



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Robert A. Foley, Chair

Cynthia S. Bertocci  
Executive Analyst

Ruth Ann Burke  
Board Clerk

PAUL R. LEPAGE  
GOVERNOR

**BOARD OF ENVIRONMENTAL PROTECTION  
Meeting Minutes**

December 20, 2012

A meeting of the Board of Environmental Protection was held on Thursday, December 20, 2012 at the Civic Center, located at 76 Community Drive in Augusta, Maine. Robert Foley, Chair, called the meeting to order at 9:00 am with the following individuals:

**Board:**      Present: Alvin Ahlers, Tom Eastler, Robert Foley, M. Wing Goodale, Richard Gould, and Susan Lessard  
Absent: Board member Elizabeth Ehrenfeld was absent.

**Staff:**      Heather Parent, DEP Policy Director  
George MacDonald, DEP Sustainability Director  
Kerri Malinowski, DEP Sustainability Division  
Dr. Andrew Smith, State Toxicologist, Dept of Health and Human Services

**Others:**      Patricia Aho, DEP Commissioner  
Cynthia S. Bertocci, BEP Executive Analyst  
Mary Sauer, Assistant Attorney General

## I. Departmental

- A. **Commissioner's Comments:** None
- B. **Comments from the BEP Chair:** None
- C. **Executive Analyst Comments:** None
- D. **Board Calendar:** Reviewed.
- E. **Departmental Orders/ applications accepted for processing:** Reviewed.
- F. **Executive Session:** None

## II. Consent Agenda Items: None

## III. Regular Agenda Items:

1. 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 / Deliberative Session

Staff: Heather Parent, DEP Policy Director  
George MacDonald, DEP Sustainability Director  
Kerri Malinowski, DEP Sustainability Division  
Dr. Andrew Smith, State Toxicologist, Dept of Health and Human Services

The Board and Commissioner continued their review with staff of issues related to the regulation of Bisphenol A in children's products. Department staff reviewed a report prepared for the Department by TechLaw titled "Alternatives Analysis Report for Bisphenol A in Infant Formula Cans and Baby Food Jar Lids." This report was prepared pursuant to existing Chapter 882, section 4(A)(4) prior to receipt of the citizen petition. While not addressing a number of issues raised by the citizen petition, the report contains relevant information on alternatives relative to the packaging of infant formula and baby food for the Board and Commissioner's consideration in the current rulemaking. Following review of the TechLaw report, Dr. Andrew Smith, State Toxicologist, responded to questions from the Board and the Commissioner regarding the information which the Maine Center for Disease Control has entered into the record in the current rulemaking proceeding. The Board will continue its review of the issues raised in the current rulemaking at its meeting on January 3, 2013. No vote was taken.

2. Board Report to the Legislature / Discussion

Staff: Cynthia Bertocci, Board Executive Analyst

The Board's governing statute (38 M.R.S.A. § 341-D(7)) requires that the Board report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 15<sup>th</sup> of the first regular session of each Legislature. Board staff reviewed the changes to the draft report made in response to Board member comments at the December 6, 2012 meeting. Chairman Foley requested that the report include a reference to the pending appeals of the Commissioner's denial of the application by Passadumkeag Wind Park LLC for a wind energy development. Board members authorized the Chairman to work with staff to finalize the report for submission to the Legislature. No vote was taken.

***(The meeting adjourned at approximately 10:30 a.m.)***

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*Next Regular Meeting – Thursday, January 3, 2013 – Civic Center,  
76 Community Drive, Augusta*