



STATE OF MAINE  
BOARD OF ENVIRONMENTAL PROTECTION

Susan M. Lessard, Chair

JANET T. MILLS  
GOVERNOR

William F. Hinkel  
Executive Analyst

Ruth Ann Burke  
Board Clerk

**BOARD OF ENVIRONMENTAL PROTECTION  
Hearing and Meeting Minutes**

**November 6, 2025**

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**I. PUBLIC HEARING**

**1. Chapter 305, *Natural Resource Protection Act-Permit by Rule Standards* and Chapter 335, *Significant Wildlife Habitat***

The Board of Environmental Protection held a joint public hearing on November 6, 2025, beginning at approximately 9:16 a.m. at the Deering State Office Building in Augusta for the purpose of receiving testimony from members of the public regarding proposed revisions to Chapter 305, *Natural Resource Protection Act-Permit by Rule Standards* and Chapter 335, *Significant Wildlife Habitat*.

Following an introduction by Department staff, Board Chair Susan Lessard, serving as the presiding officer for the hearing, invited testimony from members of the public. A copy of the hearing sign-in sheets of persons who testified is attached. Chair Lessard announced that written comment on the proposed rule may be submitted until 11:59 p.m. on November 17, 2025, and then closed the hearing at approximately 10:24 a.m. An audio and video stream of the hearing was provided via Zoom, and an audio recording of the hearing was made pursuant to 38 M.R.S. § 341-E(2). A written transcript of the hearing was made by Dostie Reporting Services.

The following individuals were in attendance:

**Board:** Robert Duchesne, Betsy Fitzgerald, Susan Lessard, Robert Marvinney, Steven Pelletier, Robert Sanford, and Barbara Vickery were present.

**Staff:** Rob Wood, Bureau of Land Resources; Naomi Kirk-Lawlow, Office of the Commissioner

**Others:** Melanie Loyzim, Commissioner  
William Hinkel, Board Executive Analyst  
Ruth Ann Burke, Board Clerk  
Mark Bower, Assistant Attorney General  
Robin Dostie, Dostie Reporting Services

Following the Board rulemaking hearing on November 6, 2025, a meeting of the Board of Environmental Protection was held at the Deering State Office Building in Augusta, beginning at approximately 10:24 a.m. An audio and video stream of the meeting was provided via Zoom, and an audio recording of the meeting was made pursuant to 38 M.R.S. § 341-E(2). Chair Susan Lessard called the meeting to order with the following individuals in attendance.

**Board:** Robert Duchesne, Betsy Fitzgerald, Susan Lessard, Robert Marvinney, Steven Pelletier, Robert Sanford, and Barbara Vickery were present.

**Others:** Melanie Loyzim, Commissioner  
William Hinkel, Board Executive Analyst  
Ruth Ann Burke, Board Clerk  
Mark Bower, Assistant Attorney General  
Emma Akrawi, Assistant Attorney General

## II. ADMINISTRATIVE MATTERS, COMMENTS, AND NOTES

1. **Commissioner's Comments:** No comments.
2. **Chair's Comments:** No comments.
3. **Executive Analyst's Comments:** No comments.
4. **Board Calendar:** The next regular Board meeting is tentatively scheduled for November 20, 2025, at the Augusta Civic Center.
5. **Departmental Orders / Applications Accepted for Processing:** No comments.

(Note: Votes are recorded in the following order: number voting in favor of a motion – number voting against a motion – number abstaining – number absent)

## III. APPROVAL OF BOARD MINUTES

### 1. BEP Meeting Minutes, October 16, 2025

The Board voted (7-0-0-0) on a motion by Steven Pelletier and seconded by Robert Duchesne to approve the minutes of October 16, 2025, as presented. The vote was taken pursuant to 38 M.R.S. § 341-D(8) and 5 M.R.S. § 12014(1)(A).

The next matter on the agenda was the Board's consideration of a proposed administrative consent agreement, an enforcement case that triggers the Clean Water Act-related recusal requirements in 38 M.R.S. § 341-C(8) for Susan Lessard and Betsy Fitzgerald. Chair Lessard designated Robert Duchesne to serve as the Presiding Officer over the next matter. Chair Lessard and Betsy Fitzgerald recused themselves from consideration of the proposed administrative consent agreement and were absent for the associated deliberation and vote.

#### IV. CURRENT ITEMS FOR BOARD CONSIDERATION

##### 1. Tower Solar Partners, LLC, Proposed Administrative Consent Agreement

Staff: Mark Stebbins and Cameron Dufour, Bureau of Land Resources

Mr. Stebbins and Mr. Dufour briefed the Board on and answered questions regarding the proposed administrative consent agreement with Tower Solar Partners, LLC for violations of the Erosion and Sedimentation Control Law, 38 M.R.S. § 420-C; discharges of sediment to waters of the State without first obtaining a permit pursuant to 38 M.R.S. § 413; and terms and conditions of Tower Solar Partners, LLC's Site Location of Development permit associated with a facility in Embden.

Preti Flaherty Attorney Brian Rayback and EDF Renewables representative Rob Vienes commented on the proposed administrative consent agreement on behalf of Tower Solar Partners, LLC at the Board meeting. Frank Nile, an abutting property owner, also commented on the proposed administrative consent agreement.

The Board voted (5-0-0-2) on a motion by Steven Pelletier and seconded by Robert Marvinney to approve the proposed administrative consent agreement, as presented. The vote was taken pursuant to 38 M.R.S. § 341-D(6)(G). Susan Lessard and Betsy Fitzgerald were absent. Assistant Attorney General Mark Bower advised the Board on this matter.

Following a short break, Susan Lessard returned to the meeting and resumed her role as Board Chair; Betsy Fitzgerald also returned to the meeting.

##### 2. Chapter 145, *NO<sub>x</sub> Control Program*

Staff: Jeff Crawford and Michelle Radley, Bureau of Air Quality

Mr. Crawford and Ms. Radley briefed the Board on proposed amendments to Chapter 145 and the staff recommendation that the Board post the proposed amendments for public comment. Staff circulated to Board members a handout identifying minor revisions, clarifications, and corrections to section 22 of the proposed rule.

The Board voted (7-0-0-0) on a motion by Robert Sanford and seconded by Steven Pelletier to post the proposed revisions to Chapter 145 for public comment. The vote was taken pursuant to 38 M.R.S. § 341-D. Assistant Attorney General Emma Akrawi advised the Board on this matter.

**3. Chapter 149, *General Permit Regulation for Nonmetallic Mineral Processing Plants***

Staff: Jeff Crawford and Lynn Muzzey, Bureau of Air Quality

Mr. Crawford and Ms. Muzzey briefed the Board on the proposed amendments to Department rule Chapter 149 and the staff recommendation that the Board adopt the proposed routine technical rule. No changes were made to the posted version of the proposed rule and no public comments were submitted during the comment period. Therefore, no additional comments were solicited pursuant to 38 M.R.S. § 341-H(3-A).

Following deliberations, the Board voted (7-0-0-0) on a motion by Robert Marvinney and seconded by Barbara Vickery, to adopt the Chapter 149 rule, the associated basis statement, and the response to comments, as presented. The vote was taken pursuant to 38 M.R.S. § 341-D(1-C) and 5 M.R.S. § 8052. Assistant Attorney General Emma Akrawi advised the Board on this matter.

**4. Chapter 164, *General Permit for Concrete Batch Plants***

Staff: Jeff Crawford and Lynn Muzzey, Bureau of Air Quality

Mr. Crawford and Ms. Muzzey briefed the Board on the proposed amendments to Department rule Chapter 164 and the staff recommendation that the Board adopt the proposed routine technical rule. No changes were made to the posted version of the proposed rule and no public comments were submitted during the comment period. Therefore, no additional comments were solicited pursuant to 38 M.R.S. § 341-H(3-A).

Following deliberations, the Board voted (7-0-0-0) on a motion by Steven Pelletier and seconded by Robert Duchesne, to adopt the Chapter 164 rule, the associated basis statement, and the response to comments, as presented and with correction of a typographical error in section 2(A) (correct “pant” to “plant”). The vote was taken pursuant to 38 M.R.S. § 341-D(1-C) and 5 M.R.S. § 8052. Assistant Attorney General Emma Akrawi advised the Board on this matter.

**5. Chapter 165, *General Permit for Clas IV-A Incinerators***

Staff: Jeff Crawford and Lynn Muzzey, Bureau of Air Quality

Mr. Crawford and Ms. Muzzey briefed the Board on the proposed amendments to Department rule Chapter 165 and the staff recommendation that the Board adopt the proposed routine technical rule. No changes were made to the posted version of the proposed rule and no public comments were submitted during the comment period. Therefore, no additional comments were solicited pursuant to 38 M.R.S. § 341-H(3-A).

Following deliberations, the Board voted (7-0-0-0) on a motion by Robert Marvinney and seconded by Betsy Fitzgerald, to adopt the Chapter 165 rule, the associated basis statement, and the response to comments, as presented. The vote was taken pursuant to 38 M.R.S. § 341-D(1-C) and 5 M.R.S. § 8052. Assistant Attorney General Emma Akrawi advised the Board on this matter.

## **V. ADJOURNMENT**

The Board voted (7-0-0-0) on a motion by Robert Marvinney and seconded by Steven Pelletier to adjourn the meeting at approximately 11:58 a.m.

# TESTIMONY IN SUPPORT OF

## CHAPTER 305, NATURAL RESOURCE PROTECTION ACT-PERMIT BY RULE STANDARDS AND CHAPTER 335 SIGNIFICANT WILDLIFE HABITAT

THURSDAY, NOVEMBER 6, 2025, DEERING STATE OFFICE BUILDING, ROOM 101, AUGUSTA

**PLEASE READ:** The Maine Administrative Procedure Act, 5 M.R.S. § 8052(5), requires the Department to obtain the names of persons whose comments were received, including through testimony at hearings, the organizations the persons represent and summaries of their comments. Please **CLEARLY PRINT** your name and organization affiliation. Testimony and comments submitted to the Department are public records pursuant to the Freedom of Access Act, 1 M.R.S. § 402(3), and will be made available for public inspection pursuant to 1 M.R.S. § 408-A and may be posted on the Department's website.

PRINTED NAME	ORGANIZATION OR AFFILIATION REPRESENTED, IF ANY
✓ Luke Franke	NRCM
✓ FRANCESCA GUNDRUM	ME AUDUBON

# TESTIMONY NEITHER FOR NOR AGAINST

## CHAPTER 305, NATURAL RESOURCE PROTECTION ACT-PERMIT BY RULE STANDARDS AND CHAPTER 335 SIGNIFICANT WILDLIFE HABITAT

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PRINTED NAME	ORGANIZATION OR AFFILIATION REPRESENTED, IF ANY
✓ Jim Boyle	self

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PRINTED NAME	ORGANIZATION OR AFFILIATION REPRESENTED, IF ANY
✓ DAVID R. BRENNEMAN	MAINE ASSOCIATION OF WETLAND SCIENTISTS