

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

Robert A. Foley, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

November 21, 2013

A meeting of the Board of Environmental Protection was held on Thursday, November 21, 2013 at the Calumet Club, 334 West River Road, Augusta, Maine. Robert Foley, Chair, called the meeting to order at 10:00 am with the following individuals present:

Board: Alvin Ahlers, Robert Foley, Richard Gould, Susan Lessard, and James Parker. Board members Thomas Eastler and M. Wing Goodale were absent.

Staff: Jeffrey Crawford, Office of the Commissioner
Mark Stebbins, Bureau of Land and Water Quality
John Hopeck, Bureau of Land and Water Quality
David Burns, Bureau of Remediation and Waste Management
Stacy Ladner, Bureau of Remediation and Waste Management
Bill Hinkel, Bureau of Land and Water Quality
Mark Bergeron, Director of Land Licensing

Others: Patricia Aho, Commissioner
Mary Sauer, Assistant Attorney General
Cynthia Bertocci, BEP Executive Analyst
Ruth Ann Burke, BEP Clerk and Administrative Assistant

Draft Pending Board Approval

I. Departmental

- A. **Commissioner's Comments:** Commissioner Aho updated the Board on its routine technical rulemaking activities. In particular, the Department has begun work on 4 rules that would designate 4 chemicals as priority chemicals: cadmium, formaldehyde, arsenic and mercury. Cadmium, formaldehyde and arsenic are known human carcinogens. Mercury is a serious, persistent toxicant with many adverse human health and environmental effects. Designation as a priority chemical is the first step in obtaining information from manufacturers regarding the use of these chemicals above de minimis levels in children's products. Information on these rulemakings is available on the Department's rulemaking webpage.
- B. **Comments from the BEP Chair:** None.
- C. **Executive Analyst Comments:** The Executive Analyst noted that the Board will be meeting on December 5th. The first matter of business will be a public hearing on Chapter 106 Low Sulfur Fuel / Amendments. Immediately following close of the public hearing, the Board will convene its regular meeting. The agenda includes consideration of the appeals of the Hancock Wind Power project.
- D. **Board Calendar:** It was noted that the Board has a number of matters to consider in December and early January and members were asked to remain after the meeting to consider possible meeting dates.
- E. **Departmental Orders / Applications Accepted for Processing:** Reviewed
- F. **Executive Session:** None

II. Consent Agenda Items:

- 1. BEP Meeting Minutes: November 7, 2013 (approval)
Following discussion of the Board vote on the Saddleback Ridge Wind project and a request for clarification, the minutes were tabled.

III. Regular Agenda Items:

- 1. Report to the Legislature
Staff: Cynthia Bertocci, Board Executive Analyst

Ms. Bertocci distributed a draft report for the Board's review and discussion. The purpose of the report is to update the Environment and Natural Resources Committee on the Board's activities in 2013. Members indicated an interest in providing some feedback to the Committee on the issues presented in appeals of expedited wind energy developments. As part of the discussion, Commissioner Aho indicated that the Department has been updating its application forms for wind energy developments to address some of the concerns that have arisen. It was noted that any feedback on the process for expedited wind energy developments should be shared with the Legislature's Joint Standing Committee on Energy, Utilities and Technology. The Board's report to the Legislature will be an agenda item for the December 19, 2013 meeting. Following discussion of the Legislative report, Board members indicated an interest in receiving periodic updates on the Department's routine technical rulemakings. Commissioner Aho stated that she would arrange for staff to provide updates on a schedule that would be helpful to Board members. No vote was taken.

2. Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining (deliberative session)

Staff: Jeffrey Crawford, Office of the Commissioner
Mark Stebbins, Bureau of Land and Water Quality
John Hopeck, Bureau of Land and Water Quality
David Burns, Bureau of Remediation and Waste Management
Stacy Ladner, Bureau of Remediation and Waste Management
Tracy Kelly, Bureau of Remediation and Waste Management

The Board and staff continued the discussion of comments received on the draft proposed rule. Issues discussed included: prohibition against mining in or under waters of the State, post-closure wastewater treatment, groundwater compliance monitoring, financial assurance, ground and surface water monitoring, air quality standards and monitoring, mining setback standards, processing timelines, public and local participation, limits on the size of bulk samples, applicability of surface water standards, mine waste characterization, waste unit design, duration of baseline monitoring, economic impact, storm events, waste rock, and storage piles.
No vote was taken.

(The meeting adjourned at approximately 1:45 p.m.)