

Agenda Item: 14-37 **Hearing Officer's Report on Revisions to Open Burning Rules to Reflect S.L. 2013-413 (521)**

Explanation:

A public hearing was held in Raleigh, NC on September 3, 2014, to take public comments on the open burning rules. Mr. Charlie Carter, member of the Environmental Management Commission (EMC), was appointed and acted as the hearing officer for this hearing.

The current rule 15A NCAC 02D .1903 specifies types of open burning allowed without a permit. It also establishes requirements for open burning at an onsite location such as 500 feet setbacks for the protection of occupied structures and public roads from the wind-blown smoke.

At the conclusion of the 2013 legislative session, the General Assembly enacted S.L. 2013-413, An Act to Improve and Streamline the Regulatory Process in Order to Stimulate Job Creation, to Eliminate Unnecessary Regulation, to Make Various Other Statutory Changes, and to Amend Certain Environmental and Natural Resources Laws. Part V, Section 28(c) of the Act provided the Environmental Management Commission with additional rule-making authority and requires the EMC to amend 15A NCAC 02D .1903 (Open Burning without an Air Quality Permit) to be substantively identical to the provisions of Section 28(b) of the Act. Consistent with Section 28(a) the provisions of Section 28(b) of the Act are being implemented until the permanent rule amendment is completed.

The proposed amendments to the rule 15A NCAC 02D .1903 add an option of open burning for land clearing or right of way maintenance operations at an offsite location that meets the requirements listed in the Section 28(b) of the Act. These requirements, in addition to the same setback requirements established in the current rule .1903 for onsite open burning, prohibit the location from being at a permitted solid waste management facility, limit the number of piles being burned at one time to no more than two, each 20 feet in diameter and the number of burnings at an offsite location is limited to four times per year.

Rules 15A NCAC 02D .1901 and .1902 are amended to update the name of the former Division of Forest Resources to reflect its current name, the North Carolina Forest Service, and also to update the references to the General Statute.

The United States Environmental Protection Agency (EPA) provided the only comment on the proposed rule amendments. EPA reviewed the rules and recommended including in the hearing record language to clarify that the amendments to the open burning rules do not interfere with the attainment and maintenance of the national ambient air quality standards. The clarification was included in the response to the comment. No changes were made to the proposed rules as presented in Chapter IV of this hearing record.

Recommendation:

The Hearing Officer recommends that the proposed amendments as presented in Chapter II of this hearing report be adopted by the Environmental Management Commission.