

**Agenda Item: 09-14** **Hearing Officer's Report on the Modification of the Exemption of Combustion Sources in the Air Toxics Rules**

**Explanation:**

On October 28, 2008 Ms. Marion Deerhake and Mr. Steven Weber held a hearing on amendments to the North Carolina Air Toxics Rules. **15A NCAC 02Q .0701 - Applicability**, is proposed for amendment to remove obsolete language regarding assessment of Maximum Achievable Control Technology (MACT) standards for combustion sources and to add language specifying a periodic assessment of combustion sources. **15A NCAC 02Q .0702 - Exemptions**, is proposed for amendment to modify the exemption of combustion sources to exclude new or modified combustion sources. **15A NCAC 02Q .0706 - Modifications**, is proposed for amendment to add language clarifying that facility wide emissions of toxic air pollutants emitted by new or modified combustion sources, including common pollutant emissions from existing combustion sources, are to be included in toxics evaluations on or after May 1, 2009. **15A NCAC 02Q .0709 - Demonstrations**, is proposed for amendment to extend availability of the economic hardship and technical infeasibility provisions of the rule to facilities with exempt combustion sources that are permitted between May 1, 1990 and May 1, 2009 (which is the anticipated effective date of the amendment).

During the initial hearing comment period and subsequent 31-day extension, the Division of Air Quality received 300 pages of public comments and information from 179 commenters.

The EMC's approach considers both existing combustion sources and new combustion sources. The approach for the existing combustion sources consists of identifying those that pose an unacceptable risk, and using existing authority under 15A NCAC 02Q .0712 to require a permit to comply with 15A NCAC 02D .1100, Air Toxics. The approach for new or modified combustion sources requires amendments to the rules in 15A NCAC 02Q .0700. The amendments include a requirement for all new or modified combustion sources to perform an air toxics modeling demonstration for the facility, just as non-combustion sources would be required to provide under the current rule. Additionally, the rule amendments will require a periodic assessment of the existing universe of combustion sources to identify any that may pose an unacceptable risk, allowing DAQ to use existing authority under 15A NCAC 02Q .0712, to require a permit to comply with 15A NCAC 02D .1100, Air Toxics.

**Recommendation:**

**As of 2/11/09, the Hearing Officers are still reviewing material associated with this Hearing Record. An updated agenda item and the associated Hearing Record will be mailed under a separate cover prior to the March EMC meeting.**