

**ENVIRONMENTAL MANAGEMENT COMMISSION  
AIR QUALITY COMMITTEE MEETING SUMMARY**

**May 13, 2015**

**Archdale Building-Ground Floor Hearing Room**

**9:00 – 10:30 AM**

The Air Quality Committee (AQC) of the Environmental Management Commission (EMC) met on May 13, 2015, in the Ground Floor Hearing Room of the Archdale Building. The AQC members in attendance were: Mr. Charlie Carter, Chairman, Mr. Gerald Carroll, Dr. Lawrence Raymond, Mr. E.O. Ferrell, and Ms. Julie Wilsey. Mr. Steven Tedder, the Director and staff members of the Division of Air Quality (DAQ), Ms. Jennie Hauser of the North Carolina Attorney General's Office and the general public was also in attendance.

**CALL TO ORDER (Charlie Carter)**

**Agenda Item #1, Call to Order and the State Government Ethics Act, N.C.G.S. §138A-15(e)**

General Statute §138A-15(e) mandates that the Chairman inquire as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the Environmental Management Commission's Air Quality Committee. No conflicts were identified.

**MINUTES (Charlie Carter)**

**Agenda Item #2, Review and Approval of January Meeting Minutes**

Chairman Carter entertained a motion to approve the January meeting minutes. Dr. Raymond made a motion to approve the minutes and Mr. Ferrell seconded. The motion to approve the minutes was unanimously approved.

**Agenda Item #3, Review and Approval of March Meeting Minutes**

Chairman Carter asked if everyone had been able to read the minutes from the March meeting and if they had any changes. Ms. Wilsey noted that on page 8, the seventh line down contains 'or' where it should be 'are'. Chairman Carter thanked Ms. Wilsey for the correction and entertained a motion to approve the March meeting minutes as amended. Ms. Wilsey made a motion to approve the minutes and Mr. Ferrell seconded. The motion to approve the minutes was unanimously approved.

**CONCEPTS**

**Agenda Item #4, Streamlining of Permit Exemptions Rule (Shelia Holman, DAQ)**

Director Holman said that the concept she will be presenting is the result of months of work among the department staff and stakeholders. She said she will begin with a discussion of how DAQ permits now, talk about the emissions profile of facilities, and then the potential changes to the small sources under the proposed concept, in order to get more direction and guidance from them before we proceed. She recognized the staff input including all the years of experience in permitting and compliance that went into the development of the recommendation. She feels the recommendation will result in a reduced burden while resulting in the maintaining or even improving the state's protection of air quality. She concluded her introduction by saying that the charge given to the internal work group was how do we relieve unnecessary administrative burden, but maintain or improve the level of compliance, and continue to protect the level of air quality in North Carolina.

Director Holman then described the process followed, outlined in a flow diagram, for any permit application that comes in. First DAQ evaluates the facility's potential to emit (PTE) and whether they are above the Title V threshold of 100 tons per year (tpy) for any criteria pollutant, 10 tpy of any single hazardous air pollutant of 25 tpy of all hazardous air pollutants. If the emissions are above this threshold, the next question is whether the facility expects to operate above this Title V threshold. If it does, then the company will need a Title V permit. If they believe they can operate below those thresholds, DAQ then looks at a synthetic minor limit that restricts the emissions below the Title V level. For small facilities, with PTE below the threshold, DAQ looks to see if they are exempt from permitting. If not, although DAQ do not use this today, we would look to see if the actual emissions are below a certain cutoff and then may go a registration route. Finally, we have used general permits and permit by rule in the past for certain sources. Otherwise the facility will get a small facility-specific non-Title V permit.

Mr. Ferrell asked whether the facilities that could be registered in the future currently get a permit? Director Holman replied that they do, although there is a registration rule that has been on the books for about 25 years that is not generally used.

Director Holman noted there has been frustration from both the regulated community and the staff in understanding and implementing the 2Q .0102 rule. Several months earlier DAQ had started looking at how to improve the rule as well as taking a fresh look at whether the way we are handling small facilities is the most effective way. We had a lot of discussions and did a lot of analysis of the emissions and compliance history data. With criteria pollutants, representing CO, NOx, PM-10, PM2.5, SO2 and VOC, just over 91% of our total emissions of criteria pollutants are from Title V facilities, synthetic minors are roughly 5% and the smalls are roughly 3%. Contrasting the emissions with the number of facilities, currently in North Carolina there are 298 Title V facilities, 651 synthetic minor facilities and 1,590 small facilities. Thus, 1,590 facilities are responsible for 3.4% of the state's criteria pollutant emissions from the stationary source sector. Title V facilities are responsible for about 90% of the hazardous air pollutant and toxic air pollutant emissions with synthetic minors and smalls each responsible for the other 5%. It is important to note that the division is not proposing to change the permitting for Title V or synthetic minor facilities, only for a portion of the smalls.

She spoke of the internal workgroup that included regional and central office permit staff (the small and synthetic minor permits are issued out of the regional offices and the Title V permits are issued out of the central office), Rules staff such as Joelle Bursen and her staff, and those who focus on the small business sector. She reiterated the goals and noted that a stakeholder meeting was held in November of 2014 to obtain feedback on a threshold approach. There was representation from environmental groups, the regulated community and local programs. Written comments were solicited at the meeting and were received from the North Carolina Manufacturers' Alliance (NCMA), the North Carolina Chamber of Commerce and from the company Shuford Yarns. The comment letters are included in the packages the committee members received. All commenters recommended tiered approaches. Although the details varied from each group, all of them recommended registration for the smaller facilities above the exemption level.

Mr. Ferrell noted that the Chamber's recommendation has registration only for all facilities below the Title V threshold and asked how long it takes to get a permit? Director Holman responded we are required by rule to issue small and synthetic minor permits within 90 days of a completed application and added the average time is around 35 days. Dr. Raymond asked whether the fee for registration would be annual or one-time and what order of magnitude the fees are. Director Holman responded that the intent for registration would be an annual fee much like now and that the current fee for small facilities is \$250.

Director Holman continued that in contemplating the various options that were put forward, DAQ built on our ideas for streamlining the Permit Exemption Rule. Highlights of the recommendation include:

- having a 5 tpy facility wide actual emissions exemption threshold,
- looking at registration for facilities with actual emissions less than 25 tpy and having a fee associated with those as well as compliance visits for registered facilities, and
- developing a process for changes at facilities similar to the Title V 502(b)(10) process where the change does not result in a change in emissions.

Director Holman said we expect that this will improve compliance by taking our savings and channeling that into improving compliance. It could mean more frequent compliance assurance visits for facilities that are struggling and additional assistance in understanding the rules for the small facilities that may not have a person designated for environmental compliance. We will likely include in the first draft of the rule that if compliance is an issue the facility will then be required to obtain a permit. We will also be working with our small business office; have them go to small facilities that no longer have a permit to assist them in compliance.

#### **Discussion:**

Mr. Ferrell asked whether the permits now are annual permits. Director Holman replied that they are now renewed every eight years. He said he sees the benefits to DAQ in reduction of administrative burden, but asked what the benefit is to the permitted facility. She replied there would also be a reduction in administrative burden for the facility and also a relief in burden for the 502(b)(10)-like process in their ability to change out like for like equipment without a permit modification. Our regional staff doing the permitting said that 30 to 50 percent of the permit applications would not be necessary with a 502(b)(10)-like process. Mr. Carter asked if there would not also be a reduction in processing fees for those facilities to which Director Holman replied there are no fees for modifications to small permits.

Mr. Carter added that the exemptions have been added over the years and not in a systematic fashion. One of the major things he has noted is that they exemption for the smallest facility should be at the beginning of the rule rather than at the end. An important part also is that the emissions will be actual emissions rather than potential emissions that do not take into account the emission controls or the actual operating hours. He also feels that the 5 tpy cutoff for the exemption process is too low and we should look at making it higher such as is done in other states. Overall he feels that this is a move in the right direction. The larger sources such as Title V facilities have staff or can afford consultants, but these 'Mom and Pop' operations need assistance. He also noted that while it is not a criticism of DAQ, the timing from submitting an initial application to having a complete application is often months for the smaller sources.

Ms. Wiley asked if we have had a registration policy on the books for 25 years and no one has used it, how we would go about telling people that registration would be beneficial? Director Holman responded that it was probably the decision of DAQ not to use registration. Mr. Carter added that with the 1990 CAA Amendments the concept of the Title V permit tended to push the process to permitting for both large and small facilities in many states and the registration process fell into disuse.

Mr. Carter said that DAQ was moving in the right direction and asked when Director Holman would be coming back for a proposal. She responded that it would probably be in September due to the need to draft the language and prepare the fiscal note.

#### **DRAFT RULES**

None

**May EMC AGENDA ITEMS****Agenda Item #5, Request to Proceed to Hearing on Revisions to Open Burning Rules to Reflect S.L. 2014-120 (Joelle Burleson, DAQ)**

Ms. Burleson explained that she would be presenting to the EMC the next day the request to revise the Open Burning rules to reflect changes resulting from S.L. 2014-120. The changes to the rule were presented to the committee in March. The purpose of the change is to allow open burning of stumps and logs as an allowable activity for residential burning. The reason for the discussion was that there is a conundrum in that the law deems that the open burning of logs and stumps is not a nuisance yet in another section still references a nuisance. DAQ had asked to move forward in making the rule consistent with the law in removing the nuisance language. Tomorrow we will be asking for the approval of the rule as it was presented at the last meeting and approval of the fiscal note in order to move forward to public hearing and public comment.

**Discussion:**

Mr. Carter said that he had wanted to wait until this month to present it to the EMC so that there would be time to discuss the language with Mr. Carroll. Mr. Carroll said that he appreciated the time and was okay with the current language.

**INFORMATION ITEMS****Agenda Item # 6, Director's Remarks (Sheila Holman, DAQ)****1. Charlotte Redesignation**

Director Holman began with the Charlotte redesignation request for the 2008 ozone standard. The package had been out for comment at the March meeting. We addressed the comments and submitted the package to EPA in mid-April. The agency is working on a proposed approval and expects Charlotte to be redesignated before October 1, the date that the agency is under court-order to finalize a new ozone standard by. Also in the request is a request for relaxation of the Reid vapor pressure standard in the Charlotte area and the agency is also working on a proposal to approve that.

**Discussion**

Mr. Carter asked if EPA is likely to have the redesignation approved by October 1. Director Holman responded that it is.

**2. Periodic Review of Rules**

Director Holman said that we had put out for public notice the review of rules with the period ending on May 20. She is unaware of any comments at this time.

**3. Transport Update**

Director Holman said the ozone transport issue for the 18 states involved continues to occupy quite a bit of her time as she participates in meetings on this topic. There is still an outstanding petition by nine northeastern states requesting that North Carolina and eight other midwestern and southern states be pulled into the ozone transport region. EPA has an 18 month clock to act on that petition and the clock expires in July. At the moment, EPA is doing a modeling analysis to determine which states' emissions impact the region. Their initial modeling in January showed that North Carolina did not have a significant contribution to any downwind nonattainment or maintenance areas.

**4. D.C. Circuit Court Decision on Greenhouse Gases (GHG)**

Director Holman noted that states are required to submit a Good Neighbor SIP. We had submitted one and used the reductions from the Clean Smokestacks Act. EPA indicated that because we had not provided a modeling analysis they could not approve the use of these reductions. We are working on the analysis, and in the meantime a petition was filed with EPA the previous day asking them to declare we had failed to submit the SIP on time. We anticipate completing the analysis and submitting the SIP by late summer or early fall.

**5. Startup, Shutdown, and Malfunction (SSM) SIP Call**

Director Holman advised that EPA is expected to finalize the SIP call on excess emissions and how they are handled in SIPs. EPA is under a consent decree to finalize decisions on the SIPs by May 22 so we will be hearing how we fared in this final SIP call then. North Carolina was one of 36 states that EPA decided their SIPs did not comport with the CAA. We submitted comments pointing to other areas in our rules that EPA did not consider in making that finding so we will know more after May 22.

**6. Update on Air Related Mining and Energy Commission (MEC) Actions**

Deputy Director Abraczinskas said the Emissions Standards Committee (ESC) of the MEC which Mr. Ferrell chairs met since the AQC meeting. They received presentations on air emissions related to the oil and gas sector. Later this week, our division will present the results of a one to two year study on estimating air emissions from oil and gas activities for here in central North Carolina. Included will be the results of air quality modeling of a maximum emissions scenario. This committee will be updated on that topic at the next meeting.

**Discussion**

Mr. Ferrell added that Deputy Director Abraczinskas and his staff had done a great job putting together the information they were asked for. They had outside presenters from EPA and a consulting firm present on what they have seen in the oil and gas industry in other states. He thinks the committee is in good shape to make recommendations to the MEC.

**7. SO2 Consent Decree**

Director Holman noted that North Carolina had intervened in a case that produced a consent decree for EPA to make SO2 nonattainment designations. In March the judge entered the decree that would require a down payment of SO2 designations by 2016, with designations for areas that are modeled due by 2017, and reductions due by 2020. The consent decree has three categories for nonattainment designations: those areas that show nonattainment through monitoring, very large emitters, and small to medium sized sources with high hourly emissions rates. North Carolina only had one facility that we have to address, a small source with a high emissions rate. We have until September to submit a designation suggestion for the area around that facility. We are waiting to hear from EPA on the complete list of facilities we will have to address.

**Discussion**

Mr. Carter asked where the one source is and Director Holman responded that it is in eastern North Carolina.

**8. Vehicle Emissions Inspection/Maintenance (I/M) Study**

Director Holman shared the results of the study completed for a legislative bill evaluating whether all 48 counties currently required to have vehicle I/M programs would need to remain in the program. We completed an analysis that took into account the monitored air quality by county, the SIP credits by county for the program, and the potential new ozone standard. We determined that if the new standard is 65 ppb then 28 counties could be exempt from the program,

if the new standard is 70 ppb then 31 counties could be exempt. The report went to the General Assembly on April 1.

**Discussion**

Dr. Raymond asked if other states had experiences with exemption from the program. Director Holman responded there are areas where complete programs have been removed and explained that for the modeling we had done mobile emissions are expected to decline by 75 percent by 2025 because of new Federal Tier III engine and fuel standards that take effect in 2018. Mr. Carter asked if this projection included an increase in vehicle miles traveled and was advised it does. Dr. Raymond added that both Charlotte and the Triangle are expected to have a 71 percent population increase over the next 20 years.

Mr. Carter introduced that there was recent passage of a bill by the house that could have significant impacts on the department and the commission. HB 571 sets up a structured approach for us and the Utilities Commission at least monthly consultants on CO2 emissions reductions under the Clean Power Plant Act. The bill also has some restrictive requirements for how the state responds to the act.

Mr. Carter asked for further comments and with no further comments, Mr. Carter adjourned the meeting.

DRAFT