



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Council Clerk (non-appeal related): (603) 271-1386; Appeals Clerk (appeal related only): (603) 271-6072
TDD Access: Relay NH 1-800-735-2964
Council Website: <http://www.des.nh.gov/councils/>

ANNUAL REPORT *Of The* AIR RESOURCES COUNCIL 2013

SUBMITTED TO

Her Excellency, Governor Margaret Wood Hassan



Executive Council

The Honorable Joseph D. Kenney
The Honorable Colin Van Ostern
The Honorable Christopher T. Sununu
The Honorable Christopher C. Pappas
The Honorable Debora B. Pignatelli

Commissioner Thomas S. Burack

RESPECTFULLY SUBMITTED

Robert Duval, Chairman

March 17, 2014

AIR RESOURCES COUNCIL
MEMBERSHIP CONTACT INFORMATION

Air Resources Council

Eleven members appointed by the governor with consent of the executive council to serve **four-year terms** as follows: one representing the steam power generating industry; one representing the oil industry; one representing the natural gas industry; one the manufacturing component of industry; one the field of municipal government; and six members at large who shall represent the general public, one of whom shall be a licensed practicing physician or other health care professional possessing expertise in the field of public health and the health-related impacts of air pollution, one who shall represent the field of recreation and at least one of whom shall represent environmental interests. Members representing public interest may not derive any significant portion of their income from persons subject to permits or enforcement orders, and may not serve as attorney for, act as consultant for, serve as officer or director of, or hold any other official or contractual relationship with any persons subject to permits or enforcement orders. All potential conflicts of interest shall be adequately disclosed. All members shall be residents of N.H. RSA 21-O (Ch. 62, 2006. Eff. 6/23/06)

DAVID G. COLLINS, Bedford - Vice-Chairman
June 6, 2001 to September 6, 2015
(Fuel Oils Industry)

GEORGIA MURRAY, Conway
January 11, 2006 to October 24, 2013
(Environmental Interest)

KRIS NILS BLOMBACK, Henniker
November 6, 2013 to October 24, 2015
(Recreation)

DEBORAH CHABOT, Hancock
June 8, 2011 to October 24, 2014
(Health Care Professional)

RAYMOND R. DONALD, Kingston
January 10, 1996 to October 24, 2017
(Municipal Government)

WILLIAM H. SMAGULA, Bedford
September 5, 2007 to October 24, 2017
(Steam Power Generating Industry)

STEVEN WALKER, Peterborough
October 21, 2005 to November 21, 2014
(Manufacturing)

ROBERT DUVAL, Manchester - Chairman
September 17, 2003 to November 21, 2014
(General Public)

J. RYAN BIELAGUS, Amherst
January 4, 2005 to December 6, 2015
(General Public)

CARMELA C. AMATO-WIERDA, Durham
November 9, 2011 to December 6, 2014
(General Public)

DEBRA I. HALE, Hooksett
July 13, 2005 to October 4, 2015
(Natural Gas Industry)

AIR RESOURCES COUNCIL MEMBERS

CHAIR/AT LARGE/PUBLIC INTEREST

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Term Exp: 11/21/14

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Term Exp: 09/06/15

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Term Exp: 10/24/13

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AT LARGE/RECREATION INDUSTRY:

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Term Exp: 12/6/15

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Air Resources Council Members

Updated: 01/01/14

STEAM POWER GENERATING INDUSTRY:

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MUNICIPAL GOVERNMENT:

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Term Exp: 10/24/17

GAS INDUSTRY:

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Term Exp: 10/04/15

AT LARGE/HEALTH CARE PROFESSIONAL:

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Term Exp. 10/24/14

MANUFACTURING COMPONENT OF INDUSTRY:

VACANT

Work:
Home:

Term Exp: 11/21/14

VACANCIES: (1)

Counsel:

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Assistant Attorney General
State of NH, Office of the Attorney General
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Patrick.Queenan@doj.nh.gov

AIR RESOURCES COUNCIL

NOTICE OF MEETINGS



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

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NOTICE OF MEETINGS

**The Air Resources Council will meet on the following dates at
9:00 a.m., in Conference Rooms 112 & 113 at the
New Hampshire Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire:**

January 14, 2013
February 11, 2013
March 18, 2013

April 15, 2013
May 20, 2013
June 17, 2013

July 15, 2013
August 19, 2013
September 16, 2013

October 21, 2013
November 18, 2013
December 16, 2013

AIR RESOURCES COUNCIL

**MEETING AGENDAS
&
MEETING MINUTES**



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NOTICE OF MEETING

January 14, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, January 14, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. Call to Order
2. Approval of Minutes (Meeting #212)
3. Status of Appeals
Paula Scott, Appeals Clerk, NHDES Legal Unit
 - Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al., regarding September 11, 2012 Granting of Title V Permit to Wheelabrator- Claremont, Claremont, NH
4. Air Resources Division Report
Craig Wright, Acting Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
5. Env-A 1100 – *Prevention, Abatement, and Control of Mobile Source Air Pollution*
Karla McManus, SIP Planning & Rules Manager
Felice Janelle, Supervisor, Mobile Sources Section, Technical Services Bureau
6. Env-A 1900 - *Incinerators*
Karla McManus, SIP Planning & Rules Manager
Todd Moore, New Construction and Planning Manager
7. Old Business
8. New Business
9. Public Commentary
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
10. Adjourn

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #213
01/14/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, William Smagula, Georgia Murray, Steven Walker, Deborah Chabot

MEMBERS NOT PRESENT: Ryan Bielagus, Raymond Donald, Carmela Amato-Wierda, Debra Hale

NHDES – ARD PERSONNEL: Craig Wright, Anne Keach, Paula Scott, Karla McManus, Barbara Hoffman, Todd Moore, Michele Roberge, Gary Milbury,

OTHER INTERESTED PARTIES: Greg Smith, McLane, PA

Call to Order:

Chairman Duval called Meeting #213 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, January 14, 2013. Chairman Duval announced that a quorum of the ARC was present to conduct the regular business of the ARC.

Approval of Minutes:

William Smagula entered a motion to accept the minutes of meeting #212. Georgia Murray seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #212 were approved and accepted by the ARC.

Status of Appeals

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012.

Chairman Duval requested a status update from the parties. William Smagula reported that PSNH will meet with Acting Director Wright and members of the permitting staff after the ARC meeting adjourns. He added that no formal discussion pertaining to baseline mercury values have taken place as of this date. Chairman Duval requested that Docket No. 11-10 ARC remain on the Status of Appeals as updates regarding the matter are requested by the ARC.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Even Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P.

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:

Air Quality Action Day – Keene, NH

Mr. Wright reported that on January 8, 2013 and Air Quality Action was announced due to exceedances of fine particulate matter (PM_{2.5}) in the City of Keene, NH. Mr. Wright introduced Jeffrey Underhill, Administrator of the Atmospheric Science and Analysis Unit. Dr. Underhill stated that the Air Quality Action Day exceedance was expanded to a twenty-four hour exceedance and included the counties of Sullivan, Hillsborough and Merrimack through January 9, 2013.

Dr. Underhill reported that the 24-hour fine particle standard of 35 µg/m³ was exceeded by a measure of 38.5 µg/m³ by the maximum rolling average of 43.8 µg/m³. He added that the average was the fourth highest average this year and that the months of January through March are typically worse for PM due to woodstove usage.

Chairman Duval asked if the excess monies left from the Woodstove Changeout Program are being used for public education and outreach initiatives in the Keene area. Dr. Underhill reported that outreach efforts are in place to educate the public to burn only clean, dry wood.

Dr. Underhill stated that the staff of the Atmospheric Science and Analysis Unit, participate in daily conference calls with all forecasters in New England and share information from the monitors which are strategically located to monitor baseline levels.

Georgia Murray asked is there is a sense of where the transport is coming from. Dr. Underhill stated that according to the data collected from air quality monitors at Miller State Park and Lebanon, the models show a build-up of sulfates and nitrates from southwest transport.

Legislation

Acting Director Wright reported that bill language will be forthcoming and will update members of the ARC as the legislation is released in the coming months.

Permitting

Mr. Wright reported that on January 11, 2013, a Temporary Construction Permit was issued to Watts Regulator in Franklin, NH to permit a \$20 million dollar expansion project which includes a new low-lead product foundry.

Revisions to CFR 40, Part 63 §ZZZZ

Gary Milbury, Air Permit Programs Manager stated that the Air Resources Division is providing technical assistance to twenty-nine (29) sources operating emergency and non-emergency engines due to the revision contained in §ZZZZ which establishes national emission limitations and operating limitations for hazardous air pollutants (HAPs) emitted from stationary reciprocating internal combustion engines located at major and area sources. The subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and operating limitations. The ARD is assisting sources in preparing requests for extensions to compliance with this subpart.

Chairman Duval asked Mr. Milbury what the threshold was for applicability. Mr. Milbury responded that the smallest engines operating at 25 hp are applicable to the rule.

Mr. Milbury described Stationary Non-Emergency or Prime Power Engines as:

- Peak shaving (to reduce or flatten peak electricity use for financial compensation)
- Rate curtailment program (reduced rates)
- Interruptible rate programs (reduced energy rates)
- Continuous base load
- Co-generation
- Primary source of power in lieu of power provided by grid

Mr. Milbury explained that Emergency Engines are used as:

- Emergency standby (life support, evacuation)
- Legally required stand-by (firefighting e.g., fire pump)
- Prime power when power is lost from utility
- Emergency Demand Response Program with the utility (15 hours per year allowance)

Steven Walker asked what the percentage was of natural gas to diesel engines. Mr. Milbury responded that the engines are predominantly diesel engines over 3 hp, and will have to install retrofit equipment.

Air Quality Index

Chairman Duval introduced Jeffrey Underhill, Administrator of the Atmospheric Science and Analysis Unit. Dr. Underhill provided members of the ARC with a brief summary regarding the Air Quality Index as follows:

An air quality index (AQI) is a number used by governmental agencies to communicate to the public:

- How polluted the air is currently, or;
- How polluted the air is forecast to become

As the AQI increases, an increasingly large percentage of the population is likely to experience increasingly severe adverse health effects.

The AQI is based on five pollutants:

- Ozone
- Particulate Matter
- Carbon Monoxide
- Sulfur Monoxide, and
- Nitrogen dioxide.

The EPA has established National Ambient Air Quality Standards (NAAQS) for each of these pollutants to protect public health. If multiple pollutants are measured at an air quality monitoring site, then the largest or "dominant" AQI value is reported for the location.

To compute the AQI requires an air pollutant concentration from a monitor or model. The AQI calculation equations vary by pollutant, and values are divided into ranges, and each is assigned a descriptor and a color code. Standardized public health advisories are associated with each AQI range. The EPA has developed an index which they use to report daily air quality:

The Air Quality Index (AQI)

- AQI is divided into six categories indicating increasing levels of health concern.
- An AQI value of 100 generally corresponds to the standard for the pollutant

Air Quality Index (AQI) Color Scheme

Air Quality Index (AQI) Values	Levels of Health Concern	Colors
0 to 50	Good	Green
51 to 100	Moderate	Yellow
101 to 150	Unhealthy for Sensitive Groups	Orange
151 to 200	Unhealthy	Red
201 to 300	Very Unhealthy	Purple
301 to 500	Hazardous	Maroon

The Health Message derived from the AQI is as follows:

Air Quality Descriptor	Populations Affected & Recommended Actions	
	Ozone	Particle Pollution (PM2.5)
GOOD	No health impacts expected in this range.	No health impacts expected in this range.
MODERATE	Unusually sensitive people* should consider limiting prolonged outdoor exertion	Unusually sensitive people* should consider limiting prolonged exertion.
UNHEALTHY FOR SENSITIVE GROUPS	Active children and adults, and people with respiratory disease, such as asthma, should limit prolonged outdoor exertion.	People with heart or lung disease, older adults, and children should reduce prolonged or heavy exertion.
UNHEALTHY	Active children and adults, and people with respiratory disease, such as asthma, should avoid prolonged outdoor exertion; everyone else, especially children, should limit prolonged outdoor exertion.	People with heart or lung disease, older adults, and children should avoid prolonged or heavy exertion. Everyone else should reduce prolonged or heavy exertion.
VERY UNHEALTHY	Active children and adults, and people with respiratory disease, such as asthma, should avoid all outdoor exertion. Everyone else, especially children, should limit outdoor exertion.	People with heart or lung disease, older adults, and children should avoid all physical activity outdoors. Everyone else should avoid prolonged or heavy exertion.
HAZARDOUS	Everyone should avoid all outdoor exertion.	Everyone should avoid all physical activity outdoors; people with respiratory or heart disease, the elderly and children should remain indoors and keep activity levels low.

Dr. Underhill outlined the AQI Equations and offered an example as follows:

$$I = \frac{I_{high} - I_{low}}{C_{high} - C_{low}} (C - C_{low}) + I_{low}$$

- EPA's table of breakpoints for PM_{2.5}

C_{low}	C_{high}	I_{low}	I_{high}	Category
0	15.4 → 12.0	0	50	Good
15.5 → 12.1	35.4	51	100	Moderate
35.5	65.4	101	150	Unhealthy for Sensitive Groups
65.5	150.4	151	200	Unhealthy
150.5	250.4	201	300	Very Unhealthy
250.5	350.4	301	400	Hazardous
350.5	500.4	401	500	Hazardous

For a 24-hour PM_{2.5} concentration of 12.0 ug/m³, the AQI is:

$$I = \frac{I_{high} - I_{low}}{C_{high} - C_{low}} (C - C_{low}) + I_{low}$$

$$I = \frac{50 - 0}{12.0 - 0} (12.0 - 0) + 0 = 50$$

Georgia Murray asked Dr. Underhill to explain the purpose of high and low end concentrations. Dr. Underhill explained that the purpose is to set the range and scale for concentrations.

Acting Director Wright added that the State partners with EPA's AirNow! EnviroFlash Program is also available and provides up-to-date information on air quality forecasts and once individuals have signed up, sensitive populations are notified of health risks associated with air quality levels.

Env-A 1100, Prevention, Abatement, and Control of Mobile Source Air Pollution

Chairman Duval introduced Karla McManus, Planning and Rules Manager and Felice Janelle, Mobile Sources Section Supervisor. Ms. McManus stated that Env-A 1100, *Prevention, Abatement, and Control of Mobile Source Air Pollution*, is due to expire on March 26, 2013. The ARD is proposing to readopt Env-A 1100 with amendments. The primary purpose of Env-A 1100 is to regulate emissions from motor vehicles pursuant to RSA 125-C:6, XII. Since Diesel Opacity Standards are under the authority of the Department of Safety pursuant to RSA 266:59-c, and established by administrative rule at Chapter Saf-C 5800 *Roadside Diesel Opacity Inspection*, it is no longer necessary for DES to regulate mobile source opacity under our rules. Therefore, we have deleted those sections from Env-A 1100. The rest of the edits to this rule were for clarity. Redundant sections were combined and a Table was created for easy reference.

Deb Chabot entered a motion to accept the amendments to Env-A 1100. William Smagula seconded the motion. All were in favor. The motion carried.

Env-A 1900, Incinerators (formerly Incinerators and Wood Waste Burners)

Ms. McManus presented members of the ARC with the proposed readoption of Env-A 1900, *Incinerators*. She stated that the ARD is proposing to readopt Env-A 1900 with amendments. The primary purpose of Env-A 1900 is to provide emission standards for incinerators that are not otherwise regulated under federal rules. Many new federal incinerator rules have been established since Env-A 1900 was last amended in 2005 and now most incinerators are adequately regulated under federal rules. However, there are still some types of incinerators for which no specific federal rules apply, therefore ARD proposes to readopt Env-A 1900 to retain minimum emission standards for these otherwise unregulated incinerators. The ARD was able to simplify and shorten the Env-A 1900 rules because some sections pertained to incinerators that are now subject to more stringent federal standards, and other sections, such as the Hydrogen Chloride emission standards, are now covered by Env-A 1400, *Regulated Toxic Air Pollutants*.

With the exception of opacity (visible emission) standards for wood waste burners, ARD is not proposing to change any of the existing emission limits in Env-A 1900. Env-A 1900 currently allows wood waste burners to produce visible emissions at a level of 40% opacity, while all other incinerators must limit visible emissions to 20% opacity. The ARD believes that reasonable options exist for incineration or alternate disposal of wood waste and allowing the use of inefficient obsolete technology (e.g., teepee-style wood waste burners) that produce visible emissions over 20% is not appropriate. ARD is proposing to require wood waste burners to meet the 20% opacity standard for which all other types incinerators are subject, instead of their previous 40% opacity standard.

As noted above, the existing Env-A 1900 had different opacity standards for incinerators and wood waste burners. Wood waste burners are a specific subset of incinerators, but they are still considered incinerators and ARD is proposing to amend the definition of "incinerator" in Env-A 101.104 to clarify this fact. This amendment does not change the existing definition, but merely clarifies that wood waste burners are incinerators.

William Smagula entered a motion to accept the amendments to Env-A 1100. David Collins seconded the motion. All were in favor. The motion carried. Chairman Duval instructed members

of the ARC to contact Vice-Chairman David Collins with further comments regarding Env-A 1100 and 1900 within fifteen days.

New Business

No new business of the ARC was discussed.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on February 11, 2013.

Public Commentary

No members of the public in attendance provided comment.

Adjourn

Having no further business to discuss, Debora Chabot entered a motion to adjourn. Steven Walker seconded the motion. All were in favor. Meeting #213 of the Air Resources Council adjourned at 10:10 a.m. on January 14, 2013.



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Robert Duval, Chairman

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NOTICE OF MEETING

March 18, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, March 18, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. Call to Order
2. Approval of Minutes (Meeting #213)
3. Air Resources Division Report
Craig Wright, Acting Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. Env-A 1600 – Fuel Specifications
Karla McManus, SIP Planning & Rules Manager
Todd Moore, New Construction and Planning Manager
5. Env-A 1800 – Asbestos Management and Control
Karla McManus, SIP Planning & Rules Manager
Mark Ledgard, Compliance and Enforcement Programs Manager
6. Env-A 2000, Fuel Burning Devices
Karla McManus, SIP Planning & Rules Manager
Todd Moore, New Construction and Planning Manager
7. Status of Appeals
Paula Scott, Appeals Clerk, NHDES Legal Unit
 - Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al., regarding September 11, 2012 Granting of Title V Permit to Wheelabrator- Claremont, Claremont, NH
 - Docket No. 11-10 ARC – Public Service Company of New Hampshire Appeal of Mercury Baseline Determination
8. Old Business
9. New Business
10. Public Commentary
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
11. Adjourn

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #214
03/18/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Georgia Murray, Steven Walker, Deborah Chabot, Carmela Amato-Wierda

MEMBERS NOT PRESENT: Ryan Bielagus, Raymond Donald, Debra Hale, William Smagula

NHDES – ARD PERSONNEL: Craig Wright, Anne Keach, Paula Scott, Karla McManus, Barbara Hoffman, Michele Roberge, Gary Milbury, Pamela Monroe, Michael Fitzgerald, Mark Ledgard

OTHER INTERESTED PARTIES: David Conley, Esq.

Call to Order:

Chairman Duval called Meeting #214 of the Air Resources Council (ARC) to order at 9:13 a.m. on Monday, March 18, 2013. Chairman Duval announced that a quorum of the ARC was not present to conduct the regular business of the ARC. Chairman Duval asked Acting Director, Craig Wright to provide members present with an update of activities relevant to the Air Resources Division.

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:

Regional Greenhouse Gas Initiative (RGGI)

Acting Director Wright reported that on February 7, 2013, RGGI, Inc., released the results of the two-year program review of the nine Northeastern and Mid-Atlantic states participating in the RGGI. The program improvements include:

- A reduction of the 2014 regional CO₂ budget, RGGI cap from 165 million to 91 million tons (a 45% reduction) and the cap would decline 2.5% each year from 2015 to 2020.
- Additional adjustments to the RGGI cap from 2-14-2020 will account for the private bank of allowances held by market participants before the new cap is implemented in 2014. From 2014-2020 compliance with the applicable cap will be achieved by use of “new” auctioned allowances and “old” allowances from the private bank.
- A Cost Containment Reserve (CCR) of allowances that creates a fixed additional supply of allowances that are only available for sale if CO₂ allowance prices exceed certain price levels (increments are; \$4 in 2014, \$6 in 2015, \$8 in 2016, and \$10 in 2017, rising by 2.5%, to account for inflation each year thereafter).
- Updates to the RGGI offsets program.
- Not re-offering unsold 2012 and 2013 CO₂ allowances.
- Requiring regulated entities to acquire and hold allowances equal to at least 50% of their emissions in each of the first 2 years of the 3-year compliance period and demonstrate full compliance at the end of the 3-year compliance period.
- Identifying and evaluating potential tracking tools for emissions associated with electricity imported into the RGGI region to bring about a workable legal mechanism to address such emissions.

- Generating \$1.6 billion in net economic benefit region-wide through the end of the decade.
- Returns \$1.1 billion in electricity bill savings back into the pockets of consumers in the region.
- Creates 16,000 jobs-year in the region.
- Keeps \$765 million in the local economy due to reduced fossil fuel demand.

Mr. Wright added that the RGGI states conducted a comprehensive program review, supported by an extensive regional stakeholder process. The RGGI states convened over twelve stakeholder meetings, webinars and learning sessions during the program review.

RGGI 19th Auction

Acting Director Wright reported that 100% of the allowances sold at \$2.80, 30% of allowances purchased by non-compliance entities. He added that New Hampshire is using RGGI auction proceeds to establish the Greenhouse Gas Emissions Reduction Fund (GHGERF). The administrator of the HGHERF is governed by Chapter PUC 2600, which directs a minimum of 10% of program allocations to low income energy efficiency programs, and the balance to electric and fossil fuel energy efficiency programs including:

- Energy audits
- Weatherization of buildings
- Building code compliance
- Education and outreach
- Demand response programs to reduce peak load
- Energy efficiency related workforce development
- Revolving loan funds for energy efficiency investment

Legislation

Acting Director Wright reported the following activity regarding legislation affecting the Air Resources Division:

HB306 – relative to New Hampshire’s regional greenhouse gas initiative. Passed the House Science, Technology and Energy, to Senate Energy and Natural Resources Committee.

HB663 – relative to appeals within the Department of Environmental Services. An Executive Session was held on March 5, 2013. The legislation was retained in Committee.

Mr. Wright stated that all seven of the House Bills filed concerning the Site Evaluation Committee have been retained by the Science, Technology and Energy Committee.

Budget

Emission-Based Fees:

Acting Director Wright reported that since the conception of emission-based fees from the 1994 *Clean Air Act*, as the emissions inventory decreases the fee rate has increased. This year the per ton emissions fee is \$205. Acting Director Wright added that the Center for Policy Studies at Dartmouth reported that other states are charging as much as \$300/ton (RI) and as little as \$200/ton (CT).

Federal Grants:

Acting Director Wright reported that the Department of Environmental Services sustained a 5% cut in federal grants. The Air Resources Division’s Section 103 and 105 Grants have been reduced.

The Official Meeting of the ARC Opened at 9:30 a.m., at which time a quorum was present. Chairman Duval introduced Karla McManus, Planning and Rules Manager. Ms. McManus presented the following proposed rules:

Env-A 1600, Fuel Specifications, and amendment to Env-A 903.03

Env-A 1600, *Fuel Specifications*, is due to expire on April 23, 2013. The Air Resources Division is proposing to readopt Env-A 1600 with minor changes. DES is proposing to remove gaseous fuel sulfur standards from Env-A 1600. The sulfur content of natural gas, which is the primary target of this section, is set by the Federal Energy Regulatory Commission, not by DES. Other minor edits, such as changing the title of the section *Scope* to *Applicability*, were made for purposes of clarity. Env-A 903.03, *General Recordkeeping Requirements for Combustion Devices*, was amended to reflect the minor change to Env-A 1600.

After discussing the amendments to Env-A 1600, Steven Walker entered a motion to accept the amendments. Carmela Amato-Wierda seconded the motion. All were in favor. The motion carried.

Env-A 1800, Asbestos Management and Control

The ARD is proposing amendments to Env-A 1800, *Asbestos Management and Control*, which protects the health of the general public by ensuring that asbestos is managed in a manner that minimizes the release of asbestos fibers to the environment and human exposure thereto.

The proposed amendments to Env-A 1800 will amend the definition of "facility" as referenced in Env-A 1802 to include "utility infrastructure", establish a 30-day timeframe for disposal of abated Regulated Asbestos-Containing Material (RACM) per Env-A 1805.08, clarify training provider approval per Env-A 1809.06, and allow for partial credit of certain other work experiences toward Asbestos Disposal Site (ADS) Experienced Worker certification in Env-A 1812.08. Other minor edits were made for purposes of clarity.

After discussing the amendments to Env-A 1800, Steven Walker entered a motion to accept the amendments to Env-A 1800. Debora Chabot seconded the motion. All were in favor. The motion carried.

Env-A 2000, Fuel Burning Devices

Env-A 2000, *Fuel Burning Devices*, is due to expire on April 23, 2013. The ARD is proposing to readopt Env-A 2000 with minor changes.

The United States Environmental Protection Agency (USEPA) will be requiring some states, including New Hampshire, to revise certain opacity regulations. The Department of Environmental Services (DES) is also evaluating whether and how it may be appropriate to update New Hampshire's particulate emission standard for new fuel burning devices. USEPA will not be issuing the final state implementation plan (SIP) call relating to opacity until August 2013, so we do not yet know exactly what changes will be required. DES held a stakeholder meeting prior to publication of the proposed SIP call, but now intends to request more stakeholder input on opacity standards and regarding the need for, and form of, an updated particulate emission standard for new devices.

Because of the present uncertainty regarding the SIP call, DES has decided to readopt Env-A 2000 with some minor changes for now. DES intends to continue working on the opacity and particulate issues and propose those rule changes in a future, separate rulemaking.

Ms. McManus provided members of the ARC with a copy of the Stakeholders Update and Summary of the February 5, 2013 Stakeholder Meeting.

After discussing the amendments to Env-A 2000, Georgia Murray entered a motion to accept the amendments to Env-A 2000. Carmela Amato-Wierda seconded the motion. All were in favor. The motion carried. Chairman Duval reminded members of the ARC to contact Vice-Chairman Collins with any comments concerning the proposed rules within fifteen days.

Approval of Minutes:

David Collins entered a motion to accept the minutes of meeting #214. Deborah Chabot seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #214 were approved and accepted by the ARC.

Status of Appeals

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report is due by April 1, 2013.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Even Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013 at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members.

New Business

No new business of the ARC was discussed.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on April 15, 2013.

Public Commentary

No members of the public in attendance provided comment.

Adjourn

Having no further business to discuss, Georgia Murray entered a motion to adjourn. Debora Chabot seconded the motion. All were in favor. Meeting #214 of the Air Resources Council adjourned at 10:25 a.m. on March 18, 2013.



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

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TDD Access: Relay NH 1-800-735-2964

Council Website: <http://www.des.nh.gov/councils/>

NOTICE OF MEETING

May 20, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, May 20, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. **Call to Order**
2. **Approval of Minutes (Meeting #214)**
3. **Air Resources Division Report**
Craig Wright, Acting Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. **Env-A 1400, Regulated Toxic Air Pollutants**
Karla McManus, SIP Planning and Rules Manager
Thomas Niejadlik, Environmental Health Manager
5. **Status of Appeals**
Paula Scott, Appeals Clerk, NHDES Legal Unit
6. **Old Business**
7. **New Business**
8. **Public Commentary**
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
9. **Adjourn**

10:00 a.m. – Hearing

Docket No. 12-11 ARC, Katherine Lajoie, Rebecca Mackenzie, et al.

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #215
05/20/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Georgia Murray, Deborah Chabot, Ryan Bielagus, Raymond Donald, Debra Hale, William Smagula, Carmela Amato-Wierda

MEMBERS NOT PRESENT: Steven Walker, Debora Chabot (via Conf. Call)

NHDES – ARD PERSONNEL: Craig Wright, Karla McManus, Barbara Hoffman, Michele Roberge, Gary Milbury, Thomas, Niejadlik, David Larson

OTHERS PRESENT: Atty. David Conley, Presiding Officer; Attys. Greg Smith, B. Needleman, and Carol Holahan, McLane P.A.; Atty. Evan Mulholland, AGO; Anne Keach, Paula Scott, Katherine Lajoie, Rebecca Mackenzie, David Sussman, Claire Sussman, James Gruber, Joshua Raymond, Wiltrud Mottsmith, William Gallagher, James Contois, Rep. John Cloutier, Susan Swan, John Tuthill, Erica Pfister, Jennifer Wright, Vanessa Keith, Scott Nielsen, Nelia Sargent, Jaime Contois

Call to Order:

Chairman Duval called Meeting #215 of the Air Resources Council (ARC) to order at 9:07 a.m. on Monday, May 20, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

William Smagula entered a motion to accept the minutes of meeting #215. Carmela Amato-Wierda seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #215 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:

Legislation

Acting Director Wright reported that legislative activity germane to the Air Resources Division is winding down. He reported the following concerning the budget and the RGGI legislation:

HB306 – relative to New Hampshire's regional greenhouse gas initiative. Passed the House Science, Technology and Energy Committee 190-156, and has been referred to the Senate Energy and Natural Resources Committee. The full legislation will be heard by the full Senate on May 23, 2013 and ought to pass.

Budget

Acting Director Wright reported that Department of Environmental Services sustained a 5% cut in federal grants. The Air Resources Division's Section 103 and 105 Grants have been reduced by \$65,000, which will cause the ARD to review the air quality monitoring network plan to meet these cuts and predicted future cuts to the program in 2015.

Division Director Term

Acting Director Wright reported that his term as Acting Director for the ARD expires on July 1, 2013, and that the position vacancy has been posted nationally. He added that letters of interest in the position should have been filed by May 3, 2013, and the NHDES Administration is commencing the application review process.

Raymond Donald asked Mr. Wright if he submitted a letter of interest. Mr. Wright confirmed that he had done so.

Chairman Duval stated that he will be contacting Commissioner Burack regarding the appointment process for the position of Director.

Env-A 1400, Regulated Toxic Air Pollutants

Karla McManus, SIP Planning and Rules Manager and Thomas Niejadlik, Environmental Health Manager presented members of the ARC with revisions to Env-A 1400.

Ms. McManus reported that the ARD is proposing to amend Env-A 1400, *Regulated Toxic Air Pollutants*. 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.

Every year, as required by the Air Toxics Control Act (RSA 125-I:4), the Department of Environmental Services (DES) proposes changes to the list of regulated toxic air pollutants (RTAPs) and their ambient air limits (AALs). These changes are based on updates made to the list of chemical substances by the American Conference of Governmental Industrial Hygienists (ACGIH) and the US EPA's Integrated Risk Information System (IRIS).

This year we are incorporating ACGIH updates for both 2011 and 2012. As a result of changes made by ACGIH, six chemical substances have been added, two substances have been deleted, and four substances have had their Occupational Exposure Limit (OEL) changed which results in a change to the AALs. As a result of changes made by IRIS, four chemical substances had their annual AAL changed. One substance had both the annual and 24-hour AAL changed since the reference concentration is greater than the calculated 24-hour AAL.

In addition to the required annual updates, DES has made additional changes to the list of RTAPs and to the rules. These changes were made in order to utilize the latest scientific data, to streamline the compliance determination and permitting process, and to allow DES and businesses to concentrate efforts on those toxic chemicals that pose the greatest health risk to the public. This year DES is also proposing the following changes:

- De-list eleven low toxic Class III RTAPs that are not expected to cause harmful health effects in the ambient air.
- De-list eight RTAPs where an AAL can not be established due to insufficient data.
- Add language in both Env-A 1400 and Env-A 600 to clarify that if a vent is required to be "vertical and unobstructed" it must also vent emissions "above the roofline".
- Exempt the emission of RTAPs from certain major stationary sources that are subject to a federal standard, meet the requirements of the standard through the operation of pollution control equipment, and control RTAP emissions to the same degree of efficiency required to comply with the federal standard.

- Exempt automotive refinishing operations that are in compliance with 40 CFR Part 63, Subpart HHHHHH, have an exhaust stack that is vertical, unobstructed, and extends above the roofline, and use less than 500 gallons per year of commercially available paints and coatings.
- Exempt petroleum remedial systems that have a maximum concentration of gasoline vapor in the exhaust gas of 500 parts per million by volume, have an exhaust stack that is vertical, unobstructed, and extends above the roofline, and have a minimum exhaust velocity of 25 meters per second.

Chairman Duval asked Thomas Niejadlik if the proposed changes will affect Wheelabrator. Mr. Niejadlik responded that Wheelabrator would be exempt from Env-A 1400 if the proposed changes are adopted because Wheelabrator has installed controls under the federal Maximum Achievable Control Technology (MACT) Program.

After discussing the amendments to Env-A 1400, specifically the recommendation of William Smagula to consider an improved definition of Env-A 1402.02 (6) concerning exhaust stacks which are vertical, unobstructed, and extend above the roofline. Raymond Donald entered a motion to accept the amendments for review. William Smagula seconded the motion. All were in favor. The motion carried. Chairman Duval reminded members of the ARC to contact Vice-Chairman Collins with any comments concerning the proposed rules within fifteen days.

Status of Appeals

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013.

Acting Director Wright reported that negotiations continue between the parties and the extension will allow the parties to continue their settlement efforts, and such efforts appear to be positive at this point.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Even Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing

scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants; Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants; Motion to Amend Notice of Appeal.

Ms. Scott added that a hearing on this matter is scheduled for this date at 10:00 a.m. following the regular meeting of the ARC.

New Business

Chairman Duval informed members of the ARC that the ARC position representing the recreation industry remains vacant, and asked that if any member has a recommendation for this appointment to the ARC, to bring those recommendations forward.

Chairman Duval reminded Georgia Murray, William Smagula and Raymond Donald that their terms expire in October 2013. He added that he hopes these members will consider reappointment to the ARC and begin their reappointment process.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on June 17, 2013.

Public Commentary

No members of the public in attendance provided comment.

Adjourn

Having no further business to discuss, Ryan Bielagus entered a motion to adjourn. Carmela Amato-Wierda seconded the motion. All were in favor. Meeting #215 of the Air Resources Council adjourned at 9:40 a.m. on May 20, 2013.

Hearing – Docket No. 12-11 ARC, Appeal of Katherine Lajoie and Rebecca MacKenzie

A hearing on this matter commenced at 10:00 a.m., David Conley presided as the Hearing Officer. The following Air Resources Council members were present:

Ryan Bielagus
Georgia Murray
Carmela Amato-Wierda
David Collins
Robert Duval
William Smagula
Raymond Donald

The hearing recessed at 12:15 p.m., and will resume on June 17, 2013 at 9:30 a.m.



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

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Council Website: <http://www.des.nh.gov/councils/>

NOTICE OF MEETING

June 17, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, June 17, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. Call to Order
2. Approval of Minutes (Meeting #215)
3. Air Resources Division Report
Craig Wright, Acting Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. Env-A 4600, *Carbon Dioxide (CO2) Budget Trading Program*
Env-A 4700, *Carbon Dioxide CO2 Offset Projects*
Env-A 4800, *Carbon Dioxide (CO2) Allowance Auction Program*
Karla McManus, SIP Planning and Rules Manager
Joseph Fontaine, Emissions Trading Program Manager
5. Status of Appeals
Paula Scott, Appeals Clerk, NHDES Legal Unit
6. Old Business
7. New Business
8. Public Commentary
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
9. Adjourn

9:30 a.m. – Hearing (continued from May 20, 2013)

Docket No. 12-11 ARC, Katherine Lajoie, Rebecca MacKenzie, et al.

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #216
06/17/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Georgia Murray, Deborah Chabot, Ryan Bielagus, Raymond Donald, William Smagula, Debora Chabot Carmela Amato-Wierda,

MEMBERS NOT PRESENT: Debra Hale

NHDES – ARD PERSONNEL: Craig Wright, Joseph Fontaine, Barbara Hoffman, Michele Roberge, Gary Milbury, Thomas, Niejadlik, Anne Bailey, Michael Fitzgerald

OTHERS PRESENT: Atty. David Conley, Presiding Officer; Attys. Greg Smith, B. Needleman, and Carol Holahan, McLane P.A.; Atty. Evan Mulholland, AGO; Rebecca Schlenker, AGO; Anne Keach, Paula Scott, Katherine Lajoie, Rebecca Mackenzie, Don Davey, David Sussman, Claire Sussman, John Garrett, John Tuthill, William Gallagher

Call to Order:

Chairman Duval called Meeting #216 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, June 17, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

William Smagula entered a motion to accept the minutes of meeting #215. Carmela Amato-Wierda seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #215 were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Craig Wright, Acting Director of the Air Resources Division (ARD). Due to the abbreviated meeting of the ARC, Mr. Wright briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Env-A 4600, Carbon Dioxide (CO₂) Budget Trading Program

Env-A 4700, Carbon Dioxide (CO₂) Offset Projects

Env-A 4800, Carbon Dioxide (CO₂) Allowance Auction Program

Barbara Hoffman, SIP Planning and Rules Administrator and Joseph Fontaine, Emissions Trading Program Manager, presented members of the ARC with revisions to Env-A 4600, 4700, and 4800.

Mr. Fontaine stated that The Regional Greenhouse Gas Initiative (RGGI) is composed of individual CO₂ Budget Trading Programs in each of the nine RGGI participating states. Each participating state's CO₂ Budget Trading Program is based on the 2008 RGGI Model Rule, which was developed to provide guidance to states as they implemented the RGGI program. RGGI participating states have completed a 2012 Program Review. Amendments to the 2008 RGGI Model Rule have been made in response to the 2012 program review. In February 2013, revisions to the RGGI Model Rule were finalized.

In response to changes made to the RGGI Model Rule, the New Hampshire Legislature has amended its Laws, RSA 125-O:19-29. Governor Hassan is expected to sign this in June, 2013, and the amendments will go into effect on January 1, 2014. Major changes to the NH Law, and proposed amendments to our RGGI Rules, Env-A 4600, Env-A 4700, and Env-A 4800, are as follows:

- For 2014, NH's Base Budget was lowered from 8,620,460 to 4,749,011 allowances (close to current (2012) emissions), and the original 2.5% per year reduction was maintained for the years 2015 through 2020
- In order to "lock-in" emissions reductions to date and to address the surplus bank of allowances that accrued when the budget was much higher than emissions so that sources could not draw from their banks to increase emissions going forward, two additional budget adjustments will be applied
- In addition to the original 3-year compliance periods, annual "interim control periods" have been established for the first two years of each 3-year compliance period to address potential bankruptcy issues
- Cost Containment Allowances in Addition to the Budget will be offered if auction prices exceed certain trigger prices, and offset price triggers were deleted, in order to simplify and to add certainty
- The Forestry Offset Allowance Quantification Protocols were incorporated by reference

Model Rule citations for the major statutory changes and proposed regulatory changes are as follows:

- Model Rule section XX-5.1, *Size and Structure of Cap and Allowance Apportionment*, addressed by RSA 125-O:21, II and Env-A 4606.01, *NH's CO₂ Trading Program Base Budget*
- Model Rule section XX-5.3, *Budget Adjustments*, addressed by RSA 125-O:20, VII-a and XV-a and Env-A 4606.03 through Env-A 4606.07
- Model Rule sections XX-1.2, XX-1.5, XX-4.1, XX-6.5, and XX-7.2, *Interim Control Periods*, addressed by RSA 125-O:22, I and Env-A 4605.01
- Model Rule XX-5.3(c) and XX-9, *Cost Containment Reserve*, addressed by RSA 125-O:29 and Env-A 4803.04(c), Env-A 4602.37, Env-A 4602.38, and 4606.09
- Model Rule XX-1.2 and XX-10.3 *Offset Trigger Mechanisms*, addressed by RSA 125-O:8, I(f) and RSA 125-O:20, IV and Env-A 4703.04, Env-A 4605.04(b), Env-A 4602.68 and Env-A 4602.69
- Model Rule XX-10.2 and XX-10.5 *Forestry Offsets*, addressed by RSA 125-O:8, I(f) and Env-A 4700

After discussing the amendments to Env-A 4600, 4700, and 4800, and William Smagula's recommendation to meet with staff of the Air Resources Division to discuss refining the definitions, references, and language of the rules; David Collins entered a motion to commence the ARC's fifteen-day review of the revised rules on July 15, 2013. Ryan Bielagus seconded the motion to delay the ARC review until July 15, 2013. All were in favor. The motion carried. Chairman Duval reminded members of the ARC to contact Vice-Chairman Collins with any comments concerning the proposed rules within fifteen days.

Status of Appeals

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants' Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order

Granting Appellants; Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request.

Ms. Scott added that a hearing on this matter is scheduled for this date at 9:30 a.m. following the regular meeting of the ARC.

New Business

No new business of the ARC was discussed.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on July 15, 2013.

Public Commentary

No members of the public in attendance provided comment.

Adjourn

Having no further business to discuss, David Collins entered a motion to adjourn. William Smagula seconded the motion. All were in favor. Meeting #216 of the Air Resources Council adjourned at 9:30 a.m. on June 17, 2013.

Hearing – Docket No. 12-11 ARC, Appeal of Katherine Lajoie and Rebecca MacKenzie

A hearing on this matter commenced at 9:45 a.m. David Conley, Esq. presided as the Hearing Officer and Paula Scott as the Appeals Clerk. The following Air Resources Council members were present:

Ryan Bielagus
Georgia Murray
Carmela Amato-Wierda
David Collins
Robert Duval
William Smagula
Raymond Donald

The hearing recessed at 12:15 p.m., and will resume on August 12, 2013, at 9:30 a.m.



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Council Clerk (non-appeal related): (603) 271-1386; Appeals Clerk (appeal related only): (603) 271-6072
TDD Access: Relay NH 1-800-735-2964
Council Website: <http://www.des.nh.gov/councils/>

NOTICE OF MEETING August 19, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, August 19, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. **Call to Order**
2. **Approval of Minutes (Meeting #216)**
3. **Air Resources Division Report**
Craig Wright, Acting Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. **Env-A 4100, Consumer Products**
Karla McManus, SIP Planning and Rules Manager
Felice Janelle, Mobile Sources Program Manager
5. **Status of Appeals**
Paula Scott, Appeals Clerk, NHDES Legal Unit
6. **Old Business**
7. **New Business**
8. **Public Commentary**
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
9. **Adjourn**

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #217
08/19/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Georgia Murray (via conf. call), Deborah Chabot, Raymond Donald, William Smagula, Debora Chabot Debra Hale (via conf. call)

MEMBERS NOT PRESENT: Carmela Amato-Wierda, Ryan Bielagus

NHDES – ARD PERSONNEL: Craig Wright, Barbara Hoffman, Michele Roberge, Gary Milbury, Felice Janelle, Gary Milbury, Michael Fitzgerald

OTHERS PRESENT: Linda Winmill, Winmill Equipment Company, Inc., Anne Keach, Paula Scott

Call to Order:

Chairman Duval called Meeting #217 of the Air Resources Council (ARC) to order at 9:05 a.m. on Monday, August 19, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

Raymond Donald entered a motion to accept the minutes of meeting #216. William Smagula seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #216 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 briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Legislation

Mr. Wright reported that the Air Resources Division (ARD) is developing potential legislation for the upcoming 2014 session and will report back to the ARC once draft legislation is available. He added that the House deadline for LSRs is September 30, 2013, and October 25 for the Senate.

Budget

Mr. Wright informed members of the ARC that the ARD is preparing its FY 2014-15 Budget. The Budget must include \$25 Million in budget cuts across all funds. The NHDES share is approximately \$1.5 Million in general, federal and other funds.

Mr. Wright stated that the ARD is currently working on a commitment plan with the EPA in preparation of the expected October 1, 2013, 8% cut in federal funds

Env-A 4100, Consumer Products

Karla McManus, Planning and Rules Manager; Michael Fitzgerald, Administrator of the Technical Services Bureau; and Felice Janelle, Mobile Source Section Supervisor, presented members of the ARC with revisions to Env-A 4100, *Consumer Products*.

Mr. Fitzgerald explained that Env-A 4100 is due to expire on September 24, 2013. The ARD is proposing to readopt Env-A 4100 with changes that reflect amendment to the Ozone Transport Commission (OTC) Model Rule upon which the chapter is based.

The purpose of this chapter is to limit emissions of volatile organic compounds (VOCs) by requiring reductions in the VOC content of consumer products that are sold, supplied, offered for sale, or manufactured by any person in New Hampshire, as required by NH Laws of 2004, 175:1,1.

After discussing the amendments to Env-A 4100, including the process for alternative products under the variance procedure; Raymond Donald entered a motion to commence the ARC's fifteen-day review of the revised rules. William Smagula seconded the motion. All were in favor. The motion carried. Chairman Duval reminded members of the ARC to contact Vice-Chairman Collins with any comments concerning the proposed rules within fifteen days.

Status of Appeals

Paula Scott, Appeals Clerk presented the status of appeals before the ARC as follows:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013.

William Smagula stated that the parties have made good progress and are finishing details with the ARD. Mr. Smagula expects the status report will be forthcoming on September 1, 2013.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February

12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants' Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request for Information. A continued hearing on the matter was held on August 12, 2013. The hearing will resume on September 11, 2013 at 11:00 a.m.

Docket No. 13-4 ARC – Winmill Equipment Co., Inc. regarding Administrative Order No. 13-009 ARD issued on May 30, 2013. The ARC received the Notice of Appeal on July 1, 2013. On July 2, 2013, the ARC issued an insufficient appeal letter. On July 15, 2013, the ARC received a revised Notice of Appeal. On July 22, 2013, the ARC issued a receipt of the Revised Appeal.

After review of the Revised Appeal, David Collins entered a motion to accept the Appeal of Winmill Equipment Co., Inc. Raymond Donald seconded the motion. All were in favor.

Ms. Scott stated that she will contact the Office of the Attorney General to request an appointment of a Hearing Officer in the matter.

New Business

Raymond Donald inquired about the appointment of a Director of the ARD. Acting Director Wright reported that Governor Hassan has nominated him to be the Director of the ARD and the Executive Council will take up his confirmation as Director at a future meeting of the Governor and Executive Council.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on September 16, 2013.

Public Commentary

Linda Winmill of Winmill Equipment Co., Inc. was present for the duration of the ARC meeting. Ms. Winmill stated that she attended the meeting in order to gain further knowledge of the procedures of the ARC.

Adjourn

Having no further business to discuss, Deborah Chabot entered a motion to adjourn. William Smagula seconded the motion. All were in favor. Meeting #217 of the Air Resources Council adjourned at 9:30 a.m. on August 19, 2013.



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

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NOTICE OF MEETING

September 16, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, September 16, 2013, in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. Call to Order
2. Approval of Minutes (Meeting #217)
3. Air Resources Division Report
Craig Wright, Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. Status of Appeals
Paula Scott, Appeals Clerk, NHDES Legal Unit
5. Old Business
6. New Business
7. Public Commentary
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
8. Adjourn

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #218
09/16/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Deborah Chabot, Raymond Donald, Debra Hale, Carmela Amato-Wierda

MEMBERS NOT PRESENT: Ryan Bielagus, Georgia Murray, William Smagula

NHDES – ARD PERSONNEL: Craig Wright, Michele Roberge, Gary Milbury, Joseph Fontaine

OTHERS PRESENT: Anne Keach, Paula Scott

Call to Order:

Chairman Duval called Meeting #218 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, September 16, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

Deborah Chabot entered a motion to accept the minutes of meeting #217. Raymond Donald seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #217 were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Craig Wright, Director of the Air Resources Division (ARD). Mr. Wright briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Legislation

Mr. Wright reported that the Air Resources Division (ARD) is developing potential legislation for the upcoming 2014 session regarding enforcement of nuisance woodsmoke. The ARD is working with the Department of Resources and Economic Development and the American Lung Association to develop draft legislation allowing local authorities the ability to enforce the provision.

Regional Greenhouse Gas Initiative (RGGI) Auction Results

Mr. Wright reported that forty-two bidders participated in the offering of CO₂ allowances for the current control period in the RGGI Auction held on September 6, 2013. Bids were submitted to purchase 2.0 times the available supply of allowances, resulting in a clearing price of \$2.67 per ton. Compliance entities or their affiliates purchased 53 percent of the allowances in the offering. Mr. Wright added that the State of New Hampshire grossed ~ \$4.4 Million in proceeds from the RGGI auction. The next RGGI auction is scheduled for December 4, 2013.

Permitting

Brox Industries, Inc., Hudson

A Public Hearing was held on August 7, 2013 at the Rodgers memorial Library to receive public comment. The Permit to Operate was issued on August 29, 2013.

Elliot, Maine – PSNH, Schiller Station

Mr. Wright reported that Elliot, ME filed a 126 Petition with the United States Environmental Protection Agency (EPA) alleging violations of the National Air Quality Standards. The EPA has sixty days to respond to the petition.

Mr. Wright added that a Third Party, the Sierra Club, supplied the modeling analysis conducted on Peirce Island.

Deborah Chabot asked if there have been increase health incidences reported. Mr. Wright responded that he has not seen any data of that nature. Ms. Chabot asked what triggered the petition. Mr. Wright stated that Schiller Station was originally built in the 1950s as an oil plant, and was later converted to coal. He added that Schiller Station is subject to Mercury and Air Toxics Standards testing in April 2015.

Annual Work Plan

Director Wright provided members of the ARC with copies of EPA's NHDES 2014 PPA Priorities and Commitments List which includes over forty objectives for the Air Resources Division programs to accomplish including, but not limited to:

- Participating in EPA's Climate Adaptation Conference
- Greenhouse Gas actions in the Municipal and Industrial Sectors
- Participate in EPA's AIRNOW program
- Submitting designation recommendations for the 2012 PM2.5 NAAQS by December 2013.
- Process conformity determinations for CO maintenance areas
- Submit RACT SIP for 2008 Ozone Standard
- Propose the Regional Haze Interim Progress Report SIP revision to meet January 29, 2015 deadline
- Ensuring Title V permits and permit modifications issued within eighteen months of receiving permit application
- Ensure that 78 percent of major NSR permits are issued within twelve months of receiving permit application.
- Submit Annual Air Monitoring Network Plan by July 1, 2014.
- Operate EPA-approved network (SLAMS, PAMS, PM) and submit Annual Air Quality Data Certification by May 1, 2014
- Participate in the NH Asthma Collaborative to revise NH's strategies (Healthy Schools, Anti-Idling policies)

Chairman Duval requested that an overview of the NHDES Compliance Assurance Response Policy (CARP) be presented at the next meeting of the ARC.

Chairman Duval asked Director Wright to provided members of the ARC with an overview of the Permitting Process with particular focus on Title V Permits at a future meeting of the ARC.

Director Wright agreed to arrange for the presentations before the ARC.

Status of Appeals

Paula Scott, Appeals Clerk presented the status of appeals before the ARC as follows:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's

Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013.

William Smagula stated that the parties have made good progress and are finishing details with the ARD. Mr. Smagula expects the status report will be forthcoming on September 1, 2013.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants; Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants; Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the

ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request for Information. A continued hearing on the matter was held on August 12, 2013. The hearing will resume on September 11, 2013 at 11:00 a.m. On August 20, 2013, the ARC received the Appellant's Submittal of missing data from Exhibit A4. A hearing on the matter will resume on October 21, 2013 following the regular meeting of the ARC at 10:00 a.m.

Docket No. 13-4 ARC – Winmill Equipment Co., Inc. regarding Administrative Order No. 13-009 ARD issued on May 30, 2013. The ARC received the Notice of Appeal on July 1, 2013. On July 2, 2013, the ARC issued an insufficient appeal letter. On July 15, 2013, the ARC received a revised Notice of Appeal. On July 22, 2013, the ARC issued a receipt of the Revised Appeal. On August 19, 2013, the ARC received a Notice of Appearance from Kerry Barnsley for the NHDES. On September 13, 2013, the ARC issued a Notice of Pre-hearing Conference scheduled for October 8, 2013 at 4:00 p.m.

New Business

Chairman Duval reminded members of the ARC whose terms are expiring to contact Jen Kuzma of the Governor's office if they are interested in re-appointment to serve on the ARC. He added that two vacancies remain on the ARC representing the Recreation and Manufacturing sectors. Chairman Duval asked members to refer individual interested in serving on the ARC to contact the Governor's Office as well.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on October 21, 2013.

Public Commentary

No public comments were received by the ARC.

Adjourn

Having no further business to discuss, Raymond Donald entered a motion to adjourn. Carmela Amato-Wierda seconded the motion. All were in favor. Meeting #218 of the Air Resources Council adjourned at 10:00 a.m. on September 16, 2013.



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

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NOTICE OF MEETING October 21, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, October 21, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. **Call to Order**
2. **Approval of Minutes (Meeting #218)**
3. **Air Resources Division Report**
Craig Wright, Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. **Compliance Assurance Response Policy (CARP) Overview**
Kerry Barnsley, Attorney, NHDES Legal Unit
5. **Status of Appeals**
Paula Scott, Appeals Clerk, NHDES Legal Unit
6. **Old Business**
7. **New Business**
8. **Public Commentary**
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
9. **Adjourn**

10:00 a.m. – Hearing (continued from September 11, 2013)
Docket No. 12-11 ARC, Katherine Lajoie, Rebecca MacKenzie, et al.

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #219
10/21/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Deborah Chabot, Raymond Donald, Debra Hale (via conf. call), Carmela Amato-Wierda, Ryan Bielagus, Georgia Murray, William Smagula

MEMBERS NOT PRESENT:

NHDES – ARD PERSONNEL: Craig Wright, Michele Roberge, Gary Milbury, Pamela Monroe, Barbara Hoffman, Kerry Barnsley

OTHERS PRESENT: Anne Keach, Paula Scott

Call to Order:

Chairman Duval called Meeting #219 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, October 21, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

Ryan Bielagus entered a motion to accept the minutes of meeting #218. Raymond Donald seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #218 were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Craig Wright, Director of the Air Resources Division (ARD). Mr. Wright briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Legislation

Mr. Wright reported that the Air Resources Division (ARD) is developing potential legislation for the upcoming 2014 session and will provide members with relevant Legislative Service Requests at the November 18, 2013 meeting.

Permitting

Public Service Company of New Hampshire, Schiller Station – Portsmouth

North Country Environmental Services, Inc. (NCES) – Bethlehem

Notice of the public comment period for the Draft Title V Permit opened on October 23 2013. The public comment period closes on November 22, 2013.

Section 111D – Emissions Guidelines

Director Wright reported that the EPA will issue CO₂ standards in June 2014. He added that New Hampshire is providing comments to EPA for the Regional Greenhouse Gas initiative as RGGI will serve as a national model of what states can achieve concerning CO₂ emissions reductions.

Compliance Assurance Response Policy (CARP) Overview

Kerry Barnsley, Compliance Attorney, Legal Unit and Pamela Monroe, Bureau Administrator of the Air Resources Division Compliance Bureau provided members of the ARC with an overview of the CARP, which was adopted on September 27, 2000. The CARP was developed to identify the range of actions available to the DES when addressing violations of environmental laws.

Mr. Barnsley explained that there are two types of department enforcement decisions subject to appeal to the Air Resources Council. The first is the decision to issue an administrative order; the second is the decision to revoke, suspend, or refuse to renew a license. The decision to deny a license or permit, initially, is a department permitting decision under RSA 21-O:14.

Mr. Barnsley outlined the following enforcement decisions for members of the ARC:

Administrative Order (AO) – a legally enforceable document issued unilaterally by the DES that requires the Respondent to act or refrain from acting in response to specifically identified violations of environmental laws. An AO usually includes a compliance schedule. If an AO is not appealed, it can be used as proof that the violations alleged in the AO occurred. As such, the AO must comply with basic concepts of fairness and due process, which require that the Respondent be able to tell exactly what the “charges” are and the corrective actions the DES expects of the Respondent(s).

Administrative Order by Consent (AOC) – a legally enforceable document that the DES issues with the consent of the Respondent. Because the Respondent is agreeing to the AOC, administrative fines, civil penalties, and/or stipulated penalties can be included. The Respondent must sign the AOC and waive any rights of appeal.

License Action – when violations are committed by someone who holds a license from the DES, the DES may take an action directly against the license in addition to or in lieu of a penalty action or compliance action. “License” is broadly defined to include the whole or part, if any agency permit, certificate (including operator certification), approval, registration, charter or similar form of permission required by law.

Administrative Fine (AF) – an action by which a Division asks DES to impose a monetary penalty against the Respondent. Administrative fine actions are sometimes initiated with the intent of seeking a settlement of the case that will also resolve any outstanding compliance issues. The Commissioner of DES is authorized to impose administrative fines for violation under most of the statutes implemented by DES. Administrative fines decisions are subject to the provision of RSA 541-A for purposes of appeal.

Administrative Fine by Consent (AFC) – an administrative fine action is initiated by the Air Resources Division by sending a draft AFC document, approved by the Commissioner to offer to Respondent(s). If the Respondent doesn't accept the proposed settlement and alternate terms can't be worked out, the Division may initiate a formal proceeding by issuing a Notice of Proposed Fine. If the terms are agreed to, the AFC is signed and routed for acceptance by the Commissioner.

Notice of Proposed Fine (NPF) – is a notice that an AF is being proposed; it is not a notice that a fine has been imposed. Pursuant to the statutory authorities for imposing fines, the Respondent has an opportunity for a hearing before a fine is imposed. All DES programs are encouraged to discuss a possible settlement of any AF case. If the Respondent does not contact the program to initiate the discussion, Program staff may contact the Respondent(s).

Notice of Past Violation (NPV) – DES may issue an NPV when a program discovers a violation; the responsible party returns to compliance prior to the program taking actions; seeking an administrative fine for the violation is not appropriate; but the program wants to have a record that the violation occurred in the event of a future action against the same responsible party. The NPV creates a record that DES believes that the violation occurred and that it has been addressed. An

NPV is not proof that a violation occurred, so if DES uses the past violation in a subsequent proceeding, DES will offer proof of the past violation along with proof of the current violation. An NPV is not a DES enforcement decision subject to appeal.

Letter of Deficiency (LOD) – a letter to the Respondent which identifies observations and finding made by DES and the applicable environmental laws alleged to have been violated. In an LOD, the DES requests the Respondent to come into compliance with the applicable requirements. An LOD constitutes a compliance action, only used if violations have occurred or are on-going.

Notice of Findings (NOF) – a letter to the Respondent that identifies all of the violations that a program, after an investigation (including record reviews and/or inspections as appropriate), believes exists at a facility. In the NOF, the DES also requests a response, and so it serves two purposes: the NOF informs the Respondent of the violations that DES believes exist to allow the Respondent to get an early start on correcting them, and it “invites” the Respondent to inform the DES is the information on which the conclusions are based is incomplete or erroneous. An NOF is not a DES enforcement decision subject to appeal.

Mr. Barnsley stated that the desired outcome in every LOF, AO, and AOC is compliance with applicable laws and rules. In an AF case, the desired outcome is payment of the fine. However, since the fine can only be imposed after notice and opportunity for a hearing, in an NPF, DES can't order or require the Respondent to pay anything. Instead, the Division states in the NPF that it is seeking a fine to be imposed by DES, and informs the Respondent of the subject of the action; the alleged facts forming the basis for the violations, the applicable legal requirements; the violations alleged; and the amount of the proposed fines(s). The process for responding to the notice, being heard, as well as the consequences for failing to appear are set out in the notice.

Chairman Duval asked if there is an advantage for entities to self-report violations.

Ms. Monroe responded that entities who self-report do so because they want to be in compliance. She said that the processes contained in the CARP are all about resolution. She added that the CARP largely includes a list of “tools” (e.g., AO, NPV, NOF, LODs) in order for the parties and the DES to attain compliance.

Chairman Duval thanked Mr. Barnsley and Ms. Monroe for presenting the components of the CARP, and for the information shared during the members' discussion.

Status of Appeals

Paula Scott, Appeals Clerk presented the status of appeals before the ARC as follows:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013. The ARC received PSNH's status report on September 5, 2013. On September 12, 2013, the ARC issued a letter granting the request.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants; Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants; Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request for Information. A continued hearing on the matter was held on August 12, 2013. The hearing will resume on September 11, 2013 at 11:00 a.m. On August 20, 2013, the ARC received the Appellant's Submittal of missing data from Exhibit A4. A hearing on the matter will resume on October 21, 2013 following the regular meeting of the ARC at 10:00 a.m.

Docket No. 13-4 ARC – Winmill Equipment Co., Inc. regarding Administrative Order No. 13-009 ARD issued on May 30, 2013. The ARC received the Notice of Appeal on July 1, 2013. On July 2, 2013, the ARC issued an insufficient appeal letter. On July 15, 2013, the ARC received a revised Notice of Appeal. On July 22, 2013, the ARC issued a receipt of the Revised Appeal. On August 19, 2013,

the ARC received a Notice of Appearance from Kerry Barnsley for the NHDES. On September 13, 2013, the ARC issued a Notice of Pre-hearing Conference scheduled for October 8, 2013 at 4:00 p.m. On September 24, 2013, the ARC issued notice of the Pre-Hearing Conference time change from 4:00 p.m. to 8:30 a.m. on October 8, 2013. The Pre-hearing Conference was held on October 8, 2013 and a Pre-Hearing Order was issued. The continued Pre-Hearing Conference is scheduled for January 14, 2014, at 8:30 a.m.

New Business

Chairman Duval reminded members of the ARC whose terms are expiring to contact Jen Kuzma of the Governor's office if they are interested in re-appointment to serve on the ARC. He added that two vacancies remain on the ARC representing the Recreation and Manufacturing sectors. Chairman Duval asked members to refer individual interested in serving on the ARC to contact the Governor's Office as well.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on November 18, 2013.

Public Commentary

No public comments were received by the ARC.

Adjourn

Having no further business to discuss, Raymond Donald entered a motion to adjourn. Deborah Chabot seconded the motion. All were in favor. Meeting #219 of the Air Resources Council adjourned at 9:55 a.m. on October 21, 2013.

Continued Hearing, Docket No. 12-11 ARC Katherine Lajoie, Rebecca Mackenzie, et. al

Continued Hearing from September 11, 2013 started at 10:10 a.m.

Present: Georgia Murray
Camela Amato-Wierda
David Collins
Robert Duval
William Smagula

Hearing Officer: David Conley
Appeals Clerk: Paula Scott

The Hearing closed at 11:40 a.m.

Deliberations began at 11:50 a.m. and recessed at 12:05 p.m. Deliberations will resume on Monday, November 18, 2013, at 10:00 a.m.



THE STATE OF NEW HAMPSHIRE

Air Resources Council

Robert Duval, Chairman

PO Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Council Clerk (non-appeal related): (603) 271-1386; Appeals Clerk (appeal related only): (603) 271-6072
TDD Access: Relay NH 1-800-735-2964
Council Website: <http://www.des.nh.gov/councils/>

NOTICE OF MEETING November 18, 2013

The New Hampshire Air Resources Council will convene at 9:00 a.m.
Monday, November 18, 2013 in Conference Rooms 112 & 113
NH Department of Environmental Services
29 Hazen Drive, Concord, New Hampshire 03301

1. Call to Order
2. Approval of Minutes (Meeting #219)
3. Air Resources Division Report
Craig Wright, Director
 - Legislative Update
 - Significant Permit Activities
 - Other ARD Activities
4. Env-A 702.05, 705.01, and 907.01, General Reporting and Fees Requirements
Todd Moore, Construction and Planning Manager
Barbara Hoffman, State Implementation Plans Development Manager
5. Status of Appeals
Paula Scott, Appeals Clerk, NHDES Legal Unit
6. Old Business
7. New Business
8. Public Commentary
 - Opportunity for public comment on matters affecting the Air Resources Council or the Air Resources Division
9. Adjourn

10:00 a.m. – Deliberations (continued from October 21, 2013)
Docket No. 12-11 ARC, Katherine Lajoie, Rebecca MacKenzie, et al.

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #220
11/18/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins, Deborah Chabot, Carmela Amato-Wierda, Georgia Murray, William Smagula

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

NHDES – ARD PERSONNEL: Craig Wright, Michele Roberge, Gary Milbury, Barbara Hoffman

OTHERS PRESENT: Anne Keach, Paula Scott, Peter Demas

Call to Order:

Chairman Duval called Meeting #220 of the Air Resources Council (ARC) to order at 9:15 a.m. on Monday, November 18, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

William Bielagus entered a motion to accept the minutes of meeting #219. Debora Chabot seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #219 were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Craig Wright, Director of the Air Resources Division (ARD). Mr. Wright briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Legislation

Mr. Wright reported that the Air Resources Division (ARD) is developing potential legislation for the upcoming 2014 session and will provide members with relevant Legislative activities at the next meeting of the ARC.

Permitting

North Country Environmental Services, Inc. (NCES) – Bethlehem
On October 23, 2012, the NHDES published a public notice of its intent to issue a Title V Operating Permit to NCES of Rutland, Vermont for a solid waste landfill located at 581 Trudeau Road in Bethlehem, NH.

The NCES operates a solid waste landfill, which generates landfill gas that is extracted and combusted in one of two open flares, with the second flare serving as a backup control device in the event the first flare is temporarily offline for maintenance or repairs. The Title V Operating permit is intended to incorporate all applicable state and federal requirements relating to air emissions, including the requirements of existing temporary permits, into one operating permit. Director Wright added that the Title V Operating permit is also required for the landfill based on its capacity, pursuant to the Code of Federal Regulations, 40 CFR Part 60, Subpart WWW.

Director Wright reported that a public hearing is scheduled for January 16, 2014 at 6:00 p.m. at Profile High School in Bethlehem, NH.

Public Service of New Hampshire - Schiller Station, Portsmouth, NH

Director Wright stated that the NHDES has received over two hundred e-mails from Sierra Club members and the Conservation Law Foundation. He reported that the NHDES is currently reviewing those comments.

Town of Elliot, Maine – Section 126 Petition

Director Wright reported that, effective November 8, 2013, the U.S. Environmental Protection Agency (EPA) has extended the deadline for action on the Petition to no later than May 8, 2014.

Regional Greenhouse Gas initiative (RGGI) Rules

Director Wright stated that the RGGI Rules will be presented to the Joint Legislative Committee on Administrative Rules on November 22, 2013 to ensure that program updates are in place by January 2014.

Env-A 702.05, 705.01, and 907.01, General Reporting and Fees Requirements

William Smagula entered a motion to table this item until the next meeting of the ARC. Deborah Chabot seconded the motion. All present were in favor. The motion to table the item carried.

Status of Appeals

Paula Scott, Appeals Clerk presented the status of appeals before the ARC as follows:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013. The ARC received PSNH's status report on September 5, 2013. On September 12, 2013, the ARC issued a letter granting the request.

William Smagula reported that the parties have met and shared settlement documents which will be finalized in the near future. He reported that he expects the Appeal will be withdrawn.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was

received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants; Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants; Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request for Information. A continued hearing on the matter was held on August 12, 2013. The hearing will resume on September 11, 2013 at 11:00 a.m. On August 20, 2013, the ARC received the Appellant's Submittal of missing data from Exhibit A4. A hearing on the matter will resume on October 21, 2013 following the regular meeting of the ARC at 10:00 a.m. Deliberations will continue on November 18, 2013 at 10:00 a.m.

Docket No. 13-4 ARC – Winmill Equipment Co., Inc. regarding Administrative Order No. 13-009 ARD issued on May 30, 2013. The ARC received the Notice of Appeal on July 1, 2013. On July 2, 2013, the ARC issued an insufficient appeal letter. On July 15, 2013, the ARC received a revised Notice of Appeal. On July 22, 2013, the ARC issued a receipt of the Revised Appeal. On August 19, 2013, the ARC received a Notice of Appearance from Kerry Barnsley for the NHDES. On September 13, 2013, the ARC issued a Notice of Pre-hearing Conference scheduled for October 8, 2013 at 4:00 p.m. On September 24, 2013, the ARC issued notice of the Pre-Hearing Conference time change from 4:00 p.m. to 8:30 a.m. on October 8, 2013. The Pre-hearing Conference was held on October 8, 2013 and a Pre-Hearing Order was issued. The continued Pre-Hearing Conference is scheduled for January 14, 2014, at 8:30 a.m. On November 15, 2013, a notice of the rescheduled continued Pre-hearing Conference for January 13, 2013 was sent.

New Business

Chairman Duval introduced Peter Demas of the NHDES Legal Unit. Mr. Demas informed members of the ARC that a new website has been developed for the ARC in an effort to separate the ARC's affairs from those of the NHDES. He stated that the new website may be accessed at <http://www.nhec.nh.gov/air/index.htm>, and requested members to provide comments regarding the format as soon as possible as the website will be live in December 2013.

Chairman Duval reminded members of the ARC whose terms are expiring to contact Jen Kuzma of the Governor's office if they are interested in re-appointment to serve on the ARC. He added that two vacancies remain on the ARC representing the Recreation and Manufacturing sectors. Chairman Duval asked members to refer individuals interested in serving on the ARC to contact the Governor's Office as well.

Other Business

Having no business before the ARC in December 2013, Vice-Chairman Collins entered a motion to cancel the ARC meeting scheduled for December 16, 2013. Deborah Chabot seconded the motion. All present were in favor. The motion carried. Chairman Duval set the next meeting of the Air Resources Council to be held on January 13, 2014.

Public Commentary

No public comments were received by the ARC.

Adjourn

Having no further business to discuss David Collins entered a motion to adjourn. Georgia Murray seconded the motion. All were in favor. Meeting #220 of the Air Resources Council adjourned at 9:55 a.m. on November 18, 2013.

Continued Deliberations, Docket No. 12-11 ARC Katherine Lajoie, Rebecca Mackenzie, et al.

Continued Deliberations from October 21, 2013 in Docket No. 12-11 ARC - Katherine Lajoie, Rebecca MacKenzie, et al. appeal, started at 10:04 a.m.

Present: Georgia Murray
Carmela Amato-Wierda
David Collins
Robert Duval
William Smagula

Hearing Officer: David Conley
Appeals Clerk: Paula Scott

Deliberations concluded at 11:40 a.m.

**AIR RESOURCES COUNCIL
APPEALS
&
ACTIVITY RELATIVE TO APPEALS
DOCKETED IN PRIOR YEARS**

2013 AIR RESOURCES COUNCIL APPEALS

Received	Docket # / Council	Decision Appealed	Appellant; Relationship	Intervenor(s); Relationship	Result	Further Action
07/01/13	13-04 ARD	5/30/13 Administrative Order No. 13-009 ARD	Wimmill Equipment Co. Inc., Robert Wimmill, President			

2013 AIR RESOURCES COUNCIL PRIOR YEAR DOCKET ACTIVITY

Received	Docket # / Council	Decision Appealed	Appellant; Relationship	Intervenor(s); Relationship	Result	Further Action
07/28/11	11-10 ARC	Final Determination of Baseline Mercury Input	Public Service of N.H. (PSNH)		12/27/12 remand to ARD	1/15/12-Request for Reconsideration and Clarification-in settlement discussions
10/11/12	12-11 ARC	Title V Air Permit for Wheelabrator Claremont, application #09-005	Katherine Lajoie & Rebecca Mackenzie, et al. (abutters)	Wheelabrator Claremont (permittee)		

AIR RESOURCES COUNCIL

RECORD OF ATTENDANCE

