

AGENDA ITEM 4

Agenda Item: **Request for 30-Day Waiver and to Proceed to Hearing on Air Toxics Rule Revisions (519) and Asbestos Acceptable Ambient (AAL) Correction (518)**

Explanation:

The Environmental Management Commission (EMC) is requested to approve a waiver of its 30-day rule and one or more public hearings to consider amendments to the toxic air pollutant procedures rules.

Session Law 2012-91 provides an exemption from North Carolina's air toxics rules for certain sources of toxic air pollutants as long as the Division of Air Quality (DAQ) determines that the emissions from that facility will not pose an unacceptable risk to human health. Section 1 of the law exempts sources subject to federal maximum achievable control technology (MACT), generally available control technology (GACT), or case-by-case emission limits for toxic air pollutants established under Section 112(j) of the Clean Air Act, and codifies the Director's Call provision of the state air toxics rules. Section 2 of the law requires rule amendments consistent with Section 1.

Section 3 of the Session Law requires the DAQ to review the existing air toxics rules and make recommendations to the Environmental Review Commission (ERC) on whether further changes could be made that would reduce unnecessary regulatory burden and increase the efficient use of Division resources while maintaining public health protections. The report included six recommendations based on a review conducted in consultation with interested parties. These recommendations were provided in a report to the ERC on December 1, 2012.

A stakeholder meeting on draft rule amendments to incorporate the recommendations was held March 20, 2013. The proposed amendments include:

- Additional set of toxic emission permitting rates (TPER) for unobstructed vertical stacks.
- Exempt natural gas and propane-fired combustion sources less than 450 mm BTU/hr that are only source of benzene.
- Exempt emergency engines less than 4843 hp that are only source of formaldehyde.
- Repeal Standard Industrial Classification (SIC) call rule.
- Clarify the term "actual rate of emissions".
- Remove the term "unadulterated wood".

In addition, Rule 15A NCAC 02Q .0714, Waste Water Treatment Systems At Pulp And Paper Mills, is proposed to be repealed due to applicable requirements having expired.

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Existing rule numerical values for the asbestos ambient air level (AAL) in 15A NCAC 02D .1104 and the associated asbestos TPER in 02Q .0711 are proposed to be revised due to a calculation error in their original development.

Rule 15A NCAC 02D .1104 and Rules in Section 15A NCAC 02Q .0700 will need to be revised to incorporate the Section 1 statutory exemptions, the Section 3 report recommendations and to revise the asbestos AAL and TPER.

The DAQ estimated fiscal impacts in the form of regulatory relief that results in avoided cost impacts from adoption of these rule amendments to privately owned facilities and federal government facilities. The regulatory relief is in the form of a reduction in fees from consulting firms to collect data and perform a modeling demonstration of exempt sources. The same regulatory relief may also affect state or local government facilities. There are additional costs for the Division of Air Quality. Those additional costs represent an increase in staff time due to performing unacceptable risk determinations along with a smaller decrease in staff time from a reduction in modeling effort for the natural gas and propane fired combustion sources, emergency generators and facilities with non-obstructed, vertically oriented emission release points. DAQ has determined that there are not any facilities in North Carolina that emit asbestos, so there will not be any fiscal impact due to the error corrections related to asbestos.

Recommendation:

The Director recommends that the Commission approve the waiver, proposed rules and fiscal note along with authorizing a public hearing(s) on these items and that the Chairman appoint a member(s) of the Commission to serve as hearing officer(s).