

Agenda Item: **Request Approval to Proceed to Public Hearing on an Additional Risk Management Option for Proposed Rule Adoption on Control of Emissions from Log Fumigation Operations, 15A NCAC 02D .0546 and Rule Amendment to Toxic Air Pollutant Guidelines, 15A NCAC 02D .1104 (548)**

Explanation: The Environmental Management Commission (EMC) is requested to approve one or more public hearings to consider an additional risk management option for the adoption of 15A NCAC 02D .0546, Control of Emissions from Log Fumigation Operations, amendments to 15A NCAC 02D .1104, Toxic Air Pollutant Guidelines, and the revised fiscal note.

This agenda item was previously presented to the EMC and was approved to proceed to public hearing on May 9, 2019. In addition to the proposed acceptable ambient level (AAL) of methyl bromide 0.005 mg/m³ with a 24-hour averaging time, the EMC also requested comment on a value within a range of AALs from 0.005 mg/m³ to 0.078 mg/m³ for methyl bromide. The AAL value of 0.005 mg/m³ was based on the upper bound value recommended by the North Carolina Secretaries' Science Advisory Board (SAB). The AAL value of 0.078 mg/m³ is based on the minimal risk level (intermediate) from the April 2018 Draft for Public Comment Toxicological Profile for Bromomethane prepared by the Agency for Toxic Substances and Disease Registry (ATSDR), a federal public health agency of the U.S. Department of Health and Human Services.

The proposed rule actions, scientific documentation from the SAB, and the associated fiscal note containing further background were noticed on the Division of Air Quality (DAQ) website on June 17, 2019, for the comment period's duration. Also, the proposed rule text was published in the June 17, 2019, issue of the North Carolina Register in accordance with the Administrative Procedure Act. Public hearings for the rule actions were held on July 22, 2019, and July 23, 2019, in Raleigh and Wilmington, respectively. Due to the volume of comments and stakeholder requests, the DAQ notified all interested parties and the North Carolina Office of Administrative Hearings of its intent to grant a two-week extension of the comment period from August 16, 2019 to August 30, 2019.

During the comment period, the DAQ received multiple comments stating that the 0.005 mg/m³ AAL value for methyl bromide was developed for chronic (long-term) exposures; however, the DAQ was inappropriately applying this value for acute (short-term) exposures with a 24-hour averaging time. The DAQ discussed this issue with a toxicologist from the U.S. Environmental Protection Agency's Office of Research and Development and scientists from the SAB. Both entities were confident that the IRIS value of 0.005 mg/m³ is protective of human health over a chronic (long-term) timeframe; however, applying a 24-hour averaging period may be overly restrictive. An additional assessment from the SAB concluded that the 0.078 mg/m³ value would be reasonable for a 24-hour average to address short term exposure scenarios when paired with the 0.005 mg/m³ value as an annual average to address long-term exposure scenarios.

Based on this information, the DAQ is requesting that the EMC approve proceeding to public comment on an additional risk management option of 0.005 mg/m³ as an annual averaging time, paired with 0.078 mg/m³ as a 24-hour averaging time.

The proposed rule revisions are as follows:

15A NCAC 02D .0546, Control of Emissions from Log Fumigation Operations, is proposed for adoption to establish emission control requirements for hazardous air pollutant and toxic air pollutant emissions from bulk, chamber, and container log fumigation operations.

15A NCAC 02D .1104, Toxic Air Pollutant Guidelines, is proposed for amendment to add methyl bromide to the toxic air pollutant list with EPA's chronic reference concentration of 0.078 mg/m³ as the 24-hour AAL and 0.005 mg/m³ as the annual AAL.

An addendum to the approved fiscal note was approved by the Office of State Budget and Management (OSBM) on January 7, 2020 to reflect substantial economic impacts to the regulated community.

Recommendation:

The Director recommends that the EMC approve the re-proposed rule actions, and fiscal note addendum, along with authorizing a public hearing(s) on the re-proposed rule actions, and fiscal note addendum, and that the Chairman appoint a member(s) of the EMC to serve as hearing officer(s).