

Agenda Item: 5-16 Request to Proceed to Hearing on Revisions to Open Burning Rules to Reflect S.L. 2014-120 (529)

Explanation:

The Environmental Management Commission (EMC) is requested to approve one or more public hearings to consider amendments to the open burning rules that pertain to residential burning to reflect the provisions of Session Law 2014-120.

Section 24(d) of the Session Law requires the Commission to adopt amendments to 15A NCAC 02D .1903, Open Burning Without an Air Quality Permit, that are substantively identical to the Session Law provisions. Per the Session Law, these rule amendments are not subject to review by the Rules Review Commission under the Administrative Procedures Act. The amendments are to become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received and thus would become effective following opportunity for legislative review.

In addition to the already permissible residential open burning of leaves, tree branches, or yard trimmings under the conditions specified in the rule, the amendments allow residential open burning of logs and stumps. The statutory amendments also specify that burning of stumps and logs shall not be considered to create a nuisance.

Rule 15A NCAC 02D .1903, is proposed for amendment to reflect these provisions. Rule 15A NCAC 02D .1902 is proposed for amendment to remove the definition of the term nuisance for consistency with the changes to 02D .1903.

The Division of Air Quality completed a regulatory impact analysis per the requirements of the Administrative Procedures Act (APA). The analysis was reviewed by OSBM and determined not to require a fiscal note. The rule amendments do not cause substantial economic impacts as defined in the APA in N.C.G.S. 150B-21.4(b1), and have little to no impact on state or local governments.

Recommendation:

The Director recommends that the Commission approve the regulatory impact analysis and proposed rules along with authorizing a public hearing(s) on these items and that the Chairman appoint a member(s) of the Commission to serve as a hearing officer(s).