

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #185
01/25/10**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins
William Smagula, Linda Thomas, Steven Walker,
Georgia Murray (via conf. call), Robert Hickey, Ryan Bielagus,
Terry Callum, Raymond Donald, Debra Hale

MEMBERS NOT PRESENT:

NHDES – ARD PERSONNEL: Robert Scott, Anne Keach, Amy Samson,
Michael Fitzgerald, Pamela Monroe, Jeffrey Underhill,
Michele Roberge, Gary Milbury, Joseph Fontaine, Todd Moore,
Raymond Walter, Karla McManus

OTHER INTERESTED PARTIES: Atty. Anne Edwards, Atty. Anthony Blenkinsop, Atty. Barry
Needleman, Atty. Linda Landis, Catherine Corkery

Call to Order:

Chairman Duval called Meeting #185 of the Air Resources Council (ARC) to order at 9:00 a.m. on Monday, January 25, 2010. Chairman Duval announced that a quorum was present.

Approval of Minutes:

William Smagula entered a motion to accept the minutes of meeting #184. Raymond Donald seconded the Motion. All were in favor. The minutes of meeting #184 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 an update regarding the following issues relevant to the Air Resources Division:

Proposal to Revise National Ambient Air Quality Standards for Ozone

Director Scott announced that on January 6, 2010, the EPA proposed to strengthen the national ambient air quality standards (NAAQS) for ground-level ozone, the main component of smog. He explained that the EPA is proposing to strengthen the 8-hour ozone standard to a level within the range of 0.060-0.070 ppm. The proposal to strengthen the primary standard places more weight on key scientific and technical information including the results of EPA's exposure and risk assessment.

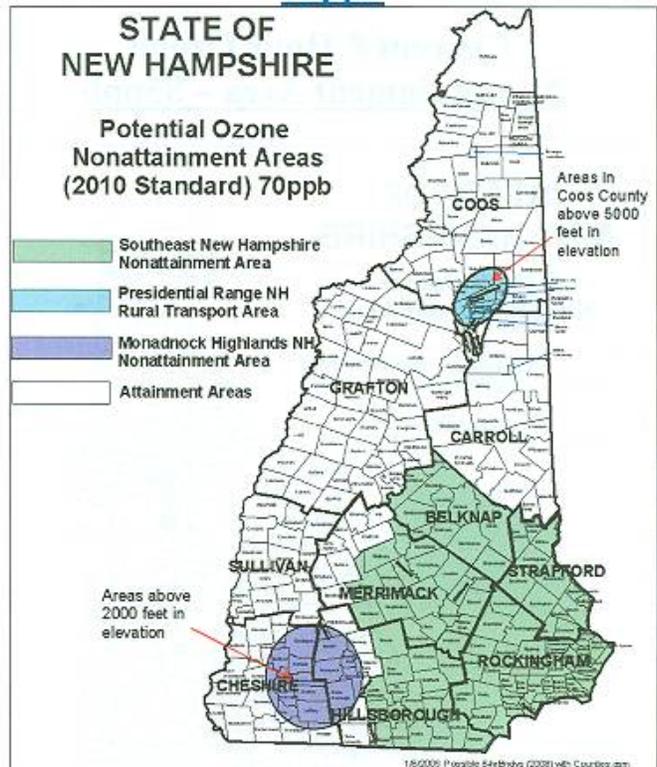
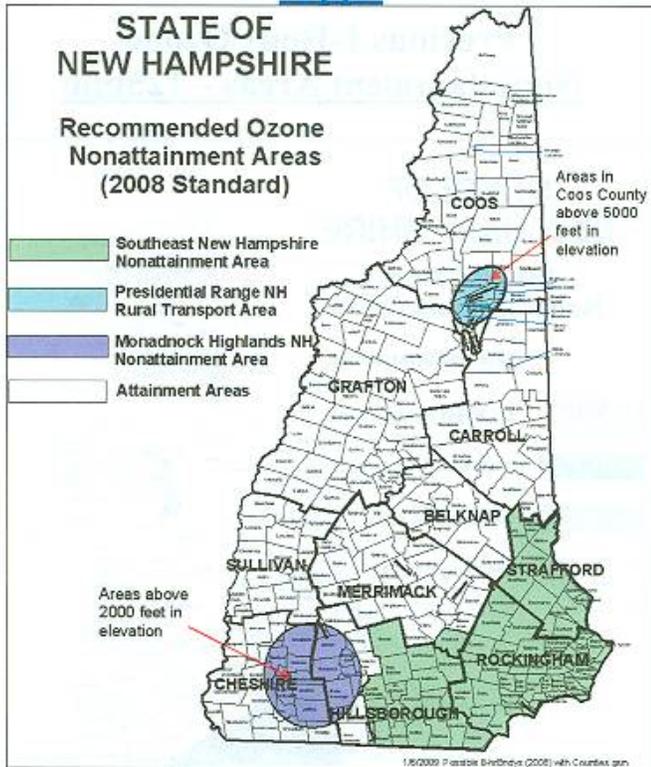
Georgia Murray asked if the NHDES planned to comment on the secondary standard. Jeffrey Underhill, Chief Scientist, stated that the secondary standard is designed to protect sensitive vegetation and ecosystems, including forests, parks, and wildlife reserves. Mr. Underhill stated that the NHDES intends to include comments concerning the "secondary" standard as well. He added that he is working with the Ozone Transport Commission (OTC) and the Northeast States for Coordinated Air Use Management (NESCAUM) as he prepares comments. He added that EPA will accept public comments for 60 days following the publication of the proposal in the Federal Register and that EPA intends to issue final standards by August 31, 2010.

Mr. Underhill provided members of the ARC with copies of the following maps which indicate the recommended ozone non-attainment areas (2008 standards), and potential ozone non-attainment areas (2010 standard) at 70ppb, 65ppb, 60ppb and the current 8-hour ozone non-attainment area (85ppb) and the previous 1-hour ozone non-attainment areas (125ppb).

Potential Ozone Nonattainment Areas In New Hampshire

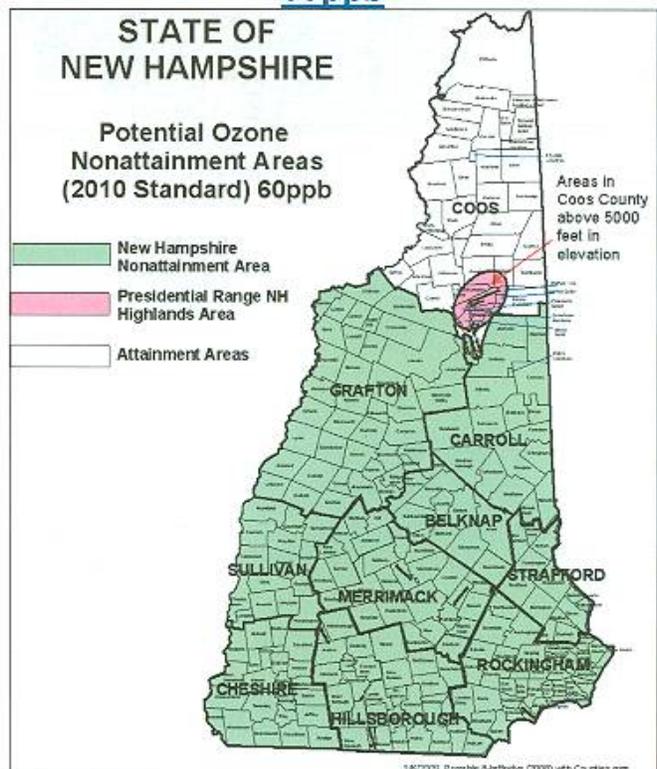
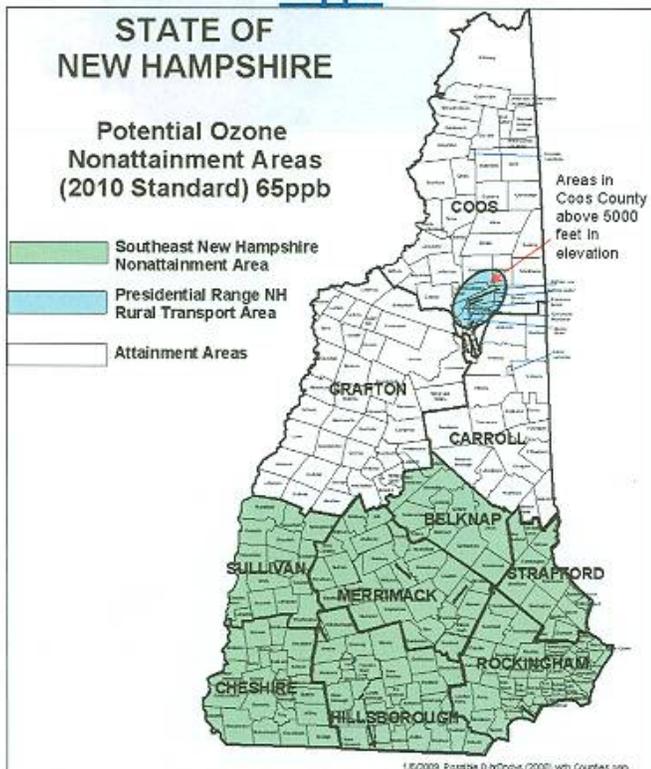
75ppb

70ppb



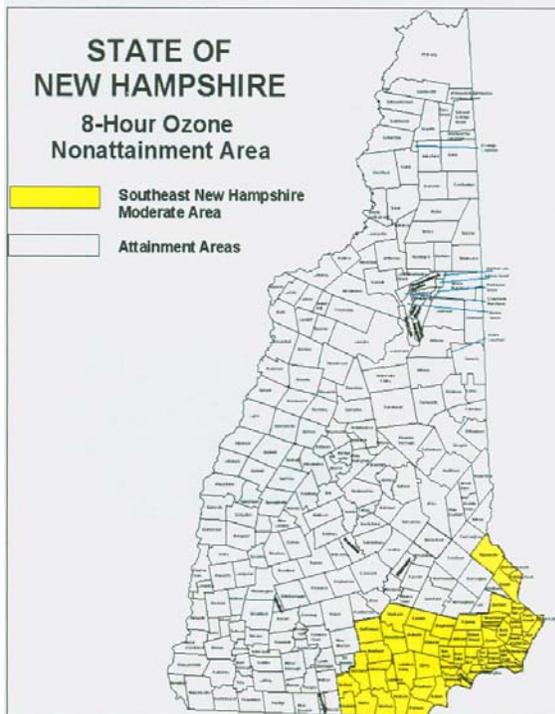
65ppb

60ppb

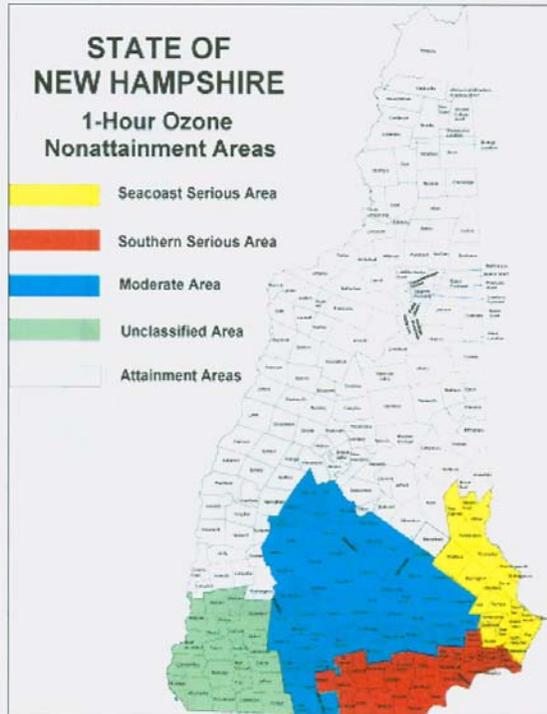


Potential Ozone Nonattainment Areas In New Hampshire

Current 8-Hour Ozone Nonattainment Area – 85ppb



Previous 1-Hour Ozone Nonattainment Areas – 125ppb



Legislative Activities:

Director Scott informed members of the ARC that there are three major bills before the legislature this session which will affect the Air Resources Division:

- HB 1542FN - Repealing NO_x emitting generation source requirements. (Rep. Kaen). Director Scott explained that the provisions in RSA 125-J that apply to NO_x-Emitting generation sources were adopted in 1999 (Chapter 343). Under this bill, the NHDES will be allowed to recover its administrative costs until such time that the program is repealed in 2-14. Any funds remaining at that time will be transferred to the special account established in RSA 125-J for the acquisition and generation of Emission Reduction Credits (ERCs) for future economic development.
- HB 1251 - Relative to the sale and transfer procedures for shutdown emission credits. (Rep. Kaen). Director Scott stated that this legislation clarifies the sale and transfer procedures for emission reduction credits (ERCs) resulting from facility closures and shutdowns. Under RSA 125-J, ERCs generated from the shutdown of emission units revert to the State. Pursuant to this provision, New Hampshire has generated a “bank” of 508 ERCs. The bank of offsets is reserved for use by the Governor and Executive Council in accordance with criteria established

in the statute, primarily related to supporting economic development in the State. He explained that the proposed amendments to RSA 125-J would clarify that companies that are assigned ERCs from the state bank would be required to:

1. Subsequently purchase ERCs on the open market and return them to the State in order to refill the bank; or
2. Reimburse the State for the value of the ERCs.

He added that by clarifying the sale and transfer procedures for shutdown ERCs will assist the Governor and Executive Council as they consider how the State's ERC bank will be used. It will benefit the NHDES and regulated sources by providing certainty to the New Source Review (NSR) offset acquisition process, and NH's economy and environment by providing a cost effective means of offsetting emissions from new sources.

- HB 1534 - Relative to the issuance of air permits and certain fees relative to air permits. (Rep. Kaen). Director Scott stated that the NHDES would like to establish a permit-by-notification system for certain types of sources that by their nature may relocate operations periodically (such as rock crushing operations) or minor sources that require a low level of technical review (such as small natural gas-fired boilers). By requiring such sources to obtain site-specific air permits, significant administrative burdens on the source and NHDES would be reduced.

Permitting Activities

Mr. Scott stated that the Air Resources Division is planning to revise the existing rules regulating rock crushing operations. Current State regulations require site-specific permits, which must be obtained prior to the start of rock crushing operations at any new location. He added that the NHDES would like to amend the rules to create a permitting system which is easier and less expensive for operators to comply with, but still adequately limits dust emissions and fulfills NHDES' obligation to enforce the federal regulations. Director Scott informed members of the ARC that the NHDES will convene a stakeholder meeting on January 14, 2010, to discuss the proposed changes and to solicit feedback from the regulated sources.

- The public comment period for the draft Title V Operating Permit for PSNH Merrimack Station in Bow, NH ended on October 20, 2009. The NHDES received over one hundred specific comments on the draft permit and is currently drafting responses to these comments. The NHDES has requested additional information from PSNH so that the NHDES can provide more detailed responses to some of the comments that were received. The NHDES is preparing to issue a decision soon.
- Laidlaw Berlin BioPower is preparing an air permit application for a 70 MW wood-fired power plant at the former Fraser Paper pulp mill site in Berlin, NH. Since this facility is larger than 30 MW, the company needs to obtain approval from the New Hampshire Site Evaluation Committee (SEC). The facility submitted their application to the SEC in December.

This facility will be classified as a new major source under the New Source Review program, and as such will involve the office of the Federal Land Manager to ensure that any concerns with impacts to nearby Class I areas are addressed.

- PSNH Schiller Station, Portsmouth, NH was issued a temporary permit to burn cocoa bean shells from the Lindt & Sprüngli facility in Stratham.

Keene Woodstove Changeout Program

Director Scott reported that the Woodstove Changeout Program in Keene has issued 76 vouchers for \$1,000.00 each to residents of the City of Keene.

Enforcement Actions

Director Scott reported the details of the following enforcement actions by the Air Resources Division:

- Ingersoll-Rand Energy Systems Corporation of Portsmouth – Administrative Fine by Consent Agreement – Under the terms of the Agreement. The company has not admitted liability for the alleged violations but will pay administrative fines totaling \$5,750 to the State. The fines resolve allegations that the company exceeded permit limits for carbon monoxide and volatile organic compound emissions in 2007, failed to notify the NHDES within 24 hours of their discovery, failed to renew its air permit in a timely manner, and failed to submit annual emissions report for 2007.
- Town of Piermont – Administrative Fine of \$4,210 for violations of the State's Air Pollution Control Act that occurred on February 14, 2009 when the Piermont Fire Department burned a vacant house. The NHDES did not receive prior notification of firefighter training or of the proposed demolition of the house, and the house was not inspected for asbestos prior to the demolition.
- Lourdes Ramirez-Crusellas of Keene, NH – Attorney General Delaney and Special Agent-in-Charge Michael Hubbard of the USEPA's Criminal Investigation Division announced that on January 20, 2010, Lourdes Ramirez-Crusella pled guilty on two misdemeanor counts of reckless conduct. These convictions relate to Ms. Ramirez-Crusellas' illegal disposal of asbestos-containing material from a renovation project. The disposed asbestos was found in a dumpster located on the campus of Keene State College. Cheshire County Superior Court sentenced Ms. Ramirez-Crusellas to twelve months in the Cheshire County House of Corrections, all but nine days suspended, conditioned on the payment of restitution to Keene State College for the cost of proper disposal of asbestos, the payment of \$4,000.00 in fines.

Status of Appeals:

Docket No. 09-43 ARC Appeal of Public Service of New Hampshire (PSNH)

PSNH by way of this filing, withdraws the earlier appeal filed on May 1, 2009 (Docket No. 09-18 ARC), which was held in abeyance pending reconsideration by the NDHES of the earlier determination dated April 2009. PSNH is appealing the decision issued by the NHDES on December 3, 2009.

Members of the ARC received the Appeal at the ARC meeting, and therefore were afforded an opportunity to review the filing. Debra Hale entered a motion to table the appeal until the next meeting of the ARC. Linda Thomas seconded the motion. All were in favor. The motion carried.

Docket No. 08-48 ARC, Appeal of Russell Thomas

Ms. Samson reported that Atty. Maloney and Atty. Somers have reached a final agreement and expect to file same with the ARC at the next meeting on February 8, 2009.

Docket Nos. 09-03 and 09-04 ARC Appeal of Mink Hills Center for Sustainable Development and Katherine Lajoie.

Appeal of January 5, 2009 Decision to Approve the Application and Issue a Proposed Title V Operating permit to Wheelabrator Concord Company, LP. Ms. Samson reported that the Decision and Order is being finalized and will be ready for the ARC to approve at the next meeting on February 8, 2009.

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

Raymond Donald announced that Atty. Anthony Blenkinsop of the NHDOJ would be delayed, and stated that Atty. Anne Edwards would represent the ARC at the hearing until Atty. Blenkinsop arrives. Ms. Samson reported that following pending motions will be addressed at the Hearing scheduled for 10:30 a.m.

1. Sierra Club Motion to Disqualify R. Donald (10/19/09). PSNH Objection (10/22/09); Sierra Club Reply (10/23/09); PSNH Response (10/29/09). *Action: Grant or deny Sierra Club's Motion to Disqualify.*
2. PSNH Objection to Sierra Club Witness List and Motion to Strike Witnesses (10/5/09). No Objection or Response to motion to Strike was filed. *Action: Grant or deny PSNH's Objection to Sierra Club's Witness List and Motion to Strike Witnesses or deny.*
3. Sierra Club Motion to Compel 3rd Request for Documents (10/23/09). PSNH Objection (11/2/09). *Action: Grant or deny Sierra Club's motion to Compel 3rd Request for Documents.*
4. PSNH Motion to Dismiss Issue C. No Objection or Response Filed. *Action: Grant or deny PSNH's Motion to Dismiss Issue C.*
5. PSNH Motion to Dismiss Sierra Club for Lack of Standing (12/23/09). Sierra Club's Objection (12/28/09); PSNH Reply to Objection (1/6/10). *Action: Grant or deny PSNH's Motion to Dismiss Sierra Club for lack of Standing.*

Env-A 800, Testing and Monitoring Procedures

Director Scott request that this item be tabled until the March 15, 2010 meeting of the ARC. Director Scott stated that the comment period has been extended to allow PSNH to submit comments concerning the proposed revision to the rules. Raymond Donald entered a motion to table the revisions to Env-A 800 until March 15, 2010. Ryan Bielagus seconded the motion. All were in favor. The motion carried.

Env-A 600, Statewide Permitting System

Chairman Duval introduced Todd Moore, Administrator of the Permitting and Environmental Health Bureau. Mr. Moore explained that the revisions to Env-A 600 are intended to address the following six issues:

1. Establish Permit-by-Notification System: The types of sources that require permits are listed in Env-A 607.01. Under current rules, any source or device that meets one of these thresholds is required to obtain a Temporary Permit prior to start of construction or installation.

The ARD attempts to process applications for Temporary Permits within 90 days of receiving a complete application. There are some sources, such as rock crushers, which do not require in-depth technical review. The ARD is proposing to establish a permit-by-notification system under which sources will file a registration certifying that they will operate in compliance with all applicable requirements. The owner/operator will be allowed to start construction or operation immediately upon filing the notification.

The ARD anticipates that this system will streamline the permitting process for non-complex sources, decrease regulatory and financial burden for the NHDES and the owners/operators, and increase the percentage of sources that are operating in compliance with the applicable rules. The ARD plans to initially establish a permit-by-notification system for rock crushers.

Additional rulemaking will be required to allow other types of sources to use the permit-by-notification system.

2. Clarify when documents and reports are due: The ARD is proposing to amend rule language to clarify that documents must be received by the NHDES by the due date.
3. Fuel types: The ARD proposes to change the specific fuel lists to a more generic fuel type description to cover all types of fuels e.g., gaseous fuel vs. natural gas). For engines, current rules exempt individual liquid-fueled engines smaller than 10% of the aggregate permitting threshold from obtaining permits. The ARD is proposing to apply this same exemption to gaseous-fueled engines. This was the intent of the rulemaking when this exemption was established, but gaseous-fueled engines were overlooked at that time.
4. Monitoring Plans: The ARD includes specific operational, monitoring, and recordkeeping requirements in permits for sources which operate pollution control equipment. The permit conditions are established through review of the operations and generally require more information than is provided in the initial application. The ARD is proposing to require sources that operate pollution control equipment to include an operation and monitoring plan for that equipment with their application, keep a copy of the plan on file at the facility, and notify the ARD when they update the plan.
5. Minor Modification Due Date: When a source operating under a Title V Permit wishes to expand or modify its facility, the source is required to obtain a separate Temporary permit for the change. Once the changes have been made, the source must file an application for a Minor Modification to incorporate the changes into its Title V Permit. Current rules do not specify when this application is due. The ARD is proposing to amend the rules to require applications for Minor modifications to be filed with the NHDES at least 90 days prior to the expiration of the Temporary Permit.
6. Determination of Actual Emissions: The ARD is proposing to eliminate from Env-A 600 the section of the rule that describes how actual emissions should be calculated. These calculations are primarily used for annual emissions reports and determining emission-based fees, which is required in Chapter Env-A 700, *Permit Fee System*. The ARD is proposing to move this section of the rule to Env-A 700.

Raymond Donald entered a motion to accept the proposed revision to Env-A 600. Terry Callum seconded the motion. All were in favor. The motion carried.

Chairman Duval reminded members of the ARC to contact ARD rulemaking coordinators and Vice-Chairman Collins with any comments related to proposed revisions to rules presented before the ARC within 15 days of acceptance of the rule.

Other Business:

Having no further business to discuss, Chairman Duval set the next date of the ARC to be held on February 8, 2010, at 9:00 a.m. in conference rooms 112 and 113.

Adjourn:

Raymond Donald entered a motion to adjourn. William Smagula seconded the motion. All were in favor. Meeting #185 of the ARC adjourned at 10:10 a.m. on January 25, 2010.

All recused members left the meeting. The hearing regarding Docket Nos. 09-10 ARC and 09-11 ARC reconvened at 10:45 a.m.

