

**AIR RESOURCES COUNCIL  
MINUTES OF MEETING #175  
01/26/09**

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

**MEMBERS NOT PRESENT:** Steven Walker, Linda Thomas

**NHDES – ARD PERSONNEL:** Robert Scott, Anne Keach, Joanne Morin, Jeffrey Underhill, Muriel Lajoie, Barbara Hoffman, Amy Samson

**OTHER INTERESTED PARTIES:** Anthony Blenkinsop and Evan Mullholland, NHDoJ

**Call to Order:**

Chairman Duval called Meeting #175 of the Air Resources Council (ARC) to order at 9:05 a.m. on Monday, January 26, 2009, and announced that a quorum was present.

**Approval of Minutes:**

Chairman Duval entertained a motion to accept the minutes of meeting #174. Robert Hickey entered a motion to accept the minutes of meeting #174. Raymond Donald seconded the motion. All present were in favor. The minutes of meeting #174 were accepted by the ARC.

**Division Activities & Legislative Update:**

Chairman Duval introduced Robert Scott, Director of the Air Resources Division. Director Scott provided members of the Air Resources Division with an overview of the following legislative items related to the Air Resources Division:

**Legislative Issues**

HB 55 – relative to the definition of “bulk power supply facilities”

HB 61 – relative to the definition of “sustainable energy”

HB 125-FN – increasing the rate of the gas tax and declining the increased revenues to development and improvement of highway-related transit systems serving New Hampshire residents

HB 229 – clarifying the eligibility requirements for Class IV renewable energy generating facilities

HB 259 – relative to changing the annual motor vehicle inspection requirement to a biennial requirement and raising the fee for inspection stickers from \$2.50 to \$5.00

HB 269 – relative to requiring a measurement of carbon dioxide produced and sequestered in New Hampshire

HB 303-FN – relative to establishing time limits for idling motor vehicles and additional motor vehicle emission requirements

HB 352 – relative to banning the manufactured corn-based ethanol as an additive in New Hampshire

HB 354 – relative to establishing a committee to study local government eligibility for certain funding for energy efficiency improvements

HB 395 – relative to requiring electric utilities to offer a renewable default energy service option

HB 482 – relative to mold assessment, testing, and remediation

HB 496 – relative to establishing a limit on the amount of cost recovery for the emissions reduction equipment installed at the Merrimack Station in Bow

HB 515 – relative to establishing a commission to study electric vehicles

SB 44 – establishing a commission to review all fees charged by the Department of Environmental Services

SB 73 – relative to requiring state departments to reduce energy consumption by 25 percent by 2025

SB 85 – relative to extending to commission to develop a plan for the expansion of transmission capacity in the north country

SB 97 – relative to customer information regarding the energy sources and environmental characteristics of their electric service

Director Scott provided members of the ARC with an overview of the following permitting activities and regional/national issues:

#### PSNH – Installation of Scrubber, Merrimack Station

Director Scott reported that the Air Resources Division held a public hearing on January 15, 2009 regarding the proposed permit to allow construction of a \$457 million upgrade to the coal-fired power plant located in Bow. Director Scott reported that those in attendance provided comments in support and in opposition of the permit. The public comment period closed on January 23, 2009. Comments are being reviewed by ARD staff.

#### Concord Steam, New Facility

Director Scott reported that the public comment period for the issuance of the operating permit for Concord Steam's new facility has closed. No comments were received and no request was submitted for a public hearing. The operating permit will be issued by the end of January 2009.

#### Ozone Designation Update

Director Scott introduced Dr. Jeffrey Underhill of the Atmospheric Science and Analysis Section. Dr. Underhill provided members of the ARC with the following ozone update:

- Ozone standard was recently lowered from 85ppb to 75ppb.
- Ozone levels are improving in the state and NH is now coming into attainment with the older standard.
- Portions of NH will be designated as Non-attainment for the revised standard.
- Nashua, Portsmouth, Miller State Park (Pack Monadnock), and Mt. Washington are exceeding or borderline exceeding the new standard.
- While portions of New Hampshire will be designated as Non-attainment for the revised standard, as they were previously under the same designation, no further control measures required.
- Mt. Washington to be designated "Rural Transport", so no new measures are required.

Dr. Underhill outlined the following PM<sub>2.5</sub> Attainment Issues:

- PM<sub>2.5</sub> standard was recently lowered to 23µg/m<sup>3</sup> from 65.
- NH was just designated as attainment state-wide for PM<sub>2.5</sub>.
- PM<sub>2.5</sub> has declined throughout the state over the years.
- In the past few years we are seeing an increase in residential wood-burning and some localized increases in PM<sub>2.5</sub>.
- Wood burning has recently been linked with PM<sub>2.5</sub> exceedances in Keene on some winter nights.
- Recent data collected at Keene indicates that there is a risk of the area losing its attainment status for PM<sub>2.5</sub>.
- Wintertime PM<sub>2.5</sub> levels have recently risen and unhealthy air occurs during some evenings and nights.
- Excellent data capture rates caused a round-down of data point keeping Keene from almost certainly losing attainment status in 2010.

Dr. Underhill explained the following impacts of Non-attainment:

- Under the Clean Air Act, Non-attainment designations are generally made on a county-wide basis – so that means Keene would likely result in Cheshire County being designated as Non-attainment.

- Upon designation the state must implement steps to improve air quality including:
  - Stricter controls on industrial sources
  - Additional planning requirements for transportation-related sources
- Industrial Sector - New Source Review (NSR) for new or modified major sources
  - Lowest Achievable Emissions Rate (LAER) level controls
  - Offsets requirements
- Transportation Sector – Conformity requirements
  - Local transportation and state must coordinate planning to ensure transportation projects, including road construction projects, do not impact air quality
  - Regional Planning Commissions may not have sufficient staff or training
- Additional controls on industrial sources will likely have a minimal impact on PM<sub>2.5</sub> air quality at a potential significant cost to industry
- Transportation conformity will require potentially significant state resources with no direct funding
- Control of the likely cause (residential wood smoke) will be a significant challenge with no current funding source.

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

Chairman Duval introduced Barbara Hoffman, Compliance and Enforcement Programs Manager of the Compliance Bureau. Ms. Hoffman presented members of the ARC with revisions to *Env-A 500, Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants* which was originally adopted in April of 2002. Ms. Hoffman explained that our delegation agreement with the EPA states that NH will accept delegation of newly promulgated federal standards by annually updating our rule. Since the ARD rulemaking position was vacant last year, no update was made. Therefore, this update represents a two year period.

From July 1, 2006 until July 1, 2008, EPA promulgated three New Source Performance Standards, as codified in 40 CFR 60. They are:

- Subpart IIII, Stationary Compression Ignition Internal Combustion Engines;
- Subpart JJJJ, Stationary Spark Ignition Combustion Engines; and
- Subpart KKKK, Stationary Combustion Turbines.

Ms. Hoffman stated that these federal standards are being applied to sources in New Hampshire through their air permits, so adopting them by reference into Env-A 500 will not impose new requirements on the affected sources. It will, however, allow the NHDES to perform certain administrative functions on behalf of the regulated entities, such as making applicability determinations and alternative monitoring decisions that are routine in nature.

No new Maximum Achievable Control Technology (MACT) standards were adopted for major sources of hazardous air pollutants in the last two years. However, the NHDES discovered that a previously adopted MACT standard, the National Emission Standard for Hazardous Air Pollutants for Municipal Solid Waste Landfills, was inadvertently omitted from later versions of Env-A 500 by the Office of Legislative Services (OLS). The standard had been adopted by the NHDES on February 14, 2004, and was never intentionally deleted. While the NHDES could attempt to correct this with the OLS, including it in this rulemaking is simple and conclusive.

Terry Callum entered a motion to accept the revisions to Env-A 500. Robert Hickey seconded the motion. All present were in favor – motion carried. Chairman Duval instructed members of the ARC to contact Vice-Chairman Collins with any comments regarding the proposed rules by February 9, 2009.

### **Appeals Update:**

Amy Samson of the NHDES Legal Unit provided members of the ARC with an update concerning the following appeals before the ARC:

- Docket No. 09-03 ARC, Appeal of Mink Hills Center for Sustainable Development regarding the January 5, 2009 decision to approve the application and issue a proposed Title V Operating Permit to Wheelabrator Concord Company, LP. The appeal was filed in a timely fashion, and was received on January 15, 2009.
- Docket No. 09-04 ARC, Appeal of Katherine Lajoie regarding the January 5, 2009 decision to approve the application and issue a proposed Title V Operating Permit to Wheelabrator Concord Company, LP. The appeal was filed in a timely fashion, and was received on January 15, 2009.

Georgia Murray entered a motion to consolidate the appeals (Docket Nos. 09-03 ARC and 09-04 ARC) and accept the appeals for consideration by the ARC. Terry Callum seconded the motion. All members present were in favor. Motion carried. The appeals of Mink Hills Center for Sustainable Development and Katherine Lajoie were accepted by the ARC.

### **Executive Session:**

Chairman Duval entertained a motion to end the public session of the ARC meeting and enter into Executive Session. Raymond Donald entered the motion, Robert Hickey seconded the motion. All members present were in favor. The ARC entered Executive Session at 9:40 a.m. on January 26, 2009.

At 10:00 a.m. the ARC resumed its public meeting.

### **Other Business**

Because of scheduling conflicts, Chairman Duval cancelled the ARC meeting scheduled for February 23, 2009, and set the next meeting of the ARC to be held on March 9, 2009.

### **Adjourn**

Having no further business to discuss, Raymond Donald entered a motion to adjourn. Robert Hickey seconded the motion. Motion carried. Meeting # 175 of the ARC adjourned at 10:05 a.m.