MEETING BRIEF

During their November 13, 2019 meeting, the Air Quality Committee (AQC) of the Environmental Management Commission (EMC):

- Heard a request from the Division of Air Quality’s (DAQ) staff on the impending rulemaking to readopt Group 6 rules pursuant to Session Law 2013-413.
- Discussed current and emerging air quality topics with Director Abraczinskas, including an update on methyl bromide rulemaking, Charlotte area ozone monitoring, and Executive Order 80.

### AQC MEMBERS IN ATTENDANCE

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<th>Member Name</th>
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<tr>
<td>Ms. Shannon M. Arata</td>
<td>AQC Chair</td>
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<td>Ms. Marion Deerhake</td>
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<td>Mr. Charles S. Carter</td>
<td>AQC Vice Chair</td>
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<td>Ms. Donna Davis</td>
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<td>Ms. Yvonne Bailey</td>
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<td>Ms. Maggie Monast</td>
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### OTHERS IN ATTENDANCE

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<th>Member Name</th>
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<tr>
<td>Dr. Stan Meiburg</td>
<td>EMC Chair</td>
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<td>Mr. Philip Reynolds</td>
<td>EMC Counsel</td>
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<td>Mr. John McAdams</td>
<td>EMC</td>
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<td>Mr. Mike Abraczinskas</td>
<td>DAQ Director</td>
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<td>Ms. Patricia Harris</td>
<td>EMC</td>
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<td>Mr. Michael Pjetraj</td>
<td>DAQ Deputy Director</td>
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<td>Mr. David Anderson</td>
<td>EMC</td>
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<td>Members of the public</td>
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<td>Mr. Steve Keen</td>
<td>EMC</td>
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<td>DAQ Staff</td>
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<td>Mr. Mitch Gillespie</td>
<td>EMC</td>
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PRELIMINARY MATTERS

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

Chair Arata called the meeting to order and inquired, per General Statute §138A-15, as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the EMC’s AQC. No conflicts were identified.

**Agenda Item I-2, Review and Approval of the September 11, 2019 Meeting Minutes**

Chair Arata inquired if everyone had been able to review the minutes from the September meeting and if there were any changes or corrections. No changes or corrections were cited. Chair Arata asked for a motion to approve the September 11, 2019, meeting minutes. Commissioner Baily made a motion to approve the minutes and Commissioner Davis seconded. The September minutes were unanimously approved.
RULEMAKING CONCEPTS

None.

ACTION ITEMS

Agenda Item III-1 Request for Approval of Proposed Rule Revisions and to proceed to EMC for Approval to Proceed to Public Hearing on Readoption of Group 6 Air Quality Rules 15A NCAC 02D .0403, .0500, .0900, .1400, .1700, and .2615 and Repeal of 02D .0615 (549) (Joelle Burleson, DAQ)

Ms. Burleson presented a summary of the proposed Rule actions on the Group 6 Rules, which consist of 108 Rules and is the last set of Rules in the readoption process. Group 6 includes 15A NCAC 02D .0403, Total Suspended Particulates, .0500, Emission Control Standards, .0900, Volatile Organic Compounds (including RACT and state-only requirements), .1400, Nitrogen Oxides (NOx SIP call and NOx RACT), and .1700, Municipal Solid Waste Landfills. Also included is two Group 5 Rules which were pulled from the previous grouping. As the hearing record for .2615 was presented, part of the hearing officer’s recommendation was to bring .2615 forward with this Group since it is more closely related to the cargo tank rules. Rule 02D .0615 was identified by the RRC as a Rule that is not needed since it deals with internal workings and delegations of the Division.

A stakeholder meeting was held in June for the Group 6 Rules. Comments were received in mid-July and DAQ has worked diligently with division staff that implement these rules to refine and assess the comments received in order to move forward with these Rules to the EMC in January.

15A NCAC 02D .0403, Total Suspended Particulates, only has procedural changes planned at this time, such as updating the format of Rule references, a change that is being made throughout this entire set of Rules. Question and comment have been received about repealing this rule, but DAQ has not been able to adequately review, vet, and analyze some of the Rules related to and based on this Rule that remain in the SIP. DAQ will continue to look at this beyond the readoption process.

Regarding the proposed changes to 15 NCAC 02D .0500, Emission Control Standards., Sections .0501 through .0511, .0513 through .0517, and .0519 through .0529 include administrative updates. There are no proposed changes to .0515.

Regarding 15A NCAC 02D .0530, Prevention of Significant Deterioration, DAQ received a comment from stakeholders and a request to consider not requiring recordkeeping and reporting relative to this rule. After review of comments and discussions with permitting staff, compliance staff, and rulemaking staff, DAQ has proposed a realistic compromise to align the rule more closely with the federal language and allow the use of minor permitting methods for sources that have less than 50% of the significant emissions increase as defined in the PSD program. Sources that have less than 50% are only required to keep records on site. Sources with greater than or equal to 50% of the significant emissions increase are required to both maintain records and report to NC DEQ, as all sources are currently required to in the Rule. Addition of clarifying language is also proposed regarding condensable particulate matter. The testing Rules already require information and testing results for condensable particulate matter, but this language will clarify questions regarding the matter.

The primary area of interest and substance is in 15A NCAC 02D .0536, Particulate Matter from Electric Utility Boilers. DAQ has received comment that this rule is outdated and no longer needed. DAQ reviewed internally with compliance staff, continuous emission monitoring group staff, permitting staff and regional staff, and agreed that this Rule is outdated. The Rule required calculation of an annual average opacity standard that was put in place before the sources had continuous emissions monitors that measure PM, and in part as a result of a variance when utilities could not originally meet the standards in 02D .0503. The repeal of this rule will result in the utilities needing to meet the standards in 15A NCAC 02D .0503, which are more stringent than those in .0536. The sources
are already meeting much lower levels due to compliance with other state and federal rules that have come along since, such as the Smokestacks Act, or Electric Utilities MACT/NESHAP. Also, these sources have changed in nature; some have closed down, restructured, or added additional controls that have made this Rule obsolete. Therefore, DAQ is proposing to repeal this Rule.

15A NCAC 02D .0544, *Prevention of Significant Deterioration for Greenhouse Gases*, has a minor modification to update the CFR reference, which is not a substantive change.

The remaining changes for the .0500 Rules are administrative.

Commissioner Bailey inquired about the number of permits affected by the repeal of the Rule 02D .0536. Ms. Burleson responded that only the facilities listed in the Rule are affected, which is all of the Duke utilities.

Commissioner Monast inquired about the differences between major and minor permitting methods in terms of what is required, and the information collected. Ms. Burleson specified that minor amendments typically have a shorter timeframe and tend to be for changes which are not significant. Information is always collected as needed, and DAQ has the ability to ask for more. Ms. Burleson is unaware of any specific element of required information that is different between the two.

Commissioner Meiburg stated that the TSP standard dates back to the 70s, is no longer used by EPA, and asked why it was not repealed. Ms. Burleson specified that it was the basis for many of the other Rules, such as 02D .0503 and 02D .0504, so at this time, it is still considered an acceptable surrogate in terms of the PM emissions, and EPA still allows the standard. Ms. Burleson stated that it requires a more thorough review, which could not be accomplished during the readoption timeframe. Commissioner Meiburg further inquired whether the state still maintains a Hi-Vol network. Ms. Burleson stated no, that monitoring was discontinued in the 2006 timeframe.

Commissioner Meiburg asked about the ethylene oxide (EO) emissions due to its being in the news, noting that Rule .0538 does not have any substantive changes, but he suspects DEQ is looking at EO facilities around the state. Ms. Burleson confirmed that Rule 02D .0538 does deal with medical device manufacturer and sterilization process and contains maximum feasible control technology for EO under the state air toxics program, which has some components more stringent than the federal program. DEQ still allows the standard. Ms. Burleson stated that it requires a more thorough review, which could not be accomplished during the readoption timeframe. Commissioner Meiburg further inquired whether the state still maintains a Hi-Vol network. Ms. Burleson stated no, that monitoring was discontinued in the 2006 timeframe.

Commissioner Meiburg commented on the DAQs change to .0530 (PSD), “to align more closely with federal language”, pointed out that federal language in this area is in flux, and requested DAQ to clarify whether this has any impact on the synthetic minor or “once in always in” policies of DEQ. Ms. Burleson confirmed that DAQ is not addressing anything along the lines of synthetic minor facilities or “once in always in” policies, understands
EPA is continuing to make changes to PSD program and rules, and confirmed that DAQ will continue to follow and make any necessary changes separate from the readoption process. Commissioner Meiburg commented to the Committee regarding the significance of this PSD applicability.

Commissioner Deerhake inquired about what triggered the addition of the reporting requirements in 15A NCAC 02D .0530, Prevention of Significant Deterioration, where reporting to the Director is required when the projected actual emissions, without excluding any emissions, is 50% or greater than the amount of a significant emissions increase. Ms. Burleson replied that the regulated community requested this recordkeeping and reporting to be eliminated entirely. However, based on permitting and compliance staff expertise and experience, DAQ felt that it was appropriate to keep the recordkeeping and reporting requirements for those sources which are closer to the significant emission rate. This language is proposed as a compromise and provides some regulatory relief and reduction in burden as part of the APA.

Commissioner Deerhake inquired about the removal of paragraph i from 15A NCAC 02D .0539, Odor from Feed Processing. Ms. Burleson confirmed that this was part of cleanup to remove deadlines which have already passed.

Commissioner Deerhake inquired about how .0537, Mercury Emissions, connects or is related to the EMCs adoption of Mercury from Electric Coal-Fired Utilities 10-12 years ago. Ms. Burleson stated that, as part of this report process early on, DAQ looked as the state’s Mercury rules and what revisions were required. The Commission determined that those provisions were not needed, and they were repealed at the beginning of this process when the report became effective through the APO.

Vice Chair Carter noted that the federal TSP standards were repealed over 20 years ago in 1997 and does not see any problem with retaining it on the books but does think that it should be cleaned up. Director Abraczinskas confirmed that this would require the review of emission standards that may have been based on this ambient standard, which will take longer than this readoption process allows.

Commissioner Lambert Meiburg noted that the fiscal note on the website is listed as a working draft and inquired about the expectation of the final fiscal note. Ms. Burleson confirmed that DAQ has met with Carrie Hollis from OSBM regarding the fiscal note and expects approval of the fiscal note by the end of the month, in time for the December 13 posting deadline. Chair Arata requested that DAQ inform the Committee as soon as anything arises which may delay the fiscal note, so that they may reconsider whether this should appear on the January agenda.

Ms. Burleson outlined the .0900 Rules, which deal with VOC RACT. 15A NCAC 02D .0901 through .0925, .0928 through .0931, .0933 through .0959, and .0961 through .0968 contain administrative changes. 15A NCAC 02D .0926, Bulk Gasoline Plants, contains substantive changes including removal of unused definitions, updates of definitions, removal of passed dates, and language rewording or simplification. The Bulk Gasoline Terminal Rule also includes the removal of unused definitions, removal of passed dates, and language rewording or simplification. 15A NCAC 02D .0932, Gasoline Truck Tanks and Vapor Collection Systems, has the proposed removal of duplicative state-specific leak tightness testing requirements for facilities that certify tanker trucks, and defers to federal requirements in place. Rule .0932 also contains updates to definitions and requirements for consistency.

15A NCAC 02D .0960, Certification of Leak Tightness Testers, is proposed with the removal of state-specific leak tightness testing and deference to the federal program. This Rule has been changed to be a reporting requirement for what is found under the federal methodology.

Ms. Burleson elaborated on the changes to 15A NCAC 02D .0932 and .0960, regarding the removal of the state-specific leak tightness testing requirements. DAQ is proposing to remove the state-specific sticker received from tank truck certification facilities. Currently, all cargo tanks are also required to receive annual certification under US DOT Method 407h for leak tightness testing. The US DOT Method 407h applies much more broadly to
hazardous materials of all types, but does allow use of the EPA method for gasoline cargo tanks only. DAQ is proposing to remove requirement for state sticker. NC is currently the only state in Region 4 which currently still requires state program. No neighboring states require additional testing beyond federal requirement. Staff and management have reviewed the proposal along with mobile sources program staff, to justify this beyond it being duplicative of federal requirements. When a natural disaster disrupts service, a waiver must be obtained from the governor in order for trucks to deliver and resupply the area with gasoline and fuel, posing an extra burden on agencies responding to the disaster as well as industry. This relieves that administrative burden without causing an increase in emissions. EPA Method 27 and DOT Method 407h are similar in timing and requiring annual and consecutive testing. While Method 27 is only for gasoline, Method 407h is for a broader series of compounds. One requires a pressure test with all chambers open, while the other requires chamber-by-chamber testing, which makes it easier to identify and repair a particular leak more quickly. Method 27 relies on individual jurisdiction to adopt its requirements, while FMCA enforces the DOT method.

Commissioner Deerhake pointed out that when this particular testing rule was requested to be moved to Group 6 during the Group 5 hearing, it was also requested that DAQ explore whether there has been a comparison between the two methods. Commissioner Deerhake further inquired about whether EPA has ever done an analysis between the two methods, and why EPA has not allowed the DOT method. Ms. Burleson confirmed that this was researched and discussed with EPA, who did not identify such a test. DAQ understands that these tests were possibly developed along the same timeframe without coordination between the two agencies. Commissioner Deerhake requested confirmation that the proposed rule allows for either test. Ms. Burleson confirmed, and stated that the FCSA does allow for use of Method 27, and that a specific exemption for a particular element of this test exists in the NC DEQ Rules (and has been retained). Commissioner Deerhake inquired whether EPA would have any objections if the parties chose to use the DOT Method. Ms. Burleson does not believe EPA would have any objection because everyone else in the nation already has this in place. The last state to use NC state certification was Virginia, who repealed the requirement last year to go to the federal requirement. Commissioner Deerhake requested confirmation that the certification program would go away across the board, not only during emergencies. Ms. Burleson confirmed that the state-specific program would go away at all times. Commissioner Deerhake inquired about why this program was implemented to begin with. Ms. Burleson stated that this was developed at a time when NC contained nonattainment areas and was seeking any possible reductions. Further, as reflected in the fiscal assessment, this action has the side benefit of allowing the Mobile Sources Branch to focus on other upcoming priorities without needing to hire another staff member to do this work. Commissioner Deerhake commented on the diminished air quality during storms that pass through North Carolina, mentioning the movement of big trucks through Raleigh during the cleanup of Hurricane Fran, and asked for confirmation that DAQ sets up special monitoring stations to more carefully monitor and ensure that there are not any exceedances during recovery times. Ms. Burleson commented that, as far as she knows, DAQ does this. Director Abraczinskas stated that DAQ does this to the extent that it is able to, and further noted that the focus of this Rule is on the certification of tank tightness for delivering much needed gasoline in the emergency response mode. During every natural disaster, these Rules are waived at the state level and DAQ requests and carefully coordinates with EPA for a no action assurance letter to waive these requirements during the time that the recovery efforts take priority.

Ms. Burleson stated that the nitrogen oxides rules, covering the RACT requirements and older rules relating to the NOx SIP-call, only have administrative changes at this time.

Ms. Burleson provided an overview of the Landfill Gas Rules, stating that a gas collection system is required at these facilities. The gas collected can be used for multiple purposes. DAQ is following activity at the federal level, and the primary change proposed is in 02D.1702, Applicability, to provide a heads up to expanding facilities approaching the Emission Guidelines thresholds set by EPA, that they may be subject to new requirements. Currently, EPA requires a collection system and controls for cells with 50 Mg capacity, but the threshold will be changing to 34 Mg. The timing of these landfill requirements has changed as a function of general timing changes for 111(d) state plans. Emission guidelines do not apply directly to the sources. Rather, states submit plans and
Rules to EPA to cause application of the rules directly to the facilities. There has been turmoil at the federal level and uncertainty regarding many elements, but DAQ does not expect the 34 Mg threshold to change, so has recommended that this pointer be added to the Rule.

15A NCAC 02D .1703 contains similar types of administrative changes. As of the date that EPA proposes new New Source Performance Standards (NSPS) for new sources, there is a shift: sources which used to be subject to what would have been an NSPS are now existing sources and combined with sources that are subject to Emission Guidelines, and the sources after that compliance date have to meet the new requirements of the NSPS. Ms. Burleson described the actions going on relative to the state landfill, including the general provisions and processing of 111(d) plans, and the adoption by EPA of 40 CFR Part 60, Subpart Ba timing which is similar to SIP requirements into the MSW Landfill Emission Guideline. In August, EPA proposed a federal plan. Federal Plans are proposed by EPA to cover scenarios where states have not submitted, or EPA has not yet approved a state plan. That activity is not yet completed in order for DAQ to incorporate anything as part of the readoption process. EPA has also acknowledged that when they put out these finals Rules and proposals, it created some discrepancies in conjunction with a court ordered deadline. The court granted EPAs request to adjust the deadline for the Federal Plan and revised it to January 7, 2020, but this still does not provide enough time for DAQ to incorporate these new Emission Guidelines in time for the AQCC to act on and move forward for readoption. Also, in 2017, EPA granted a petition for reconsideration of particular aspects of the landfill requirements, but will not resume work until after meeting another court ordered deadline of March 13, 2020, to issue a risk in technology review of MSW Landfill NESHAP/MACT Standard in 40 CFR Part 63, Subpart AAAA. A proposal is expected in September 2021 and a final rule is expected by March of 2022. This uncertainty will cause this set of rules to come back before the AQCC beyond the readoption stage to incorporate appropriate Emission Guidelines once they are final. The intent of the change in the applicability requirements was just to point to the requirements as they change. Facilities have 30 months after crossing the threshold to be in compliance.

Ms. Burleson provided an overview of where DAQ is in the process of these Rules. DAQ is requesting the AQCCs approval to move forward to the EMC in January. If the Group 6 Rules stay on track with this schedule, DAQ will be holding a public comment period sometime between February and April, would anticipate coming back before the EMC for readoption in July of 2020, and go through Rules Review Commission (RRC) review in August, with an effective date of September 1, 2020 to satisfy the requirement to readopt all necessary Air Quality rules by December 31, 2020.

The draft fiscal note is under review by OBSM. The bulk of the substantial economic impact comes from the removal of the cargo tank inspection facility certification program, with some additional impact from the elimination of the annual opacity determination in Rule .0536, and incorporation of the reference to the updated MSW Landfill applicability threshold due to opportunity costs from administrative updates without charge to facilities to update the pointer in the rules to reflect 02D .1700 rather than the older subparts. DAQ feels comfortable that these amendments will not interfere with attainment or maintenance of the NAAQS, for all of which North Carolina is in attainment.

Ms. Burleson presented a summary table of some key elements of the fiscal note.

The recommendation from the Director is that the AQC approve the proposed readoption to the Group 6 Air Quality Rules in 15A NCAC 02D .0403, .0500, .0900, .1400, .1700, and .2615 and the proposed repeal of .0615 for presentation to the EMC to proceed to public hearing.
Director. Director Abraczinskas was unsure of any discussion and stated that they can further discuss after the meeting but recommends a single hearing in Raleigh at this time.

Commissioner noted that the Director does not need to decide that until after the EMC.

**November EMC AGENDA ITEMS**

None.

**INFORMATIONAL ITEMS**

**Agenda Item V-1, Director’s Remarks (Mike Abraczinskas, DAQ)**

**Description:**
Director Abraczinskas provided thanks to Joelle and staff for the work that has been done the entire year on the Group 6 Rules and noted that DAQ has identified some things that require more work after the readoption process. The Director provided an update on the methyl bromide rulemaking effort. The draft rules went out for comment June 17 through August 30, and there were two public hearings in July. 1,468 comments were received on the draft rule. As a high-level summary of the comments, there was general support for the rule and the use of EPA high risk chronic reference concentration of 0.005 mg/m³. A concern from those engaged in these operations and those related industry and economic interests was that of the averaging time of the proposed AAL of methyl bromide, specifically that the proposed 24-hour averaging time is not the appropriate application of the chronic RFC for high-risk. The DAQ will continue to examine that issue with the hearing officer, Commissioner Deerhake, and hopes to bring some additional information at the next meeting.

Director Abraczinskas provided an update on ozone in the Charlotte area, stating that the monitoring data statewide shows no violations of the ozone standard or any of the NAAQS to date. However, there were a number of exceedance days in the Charlotte region during the 2019 ozone season in the Charlotte region, an increase from past years. A new DAQ staff-developed tool provides a more detailed data of the ozone monitoring data. A summary table displayed the number of exceedances per monitoring site in the Charlotte area, in both North Carolina and South Carolina. This multi-jurisdictional urban area includes state-area coverage, the local air quality program in Mecklenburg County, and South Carolina DHEC in the York-area. Three graphs showed the number of exceedances at the York landfill monitoring site in South Carolina in 2017, 2018, and 2019. It was noted that each of the prior two years had one exceedance day while there were nine exceedances this year; however, that the wind was blowing from North Carolina to South Carolina on the days with exceedances. The DAQ will be doing a more extensive dive into the data to determine what occurred this summer to cause teetering on potential attainment issues, including review of CEMS data from the largest sources in the area and new sources of information such as the Tropomi NO2 satellite data. A meeting with Mecklenburg Air Quality Local Program, South Carolina DHEC, and DAQ experts will be convened in about a month to do a more intensive data analysis to inform any further actions with a goal of understanding the reason for the increase or whether any additional mitigation is necessary. The Director summarized the ozone monitoring values at the Garinger site, informing that the standard is the average of the fourth highest value over three years. Years 2017-2019 averages to 70 [ppb]. In 2020, the low value of 66 [ppb] from 2017 drops off, so an average of 70 [from 2018], 74 [from 2019], and 69 or higher [from 2020] will violate the standard. NC has only had a 69 or lower as the fourth high three times in the last 10 years, so this requires a close look and work with partners to ensure the value stays below 70 going forward. Vice Chair Carter asked whether there is any data on vehicles in the area, noting the large number of cars in Charlotte. The Director stated that all emission sources are being looked at, requiring a deeper dive into the ambient monitoring data and the toxics data in the Charlotte area. DAQ is looking for a unique mobile source signature, expecting a BTEX signature if mobile sources are contributing, and will also look at NOx/VOC ratios to see if the balance has shifted in that urban core area. Vice Chair Carter asked if there are any air toxics monitors in that area, to which the Director responded that there is one, the Garinger site in Mecklenburg County.
The Director provided an update on the ambient monitoring program in relation to Executive Order (EO) 80. Section 9 requires cabinet agencies to integrate climate adaptation and resiliency planning into their programs. In DAQ, that involves investing in energy efficient air monitoring shelters and elevating those shelters where necessary. DAQ is evaluating hazards, assessing vulnerability, and taking action. In the Castle Hane-Hayne area in New Hanover County, a monitoring site was flooded 6 inches into the building during Hurricane Florence, setting a new high-water mark, a seemingly regular occurrence during extreme weather events. DAQ has decided to invest in rebuilding a site on pillars that will be above the new high-water mark; however, Hurricane Dorian passed in September, before DAQ could get the shelter into the field, but the pillars and concrete pad remained dry. DAQ is working towards installing the stairs in coming weeks. New shelters will also have decreased heating and cooling costs due to greater R-value.

A new web-based Arc GIS facility tool is available online which allows users to zoom into any area, click on registered or permitted area to get compliance documents and other relevant information.

The Director mentioned federal, state, local, and private partnerships, giving thanks to David Brigman, who recently retired as the Director of the local program in Buncombe County.

**Agenda Item V-2, 1995-2019 Air Quality Committee and Environmental Management Commission Calendar**

**Agenda Item V-3, Status of Rulemaking Hearings and Rule Development**

**CLOSING REMARKS AND MEETING ADJOURNMENT**
Chair Arata asked for additional questions or comments, and upon hearing none, noted that the next meeting of the AQC would be January 8, 2020. Chair Arata adjourned the meeting.