

## NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

### PUBLIC NOTICE

Notice is hereby given for a public hearing to be heard by the North Carolina Department of Environmental Quality, Division of Air Quality concerning the proposed adjustment of effective date of air quality rules.

**PURPOSE:**

To receive comments on the narrow matter of proposed adjustment of the effective date of 15A NCAC 02D .0535 and .0545.

On September 8, 2016, the EMC adopted revised rules regarding startup, shutdown, and malfunction (SSM) to address the SSM State Implementation Plan (SIP) Call issued by EPA. The rules contain applicability language contingent on outcome of the Court decision on SSM SIP Call litigation and were given a future effective date of May 22, 2018, to allow time for litigation on the SSM SIP Call to be completed. On April 24, 2017, the U.S. Court of Appeals for the D.C. Circuit issued an order at EPA's request, placing oral arguments in the case in abeyance indefinitely and requiring status updates from EPA on its review of the SSM SIP Call for reconsideration every ninety days. On July 24, 2017, EPA filed its first 90-day status report stating that EPA is continuing to review the SSM Action to determine whether the agency will reconsider all or part of the action.

Given the court order holding oral arguments in abeyance indefinitely and EPA's subsequent 90-day reports that the matter is still under review, there is uncertainty as to whether the litigation will be resolved prior to the May 22, 2018 effective date of the state SSM rules. As a result, to maintain intent of the EMC that litigation be concluded prior to the state SSM rules becoming effective, to provide regulatory certainty, and to avoid potentially unnecessary use of resources preparing and processing source specific work practice standard submittals, a revision of the rules' effective date is needed to better align with outcome of the pending litigation.

Pursuant to G.S. 150B-21.3, which provides that an agency may specify a later rule effective date, the effective date in the history note is proposed to be revised to "Amended Eff. on effective date of EPA approval into North Carolina's State Implementation Plan."

**NOTE:** The proposed revision considered in this hearing, if adopted, will be effective statewide and submitted to the United States Environmental Protection Agency to be included in the North Carolina State Implementation Plan;

if they are later adopted by a local air pollution control agency, then that agency will enforce them in its area of jurisdiction.

**DATES AND LOCATIONS:**

March 20, 2018, 6:00 P.M.  
Room 1210, DEQ Green Square Office Building  
217 W. Jones Street  
Raleigh, NC 27603

**COMMENT PROCEDURES:**

All persons interested in these matters are invited to attend the public hearings. **Any person desiring to comment is requested to submit a written statement for inclusion in the record of proceedings at the public hearing.** The hearing officer may limit the length of oral presentations if many people want to speak. The hearing record will remain open until March 20, 2018 to receive additional written statements. To be included, the statement must be received by the Division by March 20, 2018.

**INFORMATION:**

Copies of the proposed adjustment may be downloaded from <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>. Copies of the proposal may also be reviewed at the regional offices of the North Carolina Department of Environmental Quality, Division of Air Quality, located at the following cities:

Asheville	828/296-4500
Fayetteville	910/433-3300
Mooresville	704/663-1699
Raleigh	919/791-4200
Washington	252/946-6481
Wilmington	910/796-7215
Winston-Salem	336/776-9800

Comments should be sent to and additional information concerning the hearings or the proposals may be obtained by contacting:

Ms. Joelle Burleson  
Division of Air Quality  
217 West Jones Street  
1641 Mail Service Center  
Raleigh, North Carolina 27699-1641  
(919) 707-8720 Phone/Fax  
[daq.publiccomments@ncdenr.gov](mailto:daq.publiccomments@ncdenr.gov)  
(Please type "March 20, 2018 Hearing" in subject line.)

DATE: 2/14/18

  
Michael A. Abraczinskas,  
DAQ Director