

**ENVIRONMENTAL MANAGEMENT COMMISSION
GROUNDWATER AND WASTE MANAGEMENT COMMITTEE
SUMMARY**

**July 13, 2016
10:00 a.m.**

The Groundwater and Waste Management Committee (GWWMC) of the North Carolina Environmental Management Commission (EMC) met on July 13, 2016 in the Ground Floor Hearing Room of the Archdale Building in Raleigh, North Carolina and took the following actions:

- Heard an Action Item to request to proceed to the EMC for public comment and hearing on proposed rule 15A NCAC 02L .0507 (Art Barnhardt, DWM).
- Heard a request for approval to proceed to the EMC with revisions to 15A NCAC 02N and 15A NCAC 02O (Ruth Strauss, DWM).
- Heard a request to proceed to the EMC for adoption of 15A NCAC 02I .0501 (Michael Scott, DWM).
- Received the status on the periodic review of existing rules for the 15A NCAC 02C rules in accordance with session law 2013-413 (Debra Watts, DWR).

GWWMC Members in Attendance:

Mr. Bill Puette, Committee Chairman	Mr. David Anderson
Mr. Kevin Martin, Vice Chairman of EMC	Mr. Gerard Carroll
Mr. Charles Elam	Mr. E.O. Ferrell
Dr. Albert Rubin, Vice Chair of Committee	

Other Commissioners Who Attended:

Dr. Lawrence W. Raymond	Mr. Steve Rowlan, Chairman of EMC
Mr. Steve Tedder	Ms. Julie Wilsey

Others Present:

Ms. Jennie W. Hauser, Special Deputy Attorney General

I. Preliminary Matters:

In accordance to North Carolina General Statute § 138A-15, Chairman Bill Puette asked if any GWWMC member knew of any known conflict of interest or appearance of conflict with respect to any item on the July 13, 2016 GWWMC agenda. None of the members stated there was a conflict.

A motion was made to approve the minutes from the May 11, 2016 GWWMC.

Motion was seconded.

The minutes from the May 11, 2016 GWWMC meeting were unanimously approved.

II. Action Item:

1. **Request to proceed to the EMC for public comment and hearing on proposed rule 15A NCAC 02L .0507 (Art Barnhardt, DWM).**

Presentation Description:

Mr. Art Barnhardt, Underground Storage Tank Section Chief, provided background information on the fairly new set of rules resulting from a petition process, submitted to the Commission in May, 2014.

Mr. Barnhardt provided history on the reason for the rule change, the rule making process through the petition process, the added requirements from SL2015-286 and the rule's effective date of March 1, 2016. There is a one sentence change to the .0507 rule, which includes a reference in the rule to the statutory change, to direct a responsible party with a release and seeking to use the corrective action approach with risk-based remedies, to evaluate the statute and make sure items the statute addresses are covered.

Questions/Comments:

No questions/comments.

Motion by Mr. E.O. Ferrell to proceed to the EMC with the proposed revisions/addition of new paragraph B in rule 15A NCAC 02L .0507.

Motion seconded by Mr. Gerard Carroll.

Motion passed unanimously.

2. Request approval to proceed to the full EMC with revisions to 15A NCAC 02N and 15A NCAC 02O (Ruth Strauss, DWM).

Presentation Description:

Ms. Ruth Strauss, Permits and Inspection Branch Head within the Division of Waste Management's Underground Storage Tank Section, presented an overview of rules affected: 15A NCAC 02N and 15A NCAC 02O, and the purpose for the proposed amendments. NC has the authority to implement the federal regulations (changes published in July, 2015), and is required to incorporate these changes to retain primacy for state program approval.

Ms. Strauss' overview explained how most of the federal amendments were incorporated by reference and without any changes. There were some proposed modifications, substitutions or additions to improve consistency, update references, limit redundancy and incorporate changed department policy. Said modifications, substitutions and additions are acceptable to EPA as long as they are no less stringent than the federal regulation. Both EPA Region 4 and Rules Review Commission Counsel have reviewed the changes in the rules, and edits have been incorporated.

Ms. Strauss summarized changes and provided notable examples of the rule changes based on NCDEQ revisions and those made by the Rules Review Commission staff attorneys. The timeline for rulemaking was presented, with the anticipated date of June 1, 2017 for the rules to become effective.

Questions/Comments:

Question from Dr. Albert Rubin: What happens to the information from periodic testing and periodic walkthroughs? Ms. Strauss explained how this is a requirement on owners and operators – completing a

monthly and annual walkthrough to check equipment. Owners/operators document the equipment they look at, and maintain records for inspections.

Question from Mr. Kevin Martin: Do the subject rules refer to the professionals who are qualified to submit reports? Ms. Strauss explained the language was removed because the boards determine who is qualified to do geologic investigation.

Question from Mr. Carroll: Are you sure about the time requirement to hold the record of the annual inspection? Ms. Strauss explained that owners and operators are required to keep 12 months of leak detection monitoring records. Mr. Carroll responded that 12 months seemed short, and a 2-year record should be retained.

Question from Mr. David Anderson: As other entities move to incorporate the federal revisions to their policies and programs, are you aware of any problems encountered during the implementation? Ms. Strauss responded that numerous meetings have occurred with EPA and other states. One issue seems to be related to walkthrough inspections, and if forms will be used/which form will be used. An additional issue is the testing of spill buckets and the potential to discover numerous leaks.

Motion by Mr. Martin to move the item to the full EMC in September as proposed by staff.

Motion was seconded by Dr. Rubin.

Motion passed unanimously.

3. Request to proceed to the full EMC for adoption of 15A NCAC 02I .0501 (Michael Scott, DWM).

Presentation Description:

Mr. Michael Scott, Director of the Division of Waste Management, presented an action item to the committee on a rule change of limited scope: adding “the Division of Waste Management” to .0501, (now under the authority of the EMC) to the petition process; title change from the former Water Quality; and the department name, Department of Environmental Quality.

Mr. Scott summarized the proposed rule change coordinated with Rules Review Commission staff. An attachment was referenced outlining the simple changes regarding petition for rulemaking, the department name change, Division of Waste Management and changing the for Water Quality to Water Resources.

Questions/Comments:

No questions/comments.

Motion was made by Dr. Rubin to proceed to the EMC with staff’s proposed changes.

Motion was seconded by Mr. Martin.

III. Information Item:

1. Status of the periodic review of existing rules for the 15A NCAC 02C rules in accordance with Session Law 2013-413 (Debra Watts, DWR).

Ms. Debra Watts, Division of Water Resources, presented a regulatory review of 15A NCAC 02C, Well Construction Standards. The overview of the regulatory requirement included categories of determinations, 3-step review process, initial determination, public comment/final recommendation and the schedule of actions/responsibilities.

Well Construction Standards Rule 15A NCAC 02C's initial determination was necessary with substantive public interest. Ms. Watts' summary of comments included: 15 total comments received; 12 comments discussed the standards of construction and others discussed well maintenance; 9 of 15 rule comments were by one citizen; 13 of 15 commenters agreed with the agency determination; and no comments given addressed categories of determination.

The final recommendation was necessary with substantive public interest. Ms. Watts' concluded her presentation with the schedule of actions/responsibilities.

Questions/Comments:

No questions/comments.

Chairman Puette adjourned the July 13, 2016 GWWMC meeting.