

North Carolina Department of Environmental Quality

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

September 30, 2015

Mr. Harry K. Sideris, Senior Vice President
Environmental, Health, & Safety
Duke Energy
526 South Church Street
Mail Code EX3XP
Charlotte, NC 28202

Subject: NPDES Stormwater Permit Application
Rogers Energy Complex
Permit Number NCS000571
Cleveland and Rutherford Counties

Dear Mr. Sideris:

In response to your application for coverage under an NPDES stormwater permit, the Division of Energy, Mineral, and Land Resources (Division or DEMLR) is forwarding herewith the subject state - NPDES permit, NCS000571. This permit is issued pursuant to the requirements of both North Carolina General Statute 143-215.1 and the Memorandum of Agreement between North Carolina and the U.S. Environmental Protection Agency dated October 15, 2007 (or as subsequently amended).

This final permit includes the following significant changes from the draft permit published on our website on August 2, 2015:

- Part II Section A paragraph 6 of the permit has been revised to allow the use of either electronic records or employee signatures to document annual stormwater pollution prevention training.
- Draft permit effective dates and monitoring schedules have been revised to reflect the actual issuance date and minor adjustments to the monitoring periods.

Thank you for your comments submitted on September 8, 2015 and September 10, 2015 for the Rogers Energy Complex, respectively. Please see our responses below:

- 1. Part 1 Page 2 of 2: The location map is labelled "Duke Energy Progress." This should be labelled as "Duke Energy Carolinas, LLC."**

Response: No Objection. Changes has been made.

- 2. Part II Page 4 of 14: Duke Energy requested that we amend the Draft Permit to allow electronic records of employee training, in lieu of requiring individual signatures to document stormwater pollution prevention training.**

Response: We have amended the final permit to allow either electronic record keeping or employee signatures. However, we are requiring that a printout of the electronic training record be maintained in the Stormwater Pollution Prevention Plan kept on site.

- 3. Part II Page 7 of 14: It is requested that representative outfall status (ROS) be granted for SW015, SW016 and the landfill drainage areas.**

Response: The Regional Office will consider ROS requests after the permit is issued.

- 4. Duke Energy noted that the copper and silver benchmark concentration values were very low, and requested that the numerical values be re-evaluated, and presumably increased or eliminated. Duke Energy noted that copper and silver might be naturally present in site soils and so not indicative of stormwater pollution from industrial activity.**

Response: The stormwater discharge benchmark values are designed to protect the aquatic biota from pollutants generated at industrial sites. Copper and silver benchmarks are derived from the one-half Final Acute Value (1/2 FAV) reported in studies from the water quality and bioassay literature. Ultimately the benchmark values are based on what concentrations of what pollutants will be detrimental to the aquatic biota, not on other considerations. While Duke Energy advanced the possibility of naturally occurring copper and silver in site soils, no substantiating information was provided: on the other hand, the literature available on coal and coal ash confirms the presence of these contaminants. The final Permit remains unchanged for the copper and silver benchmark concentrations.

- 5. Part II Page 13 of 14: Duke Energy requested that the monitoring period dates be adjusted to reflect the actual issuance date of the permit, rather than the dummy dates included in the Draft. Further, Duke Energy requested that the semi-annual monitoring periods be delayed until January 1, 2016.**

Response: We have adjusted the dummy dates to reflect the actual issue date of the permit. Further, while we have not delayed the start of the first monitoring period to January 1, 2016 as Duke Energy requested, we have extended just the first semi-annual analytical monitoring period to a nine-month duration, and shortened the last monitoring period in 2020 to a three-month duration. This allows us to keep most of the analytical monitoring on a schedule that corresponds with the calendar half-years, which we see as a potential convenience for the permittee in keeping track of his monitoring obligations.

- 6. Similarly, Duke Energy requested a delay of the monitoring period start date for the quarterly visual monitoring required under the Draft Permit. Duke reported that it may take some time to establish access areas for visual observation of some outfalls at Rogers.**

Response: We have not incorporated this suggestion in the final permit for Rogers Energy Complex. It seems to us reasonable to conclude that accomplishing quarterly visual monitoring is not an unusual burden considering the observed site conditions and outfalls at the Rogers Energy Complex.

7. Duke Energy requested several changes to the Fact Sheet that accompanied the publication of the Draft Permit.

Response: Our administrative procedures use the Fact Sheet as the rationale document supporting the scope and content of the published Draft Permit. Once published we consider it a record document that we do not go back and revise. When we make revisions to any Draft Permit the rationale for those revisions is captured in either a stand-alone Response to Comments document, or in the final permit transmittal letter to the applicant. No changes have been made to the Fact Sheet.

Failure to complete the monitoring as required is a violation of the permit and any permit noncompliance constitutes a violation of the Clean Water Act. Reference Part III, Section A, Item 2 "Duty to Comply", Item 9 "Penalties for Tampering" and Item 10 "Penalties for Falsification of Reports" of your permit for further information.

If any parts, measurement frequencies, or sampling requirements contained in this permit are unacceptable to you, you have the right to an adjudicatory hearing upon written request within thirty (30) days following receipt of this letter. This request must be in the form of a written petition, conforming to Chapter 150B of the North Carolina General Statutes, and filed with the Office of Administrative Hearings, Post Office Drawer 27447, Raleigh, North Carolina 27611-7447. Unless such demand is made, this decision shall be final and binding.

Please take notice this permit is not transferable. Part III, B.2 addresses the requirements to be followed in case of change in ownership or control of this discharge. This permit does not affect the legal requirements to obtain other permits which may be required by the Division of Energy, Mineral, and Land Resources, or permits required by the Division of Water Resources, Coastal Area Management Act, or any other federal or local governmental permit that may be required.

If you have any questions or comments concerning this permit, please contact Mike Randall at (919) 807-6374 or at mike.randall@ncdenr.gov.

Sincerely,

Tracy E. Davis, PE, CPM, Director
Division of Energy, Mineral, and Land Resources

cc: Mooresville and Asheville Regional Offices, DEMLR Land Quality Section
Sam Sampath, Ph.D., EPA Region IV, 61 Forsyth Street, Atlanta, GA 30303
Stormwater Permitting Program Files
DWR Central Files
DWR NPDES Wastewater Permitting

Attachments: NCS000571