

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

September 9, 2015

Archdale Building-Ground Floor Hearing Room

11:00 – 12:00 AM

The Air Quality Committee (AQC) of the Environmental Management Commission (EMC) met on September 9, 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, Mr. J.D. Solomon, and Ms. Julie Wilsey. Mr. Steve Tedder, Mr. Bill Puette, 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)

Chairman Carter informed the committee that there will be a special informational session on the new EPA Clean Power Plan at 12:30 pm following the AQC meeting.

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 July Meeting Minutes

Chairman Carter inquired if everyone had been able to review the minutes from the July meeting and if there were any changes or corrections. No changes were cited. Chairman Carter asked for a motion to approve the minutes. Dr. Raymond made a motion to approve the minutes and Mr. Ferrell seconded. The minutes was unanimously approved.

DRAFT RULES

Agenda Item #3, Request for Approval of Additional Rule Revisions and Fiscal Note for Streamlining of Permit Exemptions Rule (525) and Recommendation for 30-day Waiver to Request Approval to Proceed to Public Hearing on Streamlining of Permit Exemptions Rule Related Revisions (Patrick Knowlson, DAQ)

Mr. Knowlson, DAQ Rule Development Branch, presented a PowerPoint presentation on the amendments to the permit exemptions for small facilities. The rule revisions included amendments to Rules 15A NCAC 02Q .0102 and .0903, adoption of Rule 15A NCAC 02Q .0318, and the repeal of Rule 15A NCAC 02Q .0302. He stated that several small revisions were made to Rule 15A NCAC 02Q .0102 as a result of a staff review by the Rules Review Commission. Several amendments to Rule 15A NCAC 02Q .0302 were recommended at the July

AQC meeting; however it was determined that the rule was unnecessary and repeal of the rule was recommended. He also presented the fiscal impacts from the rule revisions.

Mr. Knowlson made the recommendation to the AQC that it approve the additional revisions to the rules initially presented at the July AQC meeting, approve the fiscal note and approve a recommendation for a 30-day waiver to request approval of the EMC to proceed to public hearing on the rule amendments and fiscal note.

Discussion:

Ms. Wilsey asked if there was a typo for the estimated impacts with regards to permit renewals. Mr. Knowlson stated that there was a typo and the estimated impacts were \$300,000 annually.

Mr. Ferrell inquired about the opportunity savings and how they were realized. Mr. Knowlson replied that the savings represents the time staff spends reviewing permit renewal, reviewing new permits and reviewing emission inventories that accompany permit renewals. The opportunity costs represent the time spent on an activity that could be spent on a different activity.

EMC Chairman Carroll asked AQC Chairman Carter about the need for a 30-day waiver. He inquired if the draft rules could go through the regular process and be presented at the November EMC meeting. Chairman Carter stated that there has been a fairly long stakeholder process spanning a year or more. Only minor rule language changes were made to the draft rules presented at the July AQC meeting and the fiscal note was not ready and approved at that meeting. Chairman Carter stated it is time to move this to the next stage and get the public even more involved than they were at the stakeholder's level – get public comments and take final action as appropriate.

There was discussion on the form of the motion for the request to proceed to the EMC the next day.

Chairman Carter made a motion to approve the fiscal note, changes with correction to the rules, and the 30-day waiver to proceed to full commission tomorrow. Ms. Wilsey seconded the motion. It passed unanimously.

Agenda Item #4, Request for Approval of Revisions to Volatile Organic Compound (VOC) Rules (532) (Joelle Burleson, DAQ)

Ms. Burleson, DAQ Rules Development Branch, presented this item whose concept was presented at the July AQC meeting. She stated that the purpose of this rule revision was to streamline Volatile Organic Compounds (VOC) Rules in section 15A NCAC 02D .0900 and to reduce unnecessary regulatory burden. Ms. Burleson provided a brief background on VOC emissions control requirements for a variety of operations, including surface coating operations and chemical processes. Ms. Burleson concluded that after a thorough review of each VOC rule, it was determined that only one rule could be streamlined (15A NCAC 02D .0958). This work practices standards rule requires that VOC emitting facilities subject to the rule statewide

minimize their VOC emissions by essentially keeping containers closed during activities such as solvent cleaning.

To reduce burden and minimize any unnecessary requirements, Ms. Burleson explained that the DAQ is proposing to adjust the applicability requirement to just the ozone maintenance areas for the 1997 eight-hour ozone standard, and remove the requirement from all other areas in the state. Specifically, 15A NCAC 02D .0902 would be revised to remove statewide applicability; thereby, the rule would only apply through other provisions that remain in rule 15A NCAC 02D .0902 to the 1997 ozone maintenance area. Ms. Burleson stated that a fiscal note has not yet been completed. She said that DAQ would return to the AQC with a completed fiscal note and ask for a 30-day waiver at that time in order to proceed to a public hearing. Ms. Burleson concluded that an approval is requested on the draft rule as written.

Chairman Carter solicited questions. No questions were asked.

Chairman Carter asked for a motion to approve the draft rule and proceed to the full commission at the November meeting with this rule change.

Mr. Ferrell moved to support the motion. Ms. Wilsey seconded the motion. Chairman Carter declared the motion approved by unanimous vote.

Agenda Item #5, Request for Approval of Recommendation Regarding Mercury Compliance Plans (Steve Schliesser, DAQ)

Mr. Schliesser, DAQ Rules Development Branch, presented this item whose purpose was to address two state-only mercury rule provisions defined in 15A NCAC 02D .2511(b) and (c). The provisions require Duke Energy Carolinas and Duke Energy Progress to submit mercury plans to DAQ and for DAQ to assess the adequacy of controls for nitrogen oxide and sulfur dioxide emissions from affected electric generators. Mr. Schliesser provided background information on the Clean Smokestacks Act, mercury emissions reductions achieved since 2002, and the status of EPA's Mercury and Air Toxics rule. Mr. Schliesser concluded with the determination that Duke Energy's mercury control plan achieves maximum emission reductions. DAQ recommended that the EMC make a determination that 15A NCAC 02D .2511(b) requirements are met, and approve the control plans associated with .2511(c).

Chairman Carter solicited questions or comments.

Mr. Ferrell asked a question related to DEQ's 2012 Mercury Report. He requested confirmation that the origin of 70% of the mercury deposited in North Carolina during 2005 was from sources outside the United States. Mr. Schliesser confirmed most of the emissions originate in Asia.

Another question was asked if anyone is continuing to look at mercury in fish. Mr. Schliesser described the Division of Water Resources' sampling program, including the recent measurement results from sites located near power plants.

Chairman Carter solicited other questions and asked for a motion to forward the recommendation to the EMC in November indicating that 15 A NCAC 02D .2511(b) requirements are met.

Dr. Raymond moved to support the motion. Ms. Wilsey seconded. Chairman Carter declared the motion approved by unanimous vote.

SEPTEMBER EMC AGENDA ITEMS

Agenda item #7, Hearing Officer's Report on Revisions to Open Burning Rules to Reflect S.L. 2014 (Joelle Burleson, DAQ)

Ms. Burleson reminded AQC members that approval of the hearing officer's report regarding changes to the open burning rules was slated for the EMC meeting the following day. The purpose of the changes was to incorporate Session Law 2414-120 requirements. Mr. Carroll served as the hearing officer.

Ms. Burleson stated that the rule changes were sent out for public comment and that four commenters submitted comments. Ms. Burleson noted that several comments were submitted regarding removal of the definition for nuisance within 15A NCAC 02D .1902 and related language within 15A NCAC 02D .1903. Commenters questioned how removal of the definition of nuisance aligned with the session law provisions and requirements.

One commenter requested that DAQ coordinate with other agencies regarding health effects related to open burning. Ms. Burleson indicated that DAQ currently does this and will continue to do so. One commenter raised a question regarding a specific situation of interest, namely the implications associated with burning of debris dumped across the street from where he lived. Ms. Burleson stated that she understood such an event met the requirements under North Carolina's land clearing provisions of the rule. The EPA submitted a question regarding the rule's nuisance provisions.

Following compilation and review of the public comments, Mr. Carroll, the hearing officer, submitted his recommendations in the hearing record attached to the EMC agenda. Mr. Carroll plans to recommend that (1) the definition of nuisance be retained in 15A NCAC 02D .1902 and 15A NCAC 02D .1903 and (2) the EMC adopt language that mirrors that of the session law regarding the exclusion of logs and stumps.

Following Ms. Burleson's summary of the hearing officer's report, Chairman Carter inquired if there were any questions or need for discussion. He noted that no action was needed by the AQC before the hearing officer's report was presented to the EMC the following day.

Dr. Raymond said that he struggles with the idea that burning of large objects does not create a nuisance when it may have adverse health effects on those downwind of such burning. He believes that the EMC was somewhat stuck with this concept because of the wave of legislation that has been handed down to the EMC to implement. He noted that he has seen the human health effects of open burning in the clinic at times and had reservations about the wording of the legislation.

Mr. Carroll explained to Dr. Raymond that all the commenters commented on the rationale behind omitting the definition of the word “nuisance”. He explained the history of the rule. In the end, some reservations and concerns were raised by Dr. Raymond regarding the legislation.

INFORMATION ITEMS

Agenda Item #11, Director’s Remarks (Sheila Holman, DAQ)

1. Charlotte Redesignation Request Process

The redesignation request for the 2008 ozone standard for the Charlotte area became final and effective on August 27, 2015. All areas in North Carolina are measuring in compliance and are labeled in compliance for all of the current standards. There was also a request to relax the Reid Vapor Pressure fuel volatility in the Charlotte area. EPA recommends approval of that relaxation and it is out for comment until September 16. A new ozone standard is expected to be announced by October 1. A range of 65 to 70 ppb was proposed by the Clean Air Science Advisory Committee. DAQ expects a new standard soon and will share that with the Committee. If the EPA sets the standard at 70 ppb, all areas will remain in compliance. If the standard is set at 65 ppm, there will be five monitors in violation, two in Charlotte, one in Forsyth County and two mountaintop monitors.

2. Startup, Shutdown, and Malfunction (SSM) State Implementation Plan (SIP) Call Update

EPA finalized the state SIP call finding that parts of North Carolina rules are deficient. The department entered into a petition for review with fourteen other states asking for judicial review of the final SIP call action. DAQ will continue to look into how the rules should be amended to address the SIP call.

3. Transport Update

DAQ is working to complete a good neighbor provision showing that the NO_x emissions in North Carolina have been reduced enough to address any impact on downwind neighbors. We expect to take the demonstration out for comment in the next few weeks.

4. Legislative Update

The legislative update will be presented to the EMC at tomorrow’s meeting.

Chairman Carter asked for further comments. Hearing none, Chairman Carter adjourned the meeting.