

Agenda Item: 14-36 **Hearing Officer's Report on Repeal of Transportation Facilities Permitting Rules (523)**

Explanation:

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

In previous review of air quality rules, the Division of Air Quality (DAQ) identified the Transportation Facilities Permitting rules as outdated requirements that are not providing environmental benefit. The rules are focused on addressing carbon monoxide emissions; however, North Carolina does not have any carbon monoxide (CO) nonattainment areas. Currently, the CO monitors are measuring ambient concentrations at approximately 20 percent of the standard. Additionally, federal engine standards have resulted in significant CO reductions from mobile sources. Also, evaluations of transportation facility applications have resulted in no additional requirements, and therefore are no longer necessary.

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 27 of the Session Law amended G.S. 143-215.109(a) to provide the Environmental Management Commission the flexibility to determine whether rules are necessary for controlling the effects of these sources on air quality.

Rules in Sections 15A NCAC 02D .0800 and 02Q .0600 are proposed for repeal to reduce unnecessary burden to the regulated community while maintaining public health. Amendments to Rules 15A NCAC 02Q .0101, .0103, .0104 and .0203 are necessary to remove cross references that would become obsolete due to the repeals.

Two people provided comments on the proposed repeal of the transportation permitting rules during the comment period for the hearing record.

One person commented that the best option is to retain the transportation permitting rules and if they are not retained, the application fee should remain to help document and monitor future impacts of these facilities. The Hearing Officer believes that it would not be appropriate to charge a fee for tracking purposes.

EPA reviewed the rules and did not recommend any changes.

No changes were made to the proposed rules as presented in Chapter IV of this hearing record with the exception of adding a missing quotation mark in existing language in Paragraph (31) of Rule 15A NCAC 02D .0101.

Recommendation:

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