

**Agenda Item:** 15-42 **Request for Waiver of 30-day Rule and Approval to Proceed to Public Hearing on Proposed 15A NCAC 02D .2700, Standards of Performance for Existing Electric Utility Generating Units Under Clean Air Act Section 111(d) and Approval of Fiscal Note**

**Explanation:**

The Division of Air Quality (DAQ) requests the Environmental Management Commission (EMC) for approval to proceed to public hearing with the review of the air quality rules in 15A NCAC 02D .2700, Standards of Performance for Existing Electric Utility Generating Units under Clean Air Act (CAA) Section 111(d) and for approval of the fiscal note. The purpose of these rules is to implement the Section 111(d) provisions for best system of emission reductions (BSER) for existing fossil fuel-fired electric utility generating units (EGUs) to reduce carbon dioxide emission through heat rate improvement.

The Environmental Protection Agency (EPA) signed a new rule on August 3, 2015 for Carbon Dioxide Emission Guidelines for Existing EGUs. NCDEQ is proposing to adopt rule 15A NCAC 02D .2700, Standards of Performance for Existing Electric Utility Generating Units under CAA Section 111(d) to satisfy a similar federal requirement. Section 111(d) requires EPA to identify the BSER that is adequately demonstrated and available to limit pollution and to set guidelines for states to reflect BSER. Based on its evaluation of BSER for existing EGUs, the EPA regulation provides state specific goals for reducing carbon dioxide emissions for the power sector. States are then required to develop a plan including necessary rules to meet those goals.

Rule 15A NCAC 02D .2701, Purpose and Applicability, is proposed for adoption to implement the Section 111(d) guidelines for existing EGUs under 40 CFR 60 Subpart UUUU, Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units. This rule specifies which fossil fuel-fired EGUs are subject to regulation under the Section 111(d) Rule in Section 15A NCAC 02D .2700.

Rule 15A NCAC 02D .2702, Definitions, is proposed for adoption to define terms that are used in Section 15A NCAC 02D .2700.

Rule 15A NCAC 02D .2703, Standards of Performance Requirements for Carbon Dioxide, is proposed for adoption to identify the BSER measures for carbon dioxide emissions at affected EGUs located in North Carolina. This rule also contains a compliance schedule for implementing the identified BSER measures.

Rule 15A NCAC 02D .2704, Permitting, is proposed for adoption to define the permit requirements for affected EGUs under Section 15A NCAC 02D .2700.

Rule 15A NCAC 02D .2705, Monitoring, Recordkeeping and Reporting, is proposed for adoption to specify the monitoring, recordkeeping and reporting requirements for each BSER measure implemented under 15A NCAC 02D .2703.

The DAQ has submitted a fiscal note to the Office of State Budget and Management (OSBM) for approval in accordance with G.S. 150B-19.1, 150B-21.4, and E.O. 70. The total fiscal impacts from the proposed rule adoptions are estimated to be substantial. The term “substantial economic impact” means an aggregate financial impact on all persons affected of at least one million dollars (\$1,000,000) in a 12-month period.

Any facility that is required to reduce greenhouse gas emissions may incur capital costs expressed as an annualized expenditure as well as annual operation and maintenance costs. Most of these expenses will be to obtain heat rate improvements (HRI) because these are cost effective methods to comply with these regulations.

**Recommendation:**

The Director recommends that the Commission approve the waiver of the 30-day rule, the proposed rules and fiscal note along with authorizing a public hearing(s) on these items and that the Chairman appoint a member(s) of the Commission to serve as hearing officer(s).