

# Comments on proposed Air Toxics Legislation

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# Regulation and the Economy

- \* Numerous studies show the benefits of regulation to the economy.
- \* Businesses choose to locate here because of high quality of life.
- \* North Carolina should seek to add jobs that add a net benefit to the economy.

# Permitting

- \* Allows a company or industry to do something that is otherwise prohibited by law:
  - \* In this case the emission of Toxic Air Pollutants on to others' property
- \* Indemnification
- \* Burden?

# Proposed Legislation

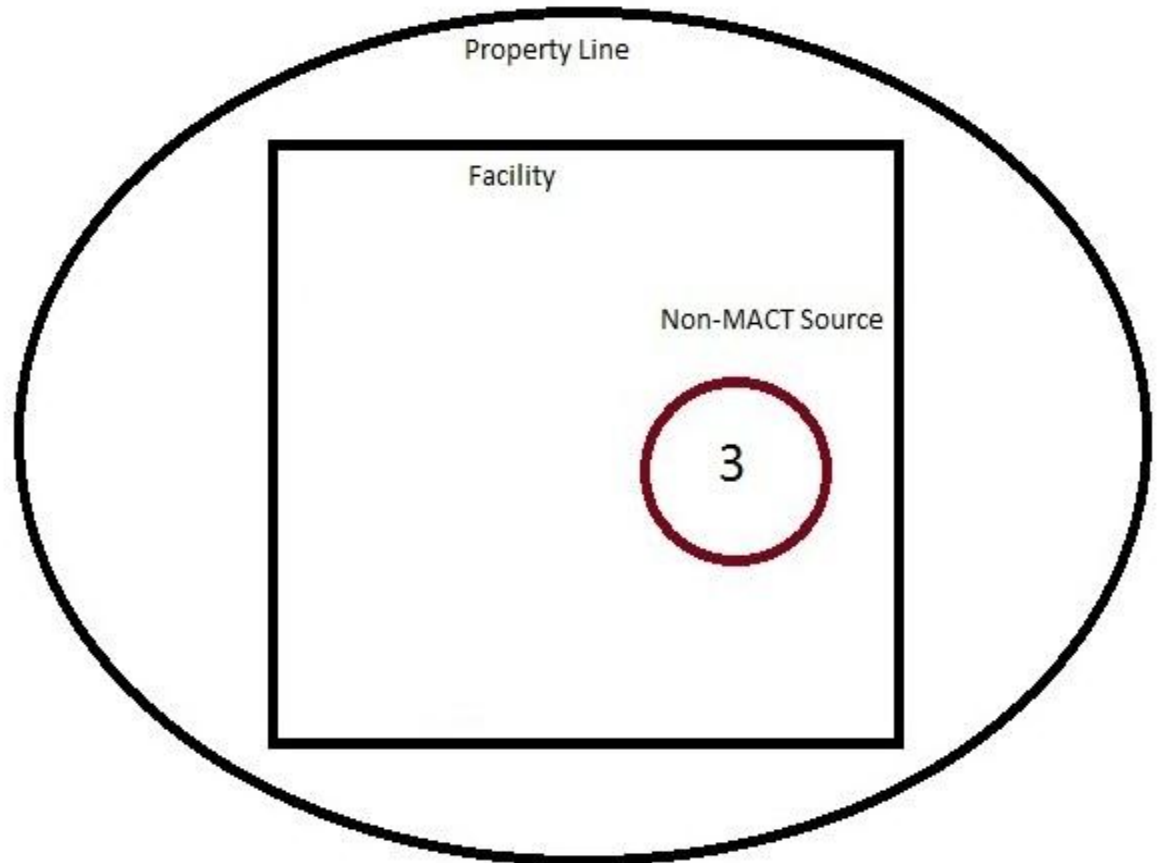
- \* Analysis of the Legislation:
  - \* Primary goal to reduce the modeling requirements in the Air Toxics Program by exempting federally regulated sources.
  - \* Shifts the default position from in the program to out of the program for 2/3rds of toxic air pollution in the State.
  - \* Director's Call to serve as “public health backstop”

# Concerns

- \* Director's Call Concerns
  - \* Program could shift from preventative to retroactive protection.
  - \* Director's Call framework lacks certainty.
  - \* Interplay with S781.
  - \* Funding for DENR with new responsibilities.

# Concerns cont.

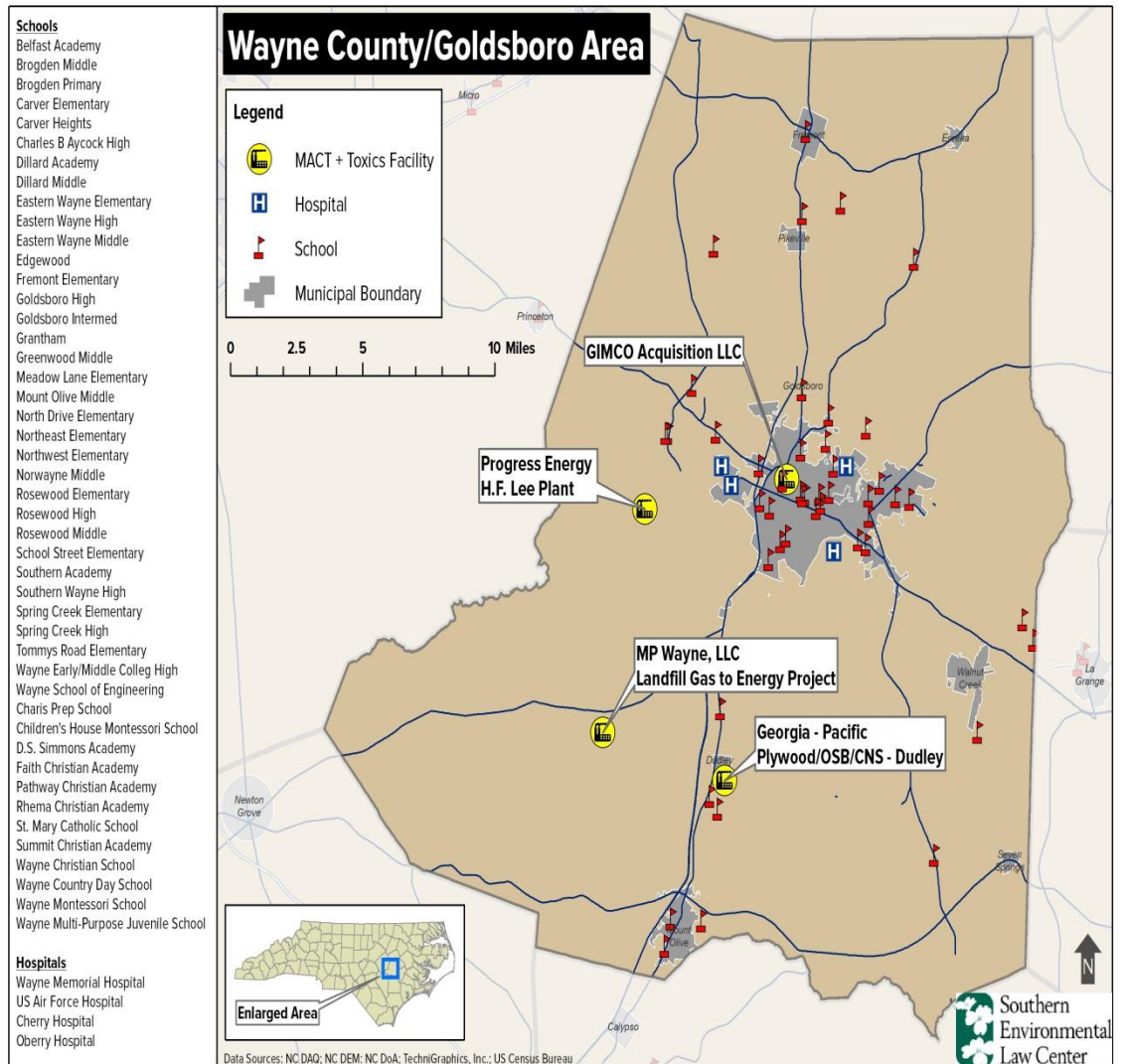
- \* Modeling Concerns:
  - \* When already required for a non-exempt source, modeling does not include all sources at a facility.



# Concerns cont.

\* MACT/Federal regulation is a one size fits all technology based approach:

\* Same MACT if a facility is next to a school as if it were in the middle of a 300 acre field.



# Concerns cont.

- \* Toxins Unique to North Carolina.
- \* Exemption Loopholes:
  - \* Proposal exempts sources subject to “any requirement” of Parts 61 and 63 of the C.F.R.
  - \* Purely record keeping requirements exist in Parts 61 and 63 for sources not subject to emissions regulation.

Example: 40 C.F.R. §63.1(b)(3)

- \* “(3) An owner or operator of a stationary source who is in the relevant source category and who determines that the source is not subject to a relevant standard or other requirement established under this part must keep a record as specified in §63.10(b)(3).”



# Suggestions

- \* Strengthen the Director's Call to make it mandatory to both review facilities and exercise the Director's Call when objective criteria have been met.
- \* When modeling is required for a non-exempt source, include all sources at a facility in that modeling.
- \* Add proximity to urban areas/schools and emission of TAPS as factors in triggering the Director's Call.
- \* Change the exemption from subject to "any requirement" to subject to an established "Emission standard" or "Equivalent emission limitation."
- \* Add a reporting requirement on the implementation of the legislation.

# Conclusion

- \* The economy and public health protection are not mutually exclusive.
- \* Several concerns with the proposal as it shifts a significant proportion Toxic Air Pollution out of the program.
- \* There are ways to address these concerns that do not result in any increase in modeling for almost all facilities from what would be required in the proposed legislation.
- \* Failure to address these concerns unnecessarily increases threats to public health.

# Questions and Contact Information

- \* Questions?

- \* Contact Information:

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