

## Burgos, Alexander N

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**From:** Grozav, Anca  
**Sent:** Friday, May 13, 2022 4:49 PM  
**To:** Duke, Lawrence; Burgos, Alexander N; McGhee, Dana  
**Cc:** Hollis, Carrie  
**Subject:** RE: Letter to RRC

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Great, thank you so much!

On a related matter, I would like to sign up to participate in the May 19 meeting please. To that end, would this email suffice or should I email the RRC address to official state my participation?

Thanks and have a nice weekend!

**Anca Grozav**

*(she/her/hers)*

Assistant State Budget Officer for Demographic and Economic Analysis

NC Office of State Budget & Management

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OR



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**From:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Sent:** Friday, May 13, 2022 8:14 AM  
**To:** Grozav, Anca <Anca.Grozav@osbm.nc.gov>; McGhee, Dana <dana.McGhee@oah.nc.gov>  
**Cc:** Hollis, Carrie <carrie.hollis@osbm.nc.gov>; Duke, Lawrence <lawrence.duke@oah.nc.gov>  
**Subject:** RE: Letter to RRC

Thank you Anca, it is getting added to the website this morning.

**Alexander Burgos**

Paralegal

Office of Administrative Hearings

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Raleigh NC, 27609

(984) 236-1940

[Alexander.burgos@oah.nc.gov](mailto:Alexander.burgos@oah.nc.gov)

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**From:** Grozav, Anca <[Anca.Grozav@osbm.nc.gov](mailto:Anca.Grozav@osbm.nc.gov)>  
**Sent:** Thursday, May 12, 2022 5:40 PM  
**To:** McGhee, Dana <[dana.McGhee@oah.nc.gov](mailto:dana.McGhee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Hollis, Carrie <[carrie.hollis@osbm.nc.gov](mailto:carrie.hollis@osbm.nc.gov)>  
**Subject:** RE: Letter to RRC

I sent it to the RRC.comments email. But attaching it here too. Thanks for checking.

**Anca Grozav**  
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**From:** McGhee, Dana <[dana.McGhee@oah.nc.gov](mailto:dana.McGhee@oah.nc.gov)>  
**Sent:** Thursday, May 12, 2022 5:36 PM  
**To:** Grozav, Anca <[Anca.Grozav@osbm.nc.gov](mailto:Anca.Grozav@osbm.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Hollis, Carrie <[carrie.hollis@osbm.nc.gov](mailto:carrie.hollis@osbm.nc.gov)>  
**Subject:** RE: Letter to RRC

Hi Anca,  
I have not received the email. Did you send it to the oah.rules email account? If so, I will log on to check that account.

Dana McGhee

----- Original message -----

**From:** "Grozav, Anca" <[Anca.Grozav@osbm.nc.gov](mailto:Anca.Grozav@osbm.nc.gov)>  
**Date:** 5/12/22 5:27 PM (GMT-05:00)  
**To:** "McGhee, Dana" <[dana.McGhee@oah.nc.gov](mailto:dana.McGhee@oah.nc.gov)>  
**Cc:** "Burgos, Alexander N" <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>, "Hollis, Carrie" <[carrie.hollis@osbm.nc.gov](mailto:carrie.hollis@osbm.nc.gov)>  
**Subject:** Letter to RRC

Hi Dana,  
Long time no chat! Just wanted to check if you received the letter I sent to RRC about the DEQ rule that is before them next week. I pressed send but also had a late day interview. I realized later it was hanging in my outbox, which unfortunately has happened a couple more times this week. Sorry if there is any delay. I definitely intended for the letter to be before the Commission for their next meeting.

Thanks!

Anca

**Anca Grozav**

*(she/her/hers)*

Assistant State Budget Officer for Demographic and Economic Analysis

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STATE OF NORTH CAROLINA  
OFFICE OF STATE BUDGET AND MANAGEMENT



Employment First State for Individuals with Disabilities

ROY COOPER  
GOVERNOR

CHARLES PERUSSE  
STATE BUDGET DIRECTOR

May 12, 2022

Rules Review Commission

RE: Staff Opinion on rules 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, and .0218

Chair Doran:

This letter is in response to a recent RRC Counsel [staff opinion](#) that recommended objection to the Environmental Management Commission's proposal to codify 1,4-dioxane standards in the above referenced rules. The staff opinion based the objection on the perception that the EMC's fiscal note did not comply with the cost analysis requirements of the Administrative Procedure Act (APA).

Respectfully, the APA grants the Office of State Budget and Management (OSBM) the role of determining whether agencies' fiscal notes satisfy the provisions of § 150B-21.4. The APA permits the Rules Review Commission to object to a rule in relation to a fiscal note only in circumstances where an agency fails to prepare or obtain OSBM approval of the fiscal note (§ 150B-21.4(b1)). In these cases, the APA grants OSBM the authority to determine the impact of a rule and the need for a fiscal note, directing the Commission to ask OSBM to make a determination (§150B-21.9(a)).

The EMC prepared a fiscal note for the proposed rules and obtained approval from OSBM on February 11, 2021, thereby demonstrating they had satisfied both the impact analysis and procedural requirements of § 150B-21.4.

The staff opinion specifically quotes § 150B-21.4(a) on page 2 and asserts that the fiscal note contained "no quantitative assessment of costs." We agree § 150B-21.4(a) requires that a fiscal note contain an assessment of whether a proposed rule would have a fiscal impact on the State and, if so, OSBM must certify "that the funds that would be required by the proposed rule change are available." The fiscal note does assess the quantitative costs attributable to the proposed rules, and plainly satisfies these requirements, concluding that the rule would not create additional costs (see Fiscal note p. 11-12 Table 1, p.17).

OSBM agrees with the agency's analysis that incorporating the existing 1,4-dioxane in-stream target values (ITVs) into the rules in numerical form would have no impact to the regulated community compared to the baseline. A rule's impact is the *additional* costs or benefits created by the rule. As noted in the analysis, the 1,4-dioxane concentrations that the agency currently

implements and enforces are not changing, so incorporating them in rule does not require any new expenditures from the State, or the regulated community (see Fiscal note p. 4, p.13).

Because of the determination of no additional impacts of this rule change on the state or the regulated community, the fiscal note also satisfies the requirement in § 150B-21.4(b1). This paragraph of the APA requires an analysis of whether a proposed rule has a substantial economic impact and requires OSBM to certify that the analysis of such an impact complies with various statutory requirements. Again, the fiscal note plainly satisfies this requirement, concluding that the rule change would not have a substantial economic impact.

Some confusion appears to stem from the agency's discussion of the current and ongoing cost of 1-4, dioxane regulation as implemented and enforced under *existing* rules. The agency explains that monitoring requirements and discharge limits may be added to permits at renewal under existing rules. The fiscal note clarifies that "these permit modifications would occur whether or not the existing 1,4-dioxane ITV is codified" (p16). Therefore, any associated costs and benefits are *not* attributable to the proposed rulemaking.

The fiscal note further explains that incorporating the 1,4-dioxane ITVs into rule will trigger water body impairment assessments. *If* those assessments determine a need for further action, the agency would then identify the specific strategies and requirements for managing discharges to the water body through a *separate* planning and rulemaking effort. The analysis of that future rulemaking would account for the benefits and costs of any potential requirements (p.11-12 Table 1, p16, p20).

Finally, the staff opinion asserts that "the assessment of quantitative costs is what the APA requires for a fiscal note." In fact, the APA acknowledges that it is not always possible to quantify and impacts of a proposed rule change, directing agencies to quantify costs and benefits "to the greatest extent possible" (§150B 21.4(b1)(4) and 19.1(e)). As a practical matter, fiscal notes often involve both quantitative and qualitative analyses to inform decision-making based on the best available information.

For the reasons stated above, OSBM determined that the fiscal note satisfies the requirements of § 150B-21.4.

OSBM would be glad to discuss the fiscal note process and benefit-cost analysis methods with you further. Our office hopes to continue the collaboration with the Commission and the Office of Administrative Hearings on the many facets of the rulemaking process.

Sincerely,



Anca Grozav  
Assistant State Budget Officer  
Office of State Budget and Management

cc: Kristin Walker, Deputy Director, OSBM

Carrie Hollis, Principal Economic Analyst II, OSBM  
Laurance Duke, Rules Review Commission Counsel  
Phillip Reynolds, Counsel to the Environmental Management Commission  
Jennifer Everett, Rulemaking Coordinator, Department of Environmental Quality