discharge license. Amendments to this rule set forth requirements for individual permit applications for post construction storm water discharges in urban impaired stream watersheds under the Maine Pollutant Discharge Elimination System program.

The vote was taken pursuant to 38 M.R.S. §413 et. seq. and §341-D(1-B)

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon,t, Lissa Widoff, Frank Woodard, and Nancy Ziegler voted to support the motion. Board member Matt Scott was absent.

4. RECORD HILL WIND, LLC L-24441-24-A-N // L-2441-TF-B-N (request for stay of construction)

Staff: Cynthia S. Bertocci, Board Executive Analyst

No Vote Was Taken: The petitioners, represented by Mr. Rufus Brown, withdrew the petition seeking a stay of construction in lieu of an agreement with the licensee (Record Hill) to stop construction and provide advanced notification concerning verification of financial capacity prior to the re-commencement of construction activities.

Next Regular Meeting –Thursday, December 17, 2009 – Holiday Inn/Ground Round