

Concept

Session Law 2013-413 (H74) Re-adoption of Group 1 Air Quality Rules 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, .2200, and .2300 (537)

Reason for Action

To readopt several sections of the air quality rules in 15A NCAC 02D consistent with provisions of G.S. 150B-21.3A.

Scope/Nature/Summary

G.S. 150B-21.3A requires agencies to review and update their rules every 10 years. 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 of rule sections to receive comment on from stakeholders and take through the rulemaking process. (Some rules in the sections in a given group may need to be shifted to other groups depending on the nature of potential changes identified or the associated review needed.) The first group of rules for consideration, Group 1, includes the following.

- 15A NCAC 02D SECTION .0100 - DEFINITIONS AND REFERENCES
- SECTION .0200 - AIR POLLUTION SOURCES
- SECTION .0300 - AIR POLLUTION EMERGENCIES
- SECTION .0400 - AMBIENT AIR QUALITY STANDARDS
- SECTION .1300 - OXYGENATED GASOLINE STANDARD
- SECTION .2000 - TRANSPORTATION CONFORMITY
- SECTION .2200 – SPECIAL ORDERS
- SECTION .2300 – BANKING EMISSION REDUCTION CREDITS

Changes anticipated throughout include administrative updates such as updating agency names and addresses, updating regulatory references, any needed updates to reflect the current electronic nature of business, and updating rule formatting for consistency with current publication requirements. Other anticipated revisions include incorporation of the 2015 ozone National Ambient Air Quality Standards (NAAQS) into the state standards in 02D .0405 and clarifying the pollutant of concern in the Transportation Conformity rules in 02D .2001. Other considerations include whether the 02D .1300 oxygenated fuel standards rules remain necessary, whether the Section .2300 Banking Emissions Reduction Credits rules need updating to reflect attainment status of areas or any more recent trading program rules, and whether any other existing language needs to be clarified or updated for approvability based on agency experience with review of rules by the Rules Review Commission and its staff.

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 as well as other factors such as subject matter related litigation at the state or federal level or issuance of new related federal or state legislative requirements.

Statutory Authority

The statutory authority for each of the rule sections is identified below.

15A NCAC 02D SECTION .0100 - DEFINITIONS AND REFERENCES

G.S. 143-213; 143-215.3(a)(1); G.S. 150B-21.2(d); 150B-21.6

SECTION .0200 - AIR POLLUTION SOURCES

G.S. 143-215.3(a)(1); 143-215.107(a)(4)

SECTION .0300 - AIR POLLUTION EMERGENCIES

G.S. 143-215.3(a)(1); 143-215.3(a)(12)

SECTION .0400 - AMBIENT AIR QUALITY STANDARDS

G.S. 143-215.3(a)(1); 143-215.107(a)(3)

SECTION .1300 - OXYGENATED GASOLINE STANDARD

G.S. 143-213; 143-215.3(a)(1); 143-215.107(a)(3), (7); 143-215.108(c)(7); 119-26;
143-215.3(a)(1); 150B-21.6

SECTION .2000 - TRANSPORTATION CONFORMITY

G.S. 143-215.3(a)(1); 143-215.107(a)(10)

SECTION .2200 – SPECIAL ORDERS

G.S. 143-212; 143-213; 143-215.2; 143-215.3(a)(1), (a)(3), (a)(4); 143-215.110

SECTION .2300 – BANKING EMISSION REDUCTION CREDITS

G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(12)