

ENVIRONMENTAL MANAGEMENT COMMISSION
AIR QUALITY COMMITTEE MEETING SUMMARY
September 8, 2021
Archdale Building-Ground Floor Hearing Room
9:32 – 10:39 A.M.



MEETING BRIEF

During the September 8, 2021 meeting, the Air Quality Committee (AQC) of the Environmental Management Commission (EMC) heard:

- Action Item: The AQC approved the Title V Rule Amendments to be sent to the full EMC, motion passed unanimously.
- Action Item: The AQC approved the SSI Rule Amendments to be sent to the full EMC, motion passed unanimously.
- Informational Item: AIR Webtool Presentation in collaboration with the Climate Office.

AQC MEMBERS IN ATTENDANCE

Ms. Shannon M. Arata, AQC Chair	Ms. Donna Davis
Mr. Charlie S. Carter, AQC Vice-Chair	Dr. Suzanne Lazorick
Ms. Yvonne Bailey	Ms. Maggie C. Monast

OTHERS IN ATTENDANCE

Mr. Steve P. Keen, EMC	Mr. Mike Abraczinskas, DAQ Director
Ms. Pat Harris, EMC	Mr. Randy Strait, DAQ Planning Chief
Mr. Chris Duggan, EMC	DEQ Staff
Mr. Phillip Reynolds, EMC Counsel	Members of the public
Mr. John McAdams	

PRELIMINARY MATTERS

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

AQC 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. None stated.

Agenda Item I-2, Review and Approval of the July 7, 2021 Meeting Minutes

Chair Arata requested approval of the July 7, 2021 Meeting Minutes. **Commissioner Monast** made the motion and **Commissioner Bailey** seconded the motion. The minutes were approved without a discussion by unanimous rollcall vote.

RULEMAKING CONCEPTS

None.

ACTION ITEMS

Agenda Item III-1, Request for Approval of Proposed Rule Revisions and Regulatory Impact Analysis and to Proceed to EMC for Approval to Proceed to Public Hearing on the Title V Rules Revisions, 15A NCAC 02Q .0103 and .0500. (553)

Chair Arata introduced the presenter, Ms. Katherine Quinlan.

Description:

Ms. Quinlan presented the proposed revisions to the Title V Rules in 15A NCAC, Subchapter 02Q, to address comments received from EPA as part of the fourth Title V program review for North Carolina. The changes are primarily administrative in nature to correct typographical and rule reference errors and align the rules with Part 70 federal requirements and current DAQ practices. Revisions were made to clarify ownership change application requirements and timely application requirements for existing newly subject sources, add Clean Air Act violation and judicial review language, and clarify requirements for including fugitive emissions in Title V permits. Several revisions pertaining to federally- and state-enforceable only conditions were made throughout the rules. Language regarding credible evidence was reinstated, administrative amendment requirements were clarified, and permit review timelines were added to the rules. Requirements for public notice and hearings, review by EPA and affected states, the statement of basis, and response to comments were clarified to align with current practices and Part 70 language as well as those. Additional changes include clarification of Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) procedures and removal of duplicative requirements. Due to the nature of the changes, no economic impact is expected. The draft Regulatory Impact Analysis (RIA) has been provided to the Office of State Budget and Management (OSBM) for review.

Discussion: Ms. Quinlan asked if any of the Committee members had any questions.

Commissioner Bailey asked when the RIA will be completed. Ms. Quinlan responded that the draft RIA has been submitted to OSBM and DAQ is working to make organizational changes and clarify that the nature of the changes align with current practices and no impact is expected. Approval is expected in the coming weeks.

Commissioner Carter asked for clarification regarding the changes to designation of state-enforceable and federally-enforceable requirements. Ms. Quinlan responded that the current rule specifies designation of conditions as enforceable by the EPA only, or the Division only, but the Hazlehurst petition response states that EPA and citizens can enforce, and Part 70 only requires designation of those that are state-enforceable

only. **Commissioner Carter** stated that it is misleading to have no reference to EPA enforceability, because it implies that those conditions are also state-enforceable. Ms. Quinlan replied that the conditions in a state-issued Title V permit would be enforceable by either the state only, if they are state-enforceable requirements, or by the state, EPA, and citizens. **Commissioner Carter** stated that the presentation specified a category of conditions that are enforceable by EPA only. Ms. Quinlan responded that the definition for federally-enforceable references the Administrator, which is defined to include the Division, so federally-enforceable conditions may be enforced by the EPA, the state, and citizens, as defined within the revised rules.

Commissioner Carter asked whether there were conditions only enforceable by EPA, but not citizens or the state. **Commissioner Meiburg** offered clarification that conditions in Title V permits may be enforceable by all three, but some are only state enforceable, so the distinction is that only state law requirements are to be labeled just by state enforceable. Ms. Quinlan confirmed **Commissioner Meiburg's** statement. **Commissioner Carter** stated that the presentation included reference to provisions that would be federally-enforceable only, and not state-enforceable, and asked for confirmation. Ms. Quinlan stated that there should not be conditions in a state-issued Title V permit that only are enforceable by only the EPA. All conditions in a Title V permit are enforceable either by EPA, the State, and citizens, or by the State only.

Commissioner Carter stated that he believes there is a classification of provisions that are federally-enforceable only, referencing the Risk Management Program, which, if not adopted by the State, would not be state-enforceable. Ms. Quinlan stated that yes, the 112(r) Risk Management Program general duty clause is the exception identified in the Hazlehurst response, but permits only need to specify what is state-enforceable only. Ms. Quinlan asked if the Permitting Section Chief, Mark Cuilla, had any additional information. Mr. Cuilla stated that the comment from EPA was that permits previously and incorrectly identified terms as federally-enforceable only. The Hazlehurst Petition response stated that terms are presumed enforceable by all parties unless specified. EPA keeps sole enforceability of some so these do not have to be highlighted. The risk management condition is a good example. A good example of state-enforceable only would be air toxics conditions. **Commissioner Carter** asked why the Division will not clarify conditions where the EPA is the only enforcing entity, and why rely on presumption.

Commissioner Meiburg stated that the revisions do not prevent the state from specifying that 112(r) is federally-enforceable only, but rather it removes the presumptive language. Mr. Cuilla stated that those designations will be removed from the DAQ's general conditions and any specific permit conditions, but it does not change the enforceability of EPA. He referenced the definition of Administrator in 02Q .0103, which includes the Division Director, unless specified otherwise, such as the Risk Management. The DAQ will just no longer be required to designate it as such in permits.

Commissioner Carter asked for confirmation that permits will not designate whether a condition is federally-enforceable or federally-enforceable only. Mr. Cuilla confirmed. **Commissioner Carter** asked why this informative specification is being removed. **Chair Arata** stated that **Commissioner Carter's** points are well-taken, and asked Ms. Quinlan to provide further clarification on this topic at the full EMC meeting, if this set of rules proceeds to the EMC. Ms. Quinlan agreed. **Commissioner Meiburg** added Mr. Cuilla and Ms. Quinlan may follow up with Commissioner Carter, as both are raising valid points.

Commissioner Monast asked about how these changes relate to the public participation plan and the limited English proficiency plan, which the DEQ finalized last year, why those are not more tightly connected with these changes, and for any comments relating to these rules and ensuring public participation by frontline communities and environmental justice communities. Director Abraczinskas stated that these revisions are primarily to address EPA concerns. The Division is still working to perfect and evolve the procedures referenced and is still open to taking comments on them. At this time, they were

not considered with these revisions due to their evolving nature. It was not intended to roll those into this effort. **Commissioner Monast** asked if there is an opportunity to address this if comments of this nature are received during the public participation process. Director Abraczinskas responded that these are policy concerns to discuss internally.

Commissioner Meiburg stated that he agrees with **Commissioner Monast** in response to public comments, even if they are not specific to the EPA concerns. He emphasized the importance of having full public engagement, mentioning a virtual hearing this week on some Methyl Bromide (MeBr) permits and the importance of providing substantive notice to the people living in the vicinity of the facilities. He also commended the thorough review of the Department and OSBM in these cleanup revisions, which show the value of a 5-year program review.

Chair Arata asked if there is any motion on the recommendation to proceed to EMC to request approval to proceed to public hearing on Title V Rule revisions in 15A NCAC, Subchapter 02Q.

Commissioner Bailey moved to approve the recommendation. **Commissioner Davis** seconded the motion. A roll-call vote is taken. The action was unanimously approved.

Agenda Item III-2, Request for Approval of Proposed Rule Revisions and to Proceed to EMC for Approval of the SSI Technical Correction, 15A NCAC 02D .1204 (539)

Chair Arata introduced the presenter, Mr. Patrick Knowlson.

Description:

Mr. Patrick Knowlson presented the proposed technical amendment to the sewage sludge incinerator (SSI) rule in 15A NCAC 02D .1204. While reviewing this rule as part of a pre-hearing draft state plan submittal for implementing the SSI Emission Guidelines (EG), EPA noted an incorrect rule cross reference in subparagraph (f)(2). Upon review of the rule, DAQ also identified cross reference errors in subparagraphs (e)(15) and (l)(2). The errors are being corrected as a technical change under North Carolina General Statute (NCGS) 150B-21.5(a), which does not require publication in the North Carolina Register, a public hearing, or Rules Review Commission (RRC) review. The DAQ projects an effective date of December 1, 2021.

Discussion: Mr. Knowlson asked if any Committee members had any questions.

No questions were raised.

Motion: **Chair Arata** opened the floor for a motion to approve the proposed rule amendment to 15A NCAC 02D .1204 for presentation to the EMC for adoption. **Commissioner Lazorick** made the motion to approve, and **Commissioner Bailey** seconded. The action was unanimously approved.

INFORMATIONAL ITEMS

Agenda Item V-1, Ambient Information Reporter (AIR) Tool Demonstration

Description:

Mr. Bradley McLamb, DAQ Meteorologist, demonstrated the Ambient Information Reporter (AIR) tool. This was a collaboration with the State Climate Office and is soon available as part of a larger product called the Air Quality Portal, which will have a number of other air quality tools. The AIR tool is an

innovative map-centered interface that contains a wealth of statewide weather and air quality observations. The tool displays current weather and air quality data, as well as past and forecast conditions.

Discussion:

Chair Arata thanked Mr. McLamb for a thorough presentation and asked for questions from the Committee.

Commissioner Meiburg asked whether, using this tool, you can see the potential impact of transport of fires from the western United States in July, and commented that data enthusiasts will enjoy the tool. Mr. McLamb confirmed that the AIR tool does show that data and highlighted the satellite-detected features menu of the tool, which displays national fire and smoke information. Using July 4 as an example, Mr. McLamb showed some large areas of smoke in the region.

Chair Arata asked if the information is updated continuously throughout the day. Mr. McLamb confirmed that the data is updated multiple times every hour to ensure the latest information from every monitor is used. **Chair Arata** thanked Mr. McLamb for the presentation and provided a reminder that the hyperlink to the tool is on the agenda.

Commissioner Meiburg and **Chair Arata** commented about the progress of these tools and GIS.

Agenda Item V-2, Director's Remarks (Mike Abraczinskas, DAQ)

The Director thanked the staff for the AIR tool. The state climate office really helped to advance DAQ's ability to display data in real time from a table to an interactive map display that makes data more accessible and understandable to the general public, and is also powerful enough to help researchers, forecasters and data gurus to explore the cause-and-effect relationships with air quality. The remaining comments will be reserved for the EMC.

CLOSING REMARKS AND MEETING ADJOURNMENT

Chair Arata thanked the speakers for the presentations and noted the next meeting of the AQC is scheduled for November 17, 2021. **Chair Arata** adjourned the meeting.