

**ENVIRONMENTAL MANAGEMENT COMMISSION
AIR QUALITY COMMITTEE MEETING SUMMARY
July 10, 2019
Archdale Building-Ground Floor Hearing Room
10:30 AM - 11:30 AM**



MEETING BRIEF

During their July 10, 2019 meeting, the Air Quality Committee (AQC) of the Environmental Management Commission (EMC):

- Discussed the Division of Air Quality’s (DAQ) request for approval of the hearing officer’s report on Session Law 2013-413 (H74) readoption of Group 4 Rules 15A NCAC 02D .0540, .1800-.1808, .1900-.1907, and final approval of the regulatory impact analysis.
- Received program updates from the Ambient Monitoring and Permitting Section Chiefs in the DAQ’s Central Office. The program updates were on various topics such as business practices, current topics, emerging issues, and an outlook for the future. Due to time constraints, the remaining updates from the Planning and Technical Services Sections were rescheduled for the September 2019 AQC meeting.

AQC MEMBERS IN ATTENDANCE

Mr. Charles S. Carter, AQC Vice Chair	Dr. Suzanne Lazorick
Ms. Marion Deerhake	Dr. Stan Meiburg

OTHERS IN ATTENDANCE

Mr. David Anderson	Ms. Margaret C. Monast (New Member)
Ms. Shannon M. Arata	Mr. Philip Reynolds, EMC Counsel
Ms. Donna L. Davis (New Member)	Mr. Mike Abraczinskas, DAQ Director
Ms. Patricia K Harris (New Member)	Mr. Michael Pjetraj, DAQ Deputy Director
Mr. Steve Keen	Members of the public
Mr. John McAdams (New Member)	DAQ Staff

PRELIMINARY ITEMS

Vice Chair Carter welcomed the new AQC members and asked them to introduce themselves.

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

Vice Chair Carter called the meeting to order and inquired, per General Statute §138A-15(e), 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 #2, Review and Approval of the May 8, 2019 Meeting Minutes

Vice Chair Carter asked whether there were any comments on the May 8, 2019 minutes and noted a few suggestions. Specifically, he asked whether the word “porch” on page 4 should be changed to “port.” The section regarding the acceptance of AQC members at SAB meetings needed to be revised to ask whether any AQC members were invited to SAB meetings. He also added that on page 6, the statement, “*Neither report provides a conclusive value for acute exposure, only a chronic exposure value is provided.*” needed a clarifying reference to the reports of interest. Vice Chair Carter asked whether there were any other questions or comments. EMC Chair Meiburg added that the topics and discussions in the May meeting minutes were robust. Vice Chair Carter agreed with the assessment and suggested hearing dates and locations for the proposed log fumigation rule hearings. Vice Chair Carter asked for a motion to approve the May minutes with the requested revisions. EMC Chair Meiburg made a motion to approve the minutes and Commissioner Deerhake seconded the motion. The May minutes were unanimously approved.

RULEMAKING CONCEPTS & DRAFT RULES

None.

July EMC AGENDA ITEMS

*** Request Approval of Hearing Officer Report on Session Law 2013-413 (H74) Readoption of Group 4 Rules 15A NCAC 02D .0540, .1800-.1808, .1900-.1907, and Final Approval of Regulatory Impact Analysis (Joelle Burleson, DAQ)**

Description:

Ms. Burleson presented a brief overview of the DAQ’s request for approval of the hearing officer’s report and final approval of the regulatory impact analysis for the proposed readoption of 15A NCAC 02D .0540, .1800-.1808, and .1900-.1907 pursuant to Session Law 2013-413 (H74).

Ms. Burleson stated that the proposed rule package included North Carolina’s fugitive dust, odor, and open burning rules. She provided a timeline of the milestones for the rule package and highlighted the two public hearings. Ms. Burleson stated that the DAQ received over 200 public comments and highlighted the DAQ’s responses.

Discussion:

Director Abraczinskas added that the DAQ met with stakeholders regarding 15A NCAC 02D .1806, *Control and Prohibition of Odorous Emissions*, to better understand their concerns and to relay to them to DAQ rulemaking staff. The proposed rule language was presented to AQC and EMC and was approved prior to the public comment period. He stated that few permits will be impacted as a result of the proposed changes and industry will be able to use current work practices.

Commissioner Deerhake asked if the DAQ could fix a reference error in the presentation. She stated that the reference to 15A NCAC 02D .1802(c)(2) in Slide 11 should be 15A NCAC 02D .1802(f)(3). Ms. Burleson agreed with the change and stated that the DAQ will correct the reference and repost the slides. Commissioner Deerhake asked about a public comment indicating that there are electronic odor detection technologies in place for certain applications and why these technologies haven’t been explored from a regulatory perspective for management of animal odors. Ms. Burleson responded that the DAQ’s staff odor experts had assessed electronic odor detection technologies during the rulemaking process. They concluded that the methodologies for electronic odor detection typically focus on a single odorant; however, the human nose can detect several odorants at the same time. Also, they noted that human noses are more cost effective, easier to describe during enforcement situations, and can detect odors below the thresholds of many electronic devices.

Commissioner Deerhake asked the DAQ's staff and hearing officer whether the proposed language is consistent with the environmental justice settlement that was reached last year. She added that she saw that this was mentioned in one of the comment letters received during the public comment period. Ms. Burlson responded that the proposed rules are consistent with the environmental justice settlement. EMC Chair Meiburg asked the Director to make sure answer this environmental justice question is addressed more clearly at the EMC meeting. Director Abraczinskas stated that the DAQ will follow up on the response to this question before the EMC meeting.

Commissioner Monast asked for examples of types of facilities that would be exempted under 02D .1806. Ms. Burlson responded that Session Law 2017-108 exempts any facility that stores products that are (i) *grown, produced, or generated on one or more agricultural operations*; and (ii) *"renewable energy resources"*. She added that a poultry litter and other types of agricultural produced waste would be examples of exempted facilities. Director Abraczinskas added that the exemption would apply primarily to a renewable energy facility that would use poultry litter as fuel. Commissioner Arata asked if these exempted facilities would use all of their waste produced for renewable energy or just a portion of waste. Ms. Burlson responded that the Session Law language included the term "any," which the DAQ interprets as a portion of the waste. Commissioner Arata added that the amount of waste is not addressed in the Session Law in regards to qualifying for the exemption. Director Abraczinskas stated that as long as other conditions in the exemption are met, the sources of odors are identified in the permitting process and best management practices are applied to the storage and processing of that waste. Commissioner Deerhake asked how the DAQ intends to bring the exemption criteria to the AQC for approval. Director Abraczinskas responded that the exemption criteria was included in proposed rule language 15A NCAC 02D .1806(d)(11) and was approved by the AQC.

Vice Chair Carter followed up with a hearing officer recommendation and added as the hearing officer, he plans to recommend that the proposed readoption of 15A NCAC 02D .0540, .1800 and .1900 as presented along with the regulatory impact analysis and the hearing report be adopted by the EMC.

Motion:

No motion required.

INFORMATIONAL ITEMS

Division of Air Quality Program Updates

The AQC heard the DAQ's program updates from their representative Section Chiefs. The update included various topics such as business practices, current topics, emerging issues, and outlook for the future.

Ambient Monitoring Section: Patrick Butler

Description:

Mr. Butler started his presentation by showcasing an organizational chart of the Ambient Monitoring Section, which provides support to all seven of the North Carolina regional offices. The Ambient Monitoring Section operates 38 monitoring sites with shelters and provides maintenance and upkeep on both the shelter and the equipment. The Section is also responsible for updating the quality assurance project plans (QAPP) for the DAQ. Mr. Butler stated that the Environmental Protection Agency (EPA) recently performed a technical systems audit on the laboratory and monitoring sites in June 2019. The audit found a few areas that needed to be improved and the ambient monitoring section is addressing these issues.

Mr. Butler stated that the Ambient Monitoring Section recently purchased and installed a new gas chromatograph mass spectrometer (GC/MS) system used to measure volatile organic compounds (VOC) and aldehydes. He also stated that Ambient Monitoring Section was working on providing information on personal air sensors to the public by developing a webpage. He added that the Section was operating a rainwater collection network at each

of the seven regional offices, as well as five sites around the Chemours facility. Mr. Butler stated that the Ambient Monitoring Section was also working on an air monitoring study in Duplin County. This study includes the monitoring of ammonia (NH₃), Hydrogen Sulfide (H₂S), and particulate matter (PM_{2.5}).

Discussion:

Commissioner Meiburg specified that the DAQ had been collecting rainwater samples for per- and polyfluoroalkyl substances (PFAS) and added it was a very important project.

Vice Chair Carter asked if there were any questions for Mr. Butler. Commissioner McAdams asked what the acronym “QAPP” stood for. Mr. Butler stated that “QAPP” stood for Quality Assurance Project Plan, and it outlines the scope of the project and details the actions for measuring pollutants at a site.

Commissioner Deerhake congratulated the Ambient Monitoring Section for obtaining a new GC/MS and asked if Duplin County’s results would be reported to the AQC. Director Abraczinskas responded that some of the results have been posted on the DAQ website and added that the DAQ had presented preliminary data in previous meetings. He added that the DAQ will include updates of the study as information items in future meetings.

Permitting Section: Mark Cuilla

Description:

Mr. Cuilla started his presentation by outlining the type of air permits that are issued in North Carolina. These permits are combined construction and operation permits and are divided into two classes: 1) major source permits and 2) non-major source permits. The major source permits include both Prevention of Significant Deterioration (PSD)/New Source Review (NSR) permits and Title V operating permits. Non-major source permits include synthetic minor permits and small permits. The permit type is determined by the potential emissions from the facility. Facilities that have major source permits have the potential to emit 100 tons of any single criteria pollutant (ozone, particulate matter, carbon monoxide, lead, sulfur dioxide, and nitrogen dioxide), 25 tons of a combination of hazardous air pollutants (HAP), or 10 tons of any single HAP. Non-major facilities have the potential to emit less than these major source thresholds. Synthetic minor permit facilities have the potential to be a Title V facility but have chosen enforceable permit restrictions to limit their emissions below Title V thresholds and thus avoiding the fees and rigorous monitoring recordkeeping and reporting requirements. The DAQ’s Central Office administers the Title V and PSD facilities in North Carolina. The DAQ’s Regional Offices manage the small and synthetic minor permits, along with all the inspections, enforcement, and compliance duties. North Carolina also has air toxics permitting as a component of the overall permitting program. Mr. Cuilla stated that the air toxics permitting is a risk-based program and covers 91 toxic air pollutants.

Mr. Cuilla provided a breakdown of the active facilities in North Carolina which include: 979 small facilities, 634 synthetic minor facilities, 283 Title V facilities, 114 registered facilities, and 773 permit exempt facilities. He added that in 2018-2019, a total of 129 small, 136 synthetic minor, 208 Title V, and 8 PSD permit applications were received by the DAQ. In that same timeframe, a total of 143 small, 142 synthetic minor, 195 Title V, and 8 PSD permit applications were issued by the DAQ. Currently, the DAQ has a total of 224 permit applications that are being worked on with 12 of those being PSD.

Discussion:

Vice Chair Carter asked if there were any questions for Mr. Cuilla. Director Abraczinskas commented that the DAQ is currently reviewing the permit fees across all permit classes and are projecting funding shortfalls in some of our permit fees, most notably Title V fees. He added that this issue would come before the AQC in the future after going through a stakeholder process. EMC Chair Meiburg added that the presentation shows that the DAQ has received an unprecedented number of PSD and Title V applications, and the AQC will consider taking action to resolve these issues.

Vice Chair Carter added the air quality program does not receive any state appropriations and a majority of the funding comes from permit fees. Director Abraczinskas added that the DAQ does not receive General Assembly fund appropriations. Also, fees collected by the Title V program go beyond the development of a permit. He noted that the DAQ has not adjusted permit fees for a while, with the exception of an annual consumer price index adjustment. He stated that the sources of revenue for the DAQ are Title V permit fees, Non-Title V permit fees, a small percentage of the fuel tax, a percentage of the fees generated from the vehicle emission inspection program, and two federal grants.

Vice Chair Carter asked if revenue generated by permit fees is a majority of the overall revenue received by the DAQ. Director Abraczinskas responded that permit fees are a third of DAQ's revenue and fuel tax is about the same amount. He added that permit fees are based on emission levels, which have decreased over the years. Vice Chair Carter noted that permit fees based on emissions provide incentive for industry to reduce emissions. He added that this trend in decreased emissions has transpired over last 20 to 30 years.

Due to time constraints, EMC Chair Meiburg suggested that the other two presentations that were scheduled for this meeting be postponed to the next AQC meeting. Vice Chair Carter agreed and asked if there were any objections from the committee. Upon hearing no objections, the AQC will hear asterisked (*) presentations during the September 11, 2019 meeting:

*Planning Section Chief Randy Strait

*Technical Service Chief Steve Hall

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

Director Abraczinskas stated that the EPA is considering action on the startup, shutdown, and malfunction (SSM) for the North Carolina State Implementation Plan (SIP). Director Abraczinskas noted that SSM events are infrequent occurrences at a limited subset of sources that the DAQ's rules have addressed for decades. In 2015, the EPA made a finding that the state's SSM rules, which have been in place for two decades, were inadequate. The DAQ disagreed with their assessment and asserted that the EPA did not consider North Carolina's SIP in its entirety. In June 2019, the EPA has proposed to withdraw North Carolina from the SSM SIP Call which would remove the inadequacy allegations.

MEETING ADJOURNMENT

Vice Chair Carter asked for additional questions or comments, and upon hearing none, noted that the next meeting of the AQC would be September 11, 2019. Vice Chair Carter adjourned the meeting.