

**ENVIRONMENTAL MANAGEMENT COMMISSION  
AIR QUALITY COMMITTEE MEETING SUMMARY  
March 8, 2017  
Archdale Building-Ground Floor Hearing Room  
10:00 AM - 11:00 AM**

The Air Quality Committee (AQC) of the Environmental Management Commission (EMC) met on March 8, 2017, in the Ground Floor Hearing Room of the Archdale Building. Attendees of the meeting were as follows: Charles S. Carter, John D. "JD" Solomon, Gerard "Jerry" Carroll, E.O. Ferrell, Dr. Lawrence W. Raymond, Clyde "Butch" E. Smith, Jr, Steve Tedder, Jennie Hauser, Julie Wilsey, the Director and staff members of the Division of Air Quality (DAQ), and the general public.

**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 11, 2017 Meeting Minutes**

Chairman Carter inquired if everyone had been able to review the minutes from the January meeting and if there were any changes or corrections. No changes were cited. Chairman Carter asked for a motion to approve the minutes. Mr. E.O. Ferrell made a motion to approve the minutes and Mr. Gerard "Jerry" Carroll seconded. The minutes were unanimously approved.

**CONCEPTS**

**Agenda Item #3, Session Law 2013-413 (H74) Readoption of Air Quality Rules 15A NCAC 02Q Sections .0100 through .0500, .0800, and .0900 (542) (Joelle Burleson, DAQ)**

Ms. Burleson discussed Group 2 air quality rules concept and stated that the division held a stakeholder meeting on March 6, 2017 to discuss preliminary draft rules. Stakeholder comments are due by March 20, 2017. Changes anticipated include administrative updates, updating regulatory references, needed updates to reflect the current electronic nature of business, and other amendments identified through stakeholder comments. Ms. Burleson also stated that amendments to some rules in the identified sections may be delayed until a later group depending on the nature of analysis needed, the nature of comments received and associated time needed to address them as well as other factors such as subject matter related litigation at the state or federal level or issuance of new related federal or state legislative requirements.

There was discussion as to whether the DAQ expects to come forward with fee changes. Ms. Burleson stated that DAQ does not expect fee changes with 15A NCAC 02Q Section .0200 in order to meet the December 31, 2020 readoption deadline.

Chairman Carter asked if there were any other questions for Ms. Burleson. No questions were identified.

**DRAFT RULES****Agenda Item #4, Session Law 2013-413 (H74) Readoption of Air Quality Rules 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, .2200, and .2300 (537) (Joelle Burleson, DAQ)**

Ms. Burleson stated that the Air Quality Committee (AQC) is requested to approve proposed Group 1 rule revisions for amendment and readoption of several rules in 15A NCAC 02D to proceed to the EMC for approval of request to proceed to comment.

**Section .0100 - Definitions and References**

15A NCAC 02D .0101 is proposed for readoption without substantive change to update format of units and references and .0103, .0104, and .0105 for amendment without substantive changes to update agency name and addresses, include web addresses where referenced documents may be obtained, and update references to document costs.

Ms. Burleson stated that a text change is needed to Rule .0103, paragraph (b) to allow copies of rules to be retrieved free of charge from the internet. Ms. Burleson requested the Committee's approval to lines 17-18 as follows: "~~Copies of such rules can be made at these regional offices for ten cents (\$.10) per page or may be obtained free of charge online at~~ <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.>"

**Section .0200 - Air Pollution Sources**

15A NCAC 02D .0201-.0202 are proposed for readoption without change.

**Section .0300 - Air Pollution Emergencies**

15A NCAC 02D .0301 and .0303-.0304, are proposed for readoption without change or without substantive change to update format of references. 02D .0302 is proposed for readoption with substantive change to update who proclaims air quality alerts and warnings and declarations of emergency at various pollutant levels requiring abatement actions to the Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations and update format of units for consistency. 02D .0305, .0306, and .0307 are proposed for readoption with substantive change to reference the open burning rule, include mineral processing and grain industries for consistency with 40 CFR 51 Appendix L, and eliminate redundant language in Paragraph 4.

There was a question as to why the following text was struck out of Section .0300's alert, warning, and emergency declarations (page 19, line 32): "~~Municipal and commercial refuse disposal operations shall limit burning of refuse in incinerators to hours between 12 noon to 4:00 p.m.~~". The DAQ stated the deleted text was redundant with paragraph (a)(2). The Committee agreed with the findings.

**Section .0400 - Ambient Air Quality Standards**

15A NCAC 02D .0401, .0409 and .0410 are proposed for readoption without substantive change to update format of references and acronyms and .0402, .0404, .0407, and .0408 are proposed for readoption without change.

There was a discussion regarding 15A NCAC 02D .0403, Total Suspended Particulates (TSP). Ms. Burleson stated that the TSP rule will be revisited later pending further study of the history and interrelationships with rules in 15A NCAC 02D .0500. It was necessary to separate this rule since its history is parallel with rules in another section.

**Section .1300 - Oxygenated Gasoline Standard**

15A NCAC 02D Section .1300 is proposed for readoption as a repeal because the measures were part of a contingency plan in the event of an exceedance of the carbon monoxide (CO) NAAQS and have become unnecessary since the state has been attainment for many years. The CO levels remain very low statewide, and the limited maintenance plan for CO has now expired.

### **Section .2000 - Transportation Conformity**

15A NCAC 02D .2001-.2005 are proposed for readoption. 02D .2001 is proposed for readoption with substantive change to remove obsolete references to affected areas based on current attainment status, update internal paragraph references, include clarifying reference to 40 CFR 93.119 regarding provisions for areas without motor vehicle emissions budgets, and clarify duration of applicability to maintenance areas. 02D .2002 and .2004 are proposed for readoption without change and .2003 and .2005 are proposed for readoption without substantive change to update format of references.

### **Section .2200 – Special Orders**

Section .2200 lays out procedures to be followed for establishing Special Orders by Consent to achieve compliance with air quality requirements in 15A NCAC 02D or 02Q consistent with the requirements of G.S. 143-215.110. 15A NCAC 02D .2201-.2203 and .2205 are proposed for readoption without change and .2204 is proposed for readoption without substantive change to update format of references.

Ms. Burleson stated that text changes are needed to Rule .2203, Public Notice, to address notice of proposed Consent Orders and notice of hearings. The changes are needed to ensure completeness and to reflect parallel structure with other rules. A cross-reference and paragraph number was also altered within the rule to accommodate each change. Ms. Burleson requested the Committee's approval of the recommended text change.

### **Section .2300 – Banking Emission Reduction Credits**

North Carolina currently does not have any nonattainment areas. Ms. Burleson stated that staff has identified the need for further consideration of potential changes. Thus, approval to move forward with readoption of this Section is not being requested at this time. Staff will return with its recommendations for Section .2300 at a later date.

There was a question regarding the DAQ's intent with the Section .2300 rules. Ms. Burleson stated that although Section .2300 rules aren't actively used, the DAQ intends to keep the rules in place. This is to ensure customer service to the citizens of North Carolina in the event there is a nonattainment area in the future. The DAQ is to research whether interstate credit transactions are currently allowed.

### **Concluding Discussion**

Ms. Burleson concluded that the Director recommends that the Committee approve the proposed amendments for presentation to the EMC for approval to proceed to public comment.

Ms. Burleson noted that the DAQ has received public comments from stakeholders regarding landfills and their needs. The DAQ will address the comments as they move forward with landfill emission guideline updates. The types of changes requested in the comments included definitions and updates of terms. Some terms have interrelationships with rules outside the current Group. The comments aren't included as recommended changes within the current Group because they should be included as amendments.

There was a discussion regarding the timeline for landfill emissions guidelines. Ms. Burleson stated EPA revised the emissions guidelines for existing solid waste landfills, and a revision to associated rules will be needed to comply with these guidelines. A Federal Plan (FP) would be put in place if the rules are not

revised according to the emissions guidelines. The DAQ had initially intended for the landfill emissions guidelines to move forward with Group 3; however, as stated in a previous concept, the landfill rules may be brought forward separately to accommodate federal timelines.

Also, the Committee discussed the master schedule and how they want all comments to be documented for quality assurance. They felt this is important since timing is crucial for each set of rules. Ms. Burleson acknowledged the need to maintain documentation of the comments received.

Ms. Hauser noted that the introductory language of NCAC 02D .1301 should read “proposed for repeal as follows”, and asked the division to maintain consistency with other rules that follow in the section.

Chairman Carter asked if there were any other questions for Ms. Burleson. No questions were identified. Chairman Carter asked for a motion to approve agenda item #4 with the proposed changes identified for Rules .0103 and .2203. Dr. Raymond made a motion to approve and Mr. Gerard “Jerry” Carroll seconded. The agenda item was approved unanimously.

**Agenda Item #5 and #7, Request for Approval of Rule Revisions and Regulatory Impact Analysis to the PM2.5 increment baseline for the Prevention of Significant Deterioration Rule (541) and Recommendation for Approval to Proceed to Public Hearing on Rule Revisions for the Prevention of Significant Deterioration Rule (Patrick Knowlson, DAQ)**

Chairman Carter rearranged the agenda to combine agenda item #5 and #7 since they are for the same topic.

Mr. Knowlson stated that rule 15A NCAC 02D .0530, Prevention of Significant Deterioration (PSD), is proposed for amendment to incorporate by reference the revisions to §51.166 of the Clean Air Act as of July 1, 2014. Those revisions include the PM2.5 increments in the October 20, 2010 final rule, the clarification that condensable particulate matter be included in the measurements of PM2.5 and PM10 in the October 25, 2012 final rule, and the removal of the vacated SIL and SMC provisions in the December 9, 2013 final rule.

A regulatory impact analysis was submitted to the Office of State Budget and Management (OSBM). OSBM reviewed the Division of Air Quality’s proposed change to rule 15A NCAC 02D .0530 in accordance with G.S. 150B-21.4. OSBM determined the rule changes have little to no impact on state or local governments and no substantial economic impact.

Mr. Knowlson concluded that the Director recommends that the Committee approve the proposed rule and regulatory impact analysis for presentation to the EMC, and recommendation for a 30-day waiver to request approval of the EMC to proceed to public hearing on amendment to the PSD rule and regulatory impact analysis.

**Concluding Discussion**

Chairman Carter asked for the purpose of the 30-day waiver. Mr. Knowlson responded that the DAQ is under a 2-year Federal Implementation Plan (FIP) clock, so it’s in the best interest of NC to submit their SIP to EPA as soon as possible. There was discussion as to whether the regulatory impact analysis was included with the meeting materials and whether it was an agenda item for the March EMC meeting. It was concluded that it was included as part of the EMC package.

There was discussion regarding possible implications of a FIP to NC, if any. Mike Abraczinskas clarified two reasons why it’s in the best interest of the state to prevent a FIP. First, since NC must comply with

the FIP clock, it's highly recommended that NC submit an approvable SIP for EPA review. This will allow the EPA to stop the pursuit of a federal plan in order to review NC's submission before the clock expires. Second, the regulated community benefits from the clarification of baseline dates. NC didn't originally align with all PSD components because of the federal framework rule labeling "fine particles" as a new pollutant.

There was a question regarding direct impacts for long-term SIP disapprovals. The direct impact would include large and new expansion projects contributing to increases in fine particulate concentrations. It's somewhat unclear what impacts would occur for long-standing disapprovals. The goal is to align NC's state rule with the federal framework for compliance.

Chairman Carter added that while OSBM determined that there's little to no impact on state or local governments and no substantial economic impact, there's some uncertainty in the regulatory process. It's now time to align with the federal requirements.

Chairman Carter asked if there were any other questions for Mr. Knowlson. No questions were identified. There was a motion to recommend approval of the rule, regulatory impact analysis, and 30-day waiver for presentation to the March 2017 EMC meeting. Dr. Lawrence W. Raymond made a motion to approve and Mr. Gerard "Jerry" Carroll seconded. The motion was unanimously approved.

**Agenda Item #6, Revision to Ambient Air Quality Standards to Incorporate 2015 Ozone National Ambient Air Quality Standards (NAAQS) (534) (Mark Cuilla, DAQ)**

Mr. Cuilla stated that 15A NCAC 02D .0405, Ozone, is proposed for amendment to reflect changes to the NAAQS for ozone. These proposed rule changes are necessary to comply with federal requirements.

EPA revised the primary and secondary ozone standards from 0.075 ppm, set in 2008, to 0.070 ppm, while retaining the indicators (O<sub>3</sub>), forms (fourth-highest daily maximum, averaged across three consecutive years) and averaging times (eight hours). The monitoring season for ozone has also been expanded by one month to ensure compliance with the 2008 and 2015 ozone standards, and to ensure citizens are alerted when ozone reaches levels of concern.

The Director recommends that the Committee approve the proposed amendments for presentation to the EMC for approval to proceed to public comment.

There was clarification that the DAQ doesn't want a 30-day waiver for this rule. The DAQ wishes approval to move towards a future EMC meeting. A discussion ensued as to whether NC was still in compliance with the new standard. Chairman Carter and Director Abraczinskas briefly outlined attainment history and mentioned that NC is currently in compliance with the new ozone standard. The EPA will provide final designations for the new standard by October 1, 2017. Also, the low sulfur fuel standard (effective January 1, 2017) will assist with attaining the ozone standard since catalytic converters in vehicles will work more efficiently. Therefore, North Carolina is recommending that all counties in North Carolina be designated as "Attainment" for the revised 8-hour ozone standard.

There was a motion to recommend approval to proceed to a future EMC meeting for the 2015 ozone NAAQS revision. Mr. E.O. Ferrell made a motion to approve and Dr. Lawrence W. Raymond seconded. The motion was unanimously approved.

**Agenda Item #8, Acting Director's Remarks (Mike Abraczinskas, DAQ)**

Sheila Holman was selected as the N.C. Department of Environmental Quality's assistant secretary for the environment in February 2017. Mike Abraczinskas has been named acting Director for the DAQ. The full set of Director's remarks will be revealed during the full March EMC meeting. The Chairman agreed to allow the full remarks during the EMC meeting.

Chairman Carter asked for additional questions or comments, and upon hearing none, noted that the next meeting of the AQC would be May 10, 2017. Chairman Carter adjourned the meeting.