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Board of Environmental Protection
Report to the Joint Standing Committee on Environment and Natural Resources
Recommendations and Summary of Activities
Calendar Year 2010

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**REPORT TO THE JOINT STANDING COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
SUMMARY OF ACTIVITIES – 2010**

Table of Contents

I.	Introduction	-----	Page 1
II.	Membership	-----	Page 2
III.	Recommendations and Issues for Consideration		
	- Safer Chemicals in Children's Products -----		Page 3
	- Energy Infrastructure-----		Page 4
	- HoltraChem Chlor-alkali Manufacturing Facility in Orrington-----		Page 6
IV.	Summary of Matters before the Board in 2010		
	- Rulemaking and Related Matters--- -----		Page 7
	- Major Applications -----		Page 12
	- Appeals of Department Licensing Decisions -----		Page 13
	- Petitions to Modify, Suspend or Revoke a License -----		Page 15
	- Appeal of Administrative Orders Issued by the Commissioner ----		Page 16
	- Enforcement Actions-----		Page 17
	- Informational Workshops -----		Page 18
V.	Closing	-----	Page 18

Attachment:

- > Board Members: List and Biographical Information
- > 2010 Board meeting agendas

Board of Environmental Protection
Report to the Joint Standing Committee on Environment and Natural Resources

Summary of Activities in Calendar Year 2010

I. Introduction

The Board of Environmental Protection is a ten member citizen board whose members are appointed by the Governor and approved by the Legislature. (38 M.R.S.A. § 341-C). Its purpose is to “provide informed, independent and timely decisions on the interpretation, administration and enforcement of the laws relating to environmental protection and to provide for credible, fair and responsible public participation in department decisions.” (38 M.R.S.A. § 341-B).

The Board’s responsibilities are set forth in statute (38 M.R.S.A. § 341-D) and include:

- Rulemaking: the Board holds public hearings on proposed rules and adopts the rules of the Department;
- Decisions on selected permit applications: the Department’s statutes specify that certain applications must be evaluated and decided by the Board;
- Review of certain Commissioner licensing and enforcement actions: the Board hears appeals of certain Commissioner licensing decisions and administrative orders and approves proposed consent agreements to resolve violations of environmental laws;
- Petitions: the Board considers petitions to modify, revoke or suspend a license; and
- Recommendations to the Legislature: the Board is charged with making recommendations to the Legislature on the implementation of environmental laws.

While located within the Department of Environmental Protection, the Board has decision-making authority independent of the Commissioner. Although an independent decision-maker, the Board must make its decisions based upon an analysis of the facts that are properly before it in the record for each case and an application of the relevant legal criteria as set for in statute and associated rules.

Proceedings before the Board are governed by the Maine Administrative Procedure Act, the Board’s procedural statutes and rules governing various types of proceedings (e.g. rulemaking, appeal proceeding, etc.) and by program-specific statutes and rules governing matters such as the control of air emissions, waste management and land use. All meetings of the Board are noticed and open to the public.

Title 38 § 341-D(7) requires the Board of Environmental Protection to report to the joint standing committee having jurisdiction over energy and natural resource matters by January 15 of the first regular session of each Legislature on the “effectiveness of the environmental laws of the State and any recommendations for amending those laws or the laws governing the

board.” In addition to providing recommendations, it is customary for the Board to provide a summary of its activities for the preceding calendar year. An update on Board membership, recommendations for your consideration, and a summary of the Board’s activities in calendar year 2010 follow.

II. Membership

As stated above, the Board of Environmental Protection (Board) consists of ten citizen members appointed by the Governor and approved by the Legislature. Board members are chosen to represent a broad range of interests, professional backgrounds, and experiences that help to inform their assessment of the matters before the Board for decision. Four members must be from the First Congressional District and four members from the Second Congressional District. Members are appointed for staggered four-year terms, and no member may serve more than two consecutive four-year terms. One member of the Board is appointed by the Governor as Chair. Board members volunteer their time, receiving \$55.00 per day plus expenses for their attendance at Board meetings and hearings (5 M.R.S.A. § 12004-D(2)). The Chair is Susan Lessard of Hampden. See Attachment A for biographical information on the current Board members.

Recent Appointments

In March 2010, Governor John E. Baldacci reappointed Richard Gould of Greenville and M. Wing Goodale of Falmouth to a second term on the Board. In August 2010, Paul Paydos of Dover-Foxcroft was appointed to fill the vacancy created when Nancy Ziegler of South Portland completed her service on the Board.

Richard Gould is a retired high school teacher and former State Legislator, representing Greenville from 1986-1996. After leaving the State House, Mr. Gould was employed as legislative liaison for Great Northern Paper, working on natural resource issues, policies and legislation. Mr. Gould has also served as Code Enforcement Officer for the Town of Greenville. He is active in educational issues and currently serves on the Greenville School Committee.

M. Wing Goodale is Deputy Director of the Biodiversity Research Institute, a nonprofit ecological research group located in Gorham. He is involved in a number of research projects including assessment of the impact of mercury and other toxins on bird populations. He has a bachelor’s degree in biology from Colorado College and a master’s degree in conservation biology from College of the Atlantic.

Paul Paydos recently retired as a Senior Vice President from Guilford of Maine (now known as True Textiles). Over his career, Mr. Paydos held a variety of positions with the company in the areas of planning, purchasing, warehousing, finance, engineering, and information technology. He was instrumental in the company’s efforts to develop and implement environmentally sustainable production practices. Mr. Paydos was appointed by former Governor Angus King

to the State's Pollution Prevention Advisory Committee, and he served as Co-Chair of the State's Smart Production Initiative in 2001.

In 2011, two members will complete their second term on the Board. Four other members will complete their first term and will be eligible for reappointment.

III. Recommendations and Issues for Consideration

The Board considers a significant number of matters each year. These matters are summarized in Section IV below. While each matter presents important issues for consideration and resolution, the following matters received considerable public attention in 2010.

A. Safer Chemicals in Children's Products.

Public Law 2007, chapter 643 "An Act to Protect Children's Health and the Environment from Toxic Chemicals in Toys and Children's Products" requires the Commissioner to designate at least two priority chemicals by January 1, 2011 (38 M.R.S.A. §1694). The law requires that the Maine Center for Disease Control and Prevention concur on the designation of a chemical as a priority chemical. The law also provides that the Board may adopt rules prohibiting the manufacture, sale or distribution in the State of a children's product containing a priority chemical if: distribution of the children's product directly or indirectly exposes children and vulnerable populations to the priority chemical; and one or more safer alternatives to the priority chemical are available at a comparable cost. Any rule including a prohibition is a major substantive rule requiring approval of the Legislature (38 M.R.S.A. §1696). PL 2007, chapter 643 received strong support in the Legislature, passing the Senate with a unanimous vote and the House on a vote of 129 to 9.

To implement the law, the Board adopted two rules during the past year which provide the framework for the designation of priority chemicals: Chapter 800 Regulation of Chemical Use in Children's Products and Chapter 881 Fees, Chemical Use in Children's Products

The Board also took action on proposals to name two priority chemicals: Chapter 882 Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products, and Chapter 883 Designation of Chemical Class Nonylphenol and Nonylphenol Ethoxylates as a Priority Chemical. Chapter 882 contains a prohibition on the sale or distribution for sale in Maine after January 1, 2012 of any reusable food or beverage container containing intentionally added bisphenol A. A reusable food or beverage container is defined as "a container with a lid, cover, cap or nipple that is manufactured or intended for storing, carrying or transporting food or beverages, including, but not limited to, baby bottles, spill-proof cups, sports bottles and thermoses...it does not include a receptacle that contains food or beverage when sold or purchased."

The hearings on priority chemicals were among the best attended rulemaking hearings in 2010, with the Board receiving extensive expert and public testimony on the proposed rules. There is strong public support for the rules and for efforts to find alternatives to the use of toxic

chemicals in children's products. We encourage your favorable consideration of Chapter 882, a portion of which is major substantive, this session.

B. Energy Infrastructure.

(1) On-Shore Wind Energy Projects. Public Law 2007, chapter 661 "An Act to Implement Recommendations of the Governor's Task Force on Wind Power Development" expedited the permitting of wind energy projects in certain locations. Since enactment of the law, all of the major projects approved within the organized areas of the State have been appealed to the Board.

While a number of issues have been raised in these appeals, the major issue common to all is concern over the potential effects of sound from the turbines on human health and wildlife. In each instance, the appellants have argued that the Department's existing rules governing noise (last amended in 1989) do not adequately address the type of noise associated with wind power development. In these proceedings, the Board has been presented with a significant amount of information on various wavelengths and levels of sound, its propagation, potential impacts of sound on human health, and arguments that the Department's rules need to be revised to reflect the unique aspects of sound generated by wind turbines.

While sensitive to the sound issues raised by persons living in the vicinity of the proposed projects, the Board has advised the appellants that in evaluating the appeals, the Board is bound by the rules in effect at the time the applications were filed. The Board cannot consider arguments that the rules should be disregarded or that additional factors not specified in the rules must be considered. This has left many of the appellants frustrated, resulting in further appeals of the Board's decisions to the Maine Supreme Judicial Court (Law Court). To date the Law Court has upheld the Board's decisions on appeal; two cases are currently pending at the Law Court (Oakfield Wind Project and Record Hill Wind Project). Dispute over the adequacy of the rules continues.

In response to public concerns over the adequacy of the State's rules governing noise, the Joint Standing Committee on Utilities and Energy requested¹ that the Governor's Office of Energy Independence and Security examine the adequacy of the state's statutes and rules governing noise as they pertain to wind energy projects as well as the opportunity for a public hearing on such applications, and report back to the Legislature by January 15, 2011. The Board awaits the Legislature's assessment and direction on this matter.

The wind energy projects before the Board on appeal in 2010 are summarized below.

- Record Hill Wind Project: 50.5 MW wind energy generation facility located in Roxbury, Oxford County. Permits were issued to Record Hill Wind, LLC on August 20, 2009. An appeal was filed on September 21, 2009 by Concerned Citizens to Save Roxbury, Silver Lake Camp Owners Association, and numerous property owners in the town of Roxbury.

¹ February 23, 2010 Letter from the Joint Standing Committee on Utilities and Energy to John Kerry, Director of the Governor's Office of Energy and Security

The Board denied the appeal. The Board's decision has been appealed to the Law Court – *Concerned Citizens v. BEP*.

- Rollins Wind Project: 60 MW wind energy generation facility located in Lincoln, Lee, Winn, Burlington, Mattawamkeag, Penobscot County. Permits were issued to Evergreen Wind III, LLC on April 21, 2009. The Friends of Lincoln Lakes filed an appeal of the Commissioner's decision on May 21, 2009. The Board denied the appeal. The Board's decision was in turn appealed to the Law Court, which upheld the Board's decision. The project was subsequently the subject of a Petition to Revoke, Modify or Suspend the license. The petition was filed on September 16, 2010 by area residents who argued, in part, that the project posed a threat to human health. The Board dismissed the petition on October 7, 2010.
- Oakfield Wind Project: 51 MW wind energy generation facility located in Oakfield and T4 R3 WELS, Aroostook County. Permits were issued to Evergreen Wind II, LLC on January 21, 2010. An appeal of the Commissioner's decision was filed by abutters on February 22, 2010. The Board denied the appeal. The Board's decision has been appealed to the Law Court – *Martha Powers Trust v. BEP*.
- Spruce Mountain Wind Project: 18 to 20 MW wind energy generation facility to be located in Woodstock, Oxford County. Permits for the project were issued on October 5, 2010. An appeal of the Commissioner's decision was filed by the Friends of Spruce Mountain on November 3, 2010. The matter has not yet been scheduled for consideration by the Board.

(2) Liquefied Natural Gas Import Facility. In recent years, the Department has received three applications for a liquefied natural gas import terminal and pipeline project in Washington County. Most recently, Calais LNG Project Company, LLC and Calais LNG Pipeline Company, LLC (collectively "Calais LNG") filed applications for an import facility in Calais and a send-out pipeline to be located in Calais, Baring Plantation, Baileyville, and Princeton. The Board, which had licensing jurisdiction over the applications, scheduled a public hearing on the applications for Calais in July 2010. Prior to the hearing, Calais LNG requested postponement of the public hearing; the request was granted. Calais LNG subsequently requested that its applications be placed on hold while the company sought new financial backers for the project. Following loss of financial backing and title, right or interest in the property proposed for development, Calais LNG withdrew its applications on December 14, 2010. Withdrawal of the applications is without prejudice, and Calais LNG may re-file its applications after it has addressed these issues and is ready to proceed with review of the applications on the merits. The Board is committed to timely processing of Calais LNG's applications when Calais LNG is ready to proceed.

The prior applications for an LNG import terminal were: a proposal by Downeast LNG, LLC and Downeast Pipeline, LLC for an import terminal in Robbinston, and a proposal by Quoddy Bay LNG, Inc and Quoddy Bay Pipeline, LLC for a facility in Perry in an area of the Passamaquoddy Tribe's Pleasant Point Reservation. The Board held a public hearing on the Downeast LNG application in July 2007. Downeast subsequently withdrew its application

prior to a decision by the Board on the merits. Quoddy Bay's application was accepted for processing in July 2007. However, in October 2007 Quoddy requested a stay in the processing of its applications citing the need to resolve issues at the federal level with the Federal Energy Regulatory Commission (FERC) and the U.S. Coast Guard, and to address outstanding issues with its state applications. Quoddy Bay's applications remained on hold at the request of the applicant for more than a year until Quoddy Bay eventually withdrew its applications in November of 2008.

C. HoltraChem Chlor-alkali Manufacturing Facility in Orrington.

The site of the former HoltraChem chlor-alkali manufacturing facility is located on the banks of the Penobscot River in Orrington. Between 1967 and 2000, the facility used a mercury cell process to produce chlorine and other products for sale. Over the years, wastes from the manufacturing process, including elemental mercury and other hazardous substances, contaminated the soils, sediments, surface water and ground water at the site as well as sediments in the river adjacent to the site. In November 2008, the Commissioner issued an order designating the site an Uncontrolled Hazardous Substance Site and naming Mallinckrodt, LLC and United States Surgical Corporation as responsible parties and ordering them to remediate the site. The Commissioner's Order was subsequently appealed to the Board pursuant to 38 M.R.S.A. § 1365(4).

Following an administrative stay of the appeal proceeding pending the outcome of Mallinckrodt's action against the Commissioner in U. S. District Court, the Board held a public hearing on the appeal in January and February 2010. This was a major proceeding involving extensive expert witnesses both in support of, and in opposition to, the Commissioner's cleanup order. After extensive presentation of testimony and cross-examination of witnesses, the Board issued its decision in an order dated August 19, 2010. The Board upheld the Commissioner's Order with some major modifications. In particular, the Board agreed with the Commissioner that the wastes in Landfills 1 and 2 must be removed in order to ensure the protection of public health and safety and the environment. However, the Board found that Landfills 3, 4 and 5 could remain on site with, among other things, new covers that meet RCRA² Subtitle C standards and additional groundwater extraction and treatment. The Board believes that its decision in this matter is fair and is supported by statute and the facts of the case. Mallinckrodt, LLC has appealed the Board's decision to Superior Court.

IV. Summary of Matters before the Board in 2010

The Board's statutory responsibilities are established in 38 M.R.S.A. § 341-D. These responsibilities include the following: rulemaking; decisions on selected permit applications; review (appeals) of Commissioner licensing decisions; consideration of petitions to revoke, modify or suspend a license; review of enforcement consent agreements; and recommendations to the Legislature for changes to law. This section summarizes the major actions of the Board in 2010.

² Resource Conservation and Recovery Act of 1976.

A. Rulemaking and Related Matters

Rules of the Department of Environmental Protection are most often initiated by the Commissioner in response to statutory directives from the Legislature. Amendments to rules may be initiated in response to a change in the authorizing state law, a change in the corresponding federal law if state consistency is required, or in response to new information indicating the need for clarification or modification of an existing rule. Department staff frequently holds meetings with stakeholders to obtain information regarding a matter prior to drafting a proposed rule or rule amendment. When a draft rule is ready for consideration, it is brought to the Board which posts the rule for public comment or a public hearing. The Board conducts public hearings on proposed agency rules and amendments thereto, and adopts agency rules subject to the requirements of the Maine Administrative Procedure Act and program specific authorizing legislation. The Board's goal is to facilitate public review and input into agency rules and to adopt rules that effectively implement the intent of the Legislature. Routine technical rules become effective upon adoption by the Board, approval of the Office of Attorney General for legality, and filing with the Secretary of State. Major substantive rules must be approved by the Legislature prior to final adoption by the Board.

During 2010, the Board conducted 24 rulemaking proceedings, 10 involving new rules and 14 involving amendments to existing rules. Of these, one draft rule, Chapter 583 Nutrient Criteria for Fresh Surface Wastes, was withdrawn by staff. Six of the 24 rules remain pending. Rulemaking proceedings in 2010 are summarized below.

- Chapter 100 Definitions (Air Bureau) / Amendments. In May 2010, the U.S. EPA issued a final rule addressing greenhouse gas emissions from stationary sources under the Clean Air Act permitting programs. The proposed amendments to Chapter 100 allow Maine to implement its major source licensing program for greenhouse gases. The proposed amendments include definitions related to greenhouse gases and CO2 equivalent emissions. A public hearing was held on November 18, 2010. It is anticipated that the rule will be before the Board for decision in early 2011.
- Chapter 117 Source Surveillance – Emissions Monitoring / Repeal and Replace. The rule specifies air emission sources that are required to operate continuous air emission monitoring systems and details the performance specifications, quality assurance requirements, and quality control procedures for such systems. The rule was last updated in 1994. A public hearing on the proposed changes was held on December 16, 2010. Final action is anticipated in early 2011.
- Chapter 118 Gasoline Dispensing Facilities Vapor Control / Amendments. The amendments repeal the Stage II gasoline vapor recovery requirement effective January 1, 2012 and require the removal and/or discontinuance of Stage II vapor controls by January 1, 2013. A public hearing was held on November 18, 2010. The amendments were adopted on January 6, 2011.

- Chapter 123 Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations / Amendments. The Clean Air Act requires states to implement or update reasonably available control technology (RACT) controls on all major VOC and nitrogen oxide (NOx) emission sources and on source categories covered by a Control Technique Guideline established by U.S. EPA. The rule establishes consistent requirements for testing, evaluating and limiting VOC emissions from paper, film and foil coating operations. A public hearing was held on January 7, 2010. The rule was adopted on April 15, 2010.
- Chapter 129 Surface Coating Facilities / Amendments. The Clean Air Act requires control technology on certain sources of VOC (volatile organic compound) emissions that contribute to the formation of ground-level ozone. The proposed amendments expand coverage to include exterior siding and tile board and would modify requirements for metal finishing and flatwood panel coating operations. The proposed amendments were posted for comment on September 2, 2010. The amendments were adopted on January 6, 2011.
- Chapter 150 Control of Emissions from Outdoor Wood Boilers / Amendments and Chapter 160 Outdoor Wood Boiler Replacement and Buy Back Program / Amendments. The proposed amendments were made to address the requirements of Public Law 2009, chapter 209 “An Act to Amend the Laws Governing Outdoor Wood Boilers.” The amendments to Chapter 150 expanded the categories of qualified professionals who may prepare outdoor wood boiler (OWB) installation recommendations, clarified that an indoor-rated boiler located in an outside structure is considered an OWB, and clarified that a commercial OWB used only for space heating and domestic hot water is not considered a commercial OWB. The amendments to Chapter 160 amended requirements for the outdoor wood boiler replacement program. The rules were adopted on March 18, 2010.
- Chapter 154 Control of Volatile Organic Compounds from Flexible Package Printing / New. The Clean Air Act requires states to implement or update reasonably available control technology (RACT) controls on all major VOC and NOx emission sources and on source categories covered by a Control Technique Guideline established by U.S. EPA. The rule limits emissions of VOC from flexible package printers. The rule was posted for written comment on January 7, 2010. The rule was adopted on June 17, 2010.
- Chapter 161 Graphic Arts – Offset Lithography and Letterpress Printing / New. The Clean Air Act requires states to implement or update reasonably available control technology (RACT) controls on all major VOC and NOx emission sources and on source categories covered by a Control Technique Guideline established by U.S. EPA. The rule restricts volatile organic compound (VOC) emissions from offset lithography and letterpress printing operations. A public hearing was held on August 6, 2009. The rule was adopted on March 18, 2010.
- Chapter 263 State of Maine Comprehensive and Limited Environmental Laboratory Certification Rules / Amendments. This is a joint rule of the Department of Environmental Protection and the Department of Health and Human Services (DHHS). It establishes

requirements for the certification of laboratories producing compliance data for programs of DEP and DHHS. The revised rules were adopted on February 18, 2010.

- Chapter 305 Natural Resources Protection Act Permit by Rule Section 16 Activities in Coastal Sand Dunes / Amendments. The amendments incorporate definition changes and allow additional activities in existing developed areas. The changes also allow new activities in a sand dune such as winter cobble-trapping fences. The amendments were posted for public comment on October 7, 2010. The amendments were provisionally adopted on December 16, 2010. The rule amendment is major substantive and will be presented to the Legislature for approval.
- Chapter 342 Significant Groundwater Wells / New. The rule describes the fee structure for funding contracts with third party environmental professionals who provide technical review and assessment of monitoring information related to significant groundwater wells. It also establishes requirements for public informational meetings and pre-application and pre-submission meetings for applicants proposing to establish significant groundwater wells. The rule was developed to fulfill the requirements of Public Law 2007, chapter 399 (14) and (15) as amended by Public Law 2009, chapter 295. The rule was re-posted on December 17, 2009 for additional written comment. The rule was adopted on March 4, 2010.
- Chapters 400, 401 and 409: Revisions to the Solid Waste Management Rules Concerning Recycling Rates at Solid Waste Processing Facilities / Amendments. The amendments were in response to Public Law 2009, chapter 412 “An Act to Improve Landfill Capacity.” The amendments establish standards and requirements for the rates of recycling at solid waste processing facilities that generate residue requiring disposal. The rules also establish standards related to the use of construction and demolition debris processing residue as cover or grading material at landfills. A public hearing was held on February 18, 2010. The amendments were adopted on June 17, 2010.
- Chapter 415 Reasonable Costs for Handling and Recycling of Electronic Wastes / Amendments. This rule establishes requirements and procedures for consolidation and recycling of electronic waste generated by households. The amendments were a response to changes in statute (Public Law 2007, chapter 292 “An Act to Amend Certain Laws of the Department of Environmental Protection; Public Laws 2009, chapter 231 “An Act to Amend the Law Governing the Recycling of Televisions and chapter 397 “An Act To Enhance Maine's Electronic Waste Recycling Law”). The amendments clarify definitions and responsibilities, streamline submittal requirements for manufacturers, include desktop printers and game consoles as products subject to manufacturer responsibility, and modify financing from percentage of “return share” to percentage of “market share”. The amendments were posted for public comment on November 19, 2009, and were adopted on February 18, 2010.
- Chapter 425 Asbestos Management Regulations / Amendments. The proposed amendments update the rule to reflect statutory changes, clarify certain definitions and

requirements, and integrate changes to standard industry practices. A public hearing was held on November 18, 2010. Final action is anticipated in early 2011.

- Chapter 521 Application for Waste Discharge Licenses, Section 9 Storm Water Discharges / Amendments. The amendments create a section of the rule that applies to owners and operators of property located in an urban impaired stream watershed that has been designated by the U.S. EPA as requiring a stormwater discharge permit due to post-construction stormwater flow from impervious area. The amendments specify the requirements for obtaining an individual permit in lieu of the existing general permit process. A public hearing was held on January 7, 2010. The amendments were adopted by the Board on February 18, 2010.
- Chapter 583 Nutrient Criteria for Fresh Surface Waters / New. The proposed rule would have enacted nutrient criteria for Class AA, A, B, C and GPA waters. The proposed rule was withdrawn and the rulemaking terminated on July 1, 2010.
- Chapter 691 Rules for Underground Oil Storage Facilities / Repeal of Section 3A Siting Restrictions for New Facilities. The requirements in this section were incorporated into new Chapter 692 which governs the siting of both underground and aboveground oil storage facilities.
- Chapter 692 Siting of Oil Storage Facilities / New. The rule implements the wellhead protection law (PL 2007, chapter 569 “An Act to Prevent Contamination of Drinking Water Supplies”) for aboveground and underground oil storage facilities. The law directed the Board to adopt rules that restrict the siting of certain facilities within areas mapped as significant sand and gravel aquifers to reduce the risk of contamination of water supplies from discharges of oil and hazardous wastes. A public hearing was held on August 6, 2009. The rule, which was major substantive, was provisionally adopted by the Board on October 15, 2009, approved by the Legislature on February 9, 2010, and finally adopted by the Board on March 4, 2010.
- Chapter 693 Operator Training for Oil and Hazardous Substance Storage Facilities / New. The rule establishes training requirements for operators of oil storage facilities and hazardous waste storage facilities to satisfy minimum training requirements specified by Section 1524 of the U.S. Energy Policy Act. A public hearing was held on October 7, 2010. The rule was posted for additional public comment on December 16, 2010. A decision is anticipated in early 2011.
- Chapter 700 Wellhead Protection: Siting of Facilities that Pose a Significant Threat to Drinking Water / New. The rule implements provisions of Public Law 2007, chapter 569 with respect to discharges of hazardous wastes. It regulates the siting of automobile graveyards, autobody shops and auto maintenance facilities, dry cleaning facilities that use perchloroethylene, metal finishing and plating facilities, and commercial hazardous waste facilities with respect to wellhead protection zones and mapped sand and gravel aquifers. A public hearing was held on August 6, 2009. The rule, which was major substantive, was

provisionally adopted by the Board on October 15, 2009, approved by the Legislature on February 9, 2010, and finally adopted by the Board on March 4, 2010.

- Chapter 880 Regulation of Chemical Use in Children's Products and Chapter 881 Fees, Chemical Use in Children's Products / New. Chapter 880 established a process for the Board to designate and review "priority chemicals." Designation of a chemical as a priority chemical facilitates the gathering of information on: 1) the extent to which children may be exposed to the chemical as a result of its use in consumer products, and 2) the availability of safer alternatives. Chapter 881 allows the Department to recover some of its review costs through fees paid by product manufacturers. A public hearing was held on the proposed rules on December 17, 2009. Chapter 880 was adopted and Chapter 881 was provisionally adopted on February 18, 2010. Chapter 881 was subsequently approved by the Legislature on March 26, 2010 (Resolve 2009, chapter 194) and was finally adopted by the Board on May 20, 2010.
- Chapter 882 Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products / New. The rule lists bisphenol A as a priority chemical, requires reporting for certain categories of products containing bisphenol A, and prohibits the sale of certain other products containing bisphenol A. A public hearing was held on August 19, 2010. The rule, with the exception of Section 5 (Sales prohibition of children's products containing bisphenol A), was adopted on December 16, 2010. Section 5 was provisionally adopted on December 16th and is being forwarded to the Legislature for review and approval. Chapter 882 is the first of two regulations designating priority chemicals that the Legislature required be adopted by January 1, 2011.
- Chapter 883 Designation of Chemical Class Nonylphenol and Nonylphenol Ethoxylates as a Priority Chemical / New. The rule designates the chemical class nonylphenol and nonylphenol ethoxylates as a priority chemical and requires manufacturers of certain consumer products that contain these chemicals to submit information to the Department on the extent to which the chemicals are used in products to which children will be exposed. A public hearing was held on October 7, 2010, and the rule was adopted on December 16, 2010. The regulation is routine technical and the second of two regulations required by the Legislature to be adopted by January 1, 2011.
- Chapter 1000 State of Maine Guidelines for Municipal Shoreland Zoning Ordinances / Extension of Deadline for Municipalities. The amendments to Chapter 1000 changed the date of the Department of Inland Fisheries and Wildlife data set for rating freshwater "waterfowl and wading bird habitat" for establishment of Resource Protection Zones. The amendments had the effect of removing some marginal wetlands, such as narrow wetlands along river flowages, from resource protection zoning. The amendments were posted for 30 day written comment on June 17, 2010. The amendments were adopted on October 7, 2010.

While not rules, statute requires that the Board accept public comment on and approve the following actions.

- State Implementation Plan (SIP) for Regional Haze. The federal Clean Air Act Amendments of 1990 require that the Department provide an opportunity for a public hearing on, and formally adopt, any changes to the State's program for implementation of the Clean Air Act. The proposed amendments to the State Implementation Plan for Regional Haze identify measures for making reasonable progress toward meeting visibility goals in Class I areas (Acadia National Park, Moosehorn National Wildlife Refuge, and Roosevelt Campobello International Park). Measures include: 1) Best Available Retrofit Technology (BART) sulfate reductions from specific sources, 2) low-sulfur oil strategy for commercial, industrial and residential sectors, and 3) a strategy for 90% sulfate reduction from certain electric generating units. The proposal was posted for public comment on August 5, 2010. The amendments were adopted on December 2, 2010.
- Small Community Grant Program. Statute requires that the Department develop a project priority list, to be approved by the Board, for water pollution abatement projects. The program provides for grant assistance for the construction of individual and cluster septic systems or other wastewater treatment facilities which eliminate small but serious water pollution problems. The program is funded by state bonds and local funds and is for projects too small to qualify for the State Revolving Loan Fund. The Board approved the current priority list on July 1, 2010.

B. Major Applications

The Board issues licensing decisions on applications that involve important policy questions or are otherwise determined to be of substantial public interest. State law (38 M.R.S.A. § 341-D(2)) provides that: "The board shall decide each application for approval of permits and licenses that in its judgment:

- A. Involves a policy, rule or law that the board has not previously interpreted;
- B. Involves important policy questions that the board has not resolved;
- C. Involves important policy questions or interpretations of a rule or law that require reexamination; or
- D. Have generated substantial public interest."

An application of substantial public interest is further defined in rule as a project which has "the potential to affect a broad geographic area or a natural resource of statewide significance, or has generated more than local interest" [06-096 CMR Chapter 2]. In addition, program specific statutes require that the Board decide certain applications, such as those for a commercial hazardous waste facility. However, the Board may not assume jurisdiction over an application for an expedited wind energy development. The Board's goal is to conduct such proceedings in accordance with the procedural requirements of the Maine Administrative Procedure Act for adjudicatory proceedings as appropriate and the applicable Department

statutes and rules, providing for the due process rights of all parties and for meaningful public participation in the review of major applications.

Between 2005 and 2009, the Board had licensing jurisdiction on five applications that involved a public hearing, and on 10 applications which did not require a public hearing. In 2010, the Board had licensing jurisdiction over the following applications.

- Calais LNG. Application by Calais LNG Project Company, LLC and Calais LNG Pipeline Company, LLC for a liquefied natural gas terminal and import facility and pipeline project in Washington County. The Board was scheduled to hold a public hearing on the application the week of July 19, 2010. The hearing was postponed and the processing of the application placed on hold at the request of the applicant. Calais LNG subsequently withdrew its applications on December 14, 2010, the company having lost financial backing and title, right or interest in the property proposed for development.
- ENPRO Services of Maine, Inc. Renewal of Hazardous Waste Transfer Facility, and Waste Oil and Hazardous Waste Storage and Treatment Facility License Renewal. The facility is located in South Portland. The proposed license renewal was available for public comment, and was subsequently approved by the Board.

C. Appeals of Department Licensing Decisions

If an applicant or another person is aggrieved by a licensing decision of the Commissioner, the Commissioner's decision may be appealed to the Board or to Superior Court. Under provisions of 38 M.R.S.A. §341-D(4), the Board may affirm, amend, or reverse the Commissioner's decision, or remand the matter to the Commissioner for further proceedings. The Board's review on appeal is *de novo* in that the Board is not bound by the Commissioner's findings of fact or conclusions of law. The record for appeals heard by the Board is usually limited to the administrative record prepared by the Department in its review of the application. The Board's goal is to process appeals expeditiously in accordance with the Department's procedural rules, the requirements of the Maine Administrative Procedure Act, and program specific statutes and rules. While the Board's decision on appeal may be appealed to Superior Court (or the Law Court in the case of an expedited wind energy development), many appeals are resolved at the Board level and those which are not have a more fully developed record for judicial review. Between 2005 and 2009, the Board considered 41 appeals of Commissioner licensing decisions, an average of 8 per year.

Appeals of Commissioner licensing decisions considered by the Board in 2010 are summarized below.

- Belgrade, Appeal of Denial of Natural Resources Protection Act Application for a Permanent Boat Lift in a Great Pond. The Commissioner denied the application finding, in part, that the proposed boat lift would unreasonably harm aquatic habitat and that the applicant had alternatives to a permanent boat lift. The Board denied the appeal and affirmed the Commissioner's decision.

- Boothbay, Appeal of Approval of Residential Overboard Discharge License Renewal. The Commissioner's approval of the renewal license was appealed by an abutting landowner who argued, in part, that the person to whom the license was issued was not the owner of the property and that the applicant had not demonstrated that there was not an alternative to the overboard discharge. The Board found that the applicant did not have sufficient title, right or interest in the property and vacated the Department's order.
- Central Maine Power Company, Maine Power Reliability Program. Appeal of Approval of Site Location of Development, Natural Resources Protection Act, and Water Quality Certification for upgrades to CMP's electrical transmission corridor. The appeal was filed by an abutting landowner in Eliot with concerns regarding title, right or interest, impacts to groundwater quality, scenic character, and stormwater management. The Board denied the appeal and affirmed the Commissioner's decision.
- Oakfield, Oakfield Wind Project. Appeal of Approval of Site Location of Development and Natural Resources Protection Act permits for a 51 MW wind energy generation facility in Oakfield and T4 R3 WELS, Aroostook County. The appeal was filed by abutters to the proposed project. The appellants argued, in part, that noise from the proposed project would have an unreasonable adverse impact on existing uses and the natural environment. The also objected to findings regarding financial capacity, decommissioning, and scenic character. The Board denied the appeal and affirmed the Commissioner's decision.
- Roxbury, Record Hill Wind Project. Appeal of Approval of Site Location of Development, Natural Resources Protection Act, and Water Quality Certification for a 50.5 MW wind energy generation facility in Roxbury, Oxford County. The appeal was filed by Concerned Citizens to Save Roxbury, Silver Lake Camp Owners Association, and numerous property owners in the town of Roxbury. The appellants argued, in part, that noise from the project would have an unreasonable adverse impact on human health. The appellants also objected to findings on financial capacity, decommissioning, stormwater, shadow flicker, wildlife, and scenic character. The Board denied the appeal and affirmed the Commissioner's decision.
- Scarborough, Appeal of Denial of Natural Resources Protection Act Application for Stone Revetment. The applicant proposed to construct a 200 foot long stone revetment to replace a damaged seawall. The Commissioner denied the application finding, among other things, that the proposed project would unreasonably increase erosion to the sand dune system and adjacent properties. The Board denied the appeal and affirmed the Commissioner's decision.
- Old Town, Juniper Ridge Landfill. Appeal of Department Approval of a Maine Hazardous Waste, Septage and Solid Waste Management Act License for acceptance of Treated Biomedical Waste. Two separate appeals were filed: one by the Juniper Ridge Landfill Advisory Committee and one by area residents. The appeals were consolidated for

consideration by the Board. The Board denied the appeal and affirmed the Commissioner's decision.

- South Bristol, Appeal of Denial of Application to Remove a Special Condition of a Natural Resources Protection Act permit regarding Trap Storage on a Pier. The appeal was filed by the owner of the pier. The Board reversed the staff's decision and granted the appeal, thereby allowing trap storage on the pier.

Pending Appeals:

- Old Town, Juniper Ridge Landfill. Appeal of a Solid Waste Order changing the Municipal Solid Waste (MSW) Bypass Limit. The appeal was filed by the Municipal Review Committee and Penobscot Energy Recovery Company. It has not yet been scheduled for consideration.
- Spruce Mountain Wind Project. Appeal of Department approval of an 18 to 20 MW expedited wind energy development proposed for Woodstock, Oxford County. The appeal was filed by Friends of Spruce Mountain. This matter has not yet been scheduled for Board consideration.
- Berwick Iron & Metal Recycling, Inc. Appeal of air emission license for automobile shredding operation. The appeal was filed by Berwick residents, including abutters to the project site. This matter has not yet been scheduled for Board consideration.

D. Petitions to Modify, Suspend or Revoke a License

The petition process is a mechanism to re-open a final license that was issued by the Department if certain conditions are found to exist. Title 38 § 341-D(3) provides that the Board may modify in whole or in part any license, or may issue an order prescribing necessary corrective action, or may act in accordance with the Maine Administrative Procedure Act to revoke or suspend a license whenever the Board finds that:

- The licensee has violated any condition of the license;
- The licensee has obtained a license by misrepresenting or failing to disclose fully all relevant facts;
- The licensed discharge or activity poses a threat to human health or the environment;
- The license fails to include any standard or limitation legally required on the date of issuance;
- There has been a change in any condition or circumstance that requires revocation, suspension, or a temporary or permanent modification of the terms of the license;
- The licensee has violated any law administered by the Department; or
- The license fails to include any standard or limitation required pursuant to the federal Clean Air Act Amendments of 1990.

Timely processing of a petition to modify, revoke or suspend an existing license is a high priority since the petition process is intended to address serious problems with an existing license and the petition challenges a final license that the license holder is currently depending upon for the conduct of its business.

The Board has considered 12 such petitions in the last five years. In one instance, the Board determined that a hearing was warranted. The other petitions were dismissed. In 2010, the Board considered the following petition.

- Rollins Wind Project: 60 MW wind energy generation facility located in Lincoln, Lee, Winn, Burlington, Mattawamkeag, Penobscot County. The petition to revoke or suspend the license was filed on September 16, 2010 by area residents who argued, in part, that noise from the project posed a threat to human health. The Board did not find a sufficient basis to schedule a public hearing on the matter and, accordingly, dismissed the petition.

E. Appeal of Administrative Orders Issued by the Commissioner

A number of the Department's program specific statutes provide for appeals to the Board of a Commissioner Administrative Order, such as an order to remediate a site contaminated by oil or hazardous substances. These are unilateral orders through which the Commissioner seeks to correct serious environmental conditions. Due process is afforded through the right of appeal to the Board, and eventually Superior Court. During 2010, the Board considered the following appeals of a Commissioner's Administrative Order.

- Designation of Uncontrolled Hazardous Substance Site and Order concerning the former HoltraChem Chlor-Alkali Manufacturing Facility in Orrington. The order was issued pursuant to 38 M.R.S.A. § 1365. A public hearing was held the weeks of January 25 and February 1, 2010. The Board denied the appeal and upheld the Commissioner's Order with modifications, designating the site an uncontrolled hazardous substance site and ordering remediation of the site. This matter is discussed more fully in Section III(C) of this report.
- Underground Oil Storage Facility Administrative Order (38 M.R.S.A. § 565-A), Leighton's Service Station in Auburn. The order was issued by the Commissioner for the facility's failure to resolve violations of the State's Ground Water Protection statutes including failure to maintain cathodic protection on the facility's underground storage tanks and piping. The order was appealed to the Board and a hearing was held in accordance with provisions of 38 M.R.S.A. § 565-A(3) on March 18, 2010. The Board upheld the Commissioner's Order but modified the order to give the facility owner an additional 45 days to bring the facility into compliance.

F. Enforcement Actions

The decision on whether to take enforcement action in a given situation is the prerogative of the Commissioner, and violations of law can be resolved at a variety of levels. In instances where the Commissioner determines that an administrative consent agreement is appropriate, the

Board must approve the administrative consent agreement (38 M.R.S.A. § 341-D(6)). Administrative consent agreements generally require that certain actions be taken to correct the violation and that the violator pay a monetary penalty. Review of consent agreements at Board meetings serves as a mechanism for the Board to gauge compliance with existing rules, to provide a public forum for comment on proposed agreements, and to advise the Commissioner on matters such as enforcement priorities and appropriate penalties.

Violations of the Natural Resources Protection Act generally account for approximately 30% annually of all violations resolved through consent agreements. The Board notes that the Department continues to find serious violations of this law that have the potential to adversely impact water quality and some of the state's most valuable natural resources. Violations often include actions such as the placement of fill in lakes to create sand beaches, clearing of vegetation adjacent to the high water mark of a lake and placement of fill to create a lawn, alterations of the shoreline with riprap, and filling of wetlands of special significance.

During 2010, the Board approved 46 Administrative Consent Agreements. The number of administrative consent agreements in 2010 by program area and relevant statute and/or rule is listed below.

Air

- Protection and Improvement of Air Law, air emission standards and license conditions (8).
- New Motor Vehicle Emission Standards, Chapter 127 (2).

Hazardous Waste, Solid Waste, Oil Discharge

- Asbestos Management Regulations (1).
- Hazardous Waste Management Regulations (7).
- Oil Discharge Prevention and Pollution Control Law (2).
- Solid Waste Management Rules (2).

Land and Water

- Erosion and Sedimentation Control Law: Violations of this law occurred in 7 of the enforcement cases listed in this section.
- Natural Resources Protection Act (14): Six were violations of NRPA only. Violations of the NRPA were frequently accompanied by violations of the following laws: Erosion and Sedimentation Control Law (7 of 14), the Protection and Improvement of Waters Act (2 of 14), and the Storm Water Management Law (2 of 14).
- Performance Standards for Excavations (gravel mining) and Site Law (1).
- Protection and Improvement of Waters Act (1). In addition, two of the NRPA violations cited above also included violations of the Protection and Improvement of Waters Act.
- Waste Discharge License (5).

- Site Location of Development Law (1).
- Site Location of Development Law and Natural Resources Protection Act (1).
- Stormwater Management Law (1): In addition, two of the NRPA violations included violations of the Stormwater Law.

G. Informational Workshops

Department staff provides informational workshops at regularly scheduled Board meetings throughout the year for the benefit of Board members and any members of the public who wish to attend. Workshops in 2010 addressed:

- Operator training for oil and hazardous substance storage tanks
- Presentation by the Governor's Office of Energy Independence and Security

V. Closing

Members consider it a privilege to serve the people of Maine on the Board of Environmental Protection. We are dedicated to carrying out our statutory responsibilities in a fair and efficient manner that protects the due process rights of all parties and provides for credible public participation in Board proceedings. We hope that this report provides Committee members with a helpful overview of our activities over the past year. I welcome the opportunity to review the report with you at your convenience.

Respectfully submitted,



Susan M. Lessard, Chair
Board of Environmental Protection

Attachments:

- A. Board Members: List and Biographical Information
- B. 2010 Meeting Agendas

Appendix A: Board of Environmental Protection Members



Susan M. Lessard, Chair
Hampden, 1st Term

Ms. Lessard is the Town Manager of Hampden. She has more than 25 years of experience in local government in Maine and is well versed in a host of economic and community development issues, including extensive experience in solid waste management issues. She is a past president of the Maine Municipal Association, and is currently a member of the Bangor Region Chamber of Commerce and the Maine Town and City Manager's Assn. Her educational background is in public administration and engineering. She was appointed to the Board in July 2007; and appointed Chair in November 2008.



Elizabeth Ehrenfeld
Falmouth, 2nd Term

Ms. Ehrenfeld holds a doctorate in Microbiology and Immunology from the University of Michigan. She has authored numerous scientific papers and has several patents on procedures for detection of bacteria in drinking water and food. Ms. Ehrenfeld is currently an adjunct professor at Southern Maine Community College where she teaches courses in microbiology, genetics and biotechnology. She currently serves on the board of the Biotech Association of Maine. Ms. Ehrenfeld is also a Registered Maine Guide. She was appointed to the Board in June 2005, and reappointed in June 2009.



M. Wing Goodale
Falmouth, 2nd Term

Mr. Goodale is Deputy Director and Senior Scientist at the BioDiversity Research Institute, a Maine-based nonprofit ecological research group. He is involved in a number of research projects, including assessment of the impact of mercury and other toxins on bird populations. He also manages BioDiversity's web site and oversees the live eagle and loon web cameras. He has a bachelor's degree in biology from Colorado College and a master's degree in conservation biology from College of the Atlantic. He was appointed to the Board in March 2006, and reappointed in March 2010.



Richard Gould
Greenville, 2nd Term

Mr. Gould is a retired high school teacher, and a former State Legislator. During his tenure in the Legislature, Mr. Gould served on the Joint Standing Committee on Energy and Natural Resources, including a term as co-chair of the Committee. Mr. Gould was also employed as legislative liaison for Great Northern Paper and as Code Enforcement Officer for the Town of Greenville. Mr. Gould remains active in educational issues and currently serves on the Greenville School Committee. He was appointed to the Board in March 2006, and reappointed in March 2010.



Donald Guimond
Fort Kent, 2nd Term

Mr. Guimond has served as the Town Manager of Fort Kent since 1993. He has also served as Director for the Greater Fort Kent Area Chamber of Commerce and Director of the Aroostook Municipal Association. He received a B.S. degree in Business Administration from Husson College and a Masters degree in Business Administration from Norwich University in Northfield, Vt. Mr. Guimond is also a partner and operator of a 1000 acre family farm, maintaining a cow/calf operation and harvesting grains, hay, straw and forest products. He was appointed to the Board in April 2004, and reappointed in March 2008.



P. Andrews Nixon
Brunswick, 1st Term

Mr. Nixon recently retired from his position as Chair and Chief Executive Officer of the Dead River Company, where he was employed for 38 years. In addition to his service on the Board, Mr. Nixon was appointed by Governor Baldacci to serve as a trustee of the Energy and Carbon Savings Trust which was established to receive and expend revenue from the sale of carbon dioxide allowances as part of the State's participation in the Regional Greenhouse Gas Initiative (RGGI). Mr. Nixon was appointed to the Board in March 2008.



Paul Paydos
Dover-Foxcroft, 1st Term

Mr. Paydos is former Senior Vice President of Operations for Guilford of Maine (later known as Interface Fabrics and now True Textiles), a textile manufacturing business located in Dover-Foxcroft. Mr. Paydos retired in 2009, after 28 years with the company. During his tenure with Guilford of Maine, Mr. Paydos was instrumental in the company's efforts to develop and implement environmentally sustainable and socially responsible production practices while remaining focused on profitability. Mr. Paydos has also served on the State's Pollution Prevention Advisory Board and Smart Production Initiative. He was appointed to the Board in August 2010.



Matt Scott
Belgrade, 2nd Term

Mr. Scott is an Aquatic Biologist and a Certified Fisheries Scientist. He is retired from 38 years of service in Maine State Government, including service as Deputy Commissioner of the Department of Inland Fisheries and Wildlife. Mr. Scott is a past president of the North American Lake Management Society, and a past president of the Sportsman's Alliance of Maine. He is a Master Maine Guide and a hobby beekeeper, managing several colonies of bees for pollination and honey production. Mr. Scott was appointed to the Board in June 2003, and served as Board Chair from June 2005 to December 2006.



Lissa Widoff
Freedom, 1st Term

Ms. Widoff is Executive Director of the nonprofit Robert & Patricia Switzer Foundation, located in Belfast, which focuses on environmental leadership development. Ms. Widoff has also worked for the Maine Community Foundation, State Planning Office, and The Nature Conservancy, Maine Chapter. She received a B.S. degree in Forest Biology from SUNY College of Environmental Science and Forestry in Syracuse, N.Y. and a Masters in Public Administration from Harvard University. She was appointed to the Board in March 2008.



Frank Woodard
Falmouth, 1st Term

Mr. Woodard is co-founder and past president (1979 to 2004) of Woodard & Curran, Inc., a 550 employee environmental consulting firm headquartered in Portland, Maine. Mr. Woodard holds B.S. and M.S. degrees in Sanitary and Environmental Engineering from the University of Maine and a Ph.D. in Environmental Engineering from Purdue University. In addition to his consulting work, Mr. Woodard has served 12 years as a full-time professor and many years as an adjunct professor of Environmental Engineering at the University of Maine, where the Environmental Engineering laboratory is named in his honor. He was appointed to the Board in June 2009.

**Report to Joint Standing Committee on Environment and Natural Resources
Board of Environmental Protection -- Calendar Year 2010**

Appendix B

**** REVISED ****

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Augusta Civic Center, Augusta at 9:00 a.m.
January 7, 2010

BOARD TO CONVENE AT 9:00 A.M. FOR A PUBLIC HEARING IN THE MATTER OF:

CHAPTER 123, CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM PAPER, FILM AND FOIL COATING OPERATIONS / amendment

BOARD TO CONVENE AT 9:30 A.M. FOR A PUBLIC HEARING IN THE MATTER OF:

CHAPTER 521, APPLICATION FOR WASTE DISCHARGE LICENSES // SECTION 9. STORM WATER DISCHARGES / amendment

BOARD TO RECONVENE AND CONSIDER REGULAR MEETING AGENDA IMMEDIATELY FOLLOWING CLOSE OF PUBLIC HEARINGS

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A(6)

SPRINGFIELD TERMINAL RAILWAY CO. – MAINE CENTRAL RAILROAD COMPANY // So. Portland
DEP contact person Andrew Flint 287-7850

Comment Deadline: January 25, 2010. Tentative schedule for BEP action: February 18, 2010

- 003 1. FREIGHTLINER OF MAINE, INC., Westbrook - Administrative Consent Agreement (BAQ)
- 009 2. CORINTH WOOD PELLETS, LLC., Corinth - Administrative Consent Agreement SITE (BAQ)
- 013 3. TOWN OF ANSON - Administrative Consent Agreement (BLWQ)
- 017 4. GLEN DUBE EXCAVATION, INC., Sabattus - Administrative Consent Agreement (BLWQ)
- 021 5. DONALD HOLDSWORTH, Wells/York - Administrative Consent Agreement, (BLWQ)
- 025 6. WILLIAM P. FANNING AND DEBORAH A. DOLLOFF, Wells/York - Administrative Consent Agreement - (BLWQ)
- 029 7. N.S. GILES FOUNDATION, INC., Dedham - Administrative Consent Agreement - (BLWQ)

II. CONSENT AGENDA ITEMS (CONTINUED)

- 033a 8. BEP MINUTES October 1, 2009 (approval)
033g 9. BEP MINUTES November 5, 2009 (approval)

III. REGULAR AGENDA ITEMS

- 033 1. CHAPTER 154 - CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM FLEXIBLE PACKAGE PRINTING / New (post to 30-day written public comment)
Staff: Jeff Crawford, Bureau of Air Quality
- 039 2. CHAPTER 400 – SOLID WASTE MANAGEMENT RULES GENERAL PROVISIONS, CHAPTER 401 – LANDFILL DISPOSAL FACILITIES, CHAPTER 409 – PROCESSING FACILITIES (post to public hearing)
Staff: Paula Clark, Bureau of Remediation and Waste Management
- 077 3. MICHAEL E. TRAPHAGEN AND DIANNE W. TRAPHAGEN, NATURAL RESOURCES PROTECTION ACT APPROVAL #L-24420-4P-A-N (Appeal Submitted by Todd Park Merolla and Christopher O. Bursaw)
Staff: Beth Callahan and Marybeth Richardson, Bureau of Land and Water Quality
4. UNITED STATES SURGICAL CORP. - MALLINCKRODT LLC // HOLTRACHEM site (tentatively scheduled in the event of an appeal of Eleventh Procedural Order)
Staff: Cindy Bertocci, BEP Executive Analyst
5. LEGISLATIVE REPORT // ANNUAL SUMMARY OF ACTIVITIES (Discussion)
Staff: Cindy Bertocci, BEP Executive Analyst
6. LD 330 SECTION 23 – REPORT TO LEGISLATURE RELATED TO PROCEDURES FOR WATER RECLASSIFICATION (Briefing)
Staff: Susan Davies, Bureau of Land and Water Quality

Next Regular Meeting –Thursday, February 18, 2010 – Civic Center

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Augusta Civic Center, Augusta at 9:00 a.m.
February 18, 2010

BOARD TO CONVENE AT 9:00 A.M. FOR A PUBLIC HEARING IN THE MATTER OF:

CHAPTER 400 – SOLID WASTE MANAGEMENT RULES GENERAL PROVISIONS,
CHAPTER 401 – LANDFILL DISPOSAL FACILITIES,
CHAPTER 409 – PROCESSING FACILITIES

BOARD TO RECONVENE AND CONSIDER REGULAR MEETING AGENDA IMMEDIATELY FOLLOWING CLOSE OF PUBLIC HEARINGS

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A(6)

TOWN OF FARMINGTON // Farmington	DEP contact person Andrew Flint 287-7774
TOWN OF BAR HARBOR // Bar Harbor	DEP contact person Phil Garwood 287-7695
BRYAN EMERY AND KRISTI EMERY // Detroit	DEP contact person Valerie Derosier 941-4581
CHAUNCEY VIEIRA // Sanford	DEP contact person Chris Coppi 822-6327
MCLAUGHLIN'S TIMBER TRUCKING, INC. // Orrington	DEP contact person John Cullen 941-4565

Comment Deadline: March 15, 2010.

Tentative schedule for BEP action: April 1, 2010

- 003 1. NATURALLY POTATOES, A BASIC AMERICAN FOODS DIVISION, LLC, Mars Hill - Administrative Consent Agreement (BAQ)
- 009 2. JOHN HANGEN, Fort Fairfield - Administrative Consent Agreement (BLWQ - Land)
- 013 3. DOUGLAS R. HENDERSON, Easton - Administrative Consent Agreement (BRWM)
- 021 4. KEYSTONE AUTOMOTIVE INDUSTRIES, INC., Portland - Administrative Consent Agreement (BRWM)
- 031 5. SPRINGFIELD TERMINAL RAILWAY CO. / MAINE CENTRAL RAILROAD COMPANY / PORTLAND TERMINAL COMPANY, South Portland and throughout southern, central and eastern portions of Maine - Administrative Consent Agreement (BRWM)

III. REGULAR AGENDA ITEMS

- 065 1. CHAPTER 263 STATE OF MAINE COMPREHENSIVE AND LIMITED ENVIRONMENTAL LABORATORY CERTIFICATION RULES (adoption)
Staff: Matt Sica, Department of Health and Human Services
- 149 2. CHAPTER 415, REASONABLE COSTS FOR HANDLINE AND RECYCLING OF ELECTRONIC WASTES / amendment (adoption)
Staff: Carole Cifrino, Bureau of Remediation and Waste Management
- 167 3. CHAPTER 521, APPLICATION FOR WASTE DISCHARGE LICENSES // SECTION 9. STORM WATER DISCHARGES / amendment (adoption)
Staff: Don Witherill, Bureau of Land and Water Quality
- 193 4. CHAPTER 880, REGULATION OF CHEMICAL USE IN CHILDREN'S PRODUCTS / new (adoption)
- And
- 261 CHAPTER 881, FEES; CHEMICAL USE IN CHILDREN'S PRODUCTS / new (adoption)
Staff: John James, Bureau of Remediation and Waste Management

**At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman*

INFORMATIONAL ONLY

GULF ISLAND POND (DEP Information Update)

Note: No Board action required.

Next Regular Meeting –Thursday, March 4, 2010 – Civic Center

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Augusta Civic Center, Augusta at 9:00 a.m.
March 4, 2010

BOARD TO CONVENE AT 9:00 A.M. FOR A PUBLIC HEARING IN THE MATTER OF:

CHAPTER 583 NUTRIENT CRITERIA FOR FRESH SURFACE WATERS / NEW

BOARD TO RECONVENE AND CONSIDER REGULAR MEETING AGENDA IMMEDIATELY FOLLOWING CLOSE OF PUBLIC HEARING

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A(6)

TOWN OF FARMINGTON // Farmington	DEP contact person Andrew Flint 287-7774
TOWN OF BAR HARBOR // Bar Harbor	DEP contact person Phil Garwood 287-7695
BRYAN EMERY AND KRISTI EMERY // Detroit	DEP contact person Valerie Derosier 941-4581
CHAUNCEY VIEIRA // Sanford	DEP contact person Chris Coppi 822-6327
MCLAUGHLIN'S TIMBER TRUCKING, INC. // Orrington	DEP contact person John Cullen 941-4565

Comment Deadline: March 15, 2010.

Tentative schedule for BEP action: April 1, 2010

- 003 1. BEP Minutes – November 19, 2009 (approval)
- 009 2. MID-MAINE WASTE ACTION CORPORATION, Auburn - Administrative Consent Agreement (BAQ)
- 013 3. HUBER ENGINEERED WOODS LLC, Easton - Administrative Consent Agreement (BAQ)

III. REGULAR AGENDA ITEMS

- 023 1. CHAPTER 342 – SIGNIFICANT GROUNDWATER WELLS / NEW (adoption*)
Staff: Hetty Richardson and John Hopeck, Bureau of Land & Water Quality
- 039 2. CHAPTER 692, SITING OF OIL STORAGE FACILITIES / NEW (final adoption*)
Staff: Jeff Madore, Bureau of Remediation and Waste Management

- 055 3. CHAPTER 700, WELLHEAD PROTECTION: SITING OF FACILITIES THAT POSE A SIGNIFICANT THREAT TO DRINKING WATER / NEW (final adoption*)
Staff: Jeff Madore, Bureau of Remediation and Waste Management

** At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chair*

Next Regular Meeting –Thursday, March 18, 2010 – Civic Center

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Augusta Civic Center, Augusta at 8:30 a.m.
March 18, 2010

III. REGULAR AGENDA ITEMS

- 035 1. LEIGHTON GROCERIES and SERVICE STATION REGISTRATION #9671 – UNDERGROUND OIL STORAGE FACILITY (appeal)
- 069 2. RECORD HILL WIND POWER – DEP PERMIT APPROVAL #L-24441-24-A-N and #L-2441-TF-B-N 50.6 MEGAWATT WIND ENERGY GENERATION PROJECT IN ROXBURY (appeal submitted by Rufus Brown on behalf of Concerned Citizens to Save Roxbury)
Staff: Beth Callahan, Bureau of Land and Water Quality

BOARD TO RECONVENE AT APPROXIMATELY 2:00PM TO CONSIDER REMAINDER OF AGENDA

I. DEPARTMENTAL

- A. Commissioner's Comments
B. Chairman's Comments
C. Executive Analyst Comments
001 D. Board Calendar
E. Departmental Orders / Applications Accepted for Processing
F. Executive Session

II. CONSENT AGENDA ITEMS

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A(6)

TOWN OF FARMINGTON // Farmington	DEP contact person Andrew Flint 287-7774
TOWN OF BAR HARBOR // Bar Harbor	DEP contact person Phil Garwood 287-7695
BRYAN EMERY AND KRISTI EMERY // Detroit	DEP contact person Valerie Derosier 941-4581
CHAUNCEY VIEIRA // Sanford	DEP contact person Chris Coppi 822-6327
MCLAUGHLIN'S TIMBER TRUCKING, INC. // Orrington	DEP contact person John Cullen 941-4565

Comment Deadline: March 15, 2010.

Tentative schedule for BEP action: April 1, 2010

- 003 1. BEP Minutes – October 15, 2009 (approval)
007 2. BEP Minutes – December 3, 2009 (approval)
013 3. BEP Minutes – December 17, 2009 (approval)
- 017 4. PORTAGE CONSTRUCTION CO., INC., Portage - Administrative Consent Agreement (BLWQ - Land)
023 5. SPRAY MINE, INC., South Berwick - Administrative Consent Agreement (BRWM)

* At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chair

- 101 3. CHAPTER 150, CONTROL OF EMISSIONS FROM OUTDOOR WOOD BOILERS / amendment (adoption*)
- 121 CHAPTER 160, OUTDOOR WOOD BOILER REPLACEMENT AND BUY BACK PROGRAM / amendment (adoption*)
Staff: Ron Severance, Bureau of Air Quality
- 125 4. CHAPTER 161, GRAPHIC ARTS – OFFSET LITHOGRAPHY AND LETTERPRESS PRINTING / new (adoption*)
Staff: Deborah Avalone-King, Bureau of Air Quality
- 165 5. CALAIS LNG PROJECT COMPANY LLC – Site Location and Development Act and Natural Resources Protection Act (NRPA) applications (#L-24843-26-A-N, #L-28843-TG-B-N, #L-24843-IW-C-N, #L-24843-L6-D-N, #L-24843-4P-E-N, #A-1029-71-A-N, and #W-9056-50-A-N) (Request for Board Jurisdiction)
Staff: Becky Blais, Bureau of Land and Water Quality

Next Regular Meeting – Thursday, April 1, 2010 – Holiday Inn / Ground Round

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Maple Hill Farms, Hallowell at 9:00 a.m.
April 15, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A(6)

ISF TRADING COMPANY // Portland
DEPT. INLAND FISHERIES AND WILDLIFE

DEP contact person Phil Garwood 287-7695
DEP contact person Phil Garwood 287-7695

Comment Deadline: May 10, 2010.

Tentative schedule for BEP action: May 20, 2010

II. CONSENT AGENDA ITEMS

- 003 1. BEP Minutes – January 7, 2010 (approval)
- 011 2. BEP Minutes – February 18, 2010 (approval)
- 017 3. BEP Minutes – March 4, 2010 (approval)

- 021 4. TOWN OF FARMINGTON, Farmington - Administrative Consent Agreement (BLWQ - Water)
- 025 5. BRYAN EMERY AND KRISTI EMERY, Detroit - Administrative Consent Agreement (BLWQ - Land)
- 029 6. TOWN OF BAR HARBOR, Bar Harbor – Administrative Consent Agreement (BLWQ – Water)
- 033 7. MCLAUGHLIN'S TIMBER TRUCKING, INC., Orrington – Administrative Consent Agreement (BLWQ – Land)
- 037 8. CHAUNCY VIEIRA, Sanford – Administrative Consent Agreement (BLWQ – Land)

III. REGULAR AGENDA

** At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chair*

- 041 1. CHAPTER 123, CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM PAPER, FILM AND FOIL COATING OPERATIONS / amendment (adoption*)
Staff: Jeff Crawford, Bureau of Air Quality

- 071 2. CHAPTER 691, RULES FOR UNDERGROUND OIL STORAGE FACILITIES / repeal (post to 30-day written comment)
Staff: Jeff Madore, Bureau of Remediation and Waste Management
- 079 3. MARION STONE – Natural Resources Protection Act (NRPA) Sand Dune Alteration Department Order L-24089-4H-A-N (denial) (appeal by Marion Stone)
Staff: William Bullard, Bureau of Land and Water Quality

Board to reconvene at approximately 01:00 p.m. to consider the remainder of the agenda

- 287 4. CALAIS LNG PROJECT COMPANY LLC – Site Location and Development Act and Natural Resources Protection Act (NRPA) applications (#L-24843-26-A-N, #L-28843-TG-B-N, #L-24843-IW-C-N, #L-24843-L6-D-N, #L-24843-4P-E-N, #A-1029-71-A-N, and #W-9056-50-A-N) (Petitions to Intervene)
Staff: Becky Blais, Bureau of Land and Water Quality

BOARD OF ENVIRONMENTAL PROTECTION

[www.maine.gov/dep/bep/index.htm]

Civic Center, Augusta at 9:00 a.m.

May 6, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A(6)

ISF TRADING COMPANY // Portland
DEPT. INLAND FISHERIES AND WILDLIFE

DEP contact person Phil Garwood 287-7695
DEP contact person Phil Garwood 287-7695

*Comment Deadline: **May 10, 2010.***

*Tentative schedule for BEP action: **May 20, 2010***

II. CONSENT AGENDA ITEMS

- 003 1. PIKE INDUSTRIES, INC., Westbrook – Administrative Consent Agreement (BAQ)

III. REGULAR AGENDA

- 1. UNITED STATES SURGICAL CORP. - MALLINCKRODT LLC // HOLTRACHEM site (Board Deliberative Session)
Staff: Cindy Bertocci, BEP Executive Analyst
- 2. CALAIS LNG PROJECT COMPANY LLC – Site Location and Development Act, Natural Resources Protection Act (NRPA), Air Emission and Water Quality applications #L-24843-26-A-N, #L-24843-TG-B-N, #L-24843-IW-C-N, #L-24843-L6-D-N, #L-24843-4P-E-N, #A-1029-71-A-N, and #W-9056-50-A-N (tentatively scheduled in the event of an appeal of the procedural order)
Staff: Cindy Bertocci, BEP Executive Analyst

Next Regular Meeting – Thursday, May 20, 2010 – Civic Center - Augusta

BOARD OF ENVIRONMENTAL PROTECTION

[www.maine.gov/dep/bep/index.htm]

Civic Center, Augusta at 9:00 a.m.

May 20, 2010

III. REGULAR AGENDA

1. UNITED STATES SURGICAL CORP. - MALLINCKRODT LLC // HOLTRACHEM site (Board Deliberative Session)

Staff: Cindy Bertocci, BEP Executive Analyst

Board to reconvene at approximately 1:00 to consider the remainder of the agenda

I. DEPARTMENTAL

- A. Commissioner's Comments
B. Chairman's Comments
C. Executive Analyst Comments
001 D. Board Calendar
E. Departmental Orders / Applications Accepted for Processing
F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. ADVANCED POWER TECHNOLOGIES, LLC – Administrative Consent Agreement (BRWM)
011 2. GEORGE RICHARDSON III, Westport Island, Lincoln - Administrative Consent Agreement (BLWQ-Land)
017 3. GORDON LUMBERING LLC, Industry - Administrative Consent Agreement (BLWQ-Land)
021 4. LAST RESORT HOLDINGS, LLC - Administrative Consent Agreement (BLWQ-Land)
025 5. INLAND FISHERIES AND WILDLIFE - Administrative Consent Agreement (BLWQ-Water)

III. REGULAR AGENDA

- 053 2. CHAPTER 881 FEES; CHEMICAL USE IN CHILDREN'S PRODUCTS / (final adoption)*
Staff: Andrea Lani, Bureau of Remediation and Waste Management
- 059 3. JOHN GILMAN – DENIAL OF APPLICATION FOR PIER / (appeal)
Staff: Beth Callahan, Bureau of Land and Water Quality
4. CALAIS LNG PROJECT COMPANY LLC – Site Location and Development Act, Natural Resources Protection Act (NRPA), Air Emission and Water Quality applications #L-24843-26-A-N, #L-24843-TG-B-N, #L-24843-IW-C-N, #L-24843-L6-D-N, #L-24843-4P-E-N, #A-1029-71-A-N, and #W-9056-5O-A-N (tentatively scheduled in the event of an appeal of the third procedural order)
Staff: Cindy Bertocci, BEP Executive Analyst

* At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chair

Next Regular Meeting – Thursday, June 3, 2010 – Civic Center - Augusta

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Civic Center, Augusta at 9:00 a.m.
June 3, 2010

III. REGULAR AGENDA

1. UNITED STATES SURGICAL CORP. - MALLINCKRODT LLC // HOLTRACHEM site (Board Deliberative Session)
Staff: Cindy Bertocci, BEP Executive Analyst

Board to reconvene at approximately 1:00 to consider the remainder of the agenda

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

None

III. REGULAR AGENDA

2. CHAPTER 693 OPERATOR TRAINING FOR OIL AND HAZARDOUS SUBSTANCE STORAGE FACILITIES (briefing)
Staff: Liza Woodard Madore, Bureau of Remediation and Waste Management
- 003 3. CHAPTER 693 OPERATOR TRAINING FOR OIL AND HAZARDOUS SUBSTANCE STORAGE FACILITIES / NEW (post to 30-day written comment)
Staff: Jeff Madore, Bureau of Remediation and Waste Management
Scot Whittier, Bureau of Remediation and Waste Management
- 011 4. EVERGREEN II WIND POWER, LLC // DEP PERMIT APPROVAL #L-24572-24-A-N and L-24572-TF-B-N 51 MEGAWATT WIND ENERGY GENERATION PROJECT IN OAKFIELD (appeal submitted by Brian Raynes, Daniel Koerschner and Rufus Brown on behalf of Martha A. Powers Trust)
Staff: Mark Margerum, Bureau of Land and Water Quality

Next Regular Meeting –Thursday, June 3, 2010 – Civic Center - Augusta

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Holiday Inn / Ground Round, Augusta at 9:00 a.m.
June 17, 2010
Revised Agenda

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. ENVIRON SERVICES, INC., Gorham – Administrative Consent Agreement (BRWM)

III. REGULAR AGENDA

- 011 1. CHAPTER 693 OPERATOR TRAINING FOR OIL AND HAZARDOUS SUBSTANCE STORAGE FACILITIES / NEW (post to public hearing)
Staff: Jeff Madore, Bureau of Remediation and Waste Management
Scott Whittier, Bureau of Remediation and Waste Management
- 017 2. CHAPTER 154, CONTROL OF VOLATILE ORGANIC COMPOUNDS FROM FLEXIBLE PACKAGE PRINTING / new (adoption***)
Staff: Jeff Crawford, Bureau of Air Quality
- 027 3. CHAPTER 305, PERMIT BY RULE STANDARDS, SECTION 16 ACTIVITIES IN COASTAL SAND DUNES / (final adoption***)
Staff: Mike Mullen, Bureau of Land and Water Quality
- 037 4. CHAPTERS 400 (GENERAL PROVISIONS), 401 (LANDFILL SITING, DESIGN AND OPERATION), AND 409 (PROCESSING FACILITIES), REVISIONS TO THE SOLID WASTE MANAGEMENT RULES CONCERNING RECYCLING RATES AT SOLID WASTE PROCESSING FACILITIES / (adoption***)
Staff: Paula Clark, Bureau of Remediation and Waste Management

*** Pursuant to Title 35 M.R.S.A. Section 341-D (1-B) -- At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman.

- 077 5. CHAPTER 1000, SECTION 13(A), STATE OF MAINE GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES / amendment (post to 30-day written comment)
Staff: Michael Morse, Bureau of Land and Water Quality
- 081 6. CHAPTER 882, DESIGNATION OF BISPHENOL A AS A PRIORITY CHEMICAL AND REGULATION OF BISPHENOL A IN CHILDREN'S PRODUCTS / (post to public hearing)
Staff: Andrea Lani, Bureau of Remediation and Waste Management
- 7. CALAIS LNG PROJECT COMPANY LLC – Site Location and Development Act, Natural Resources Protection Act (NRPA), Air Emission and Water Quality applications #L-24843-26-A-N, #L-24843-TG-B-N, #L-24843-IW-C-N, #L-24843-L6-D-N, #L-24843-4P-E-N, #A-1029-71-A-N, and #W-9056-5O-A-N (tentatively scheduled in the event of an appeal of the fifth procedural order)
Staff: Cindy Bertocci, BEP Executive Analyst

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Holiday Inn / Ground Round, Augusta at 9:00 a.m.
July 1, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. MAINE ENERGY RECOVERY COMPANY, Biddeford – Administrative Consent Agreement (BRWM)

III. REGULAR AGENDA

- 009 1. CHAPTER 583 NUTRIENT CRITERIA FOR FRESH SURFACE WATERS / NEW (request to terminate rulemaking)
Staff: Tom Danielson, Bureau of Land and Water Quality
- 011 2. 2010 SMALL COMMUNITY GRANT PROGRAM PRIORITY LIST (approval)
Staff: Tim MacMillan, Bureau of Land and Water Quality

Informational Session:

GOVERNOR'S OFFICE OF ENERGY INDEPENDENCE AND SECURITY (scope of anticipated wind energy assessment and report – requested by the Joint Standing Committee on Utilities and Energy)

John Kerry, Director Governor's Office of Energy Independence and Security

Jennifer Puser, Deputy Director Governor's Office of Energy Independence and Security

Next Regular Meeting – Thursday, July 15, 2010 – Holiday Inn / Ground Round - Augusta

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Holiday Inn / Ground Round, Augusta at 9:00 a.m.
August 5, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. BEP MINUTES – April 15, 2010 (approval)
- 009 2. BEP MINUTES – May 6, 2010 (approval)
- 015 3. BEP MINUTES – May 20, 2010 (approval)
- 021 4. BEP MINUTES – June 3, 2010 (approval)
- 027 5. BEP MINUTES – June 17, 2010 (approval)

- 035 6. ENVIROVANTAGE, INC., Kittery – Administrative Consent Agreement (BRMW)
- 041 7. KARL J. WALZ, JR. and ANDY PICARD EXCAVATING, INC., Arundel –
Administrative Consent Agreement (BLWQ – Land)
- 047 8. MICHAEL C. KAIN and CONSTANCE P. KAIN, Prospect – Administrative Consent
Agreement (BLWQ – Land)
- 055 9. WOODS OF MAINE, INC., Bangor – Administrative Consent Agreement (BLWQ –
Land)

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A (6)

ISF TRADING COMPANY // Portland
SOIL PREPARATION INC. // Plymouth
*Comment Deadline: **August 30, 2010.***

DEP contact person Phil Garwood 441-9034
DEP contact person Rick Haffner 941-4570
*Tentative schedule for BEP action: **September 16, 2010***

III. REGULAR AGENDA

- 061 1. ENPRO SERVICES OF MAINE INC., RENEWAL – HAZARDOUS WASTE/WASTE OIL STORAGE AND TREATMENT FACILITY LICENSE (draft approval – 45 day written comment period)
Staff: Richard Kaselis, Bureau of Remediation and Waste Management

- 199 2. CHAPTER 691 RULES FOR UNDERGROUND OIL STORAGE FACILITIES / AMENDMENT -- REPEAL SECTION 3-A, SITING RESTRICTIONS FOR NEW FACILITIES (adoption)
Staff: Jeff Madore, Bureau of Remediation and Waste Management

- 209 3. STATE IMPLEMENTATION PLAN (SIP) CLASS I FEDERAL AREA – REGIONAL HAZE SUBMISSION (post to public comment)
Staff: Jeffrey Crawford, Bureau of Air Quality

Board to reconvene at approximately 1:00 p.m. to consider the remainder of the agenda

4. SITE LAW AND STORMWATER REGULATION AMENDMENTS // Chapters 371-Definitions, 372-Policies and Procedures, 373-Financial Capacity, 374-Traffic Movement, 375-No Adverse Environmental Effect, 376-Soil Types, 377-Roads, 380-Planning, 500-Stormwater Management and 502-Watersheds of Lakes Most At Risk from New Development (briefing)

Staff: Andy Fisk, Director Bureau of Land and Water Quality

Note: No review materials associated with agenda item #4

- 409 5. UNITED STATES SURGICAL CORP. – MALLINCKRODT LLC / APPEAL OF DESIGNATION OF UNCONTROLLED HAZARDOUS SUBSTANCE SITE AND ORDER, HOLTRACHEM FACILITY (Review Draft Proposed Board Order – Possible Decision)

Staff: Cynthia S. Bertocci, BEP Executive Analyst

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Holiday Inn / Ground Round, Augusta at 12:30 p.m.
August 19, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. FOX ISLANDS WIND, LLC, Vinalhaven – Administrative Consent Agreement (BLWQ – Land)

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A (6)

ISF TRADING COMPANY // Portland
SOIL PREPARATION INC. // Plymouth
Comment Deadline: **August 30, 2010.**

DEP contact person Phil Garwood 441-9034
DEP contact person Rick Haffner 941-4570
Tentative schedule for BEP action: **September 16, 2010**

III. REGULAR AGENDA

- 007 1. UNITED STATES SURGICAL CORP. – MALLINCKRODT LLC / APPEAL OF DESIGNATION OF UNCONTROLLED HAZARDOUS SUBSTANCE SITE AND ORDER, HOLTRACHEM FACILITY (tentative - Decision)
Staff: Cynthia S. Bertocci, BEP Executive Analyst

Board to reconvene at approximately 1:00 p.m. for a Public Hearing In The Matter Of:

CHAPTER 882, DESIGNATION OF BISPHENOL A AS A PRIORITY CHEMICAL AND REGULATION OF BISPHENOL A IN CHILDREN'S PRODUCTS

Staff: Andrea Lani, Bureau of Remediation and Waste Management

Next Regular Meeting – Thursday, September 2, 2010 – Holiday Inn / Ground Round - Augusta

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Holiday Inn / Ground Round, Augusta at 09:00a.m.
September 2, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

INFORMATIONAL

GULF ISLAND POND: UPDATE ON EFFORTS TO MEET WATER QUALITY STANDARDS

II. CONSENT AGENDA ITEMS

- 003 1. MARK JENSEN and CHARMAINE JENSEN, Belfast – Administrative Consent Agreement (BLWQ – Land)
- 009 2. NORTHEAST PACKAGING CO., Presque Isle – Administrative Consent Agreement (BRWM)

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A (6)

ISF TRADING COMPANY // Portland
SOIL PREPARATION INC. // Plymouth
Comment Deadline: **August 30, 2010.**

DEP contact person Phil Garwood 441-9034
DEP contact person Rick Haffner 941-4570
Tentative schedule for BEP action: **September 16, 2010**

III. REGULAR AGENDA

- 025 1. CHAPTER 118, GASOLINE DISPENSING FACILITIES VAPOR CONTROL – NEW (post to public hearing)
Staff: Jeff Crawford, Bureau of Air Quality
- 045 2. CHAPTER 129, SURFACE COATING FACILITIES – AMENDMENT (post to 30-day written comment)
Staff: Jeff Crawford, Bureau of Air Quality
- 095 3. CHAPTER 883, DESIGNATION OF THE CHEMICAL CLASS NONYLPHENOL AND NONYLPHENOL ETHOXYLATES "A" AS A PRIORITY CHEMICAL – NEW (post to public hearing)
Staff: Andrea Lani, Bureau of Remediation and Waste Management
- 129 4. CENTRAL MAINE POWER COMPANY – MAINE POWER RELIABILITY PROGRAM (appeal by Mary and David Fournier)
Staff: Dawn Hallowell, Bureau of Land and Water Quality
Staff: Beth Callahan, Bureau of Land and Water Quality
Staff: Marybeth Richardson, Licensing Coordinator Bureau of Land and Water Quality

III. REGULAR AGENDA

- 001 1. EVERGREEN WIND POWER III, LLC – ROLLINS WIND PROJECT // DEPARTMENT ORDERS L-24402-24-A-N, L-24402-TH-B-N AND L-24402-IW-C-N (Petition to Revoke or Suspend submitted by Lynne Williams)
Staff: Becky Blais, Bureau of Land and Water Quality

Public Hearing at 9:00 a.m. In The Matter Of:

CHAPTER 693 OPERATOR TRAINING FOR OIL AND HAZARDOUS SUBSTANCE STORAGE FACILITIES / NEW

I. DEPARTMENTAL

- A. Commissioner's Comments
B. Chairman's Comments
C. Executive Analyst Comments
037 D. Board Calendar
E. Departmental Orders / Applications Accepted for Processing
F. Executive Session

II. CONSENT AGENDA ITEMS

- 039 1. ISF TRADING COMPANY, Portland – Administrative Consent Agreement (BLWQ – Water)
043 2. SOIL PREPARATION, INC., Plymouth – Administrative Consent Agreement (BRWM)
057 3. METAL MAGIC, INC., Trenton – Administrative Consent Agreement (BRWM)
065 4. U.S. DEPARTMENT OF VETERANS AFFAIRS MEDICAL AND REGIONAL OFFICE CENTER, Togus – Administrative Consent Agreement (BAQ)

III. REGULAR AGENDA

- 075 1. ENPRO SERVICES OF MAINE INC., RENEWAL – HAZARDOUS WASTE/WASTE OIL STORAGE AND TREATMENT FACILITY LICENSE (approval)
Staff: Richard Kaselis, Bureau of Remediation and Waste Management
- 215 2. CHAPTER 1000, STATE OF MAINE GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES - SECTION 13(A) RESOURCE PROTECTION DISTRICT / amendment (adoption)
Staff: Michael Morse, Bureau of Land and Water Quality
- 231 3. CHAPTER 305, PERMIT BY RULE – SECTION 16, ACTIVITIES IN COASTAL SAND DUNES – AMENDMENT (post to 30-day written public comment)
Staff: Mike Mullen, Bureau of Land and Water Quality
- 241 4. CHAPTER 100, DEFINITIONS REGULATIONS / AMENDMENT (post to 30-day written public comment)
Staff: Michael Karagiannes, Bureau of Air Quality

- 279 5. CHAPTER 425, ASBESTOS MANAGEMENT REGULATIONS / AMENDMENT (post to public hearing)
Staff: Jamie Tansey, Bureau of Remediation and Waste Management
- 361 6. CHAPTER 882, DESIGNATION OF BISPHENOL A AS A PRIORITY CHEMICAL AND REGULATION OF BISPHENOL A IN CHILDREN'S PRODUCTS / (workshop)
Staff: Andrea Lani, Bureau of Remediation and Waste Management

Board to Reconvene at approximately 1:00 for a Public Hearing In The Matter Of:

CHAPTER 883, DESIGNATION OF THE CHEMICAL CLASS NONYLPHENOL AND NONYLPHENOL ETHOXYLATES "A" AS A PRIORITY CHEMICAL – NEW

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
DEP Response Training Room at 09:00a.m.
4 Blossom Lane, Augusta
October 21, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 111 1. BEP Minutes – August 5, 2010 (approval)
- 119 2. BEP Minutes – August 19, 2010 (approval)
- 123 3. BEP Minutes – September 2, 2010 (approval)

III. REGULAR AGENDA

- 003 1. ALBERT SIROIS – RESIDENTIAL OVERBOARD DISCHARGE PERMIT RENEWAL --
DEP APPROVAL #W-003648-5A-D-R (appeal submitted by Herman Turndorf)
Staff: William Hinkel, Bureau of Land and Water Quality

Next Regular Meeting – Thursday, November 4, 2010 – Maple Hill Farms - Hallowell

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Maple Hill Farms at 09:00a.m.
11 Inn Road, Hallowell
November 4, 2010

Public Hearing at 9:00 a.m. In The Matter Of:

CHAPTER 118, GASOLINE DISPENSING FACILITIES VAPOR CONTROL – NEW

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. BEP MINUTES – July 1, 2010 (approval)
- 007 2. BEP MINUTES – October 7, 2010 (approval)
- 013 3. BEP MINUTES – October 21, 2010 (approval)
- 017 4. SACO AUTO HOLDINGS – FLMM, LLC d/b/a PRIME FORD LINCOLN MERCURY, Saco
– Administrative Consent Agreement (BAQ)

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A (6)

JAMES & CHERYL GROSS // Penobscot
ROBERT W. BARRIS III // Saco

*Comment Deadline: **November 29, 2010.***

DEP contact person Jim Beyer 446-9026

DEP contact person Chris Coppi 822-6327

*Tentative schedule for BEP action: **December 2, 2010***

III. REGULAR AGENDA

- 021 1. CHAPTER 117 SOURCE SURVEILLANCE – EMISSIONS MONITORING – REPEAL AND REPLACE (post to public hearing)
Staff: Deb Avalone-King, Bureau of Air Quality
- 2. REPORT TO LEGISLATURE (initial discussion)
Staff: Cynthia S. Bertocci, BEP Executive Analyst

Next Regular Meeting – Thursday, November 18, 2010 – The Elks Lodge - Augusta

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
The Elks Lodge at 09:00a.m.
397 Civic Center Drive, Augusta, Augusta
November 18, 2010

Public Hearing at 9:00 a.m. In The Matter Of:

CHAPTER 100, DEFINITIONS REGULATIONS / AMENDMENT

Public Hearing at 9:30 a.m. In The Matter Of:

CHAPTER 425, ASBESTOS MANAGEMENT REGULATIONS / AMENDMENT

Public Hearing at 10:30 a.m. In The Matter Of:

CHAPTER 118, GASOLINE DISPENSING FACILITIES VAPOR CONTROL – NEW

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. BEP MINUTES – July 1, 2010 (approval)
- 007 2. BEP MINUTES – October 7, 2010 (approval)
- 013 3. BEP MINUTES – October 21, 2010 (approval)
- 017 4. SACO AUTO HOLDINGS – FLMM, LLC d/b/a PRIME FORD LINCOLN MERCURY, Saco
– Administrative Consent Agreement (BAQ)
- 021 5. DOMTAR INDUSTRIES INC., Baileyville – Administrative Consent Agreement (BAQ)

ADMINISTRATIVE CONSENT AGREEMENT:

Proposed wastewater discharge enforcement resolution open for public comment
Pursuant to 38 M.R.S. § 347-A (6)

JAMES & CHERYL GROSS // Penobscot
ROBERT W. BARRIS III // Saco
Comment Deadline: November 29, 2010.

DEP contact person Jim Beyer 446-9026
DEP contact person Chris Coppi 822-6327
Tentative schedule for BEP action: December 2, 2010

III. REGULAR AGENDA

- 031 1. CHAPTER 117 SOURCE SURVEILLANCE – EMISSIONS MONITORING – REPEAL AND REPLACE (post to public hearing)
Staff: Deb Avalone-King, Bureau of Air Quality

- 055 2. VERSO BUCKSPORT, LLC – DEPARTMENT APPLICATION #A-22-77-4-A // OFFSETS FOR MAJOR MODIFICATION (briefing)
 Staff: Marc Cone, Bureau of Air Quality
3. LEGISLATIVE REPORT / SUMMARY OF ACTIVITIES (initial discussion)
 Staff: Cynthia S. Bertocci, BEP Executive Analyst

Next Regular Meeting – Thursday, December 2, 2010 – Civic Center - Augusta

BOARD OF ENVIRONMENTAL PROTECTION
[www.maine.gov/dep/bep/index.htm]
Civic Center at 09:00a.m.
76 Community Drive, Augusta
December 2, 2010

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders / Applications Accepted for Processing
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 003 1. BEP MINUTES – November 4, 2010 (approval)
- 005 2. ROBERT W. BARRIS III, Saco – Administrative Consent Agreement (BLWQ)
- 009 3. JAMES & CHERYL GROSS, Penobscot – Administrative Consent Agreement (BLWQ)
- 013 4. EWASTE RECYCLING SOLUTIONS, LLC, Auburn – Administrative Consent Agreement (BRWM).

III. REGULAR AGENDA

- 023 1. STATE IMPLEMENTATION PLAN (SIP) CLASS I FEDERAL AREA – REGIONAL HAZE SUBMISSION (post to public comment)
Staff: Jeffrey Crawford, Bureau of Air Quality
- 269 2. STATE OF MAINE / STATE PLANNING OFFICE – DEPARTMENT ORDER #S-0202700-WU-AJ-N JUNIPER RIDGE LANDFILL (appeal by C. Leithiser, M. Dolan, E. Spencer and Juniper Ridge Landfill Advisory Committee)
Staff: Mike Parker, Bureau of Remediation and Waste Management
- 3. LEGISLATIVE REPORT / SUMMARY OF ACTIVITIES (draft proposed report)
Staff: Cynthia S. Bertocci, BEP Executive Analyst

Next Regular Meeting – Thursday, December 16, 2010 – The Elks Lodge - Augusta