Agenda Item: 18-60

Request Approval of Proposed Rule Revisions, Regulatory Impact Analysis and to Proceed to Public Hearing on Periodic Rule Readoption of Group 4 Rules - 15A NCAC 02D .0540, .1800-.1808, .1900-.1907 (S46)

Explanation:
The Environmental Management Commission is requested to approve proposed rule revisions for readoption of several rules in 15A NCAC 02D and regulatory impact analysis to proceed to public comment and hearing.

Pursuant to S.L. 2013-413 rules in several sections are proposed for readoption with some substantive and other primarily minor administrative updates.

15A NCAC 02D .0540 – Particulates from Fugitive Dust Emission Sources
Rule 15A NCAC 02D .0540 sets out the requirements for control of fugitive dust emissions. The rule is proposed with substantive changes to clarify definitions, exemptions and requirements for a fugitive dust control plan and to update the format of Section and rule citations.

15A NCAC 02D .1800 – Control of Odors
The rules in 15A NCAC 02D .1800 lay out general provisions designed to meet federal and state requirements to control emissions from incinerators and combustors. Rules 02D .1801, .1802, and .1806 are proposed for readoption with substantive change to clarify definitions, remove obsolete text, and redefine what constitutes failure for a best management plan, and add a provision for requesting extensions and intermediary step prior to requiring maximum feasible controls. pursuant to Session Law 2017-108, 02D .1806 is also revised to add criteria for permanent exemption of facilities that store products that are (i) grown, produced, or generated on one or more agricultural operations and (ii) "renewable energy resources," as defined in G.S. 62-133.8(a)(8). 02D .1803, .1807, and .1808 are proposed for readoption without substantive change including administrative and technical changes. 1804 is proposed for readoption without change.

15A NCAC 02D .1900 – Open Burning
The rules in 15A NCAC 02D .1900 contain the open burning requirements. Rules .1902, .1903, .1904 are proposed for readoption with substantive changes to remove definitions that are no longer applicable or necessary, clarify definitions and language, update language to reflect current procedures, and amend the rule to make it consistent with new federal emissions guidelines applicable to air curtain incinerators. Rules 02D .1901, .1906, and .1907 are proposed for readoption without substantive changes and .1905 for amendment to update format of rule citation, regional office addresses, county office name and other formatting.

A regulatory impact analysis was approved by Office of State Budget and Management (OSBM) on October 5, 2018 as not resulting in significant state or local fiscal impact or substantial economic impact to the regulated community or other parties.

Recommendation:
The Director recommends that the Commission approve the proposed re-adoptions, amendment and regulatory impact analysis, authorize a public hearing(s), and that the Chairman appoint a member(s) of the Commission to serve as hearing officer(s).