

**AIR RESOURCES COUNCIL  
MINUTES OF MEETING #182  
09/14/09**

- MEMBERS PRESENT:** Chairman Robert Duval, Vice-Chairman David Collins  
William Smagula, Linda Thomas, Steven Walker,  
Debra Hale
- MEMBERS NOT PRESENT:** Robert Hickey, Georgia Murray, Ryan Bielagus, Terry Callum,  
Raymond Donald
- NHDES – ARD PERSONNEL:** Robert Scott, Anne Keach, Peter Demas,  
Ryan Trombley, Pamela Monroe, Barbara Hoffman,  
Craig Wright
- OTHER INTERESTED PARTIES:** Atty. Linda Landis, Catherine Corkery, Atty. Arthur Cunningham

**Call to Order:**

Vice-Chairman Collins called Meeting #182 of the Air Resources Council (ARC) to order at 9:00 a.m. on Monday, September 14, 2009. Vice-Chairman Collins announced that the approval of the meeting minutes for ARC meeting # 181 will be taken up once Chairman Duval arrives and a quorum is present.

**Division Activities & Legislative Update:**

Vice-Chairman Collins introduced Robert Scott, Director of the Air Resources Division (ARD). Director Scott provided members of the ARC with an update regarding the following issues relevant to the Air Resources Division:

**Permitting Activities**

PSNH Title V Permit, Bow, NH– Public Hearing held on September 3, 2009. Public comment period extended to October 20, 2009. Final decision for permit expected in November 2009.

Clean Power Development, Berlin, NH – Public notice issued on August 19, 2009. Public comment period closed on September 9, 2009.

**Compliance and Enforcement Activities**

Open Burning Settlement, Piermont, NH – The NHDES and the Office of the Attorney General has reached a settlement with the Town of Piermont concerning an unauthorized training burn. A press release is forthcoming.

**American Electric Power Settlement**

Settlement has been reached through which the NHDES will receive \$240,000 annually for five years. In the first year, \$200,000 will fund the Diesel Reduction Program; in the second year, \$106,000 will fund the Woodstove Change-out Program for the City of Keene to decrease the City's non-attainment issues. \$70,000 will fund equipment for state-wide air monitoring sites and the balance of the funds will fund public education and outreach efforts.

**Legislation**

Director Scott announced that the deadline for filing Legislative Service Requests is next week. He provided members of the ARC with the following 2010 LSRs relative to the Air Resources Division:

- Relative to the sale and transfer procedures for shutdown emission credits. (Sponsor: Rep. N. Kaen)
- Relative to the issuance of air permits and certain fees relative to air permits. (Sponsor: Rep. N. Kaen)

- Relative to NOx emitting generation source requirements. (Sponsor: Rep. N. Kaen)

### **Approval of Minutes:**

At 9:15 a.m., Chairman Duval arrived and relieved Vice-Chairman Collins as presiding officer. Chairman Duval announced that a quorum was present. Steven Walker entered a motion to accept the minutes of meeting #181. William Smagula seconded the motion. Linda Thomas abstained. All other members present were in favor. The minutes of meeting #181 were accepted by the ARC.

### **Env-A 500, Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants:**

Chairman Duval introduced Ryan Trombley, Intern, Technical Services Bureau. Mr. Trombley provided members of the ARC with the revisions to *Env-A 500, Standards Applicable to New or Modified Facilities and Sources of Air Pollution*. Mr. Trombley explained that Env-A 500 was originally adopted on April 5, 2002. By state law, administrative rules expire after eight (8) years unless they are readopted prior to the expiration date. The NHDES is proposing to re-adopt Env-A before the expiration of this rule on April 5, 2010.

The existing rule implements by reference certain federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air pollutants (NESHAP), and NESHAP for specific source categories (also known as MACT, for Maximum Achievable Control Technology). These three groups of federal standards codified at 40 CFR 60, 61, and 63, respectively, are currently in effect and applicable to numerous state sources.

By agreement with the USEPA, New Hampshire's rule is updated annually to incorporate new federal NSPS, NESHAP, and MACTs that have been promulgated since the last annual update. Since the last annual update, the USEPA has not promulgated any new federal NSPS, NESHAP, or MACTs, that necessitate incorporation. Thus, the proposed rule does not add any new standards. Mr. Trombley stated that the changes include minor edits to make it easier to read, and updating the reference date for the Code of Federal Regulations (CFR) to July 1, 2009.

Mr. Trombley advised ARC members to contact Barbara Hoffman of the Compliance Bureau with any questions regarding the proposed re-adoption of Env-A 500.

Debra Hale entered a motion to accept the proposed re-adoption of Env-A 500. 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 regarding the revisions to Env-A 500 within fifteen (15) days.

### **Status of Appeals:**

Peter Demas, Legal Unit, Office of the Commissioner, provided members of the ARC with a status of appeals before the ARC:

#### **Docket Nos. 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.

Steven Walker entered a motion to continue to table this item until the revised Director's Decision is issued. Debra Hale seconded the motion. All present were in favor. The appeal of Public Service of New Hampshire was tabled.

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

At the pre-hearing conference, the Presiding Officer Donald ruled that the hearing scheduled for 9/14/09 shall be continued and rescheduled for 11/9/09 at 10:00 a.m. and if needed, 12/14/09 at 10:00 a.m. Additionally, the Presiding Officer ruled that on or before 9/28/09, the New Hampshire Sierra Club and the Conservation Law Foundation shall file witness lists setting forth the name of each witness expected to testify at the hearing, as well as a description of the expected testimony of each witness. On or before 10/9/09, PSNH and the NHDES shall file witness lists setting forth the name of each witness expected to testify at the hearing, as well as a description of the expected testimony of each witness. The witness lists submitted shall be detailed enough to give the parties and the ARC an understanding of all subject matters on which each witness will testify and a reasonable expectation as to what each witness will testify to. On 9/11/09, a Decision and order was issued regarding the denial for Request for information and Regarding Scope of Issues on Appeal. Copies of the hearing notice and the decisions that were sent to the parties were provided to members of the ARC.

**Other Business:**

Linda Garrish stated that she was not present for the hearing of the Appeal of Mink Hills Center for Sustainable Development; Docket No. 09-03 (Appeal), which was held on September 14, 2009. Ms. Thomas requested a copy of the site visit and inspection report. Ms. Thomas further requested an opportunity to review the draft Determination concerning the Appeal.

.Chairman Duval set the next date of the ARC to be held on October 19, 2009, at 9:00 a.m. in conference rooms 112 and 113.

**Adjourn:**

Having no further business to discuss, William Smagula entered a motion to adjourn. Steven Walker seconded the motion. All were in favor. Meeting #182 of the ARC adjourned at 9:45 a.m. on September 14, 2009.