

November 28, 2000

The Honorable Fountain Odom &
The Honorable Pryor Gibson, Co-Chairmen
Environmental Review Commission
General Assembly of North Carolina
Raleigh, North Carolina 27601

Re: Clean Air Update

Dear Senator Odom and Representative Gibson:

I am writing on behalf of the Department of Environment and Natural Resources to update members of the legislature's Environmental Review Commission on clean air issues and to seek comments on potential clean air legislation for the 2001 General Assembly. DENR remains committed to reducing air pollution from both mobile and stationary sources.

According to the Division of Air Quality, during the 2000 ozone season from April to October, a total of 35 days occurred where at least one ozone monitoring site in North Carolina exceeded the state ozone standard of 0.084 parts per million for eight hours. There were 239 eight-hour concentrations exceeding the standard during the 2000 ozone season at the 45 ozone monitoring sites. There were three days where at least one ozone monitoring site exceeded the old state ozone standard of 0.0125 parts per million for one hour. Ozone remains a serious public health and environmental problem in North Carolina.

NOx SIP Call

North Carolina submitted its plan to comply with the U.S. Environmental Protection Agency's Nitrogen Oxide State Implementation Plan Call (NOx SIP Call) on schedule on October 30. EPA provided detailed comments on our plan on November 21, 2000. Staff of the Division of Air Quality is reviewing EPA's comments. DENR will meet with stakeholders to discuss any changes in our plan before recommending changes to the Environmental Management Commission. DENR expects that the EMC will hold public hearings on permanent NOx rules in April 2001. NC's NOx rules require reductions before the 2004 ozone season. EPA may insist that power plants and industrial boilers in NC must comply with Section 126 petitions before the 2003 ozone season.

DENR General Counsel Dan McLawhorn will provide you with a summary of major clean air litigation, including updates on the NOx SIP Call and Section 126 petitions.

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Low Sulfur Gasoline

The Ambient Air Quality Improvements Act of 1999, sponsored by Senator Brad Miller and Representative Joe Hackney, require the sale of low sulfur gasoline in North Carolina in 2004. Attached is my letter of November 13, 2000 to you explaining Governor Jim Hunt's determination that the EPA rule does not provide for equivalent reductions in sulfur content for gasoline sold in North Carolina as required by state law and that an executive order is unnecessary. Our low sulfur gasoline requirement will reduce emissions of NOx by 6537 tons in the 2004 and 2005 ozone seasons. Governor Hunt, DENR, and the EMC have included our low sulfur gasoline requirement in our plan to comply with EPA's NOx SIP Call.

Last August Governor Hunt and BP Amoco announced that BP Amoco would deliver low sulfur premium gasoline at the same price as high sulfur premium gasoline to the Asheville, Charlotte, Triad, and Triangle markets – four years before state law requires it. Georgia and Alabama are also requiring low sulfur gasoline to reduce ozone in the Atlanta and Birmingham metropolitan areas before EPA rules require it.

Ozone Non-attainment Areas

The Clinton Administration and the U.S. Congress have agreed to delay designation of ozone non-attainment areas until June 15, 2001. The U.S. Supreme Court heard oral arguments on the American Trucking Association vs. EPA Administrator Browner eight-hour ozone case on November 7. DENR expects the court to rule this spring or summer.

DENR continues to support reducing NOx emissions from power plants, industrial boilers, vehicles and other sources to restore healthy air to North Carolinians and to attain state and national health-based ozone standards as soon as possible.

Clean Air Plan – Phase III

Governor Hunt and the Environmental Management Commission directed DENR to complete ozone modeling, meet with stakeholders, and make recommendations on the next round of NOx reductions needed to meet the State's eight-hour ozone standard to the EMC at its September 2001 meeting. A copy of Governor Hunt's letter of October 12, 2000 to the EMC is attached. DAQ staff will focus on developing and implementing Phase III of Governor Hunt's Clean Air Plan after they complete work on the NOx SIP Call.

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Mountain Air Quality

North Carolina has been a leader in the eight-state Southern Appalachian Mountain Initiative (SAMI). SAMI modeling to identify sources of ozone, haze and acid deposition in the mountains should be complete this summer. The third Governors' Summit on Mountain Air Quality will be hosted by Tennessee Governor Don Sunquist in Nashville in 2001. Additional reductions of NOx, sulfur oxides, and soot in North Carolina and other states will probably be required to restore clean air and healthy forests in the mountains.

Mercury

The November 2000 Wildlife in North Carolina describes how mercury emitted from coal-fired power plants accumulates in fish and has become a public health risk. EPA may announce new rules to reduce mercury emissions from power plants in December. The N.C. Secretary's Scientific Advisory Board (SAB) on toxic air pollutants has also been studying emission, transport, deposition, and bioaccumulation of mercury and may make recommendations in December.

2001 Legislation

The Ambient Air Quality Improvements Act of 1999, as amended by the Clean Air Act Amendments of 2000, require on-board diagnostic (OBD) emission testing of gasoline powered cars and trucks beginning in 2002. DENR would like to work with the ERC, Division of Motor Vehicles, the service station industry, and other stakeholders to recommend an appropriate fee to charge for the OBD test to the 2001 General Assembly.

DENR supports incentives to encourage local governments, businesses, and individuals to purchase low emission or alternative fueled vehicles such as gasoline-electric hybrids and compressed natural gas vehicles such as transit buses. I am very pleased with the performance of the gasoline-electric hybrid Honda Insight that the Department of Administration has assigned to me. DENR would like to work with the ERC to recommend appropriate incentives to the 2001 General Assembly. DENR also supports incentives for cleaner power equipment and more efficient electric appliances and motors.

Cleaner low sulfur gasoline and cleaner gasoline engines mandated by EPA's Tier II standards will substantially reduce emissions from gasoline powered cars and trucks. Cleaner low sulfur diesel fuel and cleaner diesel engines could substantially reduce emissions from diesel powered cars and trucks. DENR supports national standards to phase in cleaner diesel fuel and engines. DENR is working with the EMC and other states to develop and adopt rules requiring

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low sulfur diesel fuel and cleaner diesel engines, particularly if EPA delays or fails to adopt national standards. DENR is also interested in working with the ERC to recommend clean diesel legislation to the 2001 General Assembly. DENR would like to work with the ERC to recommend legislation to phase in an emission testing program for diesel engines.

Most coal-fired power plants and industrial boilers were grandfathered and exempted from new pollution standards under the Clean Air Act. Environmental organizations have proposed "Clean Smokestacks" legislation in Congress and in some states to reduce pollution from these sources. DENR is willing to work with the ERC, environmental organizations, utilities, and other stakeholders on clean smokestacks legislation. DENR notes that utilities may be more willing to meet higher environmental standards if they can recover the costs of those investments.

DENR is working with members of the Senate Select Committee on Mountain Air Quality to develop recommendations to restore clean air to the mountains.

DENR supports Smart Growth strategies to reduce air pollution and is working with the legislature's Smart Growth Commission.

DENR supports establishment of a Clean Air Trust Fund, similar to the successful Clean Water Management Trust Fund: 1) to offset emissions from new or expanded complex sources or industrial sources, 2) to help local governments, transit systems, school bus fleets finance conversion to cleaner fuels and vehicles; 3) to fund innovative technology, and 4) to implement other ideas to reduce air pollution. DENR would like to work with ERC and stakeholders to develop a Clean Air Trust Fund.

Thank you for your consideration.

Sincerely,

Bill Holman

cc: Dr. David Moreau
Ms. Marion Deerhake
Mr. Alan Klimek