



Revisions to Correct Errors Introduced During the Rule Readoption Process
Air Quality Committee Meeting – March 9, 2022
Department of Environmental Quality



Proposal



DAQ is proposing amendments to the readopted rules throughout 15A NCAC Subchapters 02D and 02Q to address issues resulting from the readoption process as identified by rules development staff and stakeholders.

The corrections proposed in this rulemaking are to provide clarity and consistency throughout the rules and are not intended to substantively change any requirements.

Background

In July of 2020, the Environmental Management Commission (EMC) adopted the final set of air quality rules needed to complete the rule readoption process required by Session Law 2013-413 (H74). Through subsequent rulemakings and implementation of the rules, the DAQ staff has identified errors introduced during the readoption process. The proposed revisions include correction of typographical errors and rule cross-references, reinstatement of language erroneously removed, and corrections for clarity.

Background Continued

- The Readoption of rules pursuant to G.S. 150B-21.3A. “**Periodic review and expiration of existing rules**” in accordance with § 150B-21.3A(c)(2)(g) for rules deemed “necessary with substantive public interest”, is often referred to as House Bill 74 from the 2013 session.
- **97** rules underwent the readoption process from 15A NCAC Subchapter 02Q.
- **225** rules underwent the readoption process from 15A NCAC Subchapter 02D.
- All subject rules for the Division of Air Quality were either readopted or removed in accordance with the statutory deadline of December 31, 2020.

Background Continued

- Since readoption was finalized, technical corrections, clarifying wording, and implementation of cross-references have been marked for cleanup.
- The corrections identified so far are by planning staff directly, but stakeholder review is being pursued as part of the cleanup process following readoption.
- We anticipate several rules will require cleanup. We propose grouping these rules in a package together to streamline the amendment process.
- Some of the rules may require public comment, a fiscal impact analysis, and approval by the RRC. We will know more as the process moves forward.

Concept

Amendment Examples Include:

- Landfill rules package contained grammatical errors and incorrect references to corresponding federal regulations
- In our 02D .0500 rules the unit of measurement for a pollutant needs correction
- In our 02D .0900 rules the unit of measurement should reflect field inspection forms

Progress and Next Steps

Progress:

- DAQ identified rules in 15A NCAC Subchapters 02D and 02Q requiring revisions.

Next Steps...

- DAQ has prepared an electronic survey for stakeholders such as regional staff and staff at EPA to report errors in the readopted rules.
- DAQ will continue to refine and synchronize rules with the updated APA 2021 guidance document, citation changes to rules which came later in the readoption process, and to clarify any concerns identified by stakeholders through the survey.

Tentative Rulemaking Timeline

(Subject to Change)

- ✓ 3/9/2022 Concept Presented to Air Quality Committee (AQC)
- July 2022 Draft Rules to Air Quality Committee (AQC)
- September 2022 Request to Proceed to Comment Period and Hearing Environmental Management Commission (EMC)
- Oct-Nov 2022 Public Comment Period and Hearing Scheduled
- January 2023 Adoption by Environmental Management Commission (EMC)
- February 2023 Rules Review Commission (RRC) Approval
- 3/1/2023 Tentatively Effective

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