

Agenda Item: **Petition for Rulemaking Pursuant to North Carolina General Statutes § 150B-20 and 15A NCAC 02I .0500 to Adopt Rules to Limit CO₂ Pollution from the Electric Power Sector**

Explanation: The Division of Air Quality (DAQ) received a Petition for Rulemaking on behalf of Clean Air Carolina and the North Carolina Coastal Federation, from the Southern Environmental Law Center on January 11, 2021. The Petition requests that the Environmental Management Commission (EMC) adopt rules to limit CO₂ pollution from the electric power sector in North Carolina.

The Petition proposes North Carolina participating in the Regional Greenhouse Gas Initiative (RGGI) as the primary mechanism to reduce CO₂ emissions from this sector. To participate in the RGGI program, North Carolina would have to commit to set up a carbon reduction program and adopt a law or regulation that is substantially similar to the RGGI Model Rule, although tailored to the state's circumstances and preferences. The proposed rules attached to the Petition for Rulemaking are based on the RGGI Model Rule.

Pursuant to North Carolina General Statute § 150B-20 and 15A NCAC 02I .0501, the Southern Environmental Law Center, on behalf of the petitioners Clean Air Carolina and the North Carolina Coastal Federation, requests that the EMC establish rules to limit carbon dioxide pollution from the electric power sector in North Carolina. In the petition, the text of the proposed rules is attached as Exhibit A. An explanation of its effect on existing rules or orders is attached as Exhibit B. A list of affected facilities is attached as Exhibit C. A summary of the ways in which climate change is harming North Carolina is attached as Exhibit D.

After review in accordance with the criteria outlined in 15A NCAC 02I .0501, Form and Contents of Petition, the petition for rulemaking was deemed to satisfy every element of 15A NCAC 02I .0501(b) and was referred to the Air Quality Committee (AQC) for review in accordance with 15A NCAC 02I .0502, Review by a Committee of the Commission. 15A NCAC 02I .0502(a) requires the AQC to review the petition and recommend action to the full EMC. On May 12, 2021 and in accordance with 15A NCAC 02I .0502(a), the EMC Chair announced June 15, 2021 as the date for the special AQC meeting to review the petition and recommend action to the EMC.

Notice was sent to interested parties and to the Secretary of State that a special called AQC meeting has been scheduled for Tuesday, June 15, 2021 at 9:00 a.m. Notice of the special AQC meeting date has been provided to the petitioners, and they have been afforded the opportunity to present their petition in person before the AQC. Notice of meeting and a copy of the agenda has also been provided to those individuals on the DAQ Rules Stakeholders list.

In accordance with 15A NCAC 02I .0502(e), interested parties may request the opportunity to make an oral presentation on the subject petition for rulemaking. The AQC Chairman ultimately decides who will be allowed to speak before the AQC on the petition and may decide to only allow one presenter to provide an opposition

viewpoint to the rulemaking activities proposed in the Petition. All interested parties wishing to speak at the June AQC meeting should submit an official request to Michael Abraczinskas, DAQ Director, at michael.abraczinskas@ncdenr.gov, by 5:00 p.m. on June 7, 2021. Requests can also be submitted by mail to 1641 Mail Service Center, 217 W. Jones Street, Suite 4000, Raleigh, NC 27609-1641, but must be received by 5:00 p.m. on June 7, 2021. Each request shall:

- (1) state the interest of the person;
- (2) state the person's position on the petition for rulemaking; and
- (3) be accompanied by supporting materials.

This meeting will occur in the Ground Floor Hearing Room of the Archdale Building at 512 N. Salisbury St, Raleigh, NC. Commissioners, staff, and scheduled speakers are encouraged to attend in-person. Limited seating will be available to the public. Masks and social distancing will be required for everyone entering the meeting room. Meeting audio and presentations will be broadcast via the state web conferencing link posted on the Environmental Management Commission website at: <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission/emc-general-information>

Recommendation:

The EMC Chairman recommends that the AQC follow the procedures outlined in 15A NCAC 02I .0501 through .0503 in reviewing the complete petition for rulemaking and then make a recommendation for action on the petition by the full EMC.