

**AIR RESOURCES COUNCIL  
MINUTES OF MEETING #210  
10/15/12**

**MEMBERS PRESENT:** Chairman Robert Duval, Vice-Chairman David Collins, William Smagula, Georgia Murray (via conf. call), Steven Walker, Deborah Chabot, Carmela Amato-Wierda

**MEMBERS NOT PRESENT:** Ryan Bielagus, Debra Hale, Raymond Donald

**NHDES – ARD PERSONNEL:** Craig Wright, Anne Keach, Paula Scott, Gary Milbury, Barbara Dorfschmidt, Michele Roberge, Barbara Hoffman

**OTHER INTERESTED PARTIES:**

**Call to Order:**

Chairman Duval called Meeting #210 of the Air Resources Council (ARC) to order at 9:05 a.m. on Monday, October 15, 2012. Chairman Duval announced that a quorum of the ARC was present.

**Approval of Minutes:**

Carmela Amato-Wierda entered a motion to accept the minutes of meeting #209. William Smagula asked a question regarding the chart on page 4 which depict non-attainment areas in central New Hampshire. Mr. Wright explained that under the new standard, the ARD is looking at monitoring data from 2008, 2009, and 2010 to identify proposed non-attainment areas as the time frame for attainment is adjusted. Mr. Wright stated that the ARD is waiting to receive EPA's 120-day response letter which was due during the summer of 2012 and has been delayed. He added that the ARD will submit a non-attainment plan for the non-attainment area by June 2014. William Smagula seconded the motion to accept the minutes. All were in favor. The motion carried. The minutes of ARC meeting #209 were approved and accepted by the ARC.

**Division Activities & Legislative Update:**

Chairman Duval introduced Craig Wright, Acting Director of the Air Resources Division (ARD). Mr. Wright updated members of the ARC on the following issues relative to the ARD:

**Education and Outreach**

**Moose Hill School Air Quality Monitoring Site**

The NHDES recently hosted a ribbon-cutting and site tour of its flagship air monitoring station located at the Moose Hill School in Londonderry. The state-of-the-art facility was built using energy efficient siting, design and lighting. It is the first NHDES monitoring station to incorporate solar energy to power the monitoring equipment.

The station is part of a National CORE multi-pollutant air monitoring network designed to provide data at lower detection limits, as well as enhanced forecasting and reporting of air quality conditions to the public. The site was carefully selected for its central proximity to the highly populated, southeastern suburbs of New Hampshire and lies in the air pollution corridor that crosses the southern portion of the State.

**Northern New England Oakhurst Dairy - Hybrid Delivery Fleet**

On October 10, 2012, Acting Director Craig Wright spoke at the Northern New England Oakhurst Dairy to celebrate the company's expansion of its Hybrid Delivery Fleet. As recipient of an Alternative Fuels Grant from the State of New Hampshire, Department of Environmental Services, and with assistance from Dolores Rebolledo, Granite State Clean Cities Coordinator; the Oakhurst Dairy added three new hybrid delivery trucks to its fleet. These vehicles will begin operation in the

next few weeks, mainly in New Hampshire's "Ozone Non-attainment Areas" or communities that do not currently meet the air quality standards.

In addition to adding these advanced vehicles to their delivery fleet, Oakhurst also uses bio-diesel fuels in a 50% blend, further reducing harmful emissions while using a locally sourced fuel.

### Legislation

Mr. Wright discussed the following legislative issues impacting the Air Resources Division this session, including:

#### **Regional Greenhouse Gas Initiative**

Two Legislative Service Requests (LSRs) have been filed for the 2013 Legislative Session concerning New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions.

#### **Committee to Study the Rulemaking Authority of State Agencies to Establish Fees (HB 624)**

Mr. Wright reported that Chapter 11 establishes a committee to study the rulemaking authority of state agencies to establish fees which shall consist of seven members of the house of representatives to:

- Review statutes that authorize fees to be set in administrative rules.
- Review the frequency of changes to fees established by state agencies and boards.
- Examine whether establishing statutory or other parameters would positively impact fee changes.
- Evaluate the process of setting fees to cover agency expenses or budgets.
- Review and recommend policy changes resulting from the study committee.

#### **Committee to Study NHDES Appeal Process (HB 256)**

Mr. Wright stated that Chapter 246, relative to the administrative appeals process of the NHDES and establishes a committee to study the appeal process of the NHDES. The Chapter Amends RSA 21-M:3, IX.

Mr. Wright reported that at the request of the Committee to Study the Appeal Process of the NHDES, in order to assist the Committee in fulfilling its charge to "evaluate alternative models for appealing decisions of the department of environmental services, adjudicating cases relating to environmental issues, and evaluation opportunities for application of the recommended systems to appeals of other agencies to achieve greater efficiency, impartiality, cost effectiveness, and enhanced delivery of justice." (Laws of 2012, 246:11) a draft document has been prepared by the NHDES Legal Unit which outlines the establishment of an Environmental Appeals Board (EAB) that draws its members from the existing Council. Mr. Wright added that the NHDES does not endorse, support, or recommend any particular changes at this time.

The proposed EAB shall consist of nine members:

- Four members to represent the regulated community, selected on each from the councils;
- Four members to represent environmental, conservation, or public health interests, selected one each from the councils;
- A hearing officer appointed under RSA 21-M:3, VIII, who will shall be neutral.
- Members will be appointed by the Governor and Executive Council for a term if two years.
- Members shall have at least five hours of training annually in the area of environmental law, administrative adjudicate procedure, or related areas;
- Each appeal shall be heard de novo by the EAB;
- Decisions of the board shall be made by a quorum of members who are eligible to hear the appeal;

- Members of the EAB shall receive \$100 per diem for each day devoted to the work of the board and shall be reimbursed for travel expenses.

A committee meeting is scheduled for October 17, 2012 at 1:00 p.m. in Room 305 of the Legislative Office Building.

#### **Env-A 2100, Particulate Matter and Visible Emissions Standards**

Karla McManus presented the revisions of Env-A 2100, *Particulate Matter and Visible Emissions* to members of the ARC. Ms. McManus explained that the ARD is proposing to readopt Env-A 2100 with minor changes because it is due to expire on November 24, 2012. It was determined that a new section, Applicability, needed to be added. Other minor edits were made for purposes of clarity.

David Collins entered a motion to accept the initial proposal of amendments to Env-A 2100. Carmela Amato-Wierda seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman David Collins with further comments regarding Env-A 2100 within fifteen days.

#### **Env-A 2400, Ferrous and Non-Ferrous Foundries, Smelters, and Investment Casting Operations**

Karla McManus presented the revisions of Env-A 2400, *Ferrous and Non-Ferrous Foundries, Smelter, and Investment Casting Operations* to members of the ARC. Ms. McManus explained that the ARD is proposing to readopt Env-A 2400 with minor changes because it is due to expire on November 24, 2012. It was determined that Part Env-A 2406 was repetitious, so Env-A 2406.01 was removed and renumbered as Env-A 2402.02. The rest of Env-A 2406 was deleted because it was covered by Env-A 2404. Other minor edits were made for purposes of clarity.

David Collins entered a motion to accept the initial proposal of amendments to Env-A 2400. William Smagula seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman David Collins with further comments regarding Env-A 2400 within fifteen days.

#### **Env-A 2700, Hot Mix Asphalt Plants**

Karla McManus presented the revisions of Env-A 2700, *Hot Mix Asphalt Plants* to members of the ARC. Ms. McManus explained that the ARD is proposing to readopt Env-A 2700 with minor changes because it is due to expire on November 24, 2012. It was determined that a new section, Applicability, needed to be added in place of the former section, Scope. Other minor edits were made for purposes of clarity.

William Smagula entered a motion to accept the initial proposal of amendments to Env-A 2400. Steven Walker seconded the motion. All were in favor. Chairman Duval instructed members of the ARC to contact Vice-Chairman David Collins with further comments regarding Env-A 2400 within fifteen days.

#### **Status of Appeals:**

Chairman Duval introduced Paula Scott, Appeals Clerk. Ms. Scott provided members of the ARC with the following status of appeals:

**Docket No. 11-10 ARC** – Public Service of New Hampshire (PSNH) regarding the NHDES Final Determination of Baseline Mercury Input.

On August 22, 2011, the ARC accepted the Appeal. Ms. Scott reported that a Pre-Hearing Conference was held on October 17, 2011 and a hearing on the matter is scheduled for March 19, 2012. On October 31, 2011, the Appellant's Request for information was received. On January 27,

2012, an Assented-To Motion to Reschedule Hearing was filed. On January 31, 2012, PSNH submitted Expert Disclosure. On February 10, 2012, an Order on Motion to Reschedule Hearing was issued with a new hearing date of May 21, 2012.

On February 15, 2012 a Notice of Conflict and Assented-to-Motion to Continue the Hearing was received. On February 21, 2012 Sarah Knowlton filed an appearance representing PSNH. On March 12, 2012, PSNH Filed and Assented-to Motion to Revise Certain Deadlines. On May 21, 2012, the Assented-to Motion was granted and hearing date of June 18, 2012 was scheduled. On June 1, 2012, exhibits from the Appellants and the NHDES were received. The NHDES witness list was received on June 8, 2012, and PSNH's witness list was received on June 12, 2012. A Hearing on the matter was held at 10:00 a.m. on June 18, 2012. Findings of Fact and Rulings of Law were received by both parties on July 9, 2012. Deliberations on the matter were held on September 17, 2012.

Docket No. 12-11 ARC – Appeal of Katherine Lajoie Regarding the Title V Permit Issued to Wheelabrator Claremont on September 11, 2012

Ms. Scott stated that an appeal of the Title V Permit Issued to Wheelabrator-Claremont was filed on October 11, 2012. The appeal is currently under review to determine the sufficiency of the filing.

**New Business**

A discussion concerning the development of an ARC Record Retention Schedule was held. Chairman Duval requested members send any suggestions concerning the matter to him via e-mail for further discussion.

**Other Business**

Chairman Duval set the next meeting of the Air Resources Council to be held on November 19, 2012.

**Public Commentary**

No members of the public were in attendance.

**Adjourn**

Having no further business to discuss, Steven Walker entered a motion to adjourn. Debra Chabot seconded the motion. All were in favor. Meeting #210 of the Air Resources Council adjourned at 10:05 a.m. on October 15, 2012.