

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #181
08/10/09**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins
Georgia Murray, William Smagula, Ryan Bielagus,
Raymond Donald, Debra Hale, Steven Walker, Terry Callum

MEMBERS NOT PRESENT: Robert Hickey, Linda Thomas

NHDES – ARD PERSONNEL: Robert Scott, Anne Keach, Thomas Niejadlik, Richard Rumba,
Ryan Trombley, Pamela Monroe, Barbara Hoffman,
Todd Moore, David Larson, Amy Samson

OTHER INTERESTED PARTIES: Atty. Evan Mullholland, Atty. Linda Landis,
Atty. Gregory Smith, John Holden, Matthew Broadhead
Atty. Linda Landis, Atty. Barry Needleman, John Lariviere,
Richard Falk, Atty. Anne Edwards, Anthony Caplan

Call to Order:

Chairman Duval called Meeting #181 of the Air Resources Council (ARC) to order at 9:00 a.m. on Monday, August 10, 2009 and announced that a quorum was present.

Approval of Minutes:

William Smagula entered a motion to accept the minutes of meeting #180. Ryan Bielagus seconded the motion. All present were in favor. The minutes of meeting #180 were 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 the following update regarding the following issues relevant to the Air Resources Division:

Budget

- State Budget/Medical Malpractice Funds – Director Scott reported that the State recently lost the lawsuit regarding use of the \$110 million dollars from the medical malpractice fund. He reported that the Governor intends to appeal the decision instead of having NH legislators return to session to develop an alternative budget.
- 18 furlough days over biennium, 12 of which shall come from state government shut-downs. Shut-downs would be similar to state holidays, with essential health and public safety functions continuing.
- There will not be any additional layoffs of generally funded positions due to the fact that SEA's share of the \$25 million in personnel-related savings are achieved through the furlough program. There will be no other layoffs other than those called for within the approved state budget, or necessary because of a reduction of federal funds or grants or closing of facilities or suspension of programs.

Staffing

Director Scott reported that Michael Fitzgerald, Administrator of the Technical Services Bureau will be on medical leave for an undetermined amount of time to recover from a recent motor vehicle accident.

Director Scott reported that Joanne Morin, formerly the Technical Programs Manager of the Technical Services Bureau has been appointed by Governor Lynch to be the Director of the Governor's Office of Energy and Planning.

Permitting Activities

- Draft Title V Permit for PSNH Merrimack Station, Bow – A public hearing has been scheduled for September. The draft permit will be finalized by the end of July 2009. A public hearing will be scheduled to receive public comment on the draft permit.
- Presby North Country Wood Pellets, Inc., Whitefield – Permit application received. Engineering review ongoing.
- Lakes Region Pellets, Barnstead – Permit application received. Engineering review ongoing.

City of Keene Woodstove Changeout Campaign

Director Scott reported that on July 15, 2009 a stakeholder meeting of the Keene Woodstove Changeout Campaign was held to develop a local changeout program. Stakeholders include:

- City of Keene Municipal Officials
- Cheshire Medical Center
- U.S. Environmental Protection Agency
- Keene State College
- University of New Hampshire Cooperative Extension
- New England Wood Pellet
- Hearth, Patio and Barbeque Association
- Additional Local Businesses (e.g., Woodstove Dealers)

Director Scott explained that the program has already received a \$35,000 grant to cover administrative and outreach costs. An additional \$106,000 has been applied for from the American Electric Power (AEP) settlement for campaign costs and customer vouchers.

Next steps include:

- Hiring a Research Assistant (intern) for a period of eight weeks to work with the NHDES and the City of Keene Planning Department to research, develop and implement the campaign.
- Projected Campaign Kick-off - September/October 2009

American Clean Energy and Security Act (ACES)/Waxman Markey Clean Energy Bill

Director Scott reported that Chairman Henry A. Waxman of the Energy and Commerce Committee and Chairman Edward J. Markey of the Energy and Environment Subcommittee released a draft of clean energy legislation that will create jobs, help end our dependence on foreign oil, and combat global warming. The American Clean Energy and Security Act of 2009 (ACES) is a comprehensive approach to America's energy policy that charts a new course towards a clean energy economy. The legislation remains in draft status until its release from the Commerce Committee.

Clean Air Planning Act 2009 (CAPA Bill)

Director Scott informed members of the ARC that NHDES staff are reviewing an advance version of the CAPA 2009 legislation. He reported that the CAPA 2009 transforms the structure of energy production and consumption.

Site Evaluation Committee

Decision for Public Service of New Hampshire Appeal - Motion for Declaratory Ruling does not trigger SEC review for PSNH.

National Core (NCore) Air Quality Monitoring Program

Director Scott informed members of the ARC that NHDES Staff are requesting \$70,000 from the AEP settlement to establish an NCore air quality monitoring site at the Moose Hill Elementary School located in Londonderry, NH. Londonderry is representative of the airmass of southeastern New Hampshire, northern Massachusetts, and southeastern Maine.

The site will provide data on several pollutants at lower detection limits and replace the National Air Monitoring Station (NAMS) networks that have existed for several years. The NHDES submitted this plan to EPA on July 1, 2009, and plans to have the NCore station operational by January 1, 2011 – with EPA approval. The NCore monitoring station will be constructed as an energy efficient model to include PV roof panels and fiber optic wiring.

Env-A 1400, Regulated Toxic Air Pollutants:

Chairman Duval introduced Thomas Niejadlik, Administrator, Environmental Health Programs. Mr. Niejadlik provided members of the ARC with the revisions to re-adopt Env-A 1400, Regulated Toxic Air Pollutants which was last adopted in February 2005. The Department is required to re-adopt rules every eight years or they expire. Due to the numerous changes proposed this year, the NHDES has decided to re-adopt the rule now rather than wait. The existing rule implements the Regulated Toxic Air Pollutant rule established under RSA 125-I. The purpose of this chapter is to prevent, control, abate, and limit the emissions of toxic air pollutants into the ambient air. The ambient air limits are intended to promote public health by reducing human exposure to toxic air pollutants.

Based on changes made to the list of chemical substances by the American Conference of Governmental Industrial Hygienists (ACGIH) and as required by RSA 125-I:4, the NHDES is proposing to adopt amendments based on ACGIH changes made in 2007 and 2008. The 2008 changes were published as work on the 2007 changes was being completed, so it was decided to address both this year.

- The following eight compounds were added by ACGIH and are proposed as new RTAPs:

1-Methyl naphthalene	5-Nitro-o-toluidine
2-Methyl naphthalene	Dimethyl disulfide
Hexafluoropropylene	Alachlor, inhalable fraction and vapor
Isobutene	Polyvinyl chloride (PVC)

- The TLVs for the following ten substances were removed by ACGIH, and are being proposed for delisting:

Triphenyl amine	Emery
Calcium carbonate	Silica, crystalline Tripoli
Aluminum oxide	Alkyls as Al
Pyro powders as Al	Soluble salts as Al
Welding fumes as Al	Welding fumes (not other wise classified)

- Two substances were either combined or expanded by ACGIH.
 - Iodine was expanded to inhalable fraction and vapors, and includes iodides;
 - Aluminum and compounds, as Al have been reduced to Aluminum metal and insoluble compounds.
- Values have been added for Dimethyl carbamoyl chloride (DMCC), which has been on the RTAP list with no regulatory limits. Data limitations prevented the department from deriving AALs in accordance with Env-A 1410 until now.

- Thirty-five RTAPs have had “inhalable fraction and vapor” added to their description. This notation was appended to the compound in ACGIH to indicate that the compound can exist in both vapor and particle form, with each form contributing to the health impact.
- The NHDES is proposing to remove the following 19 compounds since harmful levels of these can only exist in confined areas and not in the ambient air.

Diesel fuel (as total hydrocarbons) (fuel oil #4)	Cotton dust
Ethane (see Aliphatic hydrocarbon gases)	Flour dust
Propane (see Aliphatic hydrocarbon gases)	Sucrose
Isobutane (see Aliphatic hydrocarbon gases)	Carbon black
Butane (see Aliphatic hydrocarbon gases)	Cellulose
Natural gas (see Aliphatic hydrocarbon gases)	Starch & Starch (dust)
Diesel fuel (as total hydrocarbons) (diesel oil)	Portland cement
Diesel fuel (as total hydrocarbons) (fuel oils #2)	Diesel fuel (as total hydrocarbons) (diesel #2)
Liquefied propane gas (LPG) (see Aliphatic hydrocarbon gases)	
Diesel fuel (as total hydrocarbons) (diesel #4, marine diesel)	
Aliphatic hydrocarbon gases C1-C4 (measured as butane)	

- The NHDES is proposing to expand the list of exempt devices and fuels to include:
 - Propane;
 - Biomass, along with an expanded definition within the rule;
 - ASTM specification B20 [20% biofuel mixed with 80% virgin fuel oil] to be combusted in an external combustion device;
 - Waste water evaporators which do not process wastewater containing volatile organic compounds;
 - Waste oil heaters which meet certain specified criteria; and
 - Non-metallic mineral process in plants.
- Section Env-A 1405.05 – The factors used to calculate the adjusted in-stack concentration have been revised based on current US EPA ambient air impact modeling. The new impact modeling derived two dilution factors that can be used to determine the adjusted in-stack concentration based on distance of the process or device from the compliance boundary.
 - For facilities where the edge of the building housing the process or device is <40 ft from the compliance boundary, a factor of 250 is used as the denominator;
 - For facilities where the edge of the building housing the process or device is >40 ft from the compliance boundary, a factor of 700 is used as the denominator.
- Section Env-A 1410.03 and 1410.04 – the factor used to calculate the 24-hour and annual de minimis values have been lowered based on the new EPA ambient air model. The change in this factor will have the affect of increasing both the 24-hour and annual de minimus levels for all RTAPs.
- Section Env-A 1403.01 was edited to clarify when a permit is required.

Terry Callum entered a motion to accept for review that proposed rule for re-adoption. William Smagula seconded the motion. All present were in favor. Motion carried. Chairman Duval instructed

members of the ARC to contact Vice-Chairman Collins with any additional comments concerning the rule within fifteen days.

Status of Appeals:

Amy Samson, Appeals Clerk provided members of the ARC with a status of appeals before the ARC:

Docket # 09-18 ARC, Appeal of Public Service of New Hampshire

The ARC voted to table the appeal at the ARC meeting on July 13, 2009. The parties requested that the ARC delay acting on the appeal, and hold the appeal in abeyance until the NHDES takes the opportunity to reconsider the decision.

Docket # 09-03 ARC and 09-04 ARC , Appeal of Mink Hills Center for Sustainable Development

ARC deliberations scheduled for today, August 10, 2009 at 10:30 a.m. following the regular meeting of the ARC.

Docket #09-10 ARC, Appeal of NH Sierra Club et al. and 09-11 ARC, Appeal of Conservation Law Foundation

A pre-hearing conference was held on June 22, 2009. A further pre-hearing conference in this matter has been scheduled for Monday, August 17, 2009 at 9:00 a.m. in room 110, 29 Hazen Drive. The appeal hearing in this matter has been scheduled for Monday, September 14, 2009 at 10:00 a.m. in room 112, 29 Hazen Drive.

Docket # 08-48 ARC, Appeal of Russell Thomas (Administrative Order # WMD 08-033)

Chairman Duval requested a status report be presented at the next meeting of the ARC on September 14, 2009.

Other Business:

Chairman Duval set the next date of the ARC to be held on September 14, 2009, at 9:00 a.m. in conference rooms 112 and 113.

Adjourn:

Having no further business to discuss, Terry Callum entered a motion to adjourn. William Smagula seconded the motion. All present were in favor. Meeting #181 of the ARC adjourned at 9:40 a.m. on August 10, 2009.