

**ENVIRONMENTAL MANAGEMENT COMMISSION  
AIR QUALITY COMMITTEE MEETING SUMMARY  
July 12, 2017  
Archdale Building-Ground Floor Hearing Room  
2:00 PM - 3:00 PM**

The Air Quality Committee (AQC) of the Environmental Management Commission (EMC) met on July 12, 2017, in the Ground Floor Hearing Room of the Archdale Building. Attendees of the meeting were as follows: Charles S. Carter, Jennie Hauser, Marion Deerhake, Richard Whisnant, John D. "JD" Solomon, Gerard Carroll, Dr. Suzanne Lazorick, Clyde E. Smith, Jr., Bill Puette, 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 May 10, 2017 Meeting Minutes**

Chairman Carter inquired if everyone had been able to review the minutes from the May meeting and if there were any changes or corrections. No changes were cited. Chairman Carter asked for a motion to approve the minutes. Mr. Clyde E. Smith, Jr. made a motion to approve the minutes and Mr. Gerard Carroll seconded. The minutes were unanimously approved.

**CONCEPTS**

**Agenda Item #3, Proposed Rule Revisions on Session Law 2013-413 (H74) Readoption of Air Quality Rules 15A NCAC 02D .1100, .1201-.1203, .1205-.1208, and .1211-.1212 and 02Q Section .0700 (543) (Joelle Burlison, DAQ)**

Ms. Burlison provided a brief history of the readoption process for new members of the Commission, stating that all 320 existing air quality rules in 15A NCAC 02D and 02Q are to be readopted by the EMC by December 31, 2020. To accomplish this task, the DAQ has initially divided the rules into six groups to receive comment on from stakeholders and take through the rulemaking process. The DAQ is currently working on the third group (Group 3), which contains several rules in 15A NCAC 02D Sections .1100 – Control of Toxic Air Pollutants, .1200 – Control of Emissions from Incinerators, and 15A NCAC 02Q Section .0700 – Toxic Air Pollutant Procedures.

The DAQ held the initial Group 3 stakeholder meeting on June 5, 2017. Additional amendments may be identified as stakeholder input continues. 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. Also, new litigation or legislative requirements may cause delays.

Anticipated changes in 15A NCAC 02D Section .1100 - Control of Toxic Air Pollutants, include clarification of applicability, removal of acceptable ambient levels (AALs) corresponding to the Secretary's Science Advisory Board on Toxic Air Pollutants (NCSAB) draft May 2015 recommendations, amendments to references to Guidelines for Air Quality Models and clarification of modeling plan

submittal requirement, removal of redundancy in modeling requirements, and the removal of unnecessary language.

Anticipated changes in 15A NCAC 02D Section .1200 – Control of Emissions from Incinerators, include amending applicability and clarifying/removing obsolete language to reflect changes in rules throughout the Section, amending definitions to reflect changes in the Section, removal of definitions for sources that have not been identified, possible repeal of rules for which no existing sources have been identified, amendments for consistency with underlying emission guidelines, deleting outdated language, removal of ambient standards that are duplicative of more restrictive facility-wide air toxics and emission guideline requirements, and clarification/removal of redundant language.

Anticipated changes in 15A NCAC 02Q Section .0700 – Toxic Air Pollutant Procedures, include amendments for consistency with recent permitting exemption language changes, adding references to the DAQ's requirements to comply with G.S. 143-215.107(a)(5)(b) per Session Law 2012-91, clarification of what sources of previously unknown toxic air pollutants should be included in an application for permit amendment, language revisions for consistency with 02D Section .1100, removal of toxic permitting emission rates (TPERs) corresponding to AALs removed per NCSAB recommendation, and the potential repeal of 02Q Rule .0713.

The DAQ is currently working with the Office of State Budget and Management (OSBM) to develop an approved fiscal analysis for Group 3 rules. The anticipated date to tentatively proceed to the AQC with draft rules is September 2017.

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

**Agenda Item #4, Proposed Rule Revisions to Inspection/Maintenance (I/M) Rules to Incorporate Session Law 2017-10 Section 3.5 Applicability to Vehicles with Model Year within 20 Years of Current Year and for Readoption of 15A NCAC 02D Section .1000 (544) (Mark Cuilla, DAQ)**

Mr. Cuilla stated that the North Carolina General Assembly's 2017 session enacted Session Law 2017-10, Senate Bill 131 (An Act to Provide Further Regulatory Relief to the Citizens of North Carolina).

Governor Cooper signed Senate Bill 131 into law on May 4, 2017.

Two important changes to the I/M program resulted from the ratification. First, the following 26 of 48 counties were removed: Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Edgecombe, Granville, Harnett, Haywood, Henderson, Lenoir, Moore, Nash, Orange, Pitt, Robeson, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes and Wilson. Second, for the remaining 22 counties, vehicles with a model year within 20 years of the current year and older than the three most recent model years, or a vehicle with a model year within 20 years of the current year and has 70,000 miles or more on its odometer are subject to the I/M requirements.

The effective date to remove the 26 counties from the I/M program is the later of the following dates: October 1, 2017 or the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies that United States Environmental Protection Agency (EPA) has approved an amendment to the North Carolina State Implementation Plan (SIP).

There was discussion regarding the process for removing counties from the I/M program. It was concluded that the DAQ was tasked with studying the I/M program and whether it was needed to attain and maintain the national ambient air quality standards (NAAQS). Ultimately, the final report stated that 31 of the 48 counties in the I/M program could be removed without negatively impacting air quality. The DAQ also studied the universe of vehicles subject to the I/M program. There were no differences in

emissions between the 20-year sliding scale scenario and the 1996 to present scenario. The General Assembly fundamentally decided to adopt the 20-year sliding scale and remove 26 of the 31 recommended counties from the I/M program.

The next discussion outlined that Charlotte is the only area that's borderline for attaining the 2015 ozone NAAQS. The current ozone design value for Charlotte is 70 parts per billion (ppb).

Other discussion outlined whether New Hanover County was recommended for elimination from the I/M program. It was concluded that the following five counties were recommended for elimination but were left in place by the legislature: Rockingham, Franklin, Lee, Onslow, and New Hanover.

The discussion continued to the topic of periodic review and reassessment for counties that need to be in the I/M program. It was concluded that the DAQ is required to complete emission inventories on a regular cycle and can utilize sensitivities to assess the impacts of the program. The federal tier 3 emission standards for model year 2018 vehicles will aid the state in attaining current ozone NAAQS.

The Division of Air Quality is also proposing to amend 15A NCAC 02D .1000 rules, as necessary, as part of the Session Law 2013-413 (H74) readoption process.

Chairman Carter asked if there were any other questions for Mr. Cuilla. No questions were identified.

## **DRAFT RULES**

### **Agenda Item #5, Request for Approval of Proposed Rule Revisions and to Proceed to EMC to Request to Proceed to Public Hearing on Adoption of Final Emission Guidelines for Existing Commercial and Industrial Solid Waste Incinerators (539) (Mark Cuilla, DAQ)**

Mr. Cuilla stated that on March 21, 2011, the EPA finalized revised New Source Performance Standards (NSPS) and emissions guidelines for Commercial and Industrial Solid Waste Incinerators (CISWI) in conjunction with the Identification of Non-Hazardous Secondary Materials (NHSM) rule. North Carolina automatically adopts the NSPS; however, rulemaking is necessary to incorporate emissions guidelines which apply to existing sources into the state rules.

The guidelines establish updated particulate matter (total and fine), opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins and dibenzofurans emission standards. Because some energy recovery units, such as boilers, burn secondary materials, the definition of solid waste is integral in determining whether a unit will ultimately be regulated under CISWI as an incinerator or as a boiler under the Section 112 MACT requirements. The NHSM identification rule is key in this determination because it defines what is considered solid waste for purposes of the air emissions guidelines under Section 129.

The rules ultimately proceeded through multiple petitions for reconsideration by EPA between the original promulgation on March 21, 2011 and the final reconsideration on June 2, 2016.

The federal emission guidelines are codified in 15A NCAC 02D .1210. This rule has been updated to reflect the revised federal emissions guidelines, adjust applicability, add operator training, match federal requirements for monitoring, recordkeeping, testing, and reporting requirements, and add changes to definitions resulting from EPA's reconsideration process.

The DAQ is currently working with OSBM to develop an approved fiscal analysis that will be presented to the EMC.

There was discussion about the federal reasoning for removing the chemical recovery unit. It was concluded that the DAQ will follow-up with the answer. Other discussion outlined that the DAQ is currently in the process of identifying and contacting approximately 10 sources possibly subject to the rule.

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

Chairman Carter asked if there were any other questions for Mr. Cuilla. No questions were identified. Chairman Carter asked for a motion to proceed to EMC to request to proceed to public hearing. Dr. Lazorick made a motion to approve and Mr. Clyde E. Smith, Jr. seconded. The agenda item was approved unanimously.

## **JULY EMC AGENDA ITEMS**

### **Agenda Item #6, Request for Approval of Hearing Officer's Report on Rule Revisions and Regulatory Impact Analysis to the PM2.5 Increment Baseline for the Prevention of Significant Deterioration Rule (541) (Patrick Knowlson, DAQ)**

Mr. Knowlson stated that a public hearing was held in Raleigh on May 18, 2017 on the 15A NCAC 02D .0530, Prevention of Significant Deterioration rule. Mr. Charles Carter, Environmental Management Commissioner and Air Quality Committee (AQC) Chairman, was appointed and acted as the hearing officer during the hearing.

On October 20, 2010, EPA promulgated key components for making PSD permitting determinations for fine particle pollution (PM2.5) - increments, significant impact levels (SILs), and a significant monitoring concentration (SMC). The EMC approved the amended PSD and NSR rules on July 11, 2013.

On September 14, 2016, EPA published its partial approval and disapproval of North Carolina's state implementation plan (SIP) submittal. EPA disapproved the PM2.5 increment provisions set forth in NC's SIP submittal with respect to PM2.5-related changes to 15A NCAC 02D .0530 at Paragraphs (e), (q), and (v). These paragraphs pertain to major and minor source baseline dates and baseline area. This disapproval triggers the requirement for EPA to promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiencies through a SIP revision and EPA approves the SIP revision before EPA promulgates such a FIP.

Rule 15A NCAC 02D .0530, Prevention of Significant Deterioration, 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 significant impact level (SIL) and significant monitoring concentration (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. A copy of the approved regulatory impact analysis is available in Chapter VI of the hearing record.

One comment was received on the proposed rule during the comment period. EPA comments that they reviewed the proposed rule and does not have any comments on the proposed rule at this time. No changes were made to the proposed rule as presented in Chapter IV of the hearing record.

**Agenda Item #7, Request for Approval of Proposed Rule Revisions, Regulatory Impact Analysis, and to Proceed to Public Hearing on Adoption of Final Emission Guidelines for Sewage Sludge Incinerators (497a) (Mark Cuilla, DAQ)**

Mr. Mark Cuilla stated that the proposed amendments to the SIP simply update Rule 15A NCAC 02D .1204 to mirror the Federal Plan and the identical EG requirements. The four subject facilities in the state are currently complying with the Federal Plan in place while DAQ undergoes this rulemaking process. One facility is under the purview of the Western North Carolina Local Program, while the other three are under the purview of DAQ. The DAQ has requested delegation in a parallel process with EPA, of which, is currently under review in Atlanta, Georgia. Once the delegation request is finalized, North Carolina will be the enforcer of the federal plan.

Chairman Carter provided a brief history of local air program jurisdiction to new members of the Committee.

Chairman Carter asked if there were any questions. No questions are identified.

**Agenda Item #8, Request for Approval of Proposed Rule Revisions, Regulatory Impact Analysis, and to Proceed to Public Hearing on Session Law 2013-413 (H74) Readoption of Air Quality Rules 15A NCAC 02Q Sections .0100 through .0500, .0800, and .0900 (542) (Joelle Burleson, DAQ)**

Chairman Carter specified that this agenda item will not be presented orally. However, he did ask if there were any questions. There was discussion about the removal of concrete batch plants. It was concluded that this rule was no longer needed, because facilities will not reach the levels specified in the rule with current emission factors. This was determined during the permit streamlining process.

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

## **INFORMATION ITEMS**

### **Director's Remarks (Mike Abraczinskas, DAQ)**

Michael Pjetraj has been named the Deputy Director of DAQ. Michael has 24+ years of air quality experience including management of the Stationary Source Compliance Branch in DAQ's Central Office for the past 8 years, as well as experience working in a Regional Office and in the private sector. He also served as acting Deputy Director in 2010, and is a licensed Professional Engineer. As Deputy Director, Michael will provide administrative oversight of DAQ's four Central Office Sections and the DAQ Business Office, and support our daily technical, policy and operational challenges.

Director Abraczinskas provided a brief history and status update for the landfill rules that were delayed during the May AQC meeting. Specifically, Administrator Pruitt signed a letter on May 5, 2017 indicating that EPA would convene a procedure for reconsidering the emission guidelines for existing landfills. The EPA decided to issue a 90-day stay. The DAQ was unaware of the letter during the May AQC meeting and wasn't notified by EPA until May 20, 2017. During this time, DAQ completed the fiscal analysis for the current federal emission guideline rule. Ultimately, the DAQ has decided to table their work until the outcome of the reconsideration is completed by EPA.

There was discussion as to what impacts the fiscal analysis determined to the state. It was determined the fiscal impacts would be significant. Other discussion outlined the status of landfill aerosolization testing. It was concluded that the DAQ is seeking more information since there's some uncertainty in North Carolina. However, it was recommended to possibly assess current methods and emission factors for land application to learn more information.

On June 6, 2017, EPA announced an extension of the deadline for promulgating initial area designations for the 2015 ozone National Air Quality Standards (NAAQS), from October 1, 2017, to October 1, 2018. EPA has indicated that the additional time will provide them time to complete their review of the standard. As part of that review, EPA will evaluate issues related to the role of background ozone levels, international transport, and timely consideration of exceptional events. All monitors in North Carolina continue to be in compliance with the 2015 ozone standard.

Chairman Carter asked for additional questions or comments, and upon hearing none, noted that the next meeting of the AQC would be September 13, 2017. Chairman Carter adjourned the meeting.