

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

**January 13, 2016**

**Archdale Building-Ground Floor Hearing Room**

**3:00 – 5:00 PM**

The Air Quality Committee (AQC) of the Environmental Management Commission (EMC) met on January 13, 2016, 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, J.D. Solomon, Steven Rowlan, David Anderson and Ms. Julie Wilsey, 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, September and November Meeting Minutes**

September and November meeting minutes were not fully reviewed before the meeting. They will be presented at the next meeting.

**SUMMARY**

**Agenda Item #3, Summary of Public Comment Process for Section 15A NCAC 02D .2700 (111d), Standards of Performance for Existing Electric Utility Generating Units Under Clean Air Act Section 111(d) (531).**

Michael Abraczinskas, Deputy Director of the Division of Air Quality, provided an update of the of the rulemaking related to State's proposed 15A NCAC 02D Section .2700 primary plan addressing the U.S. Environmental Protection Agency (EPA's) Clean Power Plan, Standards of Performance for Existing Electric Generating Units under Clean Air Act Section 111(d) that were published in NC Register on November 16, 2015. The public comment period is from November 16, 2015 through January 15, 2016. Three public hearing were held: Charlotte on December 16, 2015 with an estimated 150 attendees and 37 people signed to speak, Raleigh on December 17, 2015 with an estimated 200 attendees and 50 people signed to speak, then in Wilmington on January 5, 2016 with estimated 150 attendees and 30 people signed to speak. Speakers included representatives from environmental organizations, renewable energy industry, faith-based organizations, seniors advocacy group, private citizens, and health-based organizations. Main comments from the public hearings consisted of: urging the State to develop complete plan, current plan does not go far enough with energy efficiency and renewable energy, and concerns about rising utility rates for families on fixed incomes.

As of January 13, DAQ received about 10,900 written comments. The comment period closes on Friday, January 15, 2016.

Mr. Abraczinskas responded to a question stating that the majority of comments were form letters with an estimated 30 to 50 unique comments. Mr. Abraczinskas stated that a lot of work needs to be done, reviewing and giving thoughtful consideration to each comment and response. Mr. Abraczinskas concluded that the hearing officer's report will be presented at a special EMC meeting which will be held on February 16, 2016 at 12:30 pm. If approval is granted at the special EMC meeting in February, then the rules will be filed with the Rules Review Commission for consideration at their March meeting. If approved, these rules will be submitted to the EPA before their September 2016 deadline.

## CONCEPTS

### **Agenda Item #4, Revision to Ambient Air Quality Standards to Incorporate 2015 Ozone National Ambient Air Quality Standards (NAAQS) (534). (Sushma Masemore, DAQ)**

Ms. Sushma Masemore, Planning Section Chief of the Division of Air Quality, presented a concept to update the National Ambient Air Quality Standards (NAAQS) for Ozone in Rule 15A NCAC 02D .0405, Ozone. On October 1, 2015, the EPA, strengthened the ozone NAAQS by revising the 8-hour "primary" ozone standard, designed to protect public health, to a level of 70 parts per billion (ppb). The previous standard, set in 2008, was 75 ppb. The EPA is also strengthening the secondary 8-hour ozone standard to the level of 70 ppb, making it identical to the revised primary standard. The EPA decided to strengthen the secondary ozone standard after concluding that the current standard is not adequate to protect public welfare. Amendments to 15A NCAC 02D .0405 are necessary to reflect the new ozone NAAQS. The EPA is also extending the ozone monitoring season by one month, which will become effective January 1, 2017. Other related rules may also need to be revised. The rule amendments are recommended by DAQ staff.

Chairman Carter asked what the timeline is for this action. Ms. Masemore stated that DAQ has three years to revise the ozone NAAQS.

### **Agenda Item #5, Startup, Shutdown, Malfunction (SSM) State Implementation Plan (SIP) Call Rule Revisions / Presentation (533). (Michael Pjetraj, DAQ)**

Mr. Michael Pjetraj, Stationary Source Compliance Branch Supervisor of the Division of Air Quality, presented the concept related to Startup, Shutdown, and Malfunction (SSM) State Implementation Plan (SIP) Call Rule Revisions. On May 22, 2015, the EPA issued a final action to ensure states have plans in place that are fully consistent with the Clean Air Act and recent court decisions concerning SSM emission limit exemptions. The EPA's final action responds to the Sierra Club Petition; clarifies the EPA's SSM Policy to assure consistency with the Clean Air Act and recent court decisions; and finalizes findings that the SSM provisions in the SIPs of 36 states that do not meet the requirements of the Clean Air Act (CAA) and accordingly issues a "SIP call" for each of those states.

In issuing the SIP call action, the EPA directs the affected states to correct specific SSM provisions in their SIPs. The Clean Air Act allows a maximum of 18 months from the issuance of the final action to submit a SIP revision. The SIP submission deadline for each of the 36 states subject to the SIP call action is November 22, 2016. For North Carolina, the EPA found that 15A NCAC 02D .0535(c) and 15A NCAC 02D .0535(g) are substantially inadequate to meet CAA requirements.

Mr. Pjetraj stated that the DAQ proposes to remove the emission limit exemptions for periods of startup, shut down, & malfunction in 02D .0535 (c) & (g) which were the parts of the rule found to be substantially inadequate; plans to create work practice standards for startup and shutdown; and plans to evaluate the possibility of work practice standards for malfunctions. Corresponding changes to 15A NCAC 02D .0521 which contains similar language may also be needed. These amendments are being proposed by staff in response to the EPA SSM SIP call.

Chairman Carter asked about the inclusion of 02D .0521 as he had not seen it before. Mr. Pjetraj responded that there were cross references in that rule that needed to be corrected that address visible emissions.

## **DRAFT RULES**

### **Agenda Item #6, Repeal of 15A NCAC 02D .1010 Heavy-Duty Vehicle Idling Restrictions (535). (Sushma Masemore, DAQ)**

Ms. Sushma Masemore, Planning Section Chief of the Division of Air Quality, presented draft rules to repeal 15A NCAC 02D .1010, Heavy-Duty Vehicle Idling Restrictions. Section 4.24 of the Session Law 2015-286 requires the Secretary of the Department of Environmental Quality (DEQ) to repeal the Rule 15A NCAC 02D .1010 on or before March 1, 2016. Until the effective date of the repeal of the rule required pursuant to this section, the law prohibits the DEQ Secretary or any other political subdivision of the State to implement or enforce 15A NCAC 02D .1010.

Ms. Masemore stated that 15A NCAC 02D .1010, Heavy-Duty Vehicle Idling Restrictions, was adopted in July 10, 2010 to reduce nitrogen oxide (NOx) and particulate emissions from heavy-duty trucks (both gasoline and diesel fueled) through the reduction of unnecessary idling. Currently, the ozone and particulate matter monitors are measuring ambient concentrations lower than the NAAQS. The Director recommends that the Committee approve the proposed repeal of 15A NCAC 02D .1010, as required by state law, for presentation to the EMC for approval to proceed to public comment.

Chairman Carter asked about the credit toward attainment. Ms. Masemore responded that we don't claim credit for this rule in our state SIP. A question was asked about whether there was any indication that this rule affected behavior. Director Holman responded that about the time the rule was established, there were other factors that encouraged idle reduction.

Mr. Carroll commented that this rule was supposed to be repealed by March 1, and that the deadline will be missed. Director Holman responded that following that schedule was not possible, but that repeal will be processed as quickly as possible, and that the existing rule would not be enforced.

Dr. Raymond stated that this action is a mistake, confirmed that this action was brought about by a legislation, and that the EMC must act. He mentioned that diesel exhaust exposes the operator and general public to excessive levels of oxides of nitrogen, ozone, and particulates, and that it is a well known carcinogen. Dr. Raymond expressed concerns regarding health effects associated with diesel exhaust that ought to be considered, and excessive wear during engine idling periods.

Mr. Ferrell made a motion for approval to proposed repeal of the Heavy-Duty Vehicle Idling rule. The motion was seconded by Mr. Rowlan. The motion was approved, with Dr. Raymond's vote in objection. The draft rule will presented to the EMC for approval to proceed to public comment.

**Agenda Item #7, [Item 7 was removed from the agenda] Request for Approval of Fiscal Note on Revisions to Volatile Organic Compound (VOC) Rules in 15A NCAC 02D .0902 (532)**

**JANUARY EMC AGENDA ITEMS**

**Agenda Item #8, Request for Approval of Hearing Officer's Report on and Adoption of Streamlining of Permit Exemptions Rule 15A NCAC 02Q .0102 and Related Rules Revisions (525). (Patrick Knowlson, DAQ)**

Mr. Patrick Knowlson, Rules Development Engineer of the Division of Air Quality, summarized the hearing officer's report of the Streamlining of Permit Exemptions Rule that will be presented to the full Environmental Management Commissioner meeting on January 14, 2016.

Director Holman expanded on the discussion of the transition to the new process including details for affected facilities, and compliance assurance teams that will look at implementation related aspects to assure continuous compliance. There were a number of comments related to the frequency and quality of inspections. The DAQ may revisit the frequency issue, after a trial period if there are problems. The proposed rules do not change emission limits or required control equipment. All exempt facilities are still required to comply with all state and federal regulations.

Dr. Raymond asked about the immediate consequence of a compliance visit. Director Holman replied that the process is very similar to the current inspection practice. If there is a violation, then the facility is given a chance to resolve the issue, but if the facility is still unable to comply, then they may be brought back into the permitting process.

The remaining discussion included several points raised by Mr. Rowlan about providing education and outreach to assist small sources that need help with the new process.

The Hearing Officer recommends that the proposed amendment as presented in Chapter II of this hearing report be adopted by the Environmental Management Commission.

Agenda Item #9, [Item 9 was removed from the agenda] Request for Waiver of 30-day Rule on Approval of Fiscal Note and Request for Approval to Proceed to Hearing on Revisions to Volatile Organic Compound (VOC) Rules in 15A NCAC 02D .0902 (532).

**INFORMATION ITEMS**

**Agenda Item #10, Director's Remarks (Sheila Holman, DAQ)**

1. Transport Update – As the EPA was about to issue a new ozone transport rule, the EPA's preliminary modeling raised concerns regarding the good neighbor provision of the CAA. The EPA's technical evaluation of air quality impacts pointed towards a monitor near Baltimore, Maryland that North Carolina seemed to be contributing greater than 1% of the standard. The DAQ questioned these results and provided comments on December 9, 2015. Since then, the EPA released its proposed Transport Update rule, linking North Carolina to the Baltimore, Maryland monitor. The DAQ is in the process of refuting EPA's conclusion, The DAQ will prepare comments and respond before the February 1, 2016 deadline. Director Holman explained the implications related to the problems with the evaluation process and modeling performance that show small contribution that North Carolina seemed to be affecting. The DAQ analysis challenges these results. Ms. Masemore mentioned that the EPA has proposed additional ozone season NOx budget reduction as a result of that flawed analysis.

2. Periodic Review of Rules Report Update – HB74 action is proceeding after the EMC approved the DAQ’s recommendation at the November EMC meeting. Approval was given on December 17 at the Rules Review Commission meeting. That action will be followed up with the Administrative Procedures Oversight Committee, and DAQ will know in a few weeks the result of their review of those classifications. After that, the DAQ will work with the Rule Review Commission on the re-adoption process.

3. Special February EMC Meeting to consider the hearing officer’s recommendation. The hearing record is progressing and that should be sent out during the first week of February for the commissioners’ review.

4. The DAQ is evaluating the facilities that are affected by the EPA SO<sub>2</sub> data requirements rule. The facilities that are above the 2,000 tons per year threshold include: Duke Energy Roxboro, Mayo, Belews Creek, Marshall, PCS Phosphate, Evergreen Packaging, and CPI Southport. Duke Energy’s Plant Allen and Ashville Plant are below the 2,000 tons per year threshold, but are also included based on third party modeling being submitted to the DAQ.

Mr. Carter asked for further questions or comments, and upon hearing none, Mr. Carter adjourned the meeting.

DRAFT