

# MAINE STATE LEGISLATURE

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**Board of Environmental Protection  
Recommendations and  
Summary of Activities in Calendar Year 2012**

**Report to the Joint Standing  
Committee on Environment and Natural Resources**

**Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017**

**January 2013**

**Contact: Cynthia S. Bertocci, Executive Analyst 287-2452**

**Report to the Joint Standing Committee on Natural Resources  
Summary of Activities – 2012**

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

**Summary of Activities in Calendar Year 2012**

**I. Introduction**

The Board of Environmental Protection is a 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).

Title 38 § 341-D(7) requires the Board of Environmental Protection to report to the joint standing committee having jurisdiction over 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.” This report is a summary of the Board’s activities in 2012 and is submitted in fulfillment of the statutory requirement to file a report with the Legislature.

**II. Changes to Membership in 2012**

In September 2012, Governor Paul LePage appointed Board member Robert Foley of Wells as Chair, succeeding Susan M. Lessard of Hampden. Ms. Lessard served four years as Chair, and continues to serve as a member of the Board. Board member Gary Curtis of Greenwood resigned his position on the Board in February 2012 to return to full time employment in the paper industry. In April 2012, Governor LePage appointed Thomas Eastler of Farmington to fill the vacancy created by Mr. Curtis’s resignation. Mr. Eastler is a Professor of Environmental Geology at the University of Maine Farmington.

See Attachment A for biographical information on the current Board members.

**III. Responsibilities and Duties**

In 2011 the Legislature enacted Public Law 2011, c. 304 “An Act to Ensure Regulatory Fairness and Reform” (LD 1) which made a number of changes to the Board’s composition and duties. Over the past year, the Board has taken steps to implement these changes including the drafting of amendments to the Department’s Chapter 2 procedural rules.

The Board's responsibilities as amended by LD 1 (M.R.S.A. § 341-D) include:

- Major substantive rulemaking: The Board holds public hearings on, and provisionally adopts, major substantive rules of the Department;
- Decisions on certain permit applications: The Department's statutes specify that certain applications such as those pertaining to hazardous waste facilities must be evaluated and decided by the Board;
- Appeals of certain Commissioner licensing and enforcement actions;
- Petitions to modify a license or require corrective action that are referred to it by the Commissioner; and
- Recommendations to the Legislature: The Board is charged with making recommendations to the Legislature on the implementation of environmental laws.

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.

#### **IV. Summary of Matters before the Board in 2012**

The Board held 12 meetings in 2012. Matters considered by the Board are summarized below.

##### **A. Rulemaking**

In accordance with 38 MRSA § 341-H(1), the Board shall "adopt, amend or appeal only those rules of the department designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. The board shall also adopt, amend and repeal routine technical rules as necessary for the conduct of the board's business, including the processing of applications, the conduct of hearings and other administrative matters." The Commissioner has the authority to adopt, amend or repeal routine technical rules (38 MRSA § 341-H(2)). Rules pending before the Board in 2012 are summarized below.

- Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters, Section 1(B) Definition of "Aggrieved Person." Resolve 2011, chapter 144 (LD 1647) directed the Board to adopt rules to conform the standards for standing to appeal a Commissioner decision to the Board to the judicial standards for standing to appeal a decision of the Board to court. The rulemaking is major substantive. The Board held a public hearing on the proposed definition on November 1<sup>st</sup>. The Board will be forwarding a recommended rule to the Legislature for consideration this session.
- Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters / Routine Technical Amendments. This is a joint rulemaking by the Board and the Commissioner because it addresses procedural rules for the Department as a whole, including the Board. The proposed amendments incorporate the statutory changes to the

Board's responsibilities enacted in LD 1 (PL 2011, c. 304) and clarify other provisions of rule. A public hearing on the proposed amendments will be held on January 3, 2013.

- Chapter 3 Rules Governing the Conduct of Licensing Hearings. Proposed Chapter 3 repeals and replaces existing Chapter 20 *Regulations for Hearings on Applications* and existing Chapter 30 *Special Rules for Hearings on Applications of Significant Public Interest*. Proposed Chapter 3 consolidates and updates the Department's licensing hearing rules to comply with the requirements of the Maine Administrative Procedure Act and changes to Department statutes. It also addresses a number of issues that have arisen during adjudicatory hearings before the Department in recent years. This is a joint rulemaking by the Board and the Commissioner because it addresses procedural rules for the Department as a whole, including the Board. A public hearing on the proposed rule was held on October 4, 2013. Action on the proposed rule is anticipated in early 2013.
- Chapter 882 Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children's Products / Citizen Petition for Rulemaking to Require Safer Alternatives to Bisphenol A in Food and Beverage Packaging for Young Children. The petition was filed pursuant to 5 M.R.S.A. § 8055(3) which states that "whenever a petition to adopt or modify a rule is submitted by 150 or more registered voters of the State, the agency shall initiate appropriate rulemaking proceedings within 60 days after receipt of the petition."

The petition seeks to:

- Add a definition of "toddler food;"
- Extend the existing prohibition on the sale of children's products containing BPA to include containers of infant formula, baby food and toddler food; and
- Specify that BPA is intentionally added to a product or product packaging whenever a component of the product or product packaging is made from polycarbonate packaging or epoxy resin containing BPA.

Since the petition proposes changes to both routine technical and major substantive provisions of Chapter 882, the Board and the Commissioner are conducting joint rulemaking. A public hearing was held on the petition in September 2012. Commissioner and Board decisions on the petitioners' proposed amendments are anticipated in early 2013. If the Board provisionally adopts a sales prohibition, the provisional rule will be forwarded to the Legislature for its consideration and action.

- Major Substantive Rules Adopted in 2012. The Board referred three major substantive rules to the Legislature for its consideration in the Second Regular Session of the 125<sup>th</sup> Legislature. Each of these rules was approved by the Legislature and finally adopted by the Board on May 3, 2012. These major substantive rules were as follows:
  - Chapter 375, section 10(I) regarding noise from wind energy developments;
  - Chapter 305, section 20 permit by rule (PBR) for activities in moderate inland waterfowl and wading bird habitat; and
  - Chapter 378 amendments regarding the storage of diesel fuel in gravel pits and quarries.

## **B. Major Applications and License Applications Requiring Board Approval**

In accordance with 38 M.R.S.A. § 341-D(2), the Board shall decide each application for approval of permits and licenses that in its judgment represents a project of statewide significance. There were no projects of statewide significance referred to the Board in 2012. However, there were four licenses that other provisions of statute require be decided by the Board. The following licenses were considered by the Board:

- U.S. Department of the Navy, Portsmouth Naval Shipyard, Commercial Hazardous Waste Storage Facility License Renewal. This license was posted for the required 45 day comment period. The license renewal was approved by the Board on September 6, 2012.
- Central Maine Power Company North Augusta Service Center, Commercial Hazardous Waste Storage Facility License Renewal. The license was posted for the required 45 day public comment period. It was approved by the Board on November 15, 2012.
- Clean Harbors Environmental Services Inc., South Portland, Waste Oil Storage and Treatment Facility License Renewal. The renewal license was approved by the Board on November 15, 2012.
- Control Devices Inc. and GTE Operations Support Inc., Standish, Cumberland County, Hazardous Waste Post-Closure License Modification. The proposed modification was posted for the required 45 day comment period on November 15, 2012. A decision is anticipated in early 2013.

## **C. Appeals of Commissioner 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. Except in limited circumstances set forth in rule, the record for appeals heard by the Board is 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. 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).

Appeals of Commissioner licensing decisions considered by the Board in 2012 are summarized below.

- Evergreen Wind Power II and Maine Genlead LLC (Oakfield II Wind Power Project), Aroostook and Penobscot Counties, Appeal of Site Location and Natural Resources

Protection Act permits. The appellants objected to the project arguing unreasonable adverse effect on scenic character, adverse impacts to birds and bats, adverse impacts to wetlands, and inadequate financial capacity. The Board denied the appeal and upheld the Commissioner's decision.

- State of Maine, State Planning Office, Juniper Ridge Landfill Public Benefit Determination. The Board received three appeals of the Commissioner's partial approval of the application for a public benefit determination to expand landfill capacity at Juniper Ridge. Two of the appeals were dismissed with a finding that the appellants did not have standing as aggrieved persons and therefore could not bring an appeal of the Commissioner's decision. The Board found that the third person did have standing to appeal. This appellant argued that there is no demonstrated need for expanded landfill capacity at this time and that any decision on the requested expansion should await a more comprehensive appraisal of Maine's waste disposal capacity needs. The Board denied the appeal and affirmed the Commissioner's decision.
- Saddleback Ridge Wind, LLC. Carthage, Canton and Dixfield, Franklin and Oxford Counties, Appeal of Site Location and Natural Resources Protection Act permits and Water Quality Certification. The appellants objected to the project on the basis of excessive noise from wind turbines and unreasonable visual impact. The Board denied the appeals and affirmed the Commissioner's decision.
- S.D. Warren Company. Appeal of Water Quality Certification for the Eel Weir Hydropower Project, Sebago Lake, Cumberland County. The Board received two appeals of the Commissioner's decision. One appellant objected to the lake level management plan citing potential for adverse impacts to recreation, navigation and aquatic habitat from what the petitioner believes will be lower lake levels. The other appellant objected to the certification arguing, in part, that the proposed operation of the facility would not provide sufficient water to the Bypass portion of the Presumpscot River to meet state water quality standards. The Board denied the appeals and affirmed the Commissioner's decision.
- Verso Bucksport LLC, Hancock County. Special Waste Landfill. Appeal of an amendment to the solid waste license permitting an increase in the final elevation of the landfill. The petition was dismissed by the Chair who found that the appellant did not have standing as an aggrieved person. The Chair's decision to dismiss the appeal was upheld by the full Board.

#### Pending Appeals

- Passadumkeag Wind Park LLC, Penobscot County. In mid-December the Board received two appeals of the Commissioner's denial of an application for a 42 MW wind energy development proposed to be located in Greenbush, Grand Falls Township, Summit Mountain Township, and Greenfield Township. The appeals were filed by the applicant Passadumkeag Wind Park LLC and by a landowner, Penobscot Forest LLC. The appeals will be considered in early 2013.



**D. Petitions to Modify a License or Order Corrective Action**

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. There were no such petitions referred to the Board in 2012.

**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's 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 then Superior Court. There were no appeals of Commissioner Orders in 2012.

Update on the status of the administrative order issued to Mallinckrodt LLC and U.S. Surgical Corporation for remediation of the HoltraChem Chlor-alkali Manufacturing Facility.

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 by Mallinckrodt 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. After extensive presentation of testimony and cross-examination of witnesses, the Board upheld the Commissioner's Order with some major modifications. Mallinckrodt, LLC subsequently appealed the Board's decision to Superior Court. The Board's decision was affirmed by Superior Court.

**F. Informational Site Visit**

License decisions regarding wind energy developments are often appealed to the Board; the Board considered two such appeals in 2012 and another is pending. In order to familiarize new members with the nature and operation of wind energy developments, the Board visited an operational wind energy project in western Maine in 2012.

## V. Closing

Board 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, transparent 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 useful overview of our activities in 2012.

Respectfully submitted,



Robert A. Foley, Chair  
Board of Environmental Protection

### Attachments:

- A. Board Members: Biographical Information
- B. Board of Environmental Protection Meeting Agenda

## Appendix A: Board of Environmental Protection Members

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Robert Foley, Chair  
Wells, 1<sup>st</sup> Term

Mr. Foley, a 35 year veteran of the insurance industry, is an agent and partner at Cole Harrison Agency in Kennebunk. A native of Kittery, Mr. Foley has been a resident of Wells since 1977, where he has been actively involved in town government. He served on the Wells Board of Selectmen from 1992-2003, and again from 2009 to the present, including seven years as Chairman. Mr. Foley has a strong interest in coastal issues and is the founder of Save Our Shores-Maine and the Maine Coastal Coalition. He holds a Bachelor's degree in Political Science and Public Policy. He was appointed to the Board by Governor Paul LePage in September 2011, and appointed Chair in September 2012.



Elizabeth Ehrenfeld  
Falmouth, 2<sup>nd</sup> 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 Bioscience Association of Maine and the Appalachian Mountain Club. Ms. Ehrenfeld is also a Registered Maine Guide. She was appointed to the Board by Governor Baldacci in June 2005, and appointed to a second term in June 2009.



M. Wing Goodale  
Falmouth, 2<sup>nd</sup> 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 by Governor Baldacci in March 2006, and appointed to a second term in March 2010.



Richard Gould  
Greenville, 2<sup>nd</sup> 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 by Governor Baldacci in March 2006, and appointed to a second term in March 2010.

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Susan M. Lessard  
Hampden, 2<sup>nd</sup> Term

Ms. Lessard is the Town Manager for the Town of Hampden. She has more than 28 years of experience in local government in Maine and has extensive experience in solid waste management issues, municipal financial management, and community development. She is a past president of the Maine Municipal Association, and has served on the Municipal Review Committee and the Maine Rural Development Council. Her educational background is in public administration and engineering. She was appointed to the Board as a member in July 2007 and reappointed to the Board by Governor Paul LePage in September 2011. Ms. Lessard served as Chair of the Board from December 2008 to September 2012.

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Alvin K. Ahlers  
North Yarmouth,  
1<sup>st</sup> Term

Mr. Ahlers is a retired Registered Professional Engineer. He served as Environmental Manager for Fairchild Semiconductor Corporation in South Portland from 1993 to 2004 where he was responsible for managing environmental compliance for the facility and was an active member of Maine DEP's Environmental Leadership program for Fairchild. Prior to joining Fairchild, Mr. Ahlers was employed by ABB Environmental Services (formerly E.C. Jordan Co) of Portland. Since retiring he has been active in town government, currently serving on the Town of North Yarmouth Budget Committee and on the town's Economic and Sustainability Committee. He was appointed to the Board by Governor Paul LePage in September 2011.

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Tom Eastler  
Farmington, 1<sup>st</sup> Term

Mr. Eastler is a Professor of Environmental Geology at the University of Maine Farmington. He obtained his undergraduate degree from Brown University and his masters and doctorate degrees in Geology from Columbia University. His research interests include terrain analysis, remote sensing, and fuel and non-fuel mineral resource depletion. Dr. Eastler has devoted much of his professional career to teaching and has mentored many aspiring geologists. Dr. Eastler has also served as a consultant to a number of entities including Lawrence Livermore Laboratories in California and Raytheon UTD in Virginia. He is a Fellow of the American Association for the Advancement of Science and the Geological Society of America (GSA). Dr. Eastler is a retired Colonel U. S. Air Force Reserves with 30 years of service. He was appointed to the Board by Governor Paul R. LePage in April 2012.

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**Appendix B: Board of Environmental Protection Meeting Agendas**

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]

Dept. Public Safety – Florian Hall  
45 Commerce Drive, Augusta  
January 5, 2012 at 9:00 a.m.

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**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

None

**III. REGULAR AGENDA**

- 003 1. Chapter 378, Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products // Amendments (provisional adoption)  
Staff: Mike Mullen, Director, Bureau of Land and Water Quality  
Staff: Mark Stebbins, Bureau of Land and Water Quality
- 047 2. Chapter 305 Permit by Rule, Section 20, Activities located In, On or Over High or Moderate Value Inland Waterfowl and Wading Bird Habitat, or Shorebird Nesting, Feeding, and Staging Areas // Amendments (deliberative session)  
Staff: Mike Mullen, Director Bureau of Land and Water Quality
- Chapter 305 Permit by Rule, Section 20, Activities located In, On or Over High or Moderate Value Inland Waterfowl and Wading Bird Habitat, or Shorebird Nesting, Feeding, and Staging Areas // Amendments (possible provisional adoption)  
Staff: Mike Mullen, Director Bureau of Land and Water Quality
- \*\*\* 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.*
- 080 3. Report to Legislature – Summary of Activities (discussion)  
Staff: Cynthia Bertocci, Executive Analyst
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*Next Regular Meeting – Thursday, January 19, 2012 – Room 110 (19 Union Street), Augusta*

BOARD OF ENVIRONMENTAL PROTECTION  
[[www.maine.gov/dep/bep/index.htm](http://www.maine.gov/dep/bep/index.htm)]

Dept. Public Safety – Florian Hall  
45 Commerce Drive, Augusta  
February 16, 2012 at 9:00 a.m.

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**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

- 1. BEP MEETING MINUTES – December 15, 2011 (Approval)
- 2. BEP MEETING MINUTES – January 5, 2012 (Approval)

**III. REGULAR AGENDA**

- 003     1. SADDLEBACK RIDGE WIND, LLC // Site Location of Development Act and Natural Resources Protection Act Permits L-25137-24-A-N and L-25137-TG-B-N (appeal submitted by Friends of Maine's Mountains, Friends of Saddleback Mountain, Rand Stowell and other specifically named individuals)  
          Staff: Mark Margerum, Bureau of Land and Water Quality

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*Next Regular Meeting –Thursday, March 1, 2012 – location to be determined, Augusta*

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]

State Planning Office – Room 110  
19 Union Street, Augusta  
April 11, 2012 at 9:00 am

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**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

NONE

**III. REGULAR AGENDA**

- 003      1. EVERGREEN WIND POWER II AND MAINE GENLEAD LLC // Site Location of Development Act and Natural Resources Protection Act Permits L-24572-24-C-N, L-24572-TF-D-N, L24572-IW-E-N, L-24572-24-F-N, L-24572-TF-G-N, OAKFIELD II (appeal submitted by Lynne Williams on behalf of Protect Our Lakes and Donna Davidge)  
            Staff: Jessica Damon, Bureau of Land and Water Quality  
            Staff: Mark Margerum, Bureau of Land and Water Quality
- 765      2. VERSO BUCKSPORT / Special Waste Landfill Permit #S-007713-WD-BB-A (appeal of BEP Chair ruling concerning standing as an aggrieved person submitted by Joseph and Michele Greenier)  
            Staff: Cynthia S. Bertocci, BEP Executive Analyst  
            Staff: Karen Knuuti, Bureau of Remediation and Waste Management

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*Next Regular Meeting –Thursday, May 3, 2012 – location to be determined, Augusta*



BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Civic Center -- 76 Community Drive, Augusta  
May 3, 2012 at 9:00 a.m.

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**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**

- 02a 1. BEP Minutes - February 16, 2012 (approval)
- 02e 2. BEP Minutes - April 11, 2012 (approval)

**III. REGULAR AGENDA**

*\*\*\* 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.*

- 003 1. CHAPTER 305, PERMIT BY RULE STANDARDS, SECTION 20, ACTIVITIES LOCATED IN, ON OR OVER HIGH OR MODERATE VALUE INLAND WATERFOWL AND WADING BIRD HABITAT, OR SHOREBIRD NESTING, FEEDING, AND STAGING AREAS (final adoption)  
Staff: Mike Mullen, Bureau of Land and Water Quality
- 161 2. CHAPTER 375, NO ADVERSE ENVIRONMENTAL EFFECT STANDARD OF THE SITE LOCATION LAW, SECTION 10 CONTROL OF NOISE (final adoption)  
Staff: Mike Mullen, Bureau of Land and Water Quality
- 299 3. CHAPTER 378, VARIANCE CRITERIA FOR THE EXCAVATION OF ROCK, BORROW, TOPSOIL, CLAY & SILT AND THE PERFORMANCE STANDARDS FOR THE STORAGE OF PETROLEUM PRODUCTS (final adoption)  
Staff: Mark Stebbins, Bureau of Land and Water Quality

- 345     4.    STATE OF MAINE / STATE PLANNING OFFICE – JUNIPER RIDGE LANDFILL // PUBLIC BENEFIT DETERMINATION (PBD) DEPARTMENT ORDER #S-020700-W5-AU-N: MOTION TO DISMISS LEITHISER APPEAL (appeal by Charles Leithiser of BEP Chair’s ruling dismissing his appeal of the PBD for lack of standing).  
          Staff: Cynthia S. Bertocci, BEP Executive Analyst  
                  Cyndi Darling, Bureau of Remediation and Waste Management
- 419     5.    STATE OF MAINE / STATE PLANNING OFFICE – JUNIPER RIDGE LANDFILL // PUBLIC BENEFIT DETERMINATION (PBD) DEPARTMENT ORDER #S-020700-W5-AU-N: MOTION TO DISMISS SPENCER APPEAL (Appeal by State Planning Office and NEWSME Landfill Operations LLC of BEP Chair’s ruling finding Edward Spencer has standing to appeal the PBD).  
          Staff: Cynthia S. Bertocci, BEP Executive Analyst  
                  Cyndi Darling, Bureau of Remediation and Waste Management

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
DEP Response Training Room – 4 Blossom Lane, Augusta  
June 20, 2012 at 8:00 a.m.

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**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 – May 3, 2012 (approval)

**III. REGULAR AGENDA**

- 009 1. UNITED STATES DEPARTMENT OF THE NAVY -- PORTSMOUTH NAVAL SHIPYARD // COMMERCIAL HAZARDOUS WASTE STORAGE FACILITY LICENSE RENEWAL O-000005-HA-S-R (approval of draft license for 45-day written comment period)  
Staff: Becky Blais, Bureau of Remediation and Waste Management

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*Next Regular Meeting –Thursday, July 5, 2012 – location to be determined, Augusta*

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Civic Center – 76 Community Drive, Augusta  
July 19, 2012 at 9:00 a.m.

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**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 – June 20, 2012 (approval)

**III. REGULAR AGENDA**

- 007 1. STATE OF MAINE, ACTING THROUGH THE STATE PLANNING OFFICE – JUNIPER RIDGE LANDFILL EXPANSION PUBLIC BENEFIT DETERMINATION S-020700-W5-BB-N (appeal submitted by Edward S. Spencer)  
Staff: Paula Clark, Bureau of Remediation and Waste Management  
Staff: Cyndi Darling, Bureau of Remediation and Waste Management
  
- 225 2. CHAPTER 882, DESIGNATION OF BISPHENOL AS A PRIORITY CHEMICAL AND REGULATION OF BISPHENOL A IN CHILDREN'S PRODUCTS, SECTION 5. SALES PROHIBITION OF CHILDREN'S PRODUCTS CONTAINING BISPHENOL A // AMENDMENTS (Citizen Initiated Rulemaking).  
Staff: Cynthia S. Bertocci, BEP Executive Analyst

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Civic Center – 76 Community Drive, Augusta  
September 6, 2012 at 8:00 a.m.

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**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

- 001 1. BEP Minutes – July 19, 2012 (approval)

**III. REGULAR AGENDA**

- 005 1. UNITED STATES DEPARTMENT OF THE NAVY -- PORTSMOUTH NAVAL SHIPYARD // COMMERCIAL HAZARDOUS WASTE STORAGE FACILITY LICENSE RENEWAL O-000005-HA-S-R (final approval)  
Staff: Becky Blais, Bureau of Remediation and Waste Management
- 159 2. CENTRAL MAINE POWER COMPANY // NORTH AUGUSTA SERVICE CENTER // COMMERCIAL HAZARDOUS WASTE STORAGE FACILITY LICENSE RENEWAL O-000001-HA-D-R (approval of draft license for 45-day written comment period)  
Staff: Becky Blais, Bureau of Remediation and Waste Management
- 221 3. CHAPTER 3, RULES GOVERNING THE CONDUCT OF LICENSING HEARINGS // REPEAL AND REPLACE CHAPTERS 20 AND 30 (Post to Public Hearing).  
Staff: Cynthia S. Bertocci, Board Executive Analyst

**INFORMATIONAL**

- 245 4. VERSO ANDROSCOGGIN LLC, OFFSET CREDITS FOR MAJOR MODIFICATION A-203-77-15-A (informational briefing – no vote needed)  
Staff: Marc Cone, Bureau of Air Quality
- 249 5. GNP WEST and GREAT NORTHERN PAPER COMPANY, OFFSET CREDITS A-406-70-E-O ---- THERMOGEN I, LLC, OFFSET CREDITS A-1072-71-A-N (informational briefing – no vote needed)  
Staff: Marc Cone, Bureau of Air Quality

**PUBLIC HEARING IN THE MATTER OF:**

CHAPTER 882, DESIGNATION OF BISPHENOL AS A PRIORITY CHEMICAL AND REGULATION OF BISPHENOL A IN CHILDREN'S PRODUCTS, SECTION 5. SALES PROHIBITION OF CHILDREN'S PRODUCTS CONTAINING BISPHENOL A // AMENDMENTS (Citizen Initiated Rulemaking).

Staff: Cynthia S. Bertocci, Board Executive Analyst

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*Next Regular Meeting –Thursday, September 20, 2012 – Elks Lodge, Augusta*

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Calumet Club, 334 West River Road, Augusta  
October 4, 2012 at 12:30 p.m.

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**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

- 001 1. BEP Minutes – September 6, 2012 (approval)

**III. REGULAR AGENDA**

- 005 1. CHAPTER 2. RULES CONCERNING THE PROCESSING OF APPLICATIONS AND OTHER ADMINISTRATIVE MATTERS / AMENDMENT TO DEFINITION OF "AGGRIEVED PERSON"  
(post for public hearing)  
Staff: Cynthia Bertocci, Board Executive Analyst

**1:00 pm PUBLIC HEARING IN THE MATTER OF:**

- 011 CHAPTER 3, RULES GOVERNING THE CONDUCT OF LICENSING HEARINGS // REPEAL AND REPLACE CHAPTERS 20 AND 30  
Staff: Cynthia S. Bertocci, Board Executive Analyst

BOARD OF ENVIRONMENTAL PROTECTION  
[[www.maine.gov/dep/bep/index.htm](http://www.maine.gov/dep/bep/index.htm)]  
Elks Lodge, 397 Civic Center Drive, Augusta  
November 1, 2012 at 9:00 a.m.

**9:00 am PUBLIC HEARING IN THE MATTER OF:**

CHAPTER 2, RULES CONCERNING THE PROCESSING OF APPLICATIONS AND OTHER  
ADMINISTRATIVE MATTERS, Section 1B Definition of "Aggrieved Person"

Staff: Cynthia S. Bertocci, Board Executive Analyst

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**REGULAR MEETING IMMEDIATELY FOLLOWING PUBLIC HEARING**

**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

- 001 1. BEP Minutes – October 4, 2012 (approval)

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Elks Lodge, 397 Civic Center Drive, Augusta  
November 15, 2012 at 9:00 a.m.

**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

- 001 1. BEP Minutes – November 1, 2012 (approval)

**III. REGULAR AGENDA ITEMS**

- 005 1. Central Maine Power Company, North Augusta Service Center, Renewal of Commercial Hazardous Waste Storage Facility License # O-000001-HA-D-R (decision)  
Staff: Becky Blais, Bureau of Remediation and Waste Management
- 067 2. Clean Harbors Environmental Services Inc. Waste Oil Storage and Treatment Facility License Renewal (decision)  
Staff: Richard Kaselis, Bureau of Remediation and Waste Management
- 107 3. S.D. Warren Company, Eel Weir Hydropower Project Water Quality Certification #L-19937-33-J-Z / Appeals of Charles M. Frechette and Douglas H. Watts (decision)  
Staff: William Hinkel, Bureau of Land and Water Quality
- 677 4. Control Devices, Inc. and GTE Operations Support Incorporated, Hazardous Waste Post-Closure License Modification #O-000070-HG-F-M (draft order, post for public comment)  
Staff: Stacy Ladner and Heather Jackson  
Bureau of Remediation and Waste Management



BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Civic Center, 76 Community Drive, Augusta  
December 6, 2012 at 9:00 a.m.

Agenda Updated November 30, 2012

**I. DEPARTMENTAL**

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

**II. CONSENT AGENDA ITEMS**

- 001 1. BEP Minutes – November 15, 2012 (approval)
2. Final License for Central Maine Power Companies North Augusta Service Center Commercial Hazardous Waste Storage Facility/Corrected Order  
Staff: Stacy Ladner, Bureau of Remediation and Waste Management

**III. REGULAR AGENDA ITEMS**

- 007 1. Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters / Draft Amendments (post for public hearing)  
Staff: Cynthia Bertocci, Board Executive Analyst
- 075 2. Chapter 882, Citizen Petition for Rulemaking to Require Safer Alternatives to Bisphenol A in Food and Beverage Packaging for Young / Initial Deliberative Session  
Staff: Heather Parent, Policy Director
- 111 3. Board Report to the Legislature / Initial Discussion  
Staff: Cynthia Bertocci, Board Executive Analyst

BOARD OF ENVIRONMENTAL PROTECTION  
[www.maine.gov/dep/bep/index.htm]  
Civic Center, 76 Community Drive, Augusta  
December 20, 2012 at 9:00 a.m.

**I. DEPARTMENTAL**

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

**III. REGULAR AGENDA ITEMS**

- 001 1. Chapter 882, Citizen Petition for Rulemaking to Require Safer Alternatives to Bisphenol A in Food and Beverage Packaging for Young / Deliberative Session  
Staff: Heather Parent, Policy Director
  
- 003 2. Board Report to the Legislature / Discussion  
Staff: Cynthia Bertocci, Board Executive Analyst