

Agenda Item: Request Readoption of Group 3 Air Quality Rules 15A NCAC 02D .1201-.1203, .1205-.1208, and .1211-.1212 and 2D Section .1100 and 02Q Section .0700 and Final Approval of Regulatory Impact Analysis (543)

Explanation: A public hearing was held in Raleigh, North Carolina on February 6, 2018 and in Kannapolis, North Carolina on February 8, 2018 on readoption of 33 air quality rules in 15A NCAC 02D .1100, 15A NCAC 02D .1200, and 15A NCAC 02Q .0700. Commissioner Charlie Carter was originally appointed to be hearing officer for both above-mentioned hearings. However, due to an illness, Commissioner Carter could not fulfill this duty. J. D. Solomon, Chairman of the Environmental Management Commission, was appointed and acted as the hearing officer during the hearings. Joe Foutz, Air Quality Compliance Supervisor in the Mooresville Regional Office, received comments for the hearing officer at the Kannapolis hearing.

Pursuant to S.L. 2013-413 rules in several sections are proposed for readoption with primarily minor administrative updates, and six rules are proposed for readoption as a repeal.

15A NCAC 02D .1100 - Control of Toxic Air Pollutants

The rules in 15A NCAC 02D .1100 sets out the rules for the control of toxic air pollutants to protect human health. Rules 02D .1101 and 1108 are proposed for readoption without change. Rules 02D .1102, .1103, .1105, .1107, .1109 and .1112 are proposed without substantive changes and Rules .1104, .1106, .1100, and .1111 are proposed with substantive changes to update format of references, to remove obsolete language, and to remove the acceptable ambient levels (AALs) for six toxic air pollutants based on recommendations from the Science Advisory Board.

15A NCAC 02D .1200 – Control of Emissions from Incinerators

The rules in 15A NCAC 02D .1200 lay out general provisions designed to meet federal and state requirements to control emissions from incinerators and combustors. Rules 02D .1203, .1205, .1207, .1211 and .1212 are proposed for readoption as a repeal to reflect the fact that the Division of Air Quality has not identified any existing sources subject to these rules. If a source subject of any these rules starts operations as a new or modified source, it will be subject to 15A NCAC 02D .0524, New Source Performance Standards. Two rules, 02D .1204, Sewage Sludge Incineration Units, and 02D .1210, Commercial and Industrial Solid Waste Incineration Units, are being amended under separate rulemakings in accordance with EPA requirements. Rule 02D .1208 is proposed for readoption without substantive changes, and Rules 02D 1201, .1202 and .1206 are proposed for readoption with substantive changes to update applicability statements, definitions, and the format of references, clarify exemptions, remove obsolete language, and make other language clarifications.

15A NCAC 02Q .0700 - Toxic Air Pollutant Procedures

The rules in 15A NCAC 02Q .0700 contain the toxic air pollutant permitting procedures. Rules 02Q .0701, .0707, and .0710, .0712 are proposed for readoption without substantive changes. Rules 02Q .0702 through .0704, .0706, .0708, .0709, and .0711 are proposed for readoption with substantive changes. The proposed rule changes include updating the format of references, to replace a reference to language in 15A NCAC 02Q .0102 that was removed in a previous rulemaking, to

remove the exemption for perchloroethylene dry cleaning because it is exempted by another exemption, to update the definition for combustion source and remove other unnecessary definitions, to add an exemption for combustion turbines, to clarify the Division of Air Quality is responsible for any toxics from sources exempt by 15A NCAC 02Q. 0702(a)(27), to clarify when modifications require a permit to be submitted, to remove the Toxics Air Pollutant Air Permitting Emission Rates (TPER) for six toxic air pollutants based on recommendations from the Science Advisory Board, and to remove obsolete or redundant language. Rule 02Q .0713 is proposed for readoption as a repeal as the rule is deemed unnecessary.

A regulatory impact analysis was submitted to the Office of State Budget and Management (OSBM) in accordance with N.C. General Statute 150B-21.4. On October 9, 2017, OSBM determined the rule changes have little to no impact on state or local governments and no substantial economic impact. The approved regulatory impact analysis can be found in Chapter VI of this hearing record.

Two comments were received on the proposed readoptions during the comment period. One comment was received on 15A NCAC 02D .1206, Hospital, Medical, and Infectious Waste Incinerators, in support of the removal of the startup, shutdown, and malfunction provisions in Paragraph (g) of the rule. No change was made to the rule.

One comment was received from the hearing officer for the Northampton Compressor Station permit for the Atlantic Coast Pipeline project. The hearing officer noted that the toxic air pollutant permitting emission rates (TPERs) for benzene and formaldehyde would be exceeded for internal combustion engines with a heat input of 450 MMBtu/hour. As a result of the comment on 15A NCAC 02Q .0702, the rule was amended to remove the proposed changes in Subparagraph (a)(18), to limit the exemption to external combustion sources in Subparagraph (a)(25), and to clarify the exemption for internal combustion engines by adding an exemption for combustion turbines with a heat input less than 56 MMBtu/hour in Paragraph (a)(26).

Recommendation:

The Hearing Officer recommends that the proposed six repeals and readoption of 27 rules in 15A NCAC 02D .1100, 15A NCAC 02D .1200, and 15A NCAC 02Q .0700, as presented in Chapter II of this hearing report be adopted by the Environmental Management Commission.