REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1002

DEADLINE FOR RECEIPT: Friday, December 13, 2013

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*My understanding of the idea behind this amendment is as follows: right now, only the current model year vehicle is exempt from emissions inspection where such inspection is required by G.S. 143-215.107A. Under the new provisions of G.S. 20-183.2, as amended by S.L. 2012-199, the intent is to allow the three most recent model year vehicles with less than 70,000 miles to become exempt as well. However, in order for that change to take effect, the state rules must be in place, the Commissioner of the DMV must certify replacement of a system and the EPA must approve the change. Is that correct?*

*Therefore, the language in Paragraph (c) cannot take effect at this time. How will the regulated public know when that can take effect? Also, do you need the language “Beginning January 1, 2014 or” since the change should not take effect by that date? Or do you need to retain it for federal approval?*

*Is the language in this Rule governing only the Rule or the Section of Rules (15A NCAC Section .1000 is “Motor Vehicle Emission Control Standard.”) My reading of this Rule is that the Section is applicable to some vehicles and not others and in some places. I think the other rules in the Section govern the actual emissions testing, so I think many places where you use “Rule” you mean “Section.”*

*I think the language in this Rule should be simplified. For instance, there is no reason to repeat that motorcycles and the current model year are exempt in Paragraphs (a) and then (d) and (b) respectively. Why not merge the first two sentences of (a) with part of (b) and begin the Rule:*

1. *This Section is applicable to all gasoline-powered and hybrid-powered motor vehicles for model years 1996 or more recent model years, excluding the current model year, and applies to all vehicles that are:*

*In Subparagraphs (a)(1) through (3), you are citing part of G.S. 20-183.2(b)(5). Why do you not include the other categories in the statute?*

*On line 23, do not underline and strike through the same language. Please remove the underline and place brackets around “As of”*

*On line 26, state, “this Rule shall apply”*

*In (e), state “of this Section shall become effective…”*

*In the History Note, put the statutes in numerical order.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1003

DEADLINE FOR RECEIPT: Friday, December 13, 2013

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*Do you really intend for this rule to apply to only 5 rules, and not the entire section, including Rules .1008 and .1010? I don’t think that you do, but if you do, strike “throughout this Section:” on line 5.*

*On line 8, please switch the order of the wording so it reads, “Gross Vehicle Weight Rating (GVWR).” It makes more sense to introduce the phrase and then the acronym.*

*On Page 1, line 11, change “which” to “that”*

*Items (3) and (4) repeat the statutory definition. Since Items (7) and (8) just refer to the statute, why aren’t you doing that here?*

*If you are keeping the language in (4), please delete the language in lines 26-27 “as defined in subdivision d1 of this subsection”*

*In Item 6, should the term read, “Hybrid-powered motor vehicle”?*

*In Items (7) and (8), insert “means” so it reads consistently with the rest of the definitions.*

*You are not defining “current model year,” but you use it in Rules in the Section. Are you at all concerned there may be confusion about this term?*

*In Item (11), change the citation on line 10 to “Rule .1005 of this Section.”*

*In the History Note, just state 20-4.01 and put the citations in numerical order.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1005

DEADLINE FOR RECEIPT: Friday, December 13, 2013

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*I do not think you need to recite the contents of Rule .1002 in Paragraph (a). Just state, “This Rule shall apply to all vehicles set forth in Rule .1002 of this Section.”*

*Throughout the Rule, do you mean to incorporate the CFR citations by reference under G.S. 150B-21.6? Do you want to include subsequent updates or just keep them as they are now?*

*In Paragraph (c), line 13, you state the codes are in 40 CFR 85.2223(b). However, that portion of the CFR does not have any codes; it is reserved. Insert the correct citation.*

*Also in (c), line 13, I take it your regulated public knows what the “status of the malfunction indicator light illumination command” means?*

*In your History Note, I don’t think you need to retain the reference to S.L. 1999 c. 328, s. 3.2, which told the EMC to conduct rulemaking to implement G.S. 143-215.107A.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1006

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*In proposed Paragraph (a), the equipment must meet the requirements of 40 CFR 85.2231. However, (b) and (c) govern if the equipment doesn’t meet the requirement. What is the penalty for failing to meet the requirement of (a)? Or are (b) and (c) intended to convey that if the equipment stops meeting the requirements of the CFR, the vendor must take the following steps?*

*In proposed Paragraphs (b) and (c), the EMC proposed repealing a lot of language and decided to not do that. Why is that?*

*Paragraph (b) is called “Hardware repair and software repair.” Paragraph (c) is called “Software repair revisions.” What is the difference? From my reading of (b), it seems that this Paragraph governs equipment software and (c) is for analyzing software. Are those different? I think you should make it clearer in (b) what you are referring to in the opening title.*

*On Page 1, lines 13 and 25, do you mean “receiving a call from its respective service call center"?*

*I think the language on lines 15-17 be its own subparagraph, so you’d have 3 subparagraphs under (b).*

*Also, all of (b)(1) and (2) were proposed for repeal when published. Please highlight the changes for all of the language.*

*On line 13, underline “(a)”*

*On line 24, I believe you mean to change the reference from Paragraph “(b)” to “(a)”*

*As I understand (c), if the program running the software fails, the vendor must submit it to the Division for approval (finding the program meets the requirement of this Rule)? And once approved, it must send the new program to all impacted stations? And that is why (c) requires notifying the Division but (b) does not?*

*On Page 1, line 28, state “action; and”*

*On Page 2, move (3) to the left margin so it’s just a continuation of the Paragraph and not a Subparagraph.*

*On Page 2, line 3, do you mean to change the reference to Paragraph (a)?*

*Page 2, line 4, this language was initially Paragraph (e). Please make sure you show the deletion of that.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1104

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*On Page 1, line 6, what do you mean by “the Division shall be guided by the following list”?*

*I take it your regulated public knows what the categories mean, especially the time limits and the types. But I don’t, so please explain it to me.*

*I take it that the compounds without CAS numbers (like “arsenic and inorganic arsenic compounds”) have no CAS number because they are compounds?*

*Fix the spacing in the “Annual” column for asbestos so it is not spaced centered, but instead justified to the left like the other rows.*

*I am NOT a chemist, but I noticed some pollutants have alternate names. For instance, “p-dichlorobenzene” is also called “1,4-dichlorobenzene.” Does that create any concerns of confusion for this Rule, or does the CAS number ensure there is no confusion?*

*On Page 2, justify move the CAS to the next line and align it with the text above.*

*On Page 3, you can move 85-7 to the right to be justified with the text above, but instead, why not just have the entire CAS number on the row below? And do the same for hexachlorodibenzo-p-dioxin.”*

*On Page 3, justify the text for “manganese cyclopentadienyl tricarbonyl” and “mercury, aryl and inorganic compounds”.*

*On Page 4, please justify the text for “non-specific chromium (VI)…” to the left.*

*Also on Page 4, I think you should just indent and justify the CAS number for tetrachlorodibenzo-p-dioxin to the left.*

*Move the CAS number to justify the pollutant text for both 1,1,12-tetrachloros and 1,1,2-trichloro-1,2,2- trifluoroethane.*

*Why is there a random 1 on the bottom of Page 4?*

*In the History Note, I don’t think you need to retain the reference to SL 1989-168, which told the EMC to develop the ambient air standards for toxic pollutants.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0711

DEADLINE FOR RECEIPT: Friday, December 13, 2013

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In reviewing these rules, the staff determined that the following technical changes need to be made:

*So that I understand, in (a), you are saying that if a facility emits any of the listed pollutants at a level higher than listed, then it must have a permit? If so, what significance does the language on line 4, “or permitted if higher” have?*

*I take it your regulated public knows what the categories mean? Could you please explain it to me?*

*I take it that the compounds without CAS numbers (like “arsenic and inorganic arsenic compounds”) have no CAS number because they are compounds?*

*On Page 3, is there an extra space in the names “1,1,1,2-tetrachloro-2,2,-\_difluoroethane” and “1,1,2,2-tetrachloro-1,2-\_difluoroethane”? If so, should that be there?*

*In (b), line 2, are you saying that the way of determining the emissions shall be by taking the highest emission for any 15 minute period and multiplying it by four? If so, how are you determining the emission for the other pollutants?*

*In the History Note, I don’t think you need to retain the reference to SL 1989-168, which told the EMC to develop the ambient air standards for toxic pollutants.*

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