

Agenda Item: **Request to Proceed to Hearing on Clarification of 02Q .0102 Permitting Exemption (509)**

Explanation: The Environmental Management Commission (EMC) is requested to approve one or more public hearings to consider amendments to the permitting exemptions.

15A NCAC 02Q .0102, Exemptions, is proposed for amendment to clarify the interaction between Rules 02Q .0102, Exemptions and 02Q .0702, Exemptions.

The Division of Air Quality (DAQ) identified the need for clarification regarding the interaction of the air toxics rule specific exemptions with the more broadly applicable rules regarding sources that are exempt from the general requirement to obtain a permit. 15A NCAC 02Q .0102, Exemptions (General Provisions), specifies which activities are exempt from the requirement to obtain an air quality permit. 15A NCAC 02Q .0702, Exemptions (Toxic Air Pollutant Procedures), specifies activities which are exempt from the requirement to obtain a permit to emit toxic air pollutants (TAP) and not required to be included in TAP demonstrations. The EMC has previously determined through rulemaking that many of the activities currently exempt from the general requirement to obtain a permit under 02Q .0102(c) should also be exempt from air toxics demonstration and permitting requirements as identified in 02Q .0702(a)(1)-(24). Existing language in 02Q .0102(b)(7) needs to be clarified to reflect this interaction relative to smaller sources such that small sources not be required to be included in an air toxics demonstration or permit retain the exemption from having to obtain an air quality permit.

There are minimal costs to DAQ associated with this rule change. There will be no cost to the regulated community. However, in the unlikely event of the state implementing the rule as currently written instead of as intended, permitted facilities could experience additional costs and other inconveniences. The proposed rule change conforms to the principles of Executive Order 70 by reducing potential burden on the regulated community and making the rule language easier to understand. The fiscal note was approved by the Office of State Budget and Management on March 22, 2012.

Recommendation: The Director recommends that the Commission approve the fiscal note and authorize a public hearing(s) on these items and that the Chairman appoint a member(s) of the Commission to serve as hearing officer(s).