

Summary of December 18, 2018 Revisions to the Mecklenburg County Air Pollution Control Ordinance

Regulations found in the Mecklenburg County Air Pollution Control Ordinance (MCAPCO) originate from either of two sources. Some are developed by Mecklenburg County, but many are adopted by reference from state rules. This adoption will consist mostly of state rules adopted by reference with some regulations of local origin amended to reflect comparable state rules.

The state rules included in this MCAPCO adoption were revised as part of North Carolina General Assembly Session Law 2013-413 (formerly HB74). This Session Law requires the North Carolina Department of Environmental Quality - Division of Air Quality (NCDEQ-DAQ) to re-adopt all existing state air quality rules deemed necessary through a Periodic Review of Existing Rules process. Due to the large number of rules required to be reviewed and re-adopted, NCDEQ-DAQ divided the rules into six groups for re-adoption. This adoption includes the first two groups of rules processed by the state (referred to as Group 1 and Group 2 rules).

The descriptions of the regulations and rules below are summaries and are not intended to be all-inclusive.

Regulations Adopted by Reference from State Rules

The following MCAPCO Regulations are adopted by reference from the associated state rules. NCDEQ-DAQ held public hearings state-wide prior to adoption of the revisions. Changes originate from Chapter 15A of the North Carolina Administrative Code (15A NCAC).

Regulations with Substantive Changes

Mecklenburg County Pollution Control Ordinance (Local Ordinance)	North Carolina Administrative Code (15A NCAC) (State Code)	Summary of Proposed Change
MCAPCO 2.0405	2D .0405 "Ozone"	The Rule establishes the National Ambient Air Quality Standards (NAAQS) for ozone emissions. This revision incorporates the October 26, 2015 revisions made by EPA to the Ozone NAAQS, establishing a daily maximum eight-hour average standard of 0.070 parts per million.
MCAPCO 1.5521	2Q .0521 "Public Participation"	This rule establishes the requirements for providing public notice with the opportunity for public comment for issuing Title V permits. With this revision, notice of any draft Title V permit for an existing facility for which a public hearing is not scheduled can be given by posting on the Mecklenburg County Air Quality web site at http://airquality.charmeck.org . Previously, publication of notice in a newspaper of general circulation in the area where the facility is located was required for these draft permits.

Regulations without substantive changes

The revisions made to these rules are minor editorial changes that do not change the intent or interpretation of the rule.

Mecklenburg County Pollution Control Ordinance (Local Ordinance)	North Carolina Administrative Code (15A NCAC) (State Code)
The following changes are from 15A NCAC 2D:	
MCAPCO 2.0201	.0201 "Classification of Air Pollution Sources"
MCAPCO 2.0202	.0202 "Registration of Air Pollution Sources"
MCAPCO 2.0302	.0302 "Episode Criteria"
MCAPCO 2.0303	.0303 "Emission Reduction Plans"
MCAPCO 2.0304	.0304 "Preplanned Abatement Program"
MCAPCO 2.0401	.0401 "Purpose"
MCAPCO 2.0402	.0402 "Sulfur Oxides"
MCAPCO 2.0404	.0404 "Carbon Monoxide"
MCAPCO 2.0407	.0407 "Nitrogen Dioxide"
MCAPCO 2.0408	.0408 "Lead"
MCAPCO 2.0409	.0409 "PM10 Particulate Matter"
MCAPCO 2.0410	.0410 "PM2.5 Particulate Matter"
MCAPCO 2.2001	.2001 "Purpose, Scope and Applicability"
MCAPCO 2.2002	.2002 "Definitions"
MCAPCO 2.2003	.2003 "Transportation Conformity Determination"

The following changes are from 15A NCAC 2Q:

MCAPCO 1.5112	.0106 "Incorporation By Reference"
MCAPCO 1.5217	.0107 "Confidential Information"
MCAPCO 1.5218	.0109 "Compliance Schedule for Previously Exempted Activities"
MCAPCO 1.5219	.0110 "Retention of Permit at Permitted Facilities"
MCAPCO 1.5220	.0111 "Applicability Determinations"
MCAPCO 1.5233	.0112 "Applications Requiring Professional Engineer Seal"
MCAPCO 1.5216	.0113 "Notification in Areas Without Zoning"
MCAPCO 1.5221	.0310 "Permitting of Numerous Similar Facilities"
MCAPCO 1.5222	.0311 "Permitting of Facilities at Multiple Temporary Sites"
MCAPCO 1.5235	.0313 "Expedited Application Processing Schedule"
MCAPCO 1.5236	.0315 "Synthetic Minor Facilities"
MCAPCO 1.5401	.0401 "Purpose and Applicability"
MCAPCO 1.5501	.0501 "Purpose of Section and Requirement for a Permit"
MCAPCO 1.5502	.0502 "Applicability"
MCAPCO 1.5503	.0503 "Definitions"
MCAPCO 1.5504	.0504 "Option for Obtaining Construction and Operation Permit"
MCAPCO 1.5505	.0505 "Application Submittal Content"
MCAPCO 1.5507	.0507 "Application"
MCAPCO 1.5508	.0508 "Permit Content"
MCAPCO 1.5509	.0509 "Permitting of Numerous Similar Facilities"
MCAPCO 1.5510	.0510 "Permitting of Facilities at Multiple Temporary Sites"
MCAPCO 1.5512	.0512 "Permit Shield and Application Shield"
MCAPCO 1.5513	.0513 "Permit Renewal and Expiration"

<u>MCAPCO 1.5514</u>	<u>.0514 "Administrative Permit Amendments"</u>
<u>MCAPCO 1.5515</u>	<u>.0515 "Minor Permit Modifications"</u>
<u>MCAPCO 1.5516</u>	<u>.0516 "Significant Permit Modification"</u>
<u>MCAPCO 1.5517</u>	<u>.0517 "Reopening for Cause"</u>
<u>MCAPCO 1.5518</u>	<u>.0518 "Final Action"</u>
<u>MCAPCO 1.5519</u>	<u>.0519 "Termination, Modification, Revocation of Permits"</u>
<u>MCAPCO 1.5520</u>	<u>.0520 "Certification by Responsible Official"</u>
<u>MCAPCO 1.5522</u>	<u>.0522 "Review by EPA and Affected States"</u>
<u>MCAPCO 1.5523</u>	<u>.0523 "Changes Not Requiring Permit Revisions"</u>
<u>MCAPCO 1.5524</u>	<u>.0524 "Ownership Change"</u>
<u>MCAPCO 1.5525</u>	<u>.0525 "Application Processing Schedule"</u>
<u>MCAPCO 1.5526</u>	<u>.0526 "112(J) Case-By-Case MACT Procedures"</u>
<u>MCAPCO 1.5527</u>	<u>.0527 "Expedited Application Processing Schedule"</u>
<u>MCAPCO 1.5528</u>	<u>.0528 "112(G) Case-By-Case MACT Procedures"</u>

Regulations of Local Origin Being Amended

All changes being made to the following Regulations of Local Origin are incorporated from revisions made previously to comparable state rules. In each case the revisions made to these rules are minor editorial changes that do not change the intent or interpretation of the rule.

Mecklenburg County Pollution Control Ordinance (Local Ordinance)
<u>1.5102 "Definitions of Terms"</u>
<u>1.5105 "Delegation of Authority"</u>
<u>1.5111 "General Recordkeeping, Reporting and Monitoring Requirements"</u>
<u>1.5211 "Applicability"</u>
<u>1.5212 "Applications"</u>
<u>1.5213 "Action on Application; Issuance of Permit"</u>
<u>1.5215 "Application Processing Schedule"</u>
<u>1.5231 "Air Quality Fees"</u>
<u>1.5232 "Issuance, Revocation, and Enforcement of Permits"</u>
<u>2.0101 "Definitions"</u>

1 15A NCAC 02D .0101 is readopted with changes as published in 31:24 NCR 2465-2466 as follows:

3 **SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS**

5 **SECTION .0100 - DEFINITIONS AND REFERENCES**

7 **15A NCAC 02D .0101 DEFINITIONS**

8 The definition of any word or phrase used in Rules of this Subchapter is the same as given in Article 21, G.S. 143, as
9 amended. The following words and phrases, which are not defined in the article, have the following meaning:

- 10 (1) "Act" means ~~The North Carolina Water and Air Resources of Article 21, G.S. 143,~~
11 entitled "Water and Air Resources."
- 12 (2) "Administrator" means, when it appears in any Code of Federal Regulation incorporated by
13 reference in this Subchapter, the Director of the Division of Air Quality unless:
- 14 (a) a specific rule in this Subchapter specifies ~~otherwise, otherwise;~~ or
- 15 (b) the U.S. Environmental Protection ~~Agency~~ Agency, in ~~its~~ a delegation or ~~approval~~ approval,
16 states that a specific authority of the Administrator of the Environmental Protection
17 Agency is not included in ~~its~~ such a delegation or approval.
- 18 (3) "Air pollutant" means an air pollution agent or combination of such agents, including any physical,
19 chemical, biological, or radioactive substance or matter emitted into or otherwise entering the
20 ambient air.
- 21 (4) "Ambient air" means that portion of the atmosphere outside buildings or other enclosed structures,
22 stacks, or ~~ducts; ducts~~ and that surrounds human, ~~animal~~ animal, or plant ~~life~~ life or property.
- 23 (5) "Approved" means approved by the Director of the Division of Air Quality according to these Rules.
- 24 (6) "Capture system" means the equipment ~~(including hoods, ducts, fans, etc.)~~ including hoods, ducts,
25 and fans, used to contain, capture, or transport a pollutant to a control device.
- 26 (7) "CFR" means the Code of Federal Regulations.
- 27 (8) "Combustible material" means any substance that, when ignited, will burn in air.
- 28 (9) "Construction" means change in method of operation or any physical change, including on-site
29 fabrication, erection, installation, replacement, demolition, or modification of a source, that results
30 in a change in emissions or affects the compliance ~~status~~ status of a facility.
- 31 (10) "Control device" means ~~equipment (fume equipment, including fume~~ incinerator, adsorber,
32 absorber, scrubber, filter media, cyclone, and electrostatic precipitator, ~~or the like~~ used to destroy
33 or remove ~~an air pollutant(s)~~ pollutant before discharge to the ambient air.
- 34 (11) "Day" means a 24-hour period beginning at midnight.
- 35 (12) "Director" means the Director of the Division of Air Quality, unless otherwise specified.
- 36 (13) "Division" means Division of Air Quality.

- (14) "Dustfall" means particulate matter that settles out of the ~~air and is air~~. Dustfall shall be expressed in units of grams per square meter per 30-day period.
- (15) "Emission" means the release or discharge, whether directly or indirectly, of any air pollutant into the ambient air from any source.
- (16) "Facility" means all of the pollutant-emitting activities, except transportation facilities, that are located on one or more adjacent properties under common control.
- (17) "FR" means the Federal Register.
- (18) "Fugitive emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (19) "Fuel burning equipment" means equipment whose primary purpose is the production of energy or power from the combustion of any fuel. Uses of the equipment ~~includes-include~~ heating water, generating or circulating steam, heating air as in a warm air furnace, or furnishing process heat by transferring energy by fluids or through process vessel walls.
- (20) "Garbage" means any animal ~~and-or~~ vegetable waste resulting from the handling, preparation, cooking, ~~and-or~~ serving of food.
- (21) "Incinerator" means a device designed to burn solid, liquid, or gaseous waste material.
- (22) "Opacity" means that property of a substance tending to obscure vision and is measured as percent obscuration.
- (23) "Open burning" means any fire whose products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney, approved incinerator, or other similar device.
- (24) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (25) "Particulate matter" means any material except uncombined water that exists in a finely divided form as a liquid or solid at standard conditions.
- (26) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by methods specified in this Subchapter.
- (27) "Permitted" means any source subject to a permit under this Subchapter or ~~Subchapter~~ 15A NCAC 02Q.
- (28) "Person" as defined in G.S. 143-212 includes any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or its legal representative, agent, or assigns.
- (29) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by methods specified in this Subchapter.
- (30) "PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods specified in this Subchapter.

- (31) "PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by methods specified in this Subchapter.
- (32) "Refuse" means any garbage, rubbish, or trade waste.
- (33) "Rubbish" means solid or liquid wastes from residences, commercial establishments, or institutions.
- (34) "Rural area" means an area that is devoted to the following uses: agriculture, recreation, wildlife management, state park, or any area of natural cover.
- (35) "Salvage operation" means any business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material, including metal, chemicals, motor vehicles, shipping containers, or drums.
- (36) "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other burned or unburned residue of combustible materials that form a visible plume.
- (37) "Source" means any stationary article, machine, process equipment, or other ~~contrivance; or any combination; contrivance, singly or in combination,~~ or any tank-truck, trailer, or railroad tank ~~car;~~ ~~car,~~ from which air pollutants emanate or are emitted, either directly or indirectly.
- (38) "Sulfur oxides" means sulfur dioxide, sulfur trioxide, their acids, and the salts of their acids. ~~The concentration of sulfur dioxide shall be measured by the methods specified in this Subchapter.~~
- (39) "Transportation facility" means a complex source as defined in G.S. 143-213(22).
- (40) "Total suspended particulate" means any finely divided solid or liquid material, except water in uncombined form, that is or has been airborne as measured by methods specified in this Subchapter.
- (41) "Trade wastes" means all solid, liquid, or gaseous waste materials or rubbish resulting from combustion, salvage operations, building operations, or the operation of any business, trade, or industry ~~including, but not limited to,~~ ~~including~~ plastic products, paper, wood, glass, metal, paint, grease, oil and other petroleum products, chemicals, and ashes.
- (42) "ug" or "µg" means micrograms.

History Note: Authority G.S. 143-213; 143-215.3(a)(1);
Eff. June 1, 1976;
Amended Eff. December 1, 1989; July 1, 1988; July 1, 1984;
Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. January 1, 2015; December 1, 2005; June 1, 2004; July 1, 1998; July 1, 1996; July 1, 1994, 1994;
Readopted Eff. January 1, 2018.

1 15A NCAC 02D .0201 is readopted with changes as published in 31:24 NCR 2467-2468 as follows:

2
3 **SECTION .0200 - AIR POLLUTION SOURCES**
4

5 **15A NCAC 02D .0201 CLASSIFICATION OF AIR POLLUTION SOURCES**

6 (a) Purpose. This ~~Regulation~~ Rule establishes a system for classifying air pollution sources. The Commission shall
7 use ~~this classification~~ the system to classify for classifying air pollution sources ~~which the Commission believes to be~~
8 ~~of sufficient importance to justify classification or control, set forth in this Rule to classify air pollution sources~~
9 governed by this Subchapter.

10 (b) Scope. This ~~Regulation~~ Rule shall apply to all air pollution sources, both combustion and non-combustion. The
11 following system for classifying air pollution sources shall be used:

- 12 (1) "Class I-C" includes all sources of air pollution using ~~fuel burning~~ fuel-burning equipment for the
13 production of heat to generate electricity for public use.
- 14 (2) "Class II-C" includes all sources of air pollution using ~~fuel burning~~ fuel-burning equipment for the
15 production of steam, and for other process uses at commercial and industrial establishments.
- 16 (3) "Class III-C" includes all sources of air pollution using ~~fuel burning~~ fuel-burning equipment for
17 comfort heating at institutional, ~~commercial~~ commercial, or industrial establishments, or at
18 apartment houses having a central heating system serving more than four apartments.
- 19 (4) "Class IV-C" includes all sources of air pollution ~~burning that burn~~ burning trash, rubbish, refuse, or similar
20 materials in incinerators, teepee burners, or similar devices.
- 21 (5) "Class V-C" includes all sources of air pollution using ~~fuel burning~~ fuel-burning equipment for
22 comfort heating that are not included in Class III-C.
- 23 (6) "Class VI-C" includes all sources of air pollution using internal combustion engines.
- 24 (7) "Class I-I" includes all sources of air pollution resulting from industrial plants engaged in the
25 manufacture of chemicals or allied products whose processes depend on the chemical reaction of
26 two or more elements or ~~compounds~~ compounds, and includes plants producing acids, fertilizer
27 materials, dyestuff, synthetic ~~fibers~~ fibers, and industrial gases.
- 28 (8) "Class II-I" includes all sources of air pollution resulting from industrial plants engaged in the
29 production of pulp and paper.
- 30 (9) "Class III-I" includes all sources of air pollution resulting from the mining and processing of
31 minerals, stone, ~~clay~~ clay, and cement products, and includes phosphate ore, mica and feldspar
32 operations, stone quarries and crushers, cement plants, concrete mixing plants, and masonry block
33 plants.
- 34 (10) "Class IV-I" includes all sources of air pollution resulting from industrial operations using petroleum
35 products, and includes asphalt mix plants, roofing felt plants, and petroleum products storage areas.
- 36 (11) "Class V-I" includes all sources of air pollution resulting from furniture, lumber, or wood product
37 plants.

- 1 (12) "Class VI-I" includes all sources of air pollution resulting from textile manufacturing, textile ~~dyeing~~
2 dyeing, or finishing plants.
- 3 (13) "Class VII-I" includes all sources of air pollution resulting from the shelling, drying, storage,
4 ~~ginning-ginning~~, and processing of tobacco, corn, soybeans, peanuts, cotton, fruits, vegetables, or
5 other agricultural products.
- 6 (14) "Class VIII-I" includes all sources of air pollution resulting from industries engaged in the
7 processing of metals, and includes smelting, casting foundries, metal working, and other similar
8 operations.
- 9 (15) "Class IX-I" includes all sources of air pollution resulting from slaughtering and processing of meat,
10 poultry, fish, and similar products and from rendering or the recovering of by-products of these
11 operations.
- 12 (16) "Class X-I" includes all sources of air pollution resulting from industries which do not fall within
13 the classifications described in Subparagraphs (b)(7) through (b)(15) of this ~~Regulation~~ Rule.
14 ~~These sources shall be controlled pursuant to the requirements of regulations and other provisions of law.~~

15
16 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);
17 Eff. February 1, 1976;
18 Amended Eff. July 1, 1984; December 1, 1976;
19 Readopted Eff. January 1, 2018.
20

1 15A NCAC 02D .0202 is readopted with changes as published in 31:24 NCR 2468 as follows:

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3 **15A NCAC 02D .0202 REGISTRATION OF AIR POLLUTION SOURCES**

4 (a) The Director may require the owner or operator of a source of air pollution to register that ~~source.~~ source, pursuant
5 to G.S. 143 215.107(a)(4).

6 (b) Any person required to register a source of air pollution with the Division shall register the source on forms
7 provided by the Division and shall provide the following information:

- 8 (1) the name of the person, company, or corporation operating the sources;
- 9 (2) the address, location, and county;
- 10 (3) principal officer of the company;
- 11 (4) quantities and kinds of raw materials used;
- 12 (5) process flow sheets;
- 13 (6) operating schedules;
- 14 (7) total weights and kinds of air pollution released;
- 15 (8) types and quantities of fuels used;
- 16 (9) stack heights; and
- 17 (10) other information considered essential in evaluating the potential of the source to cause air pollution.

18 The forms shall be completed and returned to the Division within 60 days following their receipt.

19
20 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);*
21 *Eff. February 1, 1976;*
22 *Amended Eff. July 1, 1998; June 1, 1985; July 1, 1984;*
23 *Readopted Eff. January 1, 2018.*
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25

1 15A NCAC 02D .0302 is readopted with changes as published in 31:24 NCR 2468-2469 as follows:

2
3 **15A NCAC 02D .0302 EPISODE CRITERIA**

4 ~~Conditions justifying the~~ The Director may issue a proclamation of an air pollution alert, air pollution warning, or air
5 pollution emergency ~~shall be deemed to exist whenever the if the director~~ Director determines that the accumulation
6 of air contaminants in any place is attaining or has attained levels that could, if such levels are sustained or exceeded,
7 lead to a threat to the health of the public. ~~In making this determination, In deciding whether to issue such a~~
8 proclamation, the ~~director~~ Director shall be guided by the following criteria:

9 (1) ~~Air Pollution Forecast. An internal watch by the Division and local air pollution control agencies~~
10 ~~shall be activated by a National Weather Service advisory that an atmospheric stagnation advisory~~
11 ~~is in effect, or the equivalent local forecast of stagnant atmospheric conditions.~~

12 (2)(1) Alert. The alert level is that concentration of pollutants at which first stage control actions are to
13 begin. The ~~director~~ Secretary of the Department of Environmental Quality with the concurrence of
14 the Governor shall proclaim an alert when any of the following levels is reached at any monitoring
15 ~~site: site and meteorological conditions are such that pollutant concentrations can be expected to~~
16 ~~remain at or exceed above levels for 12 or more hours or, in the case of ozone, the situation is likely~~
17 ~~to reoccur within the next 24-hours unless control actions are taken.~~

18 (a) sulfur dioxide -- 800 ~~ug/m3~~ $\mu\text{g}/\text{m}^3$ (0.3 ~~p.p.m.~~) ppm), 24-hour average;

19 (b) ~~particulate~~ 375 $\mu\text{g}/\text{m}^3$, 24 hour average;

20 (c) ~~sulfur dioxide and particulate combined~~ product of sulfur dioxide $\mu\text{g}/\text{m}^3$, 24 hour
21 average, and particulate $\mu\text{g}/\text{m}^3$, 24 hour average, equal to 65,000;

22 (d)(b) carbon monoxide -- 17 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ (15 ~~p.p.m.~~) ppm), eight-hour average;

23 (e)(c) ozone -- 400 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ (0.2 ~~p.p.m.~~) ppm), one-hour average;

24 (f)(d) nitrogen dioxide -- 1130 $\mu\text{g}/\text{m}^3$ $\mu\text{g}/\text{m}^3$ (0.6 ~~p.p.m.~~) ppm), one-hour average; 282 $\mu\text{g}/\text{m}^3$
25 $\mu\text{g}/\text{m}^3$ (0.15 ~~p.p.m.~~) ppm), 24-hour average; ~~or~~

26 (g)(e) PM10--350 $\mu\text{g}/\text{m}^3$; $\mu\text{g}/\text{m}^3$ 24-hour average; and ~~[average; and] average.~~ meteorological
27 conditions are such that pollutant concentrations can be expected to remain at these levels
28 for 12 or more hours or increase or, for ozone, the situation is likely to recur within the
29 next 24 hours unless control actions are taken.

30 [(f) ~~in addition to the levels listed for the above pollutants, meteorological conditions are such~~
31 ~~that pollutant concentrations can be expected to remain at the above levels for twelve (12)~~
32 ~~or more hours or increase, or in the case of ozone, the situation is likely to reoccur within~~
33 ~~the next 24 hours unless control actions are taken.~~]

34 (3)(2) Warning. The warning level indicates that air quality is continuing to degrade and that additional
35 abatement actions are necessary. The Secretary of the Department of Environmental Quality with
36 the concurrence of the Governor ~~Director~~ shall proclaim a warning when any one of the following
37 levels is reached at any monitoring ~~site: site and meteorological conditions are such that pollutant~~

concentrations can be expected to remain at or exceed above levels for 12 or more hours or, in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken:

- (a) sulfur dioxide -- 1600 $\mu\text{g}/\text{m}^3$ (0.6 p.p.m.), 24-hour average
- (b) particulate -- 625 $\mu\text{g}/\text{m}^3$, 24 hour average;
- (c) sulfur dioxide and particulate combined -- product of sulfur dioxide $\mu\text{g}/\text{m}^3$, 24 hour average, and particulate $\mu\text{g}/\text{m}^3$, 24 hour average, equal to 261,000;
- (d)(b) carbon monoxide -- 34 $\mu\text{g}/\text{m}^3$ (30 p.p.m.), eight-hour average;
- (e)(c) ozone -- 800 $\mu\text{g}/\text{m}^3$ (0.4 p.p.m.), one-hour average;
- (f)(d) nitrogen dioxide -- 2260 $\mu\text{g}/\text{m}^3$ (1.2 p.p.m.), one-hour average; 565 $\mu\text{g}/\text{m}^3$ (0.3 p.p.m.), 24-hour average; or
- (g)(e) PM10 -- 420 $\mu\text{g}/\text{m}^3$ 24-hour average; and [average; and] average. meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, for ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.

(f) in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24 hours unless control actions are taken.]

(4)(3) Emergency. The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. The Secretary of the Department of Environment and Natural Resources Department of Environmental Quality with the concurrence of the Governor shall declare an emergency when any one of the following levels is reached at any monitoring site: site and meteorological conditions are such that pollutant concentrations can be expected to remain at or exceed above levels for 12 or more hours or, in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken:

- (a) sulfur dioxide -- 2100 $\mu\text{g}/\text{m}^3$ (0.8 p.p.m.), 24-hour average;
- (b) particulate -- 875 $\mu\text{g}/\text{m}^3$, 24 hour average;
- (c) sulfur dioxide and particulate combined -- product of sulfur dioxide $\mu\text{g}/\text{m}^3$, 24 hour average, and particulate $\mu\text{g}/\text{m}^3$, 24 hour average, equal to 393,000;
- (d)(b) carbon monoxide -- 46 $\mu\text{g}/\text{m}^3$ (40 p.p.m.), eight-hour average;
- (e)(c) ozone -- 1000 $\mu\text{g}/\text{m}^3$ (0.5 p.p.m.), one-hour average;
- (f)(d) nitrogen dioxide -- 3000 $\mu\text{g}/\text{m}^3$ (1.6 p.p.m.), one-hour average; 750 $\mu\text{g}/\text{m}^3$ (0.4 p.p.m.), 24-hour average; or
- (g)(e) PM10--500 $\mu\text{g}/\text{m}^3$ 24-hour average. [average; and] average.

1 [(f) — in addition to the levels listed for the above pollutants, meteorological conditions are such
2 that pollutant concentrations can be expected to remain at the above levels for twelve (12)
3 or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
4 the next 24 hours unless control actions are taken. Same clarification applies to Warning
5 and Emergency Levels.]

6 (5)(4) Termination. ~~Once declared any level reached by application of these criteria shall remain in effect~~
7 ~~until the criteria for that level are no longer met. At that time the next lower level shall be assumed.~~
8 After a proclamation has been issued, any level reached by application of these criteria shall remain
9 in effect until the criteria for that level are no longer met. At that time the next lower level shall
10 remain in effect until the criteria for that level are no longer met.

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12 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);*
13 *Eff. February 1, 1976;*
14 *Amended Eff. July 1, 1998; July 1, 1988; July 1, 1984; June 1, 1980; December 1, ~~1976~~1976;*
15 *Readopted Eff. January 1, 2018.*

1 15A NCAC 02D .0303 is readopted with changes as published in 31:24 NCR 2469 as follows:

2
3 **15A NCAC 02D .0303 EMISSION REDUCTION PLANS**

4 (a) Air Pollution Alert. Any person responsible for the operation of a source of air pollution described in ~~Regulation~~
5 ~~15A NCAC 02D [.0305,].0305 of this Section,~~ shall take all air pollution alert actions required for that source
6 and shall put into effect the ~~preplanned program~~preplanned abatement program that is required by 15A NCAC 02D
7 .0304 for an air pollution alert.

8 (b) Air Pollution Warning. Any person responsible for the operation of a source of air pollution described in
9 ~~Regulation .0306 of this Section,~~15A NCAC 02D [.0306,].0306 shall take all air pollution warning actions required
10 for that source and shall put into effect the ~~preplanned program~~preplanned abatement program that is required by 15A
11 NCAC 02D .0304 for an air pollution warning.

12 (c) Air Pollution Emergency. Any person responsible for the operation of a source of air pollution described in
13 ~~Regulation .0307 of this Section,~~15A NCAC 02D [.0307,].0307 shall take all air pollution emergency actions required
14 for that source and shall put into effect the ~~preplanned program~~preplanned abatement program that is required by 15A
15 NCAC 02D .0304 for an air pollution emergency.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);*
18 *Eff. February 1, 1976;*
19 *Amended Eff. July 1, 1984.*~~1984;~~
20 *Readopted Eff. January 1, 2018.*
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1 15A NCAC 02D .0304 is readopted with changes as published in 31:24 NCR 2470 as follows:

2
3 **15A NCAC 02D .0304 PREPLANNED ABATEMENT PROGRAM**

4 (a) Any person who is responsible for the operation of a source of air pollution that is described in 15A NCAC 02D
5 Regulations .0305, .0306, or ~~[.0307,].0307~~ .0307 of this Section, or that emits 100 tons per year or more of any one
6 pollutant shall prepare ~~a plan~~ an abatement program plan to reduce the emissions of air pollutants into the outdoor
7 atmosphere during periods of an air pollution ~~episode~~ episode as described in 15A NCAC 02D .0302. The plan shall
8 be consistent with good industrial practices and safe operating procedures. When the Director requests that the plan
9 be submitted for ~~his~~ review, the owner or operator of the source shall submit the plan within 30 days of the Director's
10 request.

11 (b) When requested by the Commission in writing, any person responsible for the operation of a source not described
12 in ~~Regulations~~ 15A NCAC 02D .0305, .0306, or ~~[.0307,].0307~~ .0307 of this Section, shall prepare a plan to reduce the
13 emissions of air pollutants into the outdoor atmosphere during periods of air pollution alert, air pollution warning, and
14 air pollution ~~emergency~~ emergency as described in 15A NCAC 02D .0302. The plan shall be consistent with good
15 industrial practices and safe operating procedures.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);*
18 *Eff. February 1, 1976;*
19 *Amended Eff. July 1, 1988; July 1, ~~1984~~.1984;*
20 *Readopted Eff. January 1, 2018.*
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1 15A NCAC 02D .0401 is readopted with changes as published in 31:24 NCR 2472 as follows:

2
3 **SECTION .0400 - AMBIENT AIR QUALITY STANDARDS**
4

5 **15A NCAC 02D .0401 PURPOSE**

6 (a) The purpose of the ambient air quality standards set out in this Section is to establish certain maximum limits on
7 parameters of air quality considered desirable for the preservation and enhancement of the quality of the ~~state's~~State's
8 air resources. Furthermore, the objective of the Commission, consistent with the North Carolina Air Pollution Control
9 Law, shall be to prevent significant deterioration in ambient air quality in any substantial portion of the ~~state~~State
10 where existing air quality is better than the standards. An atmosphere in which these standards are not exceeded
11 should provide for the protection of the public health, plant and animal life, and property.

12 (b) ~~Ground level~~Ground-level concentrations of pollutants ~~will~~shall be determined by sampling at fixed locations in
13 areas beyond the premises on which a source is located. The standards ~~are~~shall be applicable at each such sampling
14 location in the ~~state~~State.

15 (c) No facility or source of air pollution shall cause any ambient air quality standard in this Section to be exceeded or
16 contribute to a violation of any ambient air quality standard in this Section except as allowed by ~~Rules~~15A NCAC
17 02D .0531 or .0532 of this Subchapter. 0532.
18

19 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

20 *Eff. February 1, 1976;*

21 *Amended Eff. December 1, 1992; October 1, 1989; July 1, ~~1984~~1984;*

22 *Readopted Eff. January 1, 2018.*
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1 15A NCAC 02D .0402 is readopted with changes as published in 31:24 NCR 2472 as follows:

2
3 **15A NCAC 02D .0402 SULFUR OXIDES**

4 (a) The ambient air quality standards for sulfur oxides measured as sulfur dioxide ~~are:~~ shall be:

5 (1) 80 micrograms per cubic meter (0.03 ppm) annual arithmetic ~~mean,~~ mean:

6 (2) 365 micrograms per cubic meter (0.14 ppm) maximum 24-hour concentration not to be exceeded
7 more than once per ~~year,~~ year; and

8 (3) 1300 micrograms per cubic meter (0.5 ppm) maximum three-hour concentration not to be exceeded
9 more than once per year.

10 (b) Sampling and analysis shall be in accordance with procedures in Appendix A or A-1 of 40 CFR Part 50 or by a
11 Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.

12 (c) Applicability of the standards listed in Subparagraph (a)(1) and (2) of this Rule ~~is~~ shall be in effect until one year
13 after the effective date of initial designations under Section 107(d) of the Clean Air Act for the sulfur dioxide standard
14 in Paragraph (d) of this Rule.

15 (d) The primary one-hour annual ambient air quality standard for oxides of sulfur ~~is~~ shall be 75 parts per billion (~~ppb,~~
16 ~~which is 1 part in 1,000,000,000), (ppb),~~ measured in the ambient air as sulfur dioxide.

17 (e) The one-hour primary standard ~~is~~ shall be met at an ambient air quality monitoring site when the three-year average
18 of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb,
19 as determined in accordance with Appendix T of 40 CFR Part 50.

20
21 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

22 *Eff. February 1, 1976;*

23 *Amended Eff. September 1, 2011; July 1, 1984; December 1, 1976-1976;*

24 *Readopted Eff. January 1, 2018.*
25

1 15A NCAC 02D .0404 is readopted with changes as published in 31:24 NCR 2472 as follows:

2
3 **15A NCAC 02D .0404 CARBON MONOXIDE**

4 (a) The ambient air quality standards for carbon monoxide ~~are~~ shall be:

5 (1) 9 parts per million (10 milligrams per cubic meter) maximum eight-hour average concentration not
6 to be exceeded more than once per ~~year~~ year; and

7 (2) 35 parts per million (40 milligrams per cubic meter) maximum one-hour average concentration not
8 to be exceeded more than once per year.

9 (b) Sampling and analysis shall be in accordance with procedures in Appendix C of 40 CFR Part 50 or equivalent
10 methods established under 40 CFR Part 53.

11 (c) An eight-hour average shall be considered valid if at least 75 percent of the hourly averages for the eight-hour
12 period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be
13 computed on the basis of the hours available using six or seven as the divisor.

14 (d) When summarizing data for comparison with the standards, averages shall be stated to one decimal place.
15 Comparison of the data ~~with the levels of~~ the standards in parts per million shall be made in terms of integers with
16 fractional parts of 0.5 or greater ~~rounding~~ rounded up.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

19 *Eff. February 1, 1976;*

20 *Amended Eff. October 1, 1989; July 1, 1984; December 1, ~~1976~~ 1976;*

21 *Readopted Eff. January 1, 2018.*
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1 15A NCAC 02D .0405 is readopted with changes as published in 31:24 NCR 2472 as follows:

2
3 **15A NCAC 02D .0405 OZONE**

4 The ambient air quality standard for ozone measured by a reference method based on Appendix D of 40 CFR Part 50
5 and designated according to 40 CFR Part 53 ~~is shall be~~ 0.075 0.070 parts per million (ppm), daily maximum ~~8-hour~~
6 eight-hour average. The standard ~~is shall be deemed~~ attained at an ambient air quality monitoring site when the
7 average of the annual fourth-highest daily maximum ~~8-hour~~ eight-hour average ozone concentration is less than or
8 equal to ~~0.075~~ 0.070 parts per million (ppm) as determined by ~~Appendix P~~ Appendix U of 40 CFR Part 50, or
9 equivalent methods established under 40 CFR Part 53.

10
11 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);

12 *Eff. February 1, 1976;*

13 *Amended Eff. January 1, 2010; April 1, 1999; July 1, 1984; July 1, 1979; December 1, ~~1976~~. 1976;*

14 *Readopted Eff. January 1, 2018.*

1 15A NCAC 02D .0407 is readopted with changes as published in 31:24 NCR 2472-2473 as follows:

2
3 **15A NCAC 02D .0407 NITROGEN DIOXIDE**

4 (a) The primary annual ambient air quality standard for oxides of nitrogen ~~is~~shall be 53 parts per billion annual
5 average concentration measured in the ambient air as nitrogen dioxide.

6 (b) The primary ~~one-hour~~one-hour ambient air quality standard for oxides of nitrogen ~~is~~shall be 100 parts per billion
7 one hour annual average concentration measured in the ambient air as nitrogen dioxide.

8 (c) The secondary ambient air quality standard for nitrogen dioxide ~~is~~shall be 0.053 parts per million (100 micrograms
9 per cubic meter) annual arithmetic mean concentration.

10 (d) Sampling and analysis shall be in accordance with:

11 (1) procedures in Appendix F ~~of~~ 40 CFR Part 50; or

12 (2) by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.

13 (e) The annual primary standard ~~is~~shall be deemed attained when the annual average concentration in a calendar year
14 is less than or equal to 53 parts per billion, as determined in accordance with Appendix S of 40 CFR Part 50 for the
15 annual standard.

16 (f) The one hour primary standard ~~is~~shall be deemed attained when the three-year average of the annual 98th percentile
17 of the daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance
18 with Appendix S of 40 CFR Part 50 for ~~one-hour~~one-hour standard.

19 (g) The secondary standard ~~is~~shall be deemed attained when the annual arithmetic mean concentration in a calendar
20 year is less than or equal to 0.053 parts per million, rounded to three decimal places (fractional parts equal to or greater
21 than 0.0005 parts per million are rounded up). To demonstrate attainment, an annual mean ~~must~~shall be based on
22 hourly data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent
23 complete for the scheduled sampling days in each calendar quarter.

24
25 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

26 *Eff. February 1, 1976;*

27 *Amended Eff. September 1, 2011; October 1, 1989; July 1, 1984; December 1, ~~1976~~.1976;*

28 *Readopted Eff. January 1, 2018.*

1 15A NCAC 02D .0408 is readopted with changes as published in 31:24 NCR 2473 as follows:

2
3 **15A NCAC 02D .0408 LEAD**

4 The ambient air quality standard for lead and its compounds, measured as elemental lead by a reference method based
5 on Appendix G of 40 CFR Part 50 or by an equivalent method established under 40 CFR Part 53, ~~is~~shall be 0.15
6 micrograms per cubic meter. The standard ~~is~~shall be deemed met when the maximum arithmetic ~~three-month~~three-
7 month mean concentration for a ~~three-year~~three-year period, as determined in accordance with Appendix R of 40 CFR
8 Part 50, is less than or equal to 0.15 micrograms per cubic meter.

9
10 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*
11 *Eff. June 1, 1980;*
12 *Amended Eff. January 1, 2010; July 1, ~~1984~~.1984;*
13 *Readopted Eff. January 1, 2018.*
14
15

1 15A NCAC 02D .0409 is readopted with changes as published in 31:24 NCR 2473 as follows:

2
3 **15A NCAC 02D .0409 PM10 PARTICULATE MATTER**

4 (a) The ambient air quality standard for PM10 particulate matter ~~is~~shall be 150 micrograms per cubic meter (~~ug/m³~~),
5 (ug/m³), 24-hour average concentration. This standard ~~is~~shall be deemed attained when 150 (~~ug/m³~~), (ug/m³), as
6 determined according to Appendix N of 40 CFR Part 50, is not exceeded more than once per year on average over a
7 three-year period.

8 (b) For the purpose of determining attainment of the standards in Paragraph (a) of this Rule, particulate matter shall
9 be measured in the ambient air as PM10 (particles with an aerodynamic diameter less than or equal to a nominal 10
10 micrometers) by either:

- 11 (1) a reference method based on Appendix M of 40 CFR Part 50 and designated according to 40 CFR
12 Part 53; or
13 (2) an equivalent method designated according to 40 CFR Part 53.

14
15 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*
16 *Eff. July 1, 1988;*
17 *Amended Eff. January 1, 2010; April 1, ~~1999~~.1999;*
18 *Readopted Eff. January 1, 2018.*
19
20

1 15A NCAC 02D .0410 is readopted with changes as published in 31:24 NCR 2473 as follows:

2
3 **15A NCAC 02D .0410 PM2.5 PARTICULATE MATTER**

4 (a) The national primary ambient air quality standards for PM2.5 ~~are~~shall be 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$)
5 annual arithmetic mean concentration and 35 $\mu\text{g}/\text{m}^3$ 24-hour average ~~Concentration~~concentration measured in the
6 ambient air as PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by
7 either:

8 (1) A reference method based on appendix L to 40 ~~C.F.R.~~CFR Part 50 and designated in accordance
9 with 40 ~~C.F.R.~~CFR Part 53; or

10 (2) An equivalent method designated in accordance with 40 ~~C.F.R.~~CFR Part 53.

11 (b) The primary annual PM2.5 standard ~~is~~shall be deemed met when the annual arithmetic mean concentration, as
12 determined in accordance with ~~appendix~~Appendix N of 40 ~~C.F.R.~~CFR Part 50, is less than or equal to 12.0 $\mu\text{g}/\text{m}^3$.

13 (c) The primary 24-hour PM2.5 standard ~~is~~shall be deemed met when the 98th percentile 24-hour concentration, as
14 determined in accordance with ~~appendix~~Appendix N of 40 ~~C.F.R.~~CFR Part 50, is less than or equal to 35 $\mu\text{g}/\text{m}^3$.

15
16 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

17 *Eff. April 1, 1999;*

18 *Amended Eff. September 1, 2015; January 1, ~~2010~~2010;*

19 *Readopted Eff. January 1, 2018.*
20
21

1 15A NCAC 02D .2001 is readopted with changes as published in 31:24 NCR 2474-2475 as follows:

3 **SECTION .2000 - TRANSPORTATION CONFORMITY**

5 **15A NCAC 02D .2001 PURPOSE, SCOPE AND APPLICABILITY**

6 (a) The purpose of this Section is to assure the conformity of transportation plans, programs, and projects that are
7 developed, funded, or approved by the United States Department of Transportation and by metropolitan planning
8 organizations or other recipients of funds under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.), or
9 State or Local only sources of funds, with all plans required of areas designated as nonattainment or maintenance
10 under 40 CFR 81.334 for the pollutants specified therein or listed in Paragraph ~~(b), (c), or (d)~~ (c) of this Rule.

11 (b) This Section ~~applies~~shall apply to the emissions of volatile organic compounds and nitrogen oxides in the
12 following areas:

13 ~~(1) — Davidson County,~~

14 ~~(2) — Durham County,~~

15 ~~(3) — Forsyth County,~~

16 ~~(4) — Gaston County,~~

17 ~~(5) — Guilford County,~~

18 ~~(6) — Mecklenburg County,~~

19 ~~(7) — Wake County,~~

20 ~~(8) — Dutchville Township in Granville County, and~~

21 ~~(9) — that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway~~
22 ~~801, Fulton Creek, and back to the Yadkin River.~~

23 ~~(1) — townships of Central Cabarrus, Concord, Georgeville, Harrisburg, Kannapolis, Midland, Mount~~
24 ~~Pleasant, New Gilead, Odell, Poplar Tent, and Rimertown in Cabarrus County;~~

25 ~~(2) — townships of Crowders Mountain, Dallas, Gastonia, Riverbend, and South Point in Gaston County;~~

26 ~~(3) — townships of Davidson and Coddle Creek in Iredell County;~~

27 ~~(4) — townships of Catawba Springs, Lincolnton, and Ironton in Lincoln County;~~

28 ~~(5) — all townships in Mecklenburg County;~~

29 ~~(6) — townships of Atwell, China Grove, Franklin, Gold Hill, Litaker, Locke, Providence, Salisbury,~~
30 ~~Steele, and Unity in Rowan County; and~~

31 ~~(7) — townships of Goose Creek, Marshville, Monroe, Sandy Ridge, and Vance in Union County.~~

32 ~~(c) This Section applies to the emissions of carbon monoxide in the following areas:~~

33 ~~(1) — Durham County,~~

34 ~~(2) — Forsyth County,~~

35 ~~(3) — Mecklenburg County, and~~

36 ~~(4) — Wake County.~~

37 ~~(d)~~(c) This Section ~~applies~~shall apply to the emissions of:

- (1) particulate matter in areas identified in 40 CFR 81.334 as nonattainment or that have been redesignated attainment and are current maintenance areas for fine particulate ~~(PM_{2.5})~~, (PM_{2.5}); or
- (2) volatile organic compounds or nitrogen oxides in areas identified in 40 CFR 81.334 as nonattainment or that have been redesignated attainment and are current maintenance areas for ozone.

~~(e)(d)~~ This Section applies to FHWA/FTA projects or regionally significant State or local projects. For Federal Highway Administration/Federal Transit Administration FHWA/FTA(FHWA/FTA) projects or regionally significant regionally-significant State or local projects in the areas identified that meet the standards set forth in Paragraph Paragraphs (b), (c), or (d)(b) of this Rule and for the pollutants identified in Paragraph and (b), (c), or (d) or (c) of this Rule, this Section applies to: shall apply to:

- (1) the adoption, acceptance, approval, or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning organization or the United States Department of Transportation;
- (2) the adoption, acceptance, approval, or support of transportation improvement programs or amendments to transportation improvement programs pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning organization or the United States Department of Transportation; or
- (3) the approval, funding, or implementation of FHWA/FTA projects.

Conformity determinations are not required under this Section for individual projects that are not FHWA/FTA projects. However, 40 CFR 93.121 shall apply to these projects if they are regionally significant projects.

~~(f)(e)~~ This Section applies to maintenance areas for 20 years from the date the EnvironmentEnvironmental Protection Agency approves the area's request under Section 107(d) of the Clean Air Act for redesignation to attainment-attainment or until the effective date of revocation of the conformity requirements for the NAAQS by EPA.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);

Eff. April 1, 1999;

Amended Eff. December 1, 2005-2005;

Readopted Eff. January 1, 2018.

1 15A NCAC 02D .2002 is readopted with changes as published in 31:24 NCR 2475 as follows:

2
3 **15A NCAC 02D .2002 DEFINITIONS**

4 For the purposes of this Section, the definitions contained in 40 CFR 93.101 and the following definitions apply:

5 ~~(1) "Consultation" means that one party confers with another identified party, provides all information~~
6 ~~necessary to that party needed for meaningful input, and considers and responds to the views of that~~
7 ~~party in a timely, substantive written manner prior to any final decision.~~

8 ~~(2)(1) "Regionally significant"~~Regionally-significant project" means a transportation project (other than
9 an exempt project under 40 CFR 93.126) that is on a facility that serves regional transportation needs
10 (such as access to and from the area outside of the region, major activity centers in the region, major
11 planned developments such as new retail malls and sports complexes, or transportation terminals as
12 well as most terminals themselves) and would ~~normally~~ be included in the modeling of a
13 metropolitan area's transportation network, including ~~at a minimum~~ all principal arterial highways
14 and all fixed ~~guide-way~~guide-way transit facilities that offer an alternative to regional highway
15 travel.

16 ~~(3)(2) "Regionally significant"~~Regionally-significant State or local project" means any highway or transit
17 project that is a regionally significant project and that is proposed to receive only non-federal
18 funding assistance ~~(receives no federal funding)~~ or approval through the State or any local program.

19
20 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);*
21 *Eff. April 1, 1999;*
22 *Readopted Eff. January 1, 2018.*
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1 15A NCAC 02D .2003 is readopted with changes as published in 31:24 NCR 2475-2476 as follows:

2
3 **15A NCAC 02D .2003 TRANSPORTATION CONFORMITY DETERMINATION**

4 (a) Conformity analyses, determinations, and redeterminations for transportation plans, transportation improvement
5 programs, FHWA/FTA projects, and State or local ~~regionally significant~~regionally-significant projects shall be made
6 according to the requirements of 40 CFR 93.104 and shall comply with the applicable requirements of 40 CFR 93.119,
7 93.120, 93.124, 93.125, and 93.126. For the purposes of this Rule, ~~regionally significant~~regionally-significant State
8 or local projects shall be subject to the same requirements under 40 CFR Part 93 as FHWA/FTA projects except that
9 State Environmental Policy Act procedures and requirements shall be substituted for National Environmental Policy
10 Act procedures and requirements. ~~Regionally significant~~Regionally-significant State or local projects subject to this
11 Section for which the State Environmental Policy Act process and a conformity determination have been completed
12 may proceed toward implementation without further conformity determination unless more than three years have
13 elapsed since the most recent major step (State Environmental Policy Act process ~~completion~~completion; start of
14 final ~~design~~design; acquisition of a significant portion of the ~~right of way~~right-of-way; or approval of the plans,
15 specifications, and estimates) occurred. All phases of these projects considered in the conformity determination ~~are~~
16 ~~also~~shall also be included if these phases were for the purpose of funding final design, right-of-way acquisition,
17 construction, or any combination of these phases.

18 (b) Before making a conformity determination, the metropolitan planning organizations, local transportation
19 departments, North Carolina Department of Transportation, United States Department of Transportation, ~~the~~ Division
20 of Air Quality, local air pollution control agencies, and United States Environmental Protection Agency shall consult
21 with each other on matters described in 15A NCAC ~~2D02D~~.2005. Consultation shall begin as early as possible in
22 the development of the emissions analysis used to support a conformity determination. The agency that performs the
23 emissions analysis shall make the analysis available to the Division of Air Quality and at least 21 days shall be allowed
24 for review and comment on the emissions analysis. The 21-day review period shall begin upon receipt of the analysis
25 by the Director of the Division of Air Quality. After review by the Division of Air ~~Quality~~Quality, the approving
26 agency shall seek public comments in accordance with its public participation policy. The agency making the
27 conformity determination shall address all written comments received prior to close of the public comment period,
28 and these comments and responses thereto shall be included in the final document. If the Division of Air Quality
29 disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall
30 be resolved in accordance with 40 CFR 93.105(d). The 14-day appeal period shall begin upon receipt by the Director
31 of the Division of Air Quality of the metropolitan planning organization's resolution that determines conformity.

32 (c) The agency that performs the conformity analysis shall notify the Division of Air Quality of:

- 33 (1) ~~any~~ changes in planning or analysis ~~assumptions [including~~assumptions, including land use and
34 vehicle miles traveled (VMT) ~~forecasts]~~forecasts; and
35 (2) ~~any~~ revisions to transportation plans or transportation improvement plans that add, delete, or change
36 projects that require a new emissions ~~analysis (including~~analysis including design scope and dates
37 that change the transportation network existing in a horizon ~~year)~~year.

1 Comments made by the Division of Air Quality and responses thereto made by the agency shall become part of the
2 final planning document.

3 (d) Transportation plans shall satisfy the requirements of 40 CFR 93.106. Transportation plans and transportation
4 improvement programs shall satisfy the fiscal constraints specified in 40 CFR 93.108. Transportation plans, programs,
5 and FHWA/FTA projects shall satisfy the applicable requirements of 40 CFR 93.109 through ~~93.118~~ 93.119.

6 (e) Written commitments to implement control measures that are not included in the transportation plan ~~and~~
7 transportation improvement program (TIP) shall be obtained before a conformity ~~determination~~ determination, and
8 these commitments shall be fulfilled. Written commitments to implement mitigation measures shall be obtained
9 before a positive conformity determination, and project sponsors shall comply with these commitments.

10 (f) A recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall not adopt or approve
11 a ~~regionally significant~~ regionally significant highway or transit project, regardless of funding source, unless the
12 requirements of 40 CFR Part 93 are ~~fully complied with~~ met.

13 (g) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality
14 modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969
15 process, in accordance with 40 CFR 93.107.

16 (h) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration
17 and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation
18 of those transportation portions of an applicable implementation plan prepared to attain and maintain the national
19 ambient air quality ~~standards~~ standards, as provided under 40 CFR 93.103. This priority shall be consistent with
20 statutory requirements for allocation of funds among states or other jurisdictions.

21
22 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);*

23 *Eff. April 1, ~~1999~~ 1999;*

24 *Readopted Eff. January 1, 2018.*

2.0101 DEFINITIONS

The definition of any word or phrase used in Regulations of this Article is the same as given in Article 21, Chapter 143 of the General Statutes of North Carolina, as amended. The following words and phrases, which are not defined in the article, have the following meaning:

- (1) **“Act”** means ~~“The North Carolina Water and Air Resources Of Article 21~~ Article 21, G.S. 143, entitled “Water and Air Resources.”
- (2) **“Administrator”** means the Director of Mecklenburg County Air Quality when it appears in any Code of Federal Regulation incorporated by reference in this Ordinance, unless:
 - (a) a specific Regulation in this Ordinance specifies ~~otherwise,~~ otherwise; or
 - (b) the U.S. Environmental Protection Agency ~~Agency,~~ in its a delegation or ~~approval~~ approval, states that a specific authority of the Administrator of the Environmental Protection Agency is not included in ~~its~~ such a delegation or approval.
- (3) **“Air pollutant”** means an air pollution agent or combination of such agents, including any physical, chemical, biological, or radioactive substance or matter emitted into or otherwise enters the ambient air. Water vapor is not considered to be an air pollutant.
- (4) **“Ambient air”** means that portion of the atmosphere outside of buildings and other enclosed structures, stacks, or ~~ducts;~~ ducts and that surrounds human, ~~animal~~ animal, or plant ~~life,~~ life or property.
- (5) **“Approved”** means approved by the Director of Mecklenburg County Air Quality.
- (6) **“Capture system”** means the equipment (~~including hoods, ducts, fans, etc.~~) including hoods, ducts, and fans, used to contain, capture, or transport a pollutant to a control device.
- (7) **“CFR”** means the Code of Federal Regulations.
- (8) **“Combustible material”** means any substance that, when ignited, will burn in air.
- (9) **“Construction”** means change in the method of operation or any physical change (including on-site fabrication, erection, installation, replacement, demolition, or modification of a source) that results in a change in emissions or affects the compliance ~~status~~ of a facility. The following activities are not construction:
 - (a) clearing and grading;
 - (b) building access roads, driveways, and parking lots, ~~except parking lots required to have a construction permit under MCAPCO Section 1.5600 – “Transportation Facility Procedures”;~~ lots;
 - (c) building and installing underground pipe work, including water, sewer, electric, and telecommunications utilities; or
 - (d) building ancillary structures, including fences and office buildings that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108.
- (10) **“Control device”** means ~~equipment (fume~~ equipment, including fume incinerator, adsorber, absorber, scrubber, filter media, cyclone, and electrostatic precipitator, ~~or the like)~~ used to destroy or remove an air pollutant(s) pollutant before discharge to the ambient air.
- (11) **“Day”** means a 24-hour period beginning at midnight.
- (12) **“Director”** means the Director of the Mecklenburg County Air Quality.
- (13) **“Dustfall”** means particulate matter that settles out of the ~~air and is~~ air. Dustfall shall be expressed in units of grams per square meter per 30-day period.

- (14) **“Emission”** means the release or discharge, whether directly or indirectly, of any air pollutant into the ambient air from any source.
- (15) **“Facility”** means all of the pollutant-emitting activities, except transportation facilities, that are located on one or more contiguous or adjacent properties.
- (16) **“FR”** means the Federal Register.
- (17) **“Fuel burning equipment”** means equipment whose primary purpose is the production of energy or power from the combustion of any fuel. Uses of the equipment ~~includes~~ include heating water, generating or circulating steam, heating air as in a warm air furnace, furnishing process heat by transferring energy by fluids or through process vessel walls.
- (18) **“Fugitive emission”** means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (19) **“Garbage”** means any animal ~~and~~ or vegetable waste resulting from the handling, preparation, cooking, ~~and~~ or serving of food.
- (20) **“Incinerator”** means a device designed to burn solid, liquid, or gaseous waste material.
- (21) **“Opacity”** means that property of a substance tending to obscure vision and is measured as percent obscuration.
- (22) **“Open burning”** means any fire whose products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney, approved incinerator, or other similar device.
- (23) **“Owner or operator”** means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (24) **“Particulate matter”** means any material except uncombined water that exists in a finely divided form as a liquid or solid at standard conditions.
- (25) **“Particulate matter emissions”** means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by methods specified in this Article.
- (26) **“Permitted”** means any source subject to a permit under this Ordinance.
- (27) **“Person”** means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or its legal representative, agent, or assigns.
- (28) **“PM2.5”** means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by methods specified in Article 2.0000 of this Ordinance.
- (29) **“PM-10”** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by methods specified in this Article.
- (30) **“PM-10 emissions”** means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods specified in this Article.
- (31) **“Refuse”** means any garbage, rubbish, or trade waste.
- (32) **“Rubbish”** means solid or liquid wastes from residences, commercial establishments, or institutions.
- (33) **“Rural area”** means an area that is devoted to the following uses: agriculture, recreation, wildlife management, state park, or any area of natural cover.
- (34) **“Salvage operation”** means any business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material, including metal, chemicals, motor vehicles, shipping containers, or drums.

- (35) **“Smoke”** means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other burned or unburned residue of combustible materials that form a visible plume.
- (36) **“Source”** means any stationary article, machine, process equipment or other ~~contrivance, or combination thereof,~~ contrivance, singly or in or combination, or any truck tank, trailer or railroad tank ~~ear~~ car, from which air pollutants emanate or are emitted, either directly or indirectly.
- (37) **“Sulfur oxides”** means sulfur dioxide, sulfur trioxide, their acids and the salts of their acids. ~~The concentration of sulfur dioxide shall be measured by the methods specified in this Article.~~
- (38) **“Transportation Facility”** means a complex source as defined in G.S. 143-213(22).
- (39) **“Total suspended particulate”** means any finely divided solid or liquid material, except water in uncombined form, that is or has been airborne, as measured by methods specified in this Article.
- (40) **“Trade wastes”** means all solid, liquid, or gaseous waste materials or rubbish resulting from combustion, salvage operations, building operations, or the operation of any business, trade, or industry ~~including, but not limited to,~~ including plastic products, paper, wood, glass, metal, paint, grease, oil and other petroleum products, chemicals, and ashes.
- (41) **“ug”** or **“ μ g”** means micrograms.

MCAQ History Note:

Amended Eff. December 18, 2018; December 15, 2015

2.0201 CLASSIFICATION OF AIR POLLUTION SOURCES

(a) Purpose. This Regulation establishes a system for classifying air pollution sources. The Director shall use ~~this classification~~ the system to classify for classifying air pollution sources ~~which the Commission believes to be of sufficient importance to justify classification or control.~~ set forth in this Regulation to classify air pollution sources governed by this Article.

(b) Scope. This Regulation shall apply to all air pollution sources, both combustion and non-combustion. The following system for classifying air pollution sources shall be used:

- (1) **“Class I-C”** includes all sources of air pollution using ~~fuel-burning~~ fuel-burning equipment for the production of heat to generate electricity for public use.
- (2) **“Class II-C”** includes all sources of air pollution using ~~fuel-burning~~ fuel-burning equipment for the production of steam, and for other process uses at commercial and industrial establishments.
- (3) **“Class III-C”** includes all sources of air pollution using ~~fuel-burning~~ fuel-burning equipment for comfort heating at institutional, ~~commercial~~ commercial, or industrial establishments, or apartment houses having a central heating system serving more than four apartments.
- (4) **“Class IV-C”** includes all sources of air pollution ~~burning~~ that burn trash, rubbish, refuse, or similar materials in incinerators, teepee burners, or similar devices.
- (5) **“Class V-C”** includes all sources of air pollution using ~~fuel-burning~~ fuel-burning equipment for comfort heating that are not included in Class III-C.
- (6) **“Class VI-C”** includes all sources of air pollution using internal combustion engines.
- (7) **“Class I-I”** includes all sources of air pollution resulting from industrial plants engaged in the manufacture of chemicals or allied products whose processes depend on the chemical reaction of two or more elements or ~~compounds~~ compounds, and includes plants producing acids, fertilizer materials, dyestuff, synthetic ~~fibers~~ fibers, and industrial gases.
- (8) **“Class II-I”** includes all sources of air pollution resulting from industrial plants engaged in the production of pulp and paper.
- (9) **“Class III-I”** includes all sources of air pollution resulting from the mining and processing of minerals, stone, ~~elav~~ clay, and cement products, and includes phosphate ore, mica and feldspar operations, stone quarries and crushers, cement plants, concrete mixing plants, and masonry block plants.
- (10) **“Class IV-I”** includes all sources of air pollution resulting from industrial operations using petroleum products, and includes asphalt mix plants, roofing felt plants, and petroleum products storage areas.
- (11) **“Class V-I”** includes all sources of air pollution resulting from furniture, lumber, or wood product plants.
- (12) **“Class VI-I”** includes all sources of air pollution resulting from textile manufacturing, textile ~~dyeing~~ dyeing, or finishing plants.
- (13) **“Class VII-I”** includes all sources of air pollution resulting from the shelling, drying, storage, ~~ginning~~ ginning, and processing of tobacco, corn, soybeans, peanuts, cotton, fruits, vegetables, or other agricultural products.
- (14) **“Class VIII-I”** includes all sources of air pollution resulting from industries engaged in the processing of metals, and includes smelting, casting foundries, metal working, and other similar operations.
- (15) **“Class IX-I”** includes all sources of air pollution resulting from slaughtering and

processing of meat, poultry, fish, and similar products and from rendering or the recovering of by-products of these operations.

- (16) **“Class X-I”** includes all sources of air pollution resulting from industries which do not fall within the classifications described in Subparagraphs (b)(7) through (b)(15) of this Regulation.

~~These sources shall be controlled pursuant to the requirements of regulations and other provisions of law.~~

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);
Eff. February 1, 1976;
Amended Eff. July 1, 1984; December 1, 1976.
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0202 REGISTRATION OF AIR POLLUTION SOURCES

(a) The Director may require the owner or operator of a source of air pollution to register that ~~source.~~ source, pursuant to G.S. 143 215.107(a)(4).

(b) Any person required to register a source of air pollution with the Department shall register the source on forms provided by the Department and shall provide the following information:

- (1) the name of the person, company, or corporation operating the sources;
- (2) the address, location, and county;
- (3) principal officer of the company;
- (4) quantities and kinds of raw materials used;
- (5) process flow sheets;
- (6) operating schedules;
- (7) total weights and kinds of air pollution released;
- (8) types and quantities of fuels used;
- (9) stack heights; and
- (10) other information considered essential in evaluating the potential of the source to cause air pollution.

The forms shall be completed and returned to the Department within 60 days following their receipt.

*State History Note: Statutory Authority G.S. 143-215.3 (a) (1); 143-215.107 (a) (4);
Eff. February 1, 1976;
Amended Eff.: July 1, 1998; June 1, 1985; July 1, 1984;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0302 EPISODE CRITERIA

~~Conditions justifying the~~ The Director may issue a proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the if the
~~director~~Director determines that the accumulation of air contaminants in any place is attaining or has attained levels that could, if such levels are sustained or exceeded, lead to a threat to the health of the public. ~~In making this determination,~~ In deciding whether to issue such a proclamation, the ~~director~~Director shall be guided by the following criteria:

- (1) ~~Air Pollution Forecast. An internal watch by the Division and local air pollution control agencies shall be activated by a National Weather Service advisory that an atmospheric stagnation advisory is in effect, or the equivalent local forecast of stagnant atmospheric conditions.~~
- (2)(1) Alert. The alert level is that concentration of pollutants at which first stage control actions are to begin. The Director with the concurrence of the Governor shall proclaim an alert when any of the following levels is reached at any monitoring site: site and meteorological conditions are such that pollutant concentrations can be expected to remain at or exceed above levels for 12 or more hours or, in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken:
 - (a) ~~sulfur dioxide -- 800 ug/m³ ug/m³ (0.3 p.p.m.)ppm), 24-hour average;~~
 - (b) ~~particulate -- 375 ug/m³, 24-hour average;~~
 - (c) ~~sulfur dioxide and particulate combined -- product of sulfur dioxide ug/m³, 24-hour average, and particulate ug/m³, 24-hour average, equal to 65,000;~~
 - (d)(b) ~~carbon monoxide -- 17 ug/m³ ug/m³ (15 p.p.m.), ppm), eight-hour average;~~
 - (e)(c) ~~ozone -- 400 ug/m³ ug/m³ (0.2 p.p.m.), ppm), one-hour average;~~
 - (f)(d) ~~nitrogen dioxide -- 1130 ug/m³ ug/m³ (0.6 p.p.m.), ppm), one-hour average; 282 ug/m³ ug/m³ (0.15 p.p.m.), ppm), 24-hour average; or~~
 - (g)(e) ~~PM10--350 ug/m³; ug/m³ 24-hour average; and [average; and] average. meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, for ozone, the situation is likely to recur within the next 24-hours unless control actions are taken.~~
 - [(f) ~~in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.~~]
- (3)(2) Warning. The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. The Director with the concurrence of the Governor shall proclaim a warning when any one of the following levels is reached at any monitoring site: site and meteorological conditions are such that pollutant concentrations can be expected to remain at or exceed above levels for 12 or more hours or, in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken:
 - (a) ~~sulfur dioxide -- 1600 ug/m³ ug/m³ (0.6 p.p.m.), ppm), 24-hour average~~

- (b) ~~particulate~~ ~~625 ug/m³, 24-hour average;~~
- (e) ~~sulfur dioxide and particulate combined~~ ~~product of sulfur dioxide ug/m³, 24-hour average, and particulate ug/m³, 24-hour average, equal to 261,000;~~
- (d)(b) carbon monoxide -- 34 ug/m³ ug/m³ (30 p.p.m.), ppm), eight-hour average;
- (e)(c) ozone -- 800 ug/m³ ug/m³ (0.4 p.p.m.), ppm), one-hour average;
- (f)(d) nitrogen dioxide -- 2260 ug/m³ ug/m³ (1.2 p.p.m.), ppm), one-hour average; 565 ug/m³ ug/m³ (0.3 p.p.m.), ppm), 24-hour average; or
- (g)(e) PM10 -- 420 ug/m³; ug/m³ 24-hour average; and average. meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, for ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.
- [(f) ~~in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.~~]
- (4)(3) Emergency. The emergency level indicates that air quality is continuing to degrade to a level ~~that should never be reached and~~ that the most stringent control actions are necessary. The Director with the concurrence of the Governor shall declare an emergency when any one of the following levels is reached at any monitoring site: site and meteorological conditions are such that pollutant concentrations can be expected to remain at or exceed above levels for 12 or more hours or, in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken:
 - (a) sulfur dioxide -- 2100 ug/m³ ug/m³ (0.8 p.p.m.), ppm) 24-hour average;
 - (b) ~~particulate~~ ~~875 ug/m³, 24-hour average;~~
 - (e) ~~sulfur dioxide and particulate combined~~ ~~product of sulfur dioxide ug/m³, 24-hour average, and particulate ug/m³, 24-hour average, equal to 393,000;~~
 - (d)(b) carbon monoxide -- 46 mg/m³ ug/m³ (40 p.p.m.), ppm), eight-hour average;
 - (e)(c) ozone -- 1000 ug/m³ ug/m³ (0.5 p.p.m.), ppm), one-hour average;
 - (f)(d) nitrogen dioxide -- 3000 ug/m³ ug/m³ (1.6 p.p.m.), ppm), one-hour average; 750 ug/m³ ug/m³ (0.4 p.p.m.), 24-hour average; or
 - (g)(e) PM10--500 ug/m³; ug/m³ 24-hour average. [average; and] average.
 - [(f) ~~in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken. Same clarification applies to Warning and Emergency Levels.~~]
- (5)(4) Termination. ~~Once declared any level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that~~

~~time the next lower level shall be assumed.~~ After a proclamation has been issued, any level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that time the next lower level shall remain in effect until the criteria for that level are no longer met.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1988; July 1, 1984; June 1, 1980; December 1, 1976.1976;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0303 EMISSION REDUCTION PLANS

(a) Air Pollution Alert. Any person responsible for the operation of a source of air pollution described in MCAPCO Regulation 2.0305 - "Emission Reduction Plan: Alert Level" shall take all air pollution alert actions required for that source and shall put into effect the ~~preplanned program~~ preplanned abatement program that is required by MCAPCO Regulation 2.0304 – Preplanned Abatement Program for an air pollution alert.

(b) Air Pollution Warning. Any person responsible for the operation of a source of air pollution described in MCAPCO Regulation 2.0306 - "Emission Reduction Plan: Warning Level" shall take all air pollution warning actions required for that source and shall put into effect the ~~preplanned program~~ preplanned abatement program that is required by MCAPCO Regulation 2.0304 – Preplanned Abatement Program for an air pollution warning.

(c) Air Pollution Emergency. Any person responsible for the operation of a source of air pollution described in MCAPCO Regulation 2.0307 - "Emission Reduction Plan: Emergency Level" shall take all air pollution emergency actions required for that source and shall put into effect the ~~preplanned program~~ preplanned abatement program that is required by MCAPCO Regulation 2.0304 – Preplanned Abatement Program for an air pollution emergency.

State History Note: *Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
Eff. February 1, 1976;
Amended Eff. July 1, 1984. 1984;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0304 PREPLANNED ABATEMENT PROGRAM

(a) Any person who is responsible for the operation of a source of air pollution that is described in MCAPCO Regulations 2.0305 - "Emission Reduction Plan: Alert Level", 2.0306 - "Emission Reduction Plan: Warning Level", or 2.0307 - "Emission Reduction Plan: Emergency Level", or that emits 100 tons per year or more of any one pollutant shall prepare ~~a plan~~ an abatement program plan to reduce the emissions of air pollutants into the outdoor atmosphere during periods of an air pollution ~~episode~~ episode as described in MCAPCO 2.0302 – "Episode Criteria". The plan shall be consistent with good industrial practices and safe operating procedures. When the Director requests that the plan be submitted for his review, the owner or operator of the source shall submit the plan within 30 days of the Director's request.

(b) When requested by the Director in writing, any person responsible for the operation of a source not described in MCAPCO Regulations 2.0305 - "Emission Reduction Plan: Alert Level", 2.0306 - "Emission Reduction Plan: Warning Level", or 2.0307 - "Emission Reduction Plan: Emergency Level", shall prepare a plan to reduce the emissions of air pollutants into the outdoor atmosphere during periods of air pollution alert, air pollution warning, and air pollution ~~emergency~~ emergency as described in MCAPCO 2.0302 – "Episode Criteria". The plan shall be consistent with good industrial practices and safe operating procedures.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
Eff. February 1, 1976;
Amended Eff. July 1, 1988; July 1, 1984. 1984;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0401 PURPOSE

(a) The purpose of the ambient air quality standards set out in this Section is to establish certain maximum limits on parameters of air quality considered desirable for the preservation and enhancement of the quality of the ~~state's~~ State's air resources. Furthermore, the objective of the Commission, consistent with the North Carolina Air Pollution Control Law, shall be to prevent significant deterioration in ambient air quality in any substantial portion of the ~~state~~ State where existing air quality is better than the standards. An atmosphere in which these standards are not exceeded should provide for the protection of the public health, plant and animal life, and property.

(b) ~~Ground-level~~ Ground-level concentrations of pollutants ~~will~~ shall be determined by sampling at fixed locations in areas beyond the premises on which a source is located. The standards ~~are~~ shall be applicable at each such sampling location in the ~~state~~. State.

(c) No facility or source of air pollution shall cause any ambient air quality standard in this Section to be exceeded or contribute to a violation of any ambient air quality standard in this Section except as allowed by MCAPCO Regulations 2.0531 - "Sources in Non-Attainment Areas" or 2.0532 - "Sources Contributing to an Ambient Violation".

*State History Note: Statutory Authority G.S. 143-215.3(a)(1);143-215.107(a)(3);
Eff. February 1, 1976;
Amended Eff. December 1, 1992; October 1, 1989; July 1, ~~1984~~.1984;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0402 SULFUR OXIDES

- (a) The ambient air quality standards for sulfur oxides measured as sulfur dioxide ~~are~~ shall be:
- (1) 80 micrograms per cubic meter (0.03 p.p.m.) annual arithmetic ~~mean~~ mean;
 - (2) 365 micrograms per cubic meter (0.14 p.p.m.) maximum 24-hour concentration not to be exceeded more than once per ~~year~~ year; and
 - (3) 1300 micrograms per cubic meter (0.5 p.p.m.) maximum three-hour concentration not to be exceeded more than once per year.
- (b) Sampling and analysis shall be in accordance with procedures in Appendix A or A-1 of 40 CFR Part 50 or equivalent methods established under by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.
- (c) Applicability of the standards listed in Subparagraph (a)(1) and (2) of this Rule shall be in effect until one year after the effective date of initial designations under Section 107(d) of the Clean Air Act for the sulfur dioxide standard in Paragraph (d) of this Rule.
- (d) The primary one-hour annual ambient air quality standard for oxides of sulfur shall be 75 parts per billion (ppb), measured in the ambient air as sulfur dioxide.
- (e) The one-hour primary standard shall be met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. February 1, 1976;
Amended Eff. July 1, 1984; December 1, ~~1976~~ 1976;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0404 CARBON MONOXIDE

(a) The ambient air quality standards for carbon monoxide ~~are~~ shall be:

- (1) 9 parts per million (10 milligrams per cubic meter) maximum eight-hour average concentration not to be exceeded more than once per ~~year, year~~; and
- (2) 35 parts per million (40 milligrams per cubic meter) maximum one-hour average concentration not to be exceeded more than once per year.

(b) Sampling and analysis shall be in accordance with procedures in Appendix C of 40 CFR Part 50 or equivalent methods established under 40 CFR Part 53.

(c) An eight-hour average shall be considered valid if at least 75 percent of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using six or seven as the divisor.

(d) When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data ~~with the levels of~~ to the standards in parts per million shall be made in terms of integers with fractional parts of 0.5 or greater ~~rounding~~ rounded up.

State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. February 1, 1976;
Amended Eff. October 1, 1989; July 1, 1984; December
1, ~~1976-1976~~;
Readopted Eff. January 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

2.0405 OZONE

The ambient air quality standard for ozone measured by a reference method based on Appendix D of 40 CFR Part 50 and designated according to 40 CFR Part 53 ~~is shall be 0.08~~ 0.070 parts per million (ppm), daily maximum ~~8-hour~~ eight-hour average. The standard ~~is shall be deemed~~ attained at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum ~~8-hour~~ eight-hour average ozone concentration is less than or equal to ~~0.08~~ 0.070 ppm as determined by ~~Appendix I~~ Appendix U of 40 CFR Part 50, or equivalent methods established under 40 CFR Part 53.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. February 1, 1976;
Amended Eff. January 1, 2010; April 1, 1999; July 1, 1984; July 1, 1979;
December 1, ~~1976~~. 1976;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0407 NITROGEN DIOXIDE

(a) The primary annual ambient air quality standard for nitrogen dioxide is shall be 0.053 parts per million 53 parts per billion (100 micrograms per cubic meter) annual arithmetic mean. annual average concentration measured in the ambient air as nitrogen dioxide.

(b) The primary one-hour ambient air quality standard for oxides of nitrogen shall be 100 parts per billion one hour annual average concentration measured in the ambient air as nitrogen dioxide.

(c) The secondary ambient air quality standard for nitrogen dioxide shall be 0.053 parts per million (100 micrograms per cubic meter) annual arithmetic mean concentration.

~~(b)~~(d) Sampling and analysis shall be in accordance ~~with~~ with:

(1) procedures in Appendix F 40 CFR Part 50 50; or

(2) equivalent methods established under by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.

(e) The annual primary standard shall be deemed attained when the annual average concentration in a calendar year is less than or equal to 53 parts per billion, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual standard.

(f) The one hour primary standard shall be deemed attained when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for one-hour standard.

~~(e)~~(g) The secondary standards standard are shall be deemed attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 parts per million, rounded to three decimal places (fractional parts equal to or greater than 0.0005 parts per million are round up). To demonstrate attainment, an annual mean must shall be based on hourly data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. February 1, 1976;
Amended Eff. September 1, 2011; October 1, 1989; July
1, 1984; December 1, , ~~1976~~. 1976;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0408 LEAD

The ambient air quality standard for lead and its compounds, measured as elemental lead by a reference method based on Appendix G of 40 CFR Part 50 or by an equivalent method established under 40 CFR Part 53, ~~is~~ shall be 0.15 micrograms per cubic meter. The standard ~~is~~ shall be deemed met when the maximum arithmetic ~~three-month~~ three-month mean concentration for a ~~three-year~~ three-year period, as determined in accordance with Appendix R of 40 CFR Part 50, is less than or equal to 0.15 micrograms per cubic meter.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. June 1, 1980;
Amended Eff. January 1, 2010; July 1, ~~1984~~. 1984;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.0409 PM10 PARTICULATE MATTER

- (a) The ambient air quality ~~standards~~ standard for PM10 particulate matter ~~are~~: shall be
- (1) ~~150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), ($\mu\text{g}/\text{m}^3$), 24-hour average concentration; concentration, and~~
 - (2) ~~50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), annual arithmetic mean.~~

~~These standards are~~ This standard shall be deemed attained when the annual arithmetic mean concentration is less than or equal to $50 \mu\text{g}/\text{m}^3$, and when the 99th percentile 24-hour concentration is less than or equal to $150 \mu\text{g}/\text{m}^3$, $\mu\text{g}/\text{m}^3$, as determined according to Appendix N of 40 CFR Part 50. 50, is not exceeded more than once per year on average over a three-year period.

(b) For the purpose of determining attainment of the standards in Paragraph (a) of this Regulation, particulate matter shall be measured in the ambient air as PM10 (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by:

- (1) a reference method based on Appendix M of 40 CFR Part 50 and designated according to 40 CFR Part 53;
or
- (2) an equivalent method designated according to 40 CFR Part 53.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. July 1, 1988; Amended Eff. April 1, ~~1999~~ 1999;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018.

2.0410 PM2.5 PARTICULATE MATTER

(a) The national primary ambient air quality standards for PM2.5 ~~are~~ shall be 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual arithmetic mean concentration and 35 $\mu\text{g}/\text{m}^3$ 24-hr average concentration measured in the ambient air as PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers by either:

- (1) A reference method based on appendix L to 40 CFR Part 50 and designed in accordance with 40 CFR Part 53; or
- (2) An equivalent method designated in accordance with 40 CFR Part 53.

(b) The primary annual PM2.5 standard ~~is~~ shall be deemed met when the annual arithmetic mean concentration, as determined in accordance with ~~appendix~~ Appendix N of 40 CFR Part 50, is less than or equal to 12.0 $\mu\text{g}/\text{m}^3$

(c) The primary 24-hour PM2.5 standard ~~is~~ shall be deemed met when the 98th percentile 24-hour concentration, as determined in accordance with ~~appendix~~ Appendix N of 40 CFR Part 50, is less than or equal to 35 $\mu\text{g}/\text{m}^3$.

State History Note:

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);

Eff. April 1, 1999.

Amended Eff. September 1, 2015, January 1, ~~2010~~ 2010;

Readopted Eff. January 1, 2018.

MCAQ History Note:

Amended Eff. December 18, 2018; December 15, 2015

2.2001 PURPOSE, SCOPE AND APPLICABILITY

(a) The purpose of this Section is to assure the conformity of transportation plans, programs, and projects that are developed, funded, or approved by the United States Department of Transportation and by metropolitan planning organizations or other recipients of funds under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.), or State or Local only sources of funds, with all plans required of areas designated as nonattainment or maintenance under 40 CFR 81.334 for the pollutants specified therein and or listed in Paragraph (b), (c), or (d) (c) of this Regulation.

(b) This Section ~~applies~~ shall apply to the emissions of volatile organic compounds and nitrogen oxides in Mecklenburg County.

~~(c) This Section applies to the emissions of carbon monoxide in Mecklenburg County.~~

~~(d)~~(c) This Section applies to the emissions of:

- (1) particulate matter in areas identified in 40 CFR 81.334 as nonattainment or that have been redesignated attainment and are current maintenance areas for fine particulate (PM_{2.5}); (PM_{2.5}); or
- (2) volatile organic compounds or nitrogen oxides in areas identified in 40 CFR 81.334 as nonattainment or that have been redesignated attainment and are current maintenance areas for ozone.

~~(e)(d) This Section applies to FHWA/FTA projects or regionally significant State or local projects. For Federal Highway Administration/Federal Transit Administration FHWA/FTA (FHWA/FTA) projects or regionally significant regionally-significant State or local projects in the areas identified that meet the standards set forth in Paragraphs (b), (c), or (d) (b) or (c) of this Regulation and for the pollutants identified in Paragraphs (b), (c), or (d) of this Regulation, this Section applies to:~~ shall apply to:

- (1) the adoption, acceptance, approval, or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning organization or the United States Department of Transportation;
- (2) the adoption, acceptance, approval, or support of transportation improvement programs or amendments to transportation improvement programs pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning organization or the United States Department of Transportation; or
- (3) the approval, funding, or implementation of FHWA/FTA projects.

Conformity determinations are not required under this Section for individual projects that are not FHWA/FTA projects. However, 40 CFR 93.121 shall apply to these projects if they are regionally significant projects.

~~(f)€~~ This Section applies to maintenance areas for 20 years from the date the Environmental Protection Agency approves the area's request under Section 107(d) of the Clean Air Act for redesignation to ~~attainment~~ attainment or until the effective date of revocation of the conformity requirements for the NAAQS by EPA.

State History Note: *Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
Eff. April 1, 1999.
Amended Eff. December 1, ~~2005~~; 2005;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.2002 DEFINITIONS

For the purposes of this Section, the definitions contained in 40 CFR 93.101 and the following definitions apply:

- (1) ~~“Consultation” means that one party confers with another identified party, provides all information necessary to that party needed for meaningful input, and considers and responds to the views of that party in a timely, substantive written manner prior to any final decision.~~
- (2)(1) ~~“Regionally significant~~ **“Regionally-significant project”** means a transportation project (other than an exempt project under 40 CFR 93.126) that is on a facility that serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls and sports complexes, or transportation terminals as well as most terminals themselves) and would ~~normally~~ be included in the modeling of a metropolitan area’s transportation network, including ~~at a minimum~~ all principal arterial highways and all fixed ~~guide-way~~ guide-way transit facilities that offer an alternative to regional highway travel.
- (3)(2) ~~“Regionally significant~~ **“Regionally-significant State or local project”** means any highway or transit project that is a regionally significant project and that is proposed to receive only non-federal funding assistance (~~receives no federal funding~~) or approval through the State or any local program.

State History Note: *Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
Eff. April 1, 1999; 1999;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

2.2003 TRANSPORTATION CONFORMITY DETERMINATION

(a) Conformity analyses, determinations, and redeterminations for transportation plans, transportation improvement programs, FHWA/FTA projects, and State or local ~~regionally significant~~ regionally-significant projects shall be made according to the requirements of 40 CFR 93.104 and shall comply with the applicable requirements of 40 CFR 93.119, 93.120, 93.124, 93.125, and 93.126. For the purposes of this Regulation, ~~regionally significant~~ regionally-significant State or local projects shall be subject to the same requirements under 40 CFR Part 93 as FHWA/FTA projects except that State Environmental Policy Act procedures and requirements shall be substituted for National Environmental Policy Act procedures and requirements. ~~Regionally significant~~ Regionally-significant State or local projects subject to this Section for which the State Environmental Policy Act process and a conformity determination have been completed may proceed toward implementation without further conformity determination unless more than three years have elapsed since the most recent major step (State Environmental Policy Act process ~~completion~~, completion; start of final ~~design~~, design; acquisition of a significant portion of the ~~right-of-way~~, right-of-way; or approval of the plans, specifications, and estimates) occurred. All phases of these projects considered in the conformity determination ~~are also~~ shall also be included if these phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases.

(b) Before making a conformity determination, the metropolitan planning organizations, local transportation departments, North Carolina Department of Transportation, United States Department of Transportation, ~~the~~ North Carolina Department of Environment and Natural Resources - Division of Air Quality (NCDENR-DAQ), local air pollution control agencies, and United States Environmental Protection Agency shall consult with each other on matters described in **NCAC Title 15A Chapter 2 Subchapter 2D .2005 - “Memorandum of Agreement”**. Consultation shall begin as early as possible in the development of the emissions analysis used to support a conformity determination. The agency that performs the emissions analysis shall make the analysis available to NCDENR-DAQ and at least 21 days shall be allowed for review and comment on the emissions analysis. The 21-day review period shall begin upon receipt of the analysis by the Director of NCDENR-DAQ. After review by NCDENR-DAQ, the approving agency shall seek public comments in accordance with its public participation policy. The agency making the conformity determination shall address all written comments received prior to close of the public comment period, and these comments and responses thereto shall be included in the final document. If NCDENR-DAQ disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall be resolved in accordance with 40 CFR 93.105(d). The 14-day appeal period shall begin upon receipt by the Director of NCDENR-DAQ of the metropolitan planning organization’s resolution that determines conformity.

(c) The agency that performs the conformity analysis shall notify the NCDENR-DAQ of:

- (1) ~~any~~ changes in planning or analysis ~~assumptions [including assumptions, including~~ land use and vehicle miles traveled (VMT) ~~forecasts], forecasts;~~ and
- (2) ~~any~~ revisions to transportation plans or transportation improvement plans that add, delete, or change projects that require a new emissions ~~analysis (including analysis~~ including, design scope and dates that change the transportation network existing in a horizon ~~year)- year.~~ year.

Comments made by the NCDENR-DAQ and responses thereto made by the agency shall become part of the final planning document.

(d) Transportation plans shall satisfy the requirements of 40 CFR 93.106. Transportation plans and transportation improvement programs shall satisfy the fiscal constraints specified in 40 CFR 93.108. Transportation plans, programs, and FHWA/FTA projects shall satisfy the applicable requirements of 40 CFR 93.109 through ~~93.118.~~ 93.119.

(e) Written commitments to implement control measures that are not included in the transportation plan ~~and or~~ transportation improvement program (TIP) shall be obtained before a conformity ~~determination~~ determination, and these commitments shall be fulfilled. Written commitments to implement mitigation measures shall be obtained before a positive conformity determination, and project sponsors shall comply with these commitments.

(f) A recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall not adopt or approve a ~~regionally significant~~ regionally-significant highway or transit project, regardless of funding source, unless the requirements of 40 CFR Part 93 are ~~fully complied with.~~ met.

(g) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969 process, in accordance with 40 CFR 93.107.

(h) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the national ambient air quality ~~standards~~ standards, as provided under 40 CFR 93.103. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.

State History Note: *Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
Eff. April 1, ~~1999~~ 1999;
Readopted Eff. January 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1 15A NCAC 02Q .0101 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **SUBCHAPTER 02Q - AIR QUALITY PERMITS PROCEDURES**

4
5 **SECTION .0100 - GENERAL PROVISIONS**

6
7 **15A NCAC 02Q .0101 REQUIRED AIR QUALITY PERMITS**

8 (a) No owner or operator shall do any of the following activities, unless otherwise exempted, without first applying
9 for and obtaining an air quality permit:

10 (1) construct, operate, or modify a source subject to an applicable standard, requirement, or rule that
11 emits any regulated pollutant or one or more of the following:

- 12 (A) sulfur dioxide;
- 13 (B) total suspended particulates;
- 14 (C) particulate matter (PM10);
- 15 (D) carbon monoxide;
- 16 (E) nitrogen oxides;
- 17 (F) volatile organic compounds;
- 18 (G) lead and lead compounds;
- 19 (H) fluorides;
- 20 (I) total reduced sulfur;
- 21 (J) reduced sulfur compounds;
- 22 (K) hydrogen sulfide;
- 23 (L) sulfuric acid mist;
- 24 (M) asbestos;
- 25 (N) arsenic and arsenic compounds;
- 26 (O) beryllium and beryllium compounds;
- 27 (P) cadmium and cadmium compounds;
- 28 (Q) chromium(VI) and chromium(VI) compounds;
- 29 (R) mercury and mercury compounds;
- 30 (S) hydrogen chloride;
- 31 (T) vinyl chloride;
- 32 (U) benzene;
- 33 (V) ethylene oxide;
- 34 (W) dioxins and furans;
- 35 (X) ozone; or
- 36 (Y) any toxic air pollutant listed in 15A NCAC 02D .1104; or

(2) construct, operate, or modify a facility that has the potential to emit at least 10 tons per year of any hazardous air pollutant or 25 tons per year of all hazardous air pollutants combined, or that are subject to requirements established under the following sections of the federal Clean Air Act:

- (A) Section 112(d), emissions standards;
- (B) Section 112(f), standards to protect public health and the environment;
- (C) Section 112(g), construction and reconstruction;
- (D) Section 112(h), work practice standards and other requirements;
- (E) Section 112(i)(5), early reduction;
- (F) Section 112(j), federal failure to promulgate standards; or
- (G) Section 112(r), accidental releases.

(b) Stationary Source Construction and Operation Permit: With the exception allowed by G.S. 143-215.108A, the owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit ~~in accordance with the standard procedures under~~ pursuant to Section 15A NCAC 02Q .0300. .0300 of this Subchapter. Title V facilities shall be subject to the Title V procedures ~~under~~ pursuant to Section 15A NCAC 02Q .0500 of this Subchapter including the acid rain procedures ~~under~~ pursuant to Section 15A NCAC 02Q .0400. .0400 of this Subchapter. A facility may also be subject to the air toxic procedures ~~under~~ pursuant to 15A NCAC 02Q .0700.

(c) Fees shall be paid in accordance with the requirements of ~~Section .0200 of this Subchapter.~~ 15A NCAC 02Q .0200.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. January 1, 2015; December 1, 2005; July 1, ~~1998.~~ 1998;
Readopted Eff. April 1, 2018.

1 15A NCAC 02Q .0102 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS**

4 (a) For the purposes of this Rule, the definitions listed in 15A NCAC 02D .0101 and 15A NCAC 02Q .0103 shall
5 apply.

6 (b) This Rule ~~does~~shall not apply to:

- 7 (1) facilities whose potential emissions require a permit pursuant to 15A NCAC 02Q .0500 (Title V
8 Procedures); or
9 (2) a source emitting a pollutant that is part of the facility's 15A NCAC 02D .1100 (Control of Toxic
10 Air Pollutants) modeling demonstration if that source is not exempted pursuant to 15A NCAC 02Q
11 .0702.

12 (c) The owner or operator of an activity exempt from permitting pursuant to this Rule shall not be exempt from
13 demonstrating compliance with any other applicable State or federal requirement.

14 (d) Any facility whose actual emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic
15 compounds, carbon monoxide, hazardous air pollutants, and toxic air pollutants are each less than five tons per year
16 and whose actual total aggregate emissions are less than 10 tons per year shall not be required to obtain a permit
17 pursuant to 15A NCAC 02Q .0300. This Paragraph shall not apply to synthetic minor facilities that are regulated
18 pursuant to ~~Rule .0315 of this Subchapter.~~ 15A NCAC 02Q .0315.

19 (e) Any facility that is not exempted from permitting pursuant to Paragraph (d) of this Rule and whose actual total
20 aggregate emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, carbon
21 monoxide, hazardous air pollutants, and toxic air pollutants are greater than or equal to five tons per year and less than
22 25 tons per year may register their facility pursuant to 15A NCAC 02D .0202 instead of obtaining a permit pursuant
23 to 15A NCAC 02Q .0300. This Paragraph shall not apply ~~to any facility as follows:~~ to:

- 24 (1) synthetic minor facilities that are regulated pursuant to ~~Rule .0315 of this Subchapter;~~ 15A NCAC
25 02Q .0315;
26 (2) facilities with a source subject to maximum achievable control technology pursuant to 40 CFR Part
27 63;
28 (3) facilities with sources of volatile organic compounds or nitrogen oxides that are located in a
29 nonattainment area; or
30 (4) facilities with a source regulated pursuant to New Source Performance Standards (NSPS), unless
31 the source is exempted pursuant to Paragraph (g) or (h) of this Rule.

32 (f) The Director may require the owner or operator of a facility to register such facility pursuant to 15A NCAC 02D
33 .0200 or obtain a permit pursuant to 15A NCAC 02Q .0300, if necessary to obtain compliance with any other
34 applicable State or federal requirement.

35 (g) The following activities ~~does~~shall not require a permit or permit modification pursuant to 15A NCAC 02Q .0300:

- 36 (1) maintenance, upkeep, and replacement:

- (A) maintenance, structural changes, or repair activities ~~which that~~ do not increase the capacity of such process and do not cause any change in the quality or nature or an increase in quantity of an emission of any regulated air pollutant;
- (B) housekeeping activities or building maintenance procedures, including painting buildings, paving parking lots, resurfacing floors, repairing roofs, washing, using portable vacuum cleaners, sweeping, using and associated storing of janitorial products, or removing insulation;
- (C) using office supplies, supplies to maintain copying equipment, or blueprint machines;
- (D) using firefighting equipment (excluding engines regulated pursuant to 40 CFR 63, Subpart ZZZZ); or
- (E) replacing existing equipment with equipment of the same size (or smaller), type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants, does not affect the facility's compliance with any other applicable State or federal requirements, and that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be lawfully operated pursuant to that permit without modifying the permit;
- (2) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (3) laboratory or classroom activities:
- (A) bench-scale, on-site equipment used for experimentation, chemical or physical analysis for quality control purposes or for diagnosis of illness, training, or instructional purposes;
- (B) research and development activities that produce no commercial product or feedstock material; or
- (C) educational activities, including wood working, welding, and automotive repair;
- (4) storage tanks with no applicable requirements other than Stage I controls pursuant to 15A NCAC 02D .0928, Gasoline Service Stations Stage I;
- (5) combustion and heat transfer equipment:
- (A) heating units used for human comfort, excluding space heaters burning used oil, that have a heat input of less than 10 million Btu per hour and that do not provide heat for any manufacturing or other industrial process;
- (B) residential wood stoves, heaters, or fireplaces; or
- (C) water heaters that are used for domestic purposes only and are not used to heat process water;
- (6) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no state or federal air requirements;
- (7) dispensing equipment: equipment used solely to dispense gasoline, diesel fuel, kerosene, ~~lubricants~~lubricants, or cooling oils;

- (8) electric motor burn-out ovens with secondary combustion chambers or afterburners;
- (9) electric motor bake-on ovens;
- (10) burn-off ovens with afterburners for paint-line hangers;
- (11) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes ~~where bleach or solvent dyes are not used; that do not use bleach or solvent dyes;~~
- (12) woodworking operations processing only green wood;
- (13) ~~solid waste landfills. This does not apply to~~ flares and other sources of combustion at solid waste landfills. These flares and other combustion sources ~~are required to be permitted~~ shall obtain a permit pursuant to 15A NCAC 02Q .0300 unless they qualify for another exemption pursuant to this Paragraph; or
- (14) miscellaneous:
- (A) equipment that does not emit any regulated air pollutants;
 - (B) sources for which there are no applicable requirements;
 - (C) motor vehicles, aircraft, marine vessels, locomotives, tractors, or other self-propelled vehicles with internal combustion engines;
 - (D) engines regulated pursuant to Title II of the Federal Clean Air Act (Emission Standards for Moving Sources);
 - (E) equipment used for preparing food for direct on-site human consumption;
 - (F) a source whose emissions are regulated only pursuant to Section 112(r) or Title VI of the Federal Clean Air Act;
 - (G) exit gases from in-line process analyzers;
 - (H) stacks ~~or and~~ vents ~~to that~~ prevent ~~the~~ escape of sewer gases from domestic waste through plumbing traps;
 - (I) refrigeration equipment that complies with the regulations set forth in Sections 601 through 618 of Title VI (Stratospheric Ozone Protection) of the Federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA pursuant to Title VI for stratospheric ozone protection, except ~~those units~~ refrigeration equipment used as or in conjunction with air pollution control equipment. Refrigeration equipment used as or in conjunction with air pollution control equipment ~~is required to be permitted~~ shall obtain a permit pursuant to 15A NCAC 02Q .0300 unless it qualifies for another exemption pursuant to this Paragraph;
 - (J) equipment not vented to the outdoor atmosphere, with the exception of equipment that emits volatile organic compounds. Equipment that emits volatile organic compounds ~~is required to be permitted~~ shall obtain a permit pursuant to 15A NCAC 02Q .0300 unless it qualifies for another exemption pursuant to this Paragraph;

- (K) animal operations not required to have control technology pursuant to 15A NCAC 02D .1800. If an animal operation is required to have control technology, it shall ~~be required to~~ ~~have~~ ~~obtain~~ a permit pursuant to this Subchapter;
- (L) any incinerator that meets the requirements set forth in 15A NCAC 02D .1201(c)(4); or
- (M) dry cleaning operations, regardless of NSPS or NESHAP applicability.

(h) The following activities ~~do~~ ~~shall~~ not require a permit or permit modification pursuant to 15A NCAC 02Q .0300. These activities ~~are~~ ~~shall be~~ included in determining applicability of any rule or standard that requires facility-wide aggregation of source emissions, including activities regulated by 15A NCAC 02D .0530, 15A NCAC 02D .0531, 15A NCAC 02Q .0500, and 15A NCAC 02Q .0700:

- (1) combustion and heat transfer equipment (including direct-fired equipment that only emit regulated pollutants from fuel combustion):
 - (A) fuel combustion equipment (excluding internal combustion engines) not regulated pursuant to 40 CFR Part 60, NSPS, firing exclusively unadulterated liquid fossil fuel, wood, or an approved equivalent unadulterated fuel as defined in 15A NCAC 02Q .0103;
 - (B) fuel combustion equipment (excluding internal combustion engines) firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels; or
 - (C) space heaters burning waste oil if:
 - (i) the heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as household wastes; and
 - (ii) the heater is designed to have a maximum heat input of not more than 500,000 Btu per hour;
- (2) gasoline distribution: bulk gasoline ~~plants~~ ~~plants~~, as defined in 15A NCAC 02D .0926(a)(3), with an average daily throughput of less than 4,000 gallons;
- (3) paint spray booths or graphic arts operations, coating operations, and solvent cleaning ~~operations~~ ~~operations~~, as defined in 15A NCAC 02Q ~~.0803~~ ~~.0803~~, located at a facility whose facility-wide actual uncontrolled emissions of volatile organic compounds are less than five tons per year, except that such emission sources whose actual uncontrolled emissions of volatile organic compounds are less than 100 pounds per year shall qualify for this exemption regardless of the facility-wide emissions. For the purpose of this ~~exemption~~ ~~exemption~~, water wash and filters that are an integral part of the paint spray booth ~~are not~~ ~~shall not be~~ considered air pollution control devices;
- (4) electrostatic dry powder coating operations with filters or powder recovery systems;
- (5) miscellaneous: any source whose potential uncontrolled emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide shall each be no more than five tons per year; or
- (6) case-by-case exemption: activities that the applicant demonstrates to the Director do not violate any applicable emission control standard.

1 (i) The owner or operator of a facility or source claiming that an activity is exempt pursuant to Paragraphs (d), (e),
2 (g) or (h) of this Rule shall submit emissions data, documentation of equipment type, or other supporting documents
3 to the Director upon request that the facility or source is qualified for that exemption.
4

5 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.108;*
6 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
7 *becomes effective, whichever is sooner;*
8 *Eff. July 1, 1994;*
9 *Amended Eff. April 1, 1999; July 1, 1998; July 1, 1997; November 1, 1996;*
10 *Temporary Amendment Eff. December 1, 1999;*
11 *Amended Eff. June 13, 2016; May 1, 2013; January 1, 2009; July 1, 2007; June 29, 2006; July 18,*
12 *2002; July 1, ~~2000-2000~~;*
13 *Readopted Eff. April 1, 2018.*
14
15

1 15A NCAC 02Q .0103 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0103 DEFINITIONS**

4 For the purposes of this Subchapter, the definitions in G.S. 143-212 and G.S. 143-213 and the following definitions
5 apply:

- 6 (1) "Administrator" means, when it appears in any Code of Federal Regulation incorporated by
7 reference in ~~this Subchapter,~~ 15A NCAC 02Q, the Director of the Division of Air Quality unless:
- 8 (a) a specific rule in this Subchapter specifies otherwise, or
9 (b) the U.S. Environmental Protection Agency in its delegation or approval states that a
10 specific authority of the Administrator of the Environmental Protection Agency is not
11 included in its delegation or approval.
- 12 (2) "Air Pollutant" means an air pollution agent or combination of such agents, including any physical,
13 chemical, biological, radioactive ~~substances~~ substance, or matter ~~which~~ that is emitted into or
14 otherwise enters the ambient air. Water vapor shall not be considered an air pollutant.
- 15 (3) "Allowable emissions" ~~mean~~ means the maximum emissions allowed by the applicable rules
16 ~~contained set forth~~ in 15A NCAC 02D or by permit conditions if the permit limits emissions to a
17 lesser amount.
- 18 (4) "Alter or change" means to make a modification.
- 19 (5) "Applicable requirements" means:
- 20 (a) any requirement of ~~Section .0500 of this Subchapter,~~ 15A NCAC 02Q .0500;
21 (b) any standard or other requirement provided for in the implementation plan approved or
22 promulgated by EPA through rulemaking ~~under~~ pursuant to Title I of the federal Clean Air
23 ~~Act~~ Act, that implements the relevant requirements of the federal Clean Air Act including
24 any revisions to 40 CFR Part 52;
25 (c) any term or condition of a construction permit ~~for issued to~~ a facility ~~covered under~~ pursuant
26 to 15A NCAC 2D02D .0530, .0531, or .0532;
27 (d) any standard or other requirement ~~under~~ pursuant to Section 111 or 112 of the federal Clean
28 Air Act, but not including the contents of any risk management plan required
29 ~~under~~ pursuant to Section 112 of the federal Clean Air Act;
30 (e) any standard or other requirement ~~under~~ pursuant to Title IV of the federal Clean Air Act;
31 (f) any standard or other requirement governing solid waste incineration ~~under~~ pursuant to
32 Section 129 of the federal Clean Air Act;
33 (g) any standard or other requirement ~~under~~ pursuant to Section 183(e), 183(f), or 328 of the
34 federal Clean Air Act;
35 (h) any standard or requirement ~~under~~ pursuant to Title VI of the federal Clean Air Act unless
36 a permit for such requirement is not required ~~under~~ pursuant to this Section;

- (i) any requirement ~~underpursuant to~~ Section 504(b) or 114(a)(3) of the federal Clean Air Act;
or
- (j) any national ambient air quality standard or increment or visibility requirement ~~underpursuant to~~ Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal Clean Air Act.
- (6) "Applicant" means ~~the~~ a person who is applying for an air quality permit from the Division.
- (7) "Application package" means all elements or documents ~~needed~~ required to make an application complete.
- (8) "CFR" means the Code of Federal Regulations.
- (9) "Construction" means change in the method of operation or any physical change, including on-site fabrication, erection, installation, replacement, demolition, or modification of a source, that results in a change in emissions or affects the compliance status. The following activities ~~are not~~ shall not be considered construction:
- (a) clearing and grading;
 - (b) building access roads, driveways, and parking lots;
 - (c) building and installing underground pipe work, including water, sewer, electric, and telecommunications utilities; or
 - (d) building ancillary structures, including fences and office buildings that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required ~~underpursuant to~~ G.S. 143-215.108.
- (10) "Director" means the Director of the Division of Air Quality.
- (11) "Division" means the Division of Air Quality.
- (12) "EPA" means the United States Environmental Protection Agency or the Administrator of the Environmental Protection Agency.
- (13) "EPA approves" means full approval, interim approval, or partial approval by EPA.
- (14) "Equivalent unadulterated fuels" means used oils that have been refined such that the content of toxic additives or contaminants in the oil are no greater than those in unadulterated fossil fuels.
- (15) "Facility" means all of the ~~pollutant-emitting-pollutant-emitting~~ activities, except transportation facilities, that are located on one or more adjacent properties under common control.
- (16) "Federally enforceable" or "federal-enforceable" means enforceable by EPA.
- (17) "Fuel combustion equipment" means any fuel burning source covered ~~underpursuant to~~ 15A NCAC 02D .0503, .0504, .0536, or 40 CFR Part 60 Subpart D, Da, Db, or Dc.
- (18) "Green wood" means wood with a moisture content of 18% or more.
- (19) "Hazardous air pollutant" means any pollutant that has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants listed only in 15A NCAC 02D .1104 (Toxic Air Pollutant Guidelines), but not pursuant to Section 112(b), shall not be included in this definition.

- (20) "Insignificant activities" means activities defined as insignificant activities because of category or as insignificant activities because of size or production rate ~~underpursuant to Rule .0503 of this Subchapter. 15A NCAC 02Q .0503.~~
- (21) "Lesser quantity cutoff" means:
- (a) for a source subject to the requirements of Section 112(d) or (j) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which the following are not required:
 - (i) maximum achievable control technology (MACT) or generally available control technology (GACT), including work practice standards, ~~requirement underpursuant to~~ Section 112(d) of the federal Clean Air Act;
 - (ii) a MACT standard established ~~underpursuant to~~ Section 112(j) of the federal Clean Air Act; or
 - (iii) substitute MACT or GACT adopted ~~underpursuant to~~ Section 112(l) of the federal Clean Air Act;
 - (b) for modification of a source subject to, or that may be subject to, the requirements of Section 112(g) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which MACT is not required to be applied ~~underpursuant to~~ Section 112(g) of the federal Clean Air Act; or
 - (c) for all other sources, potential emissions of each hazardous air pollutant below 10 tons per year and the aggregate potential emissions of all hazardous air pollutants below 25 tons per year.
- (22) "Major facility" means a major source as defined ~~underpursuant to~~ 40 CFR 70.2.
- (23) "Modification" means any physical change or change in method of operation that results in a change in emissions or affects compliance status of the source or facility.
- (24) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (25) "Peak shaving generator" means a generator that is located at a facility and is used only to serve that facility's on-site electrical load during peak demand periods for the purpose of reducing the cost of electricity; it does not generate electricity for resale. A peak shaving generator may also be used for emergency backup.
- (26) "Permit" means the binding written document, including any revisions thereto, issued pursuant to G.S. 143-215.108 to the owner or operator of a facility or source that emits one or more air pollutants and that allows that facility or source to operate in compliance with G.S. 143-215.108. This document shall specify the requirements applicable to the facility or source and to the permittee.
- (27) "Permittee" means the person who has ~~received~~~~been issued~~ an air quality permit from the Division.
- (28) "Potential emissions" means the rate of emissions of any air pollutant that would occur at the facility's maximum capacity to emit any air pollutant under its physical and operational design. Any

physical or operational limitation on the capacity of a facility to emit an air pollutant shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations shall include air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed. Potential emissions shall include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions ~~do shall~~ not include a facility's secondary emissions such as those from motor vehicles associated with the facility and ~~do shall~~ not include emissions from insignificant activities because of category as defined ~~under Rule .0503 of this Section in 15A NCAC 02Q .0503~~. If a rule in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants ~~covered regulated~~ underpursuant to that rule.

(29) "Portable generator" means a generator permanently mounted on a trailer or a frame with wheels.

(30) "Regulated air pollutant" means:

- (a) nitrogen oxides or any volatile organic compound as defined underpursuant to 40 CFR 51.100;
- (b) any pollutant for which there is an ambient air quality standard underpursuant to 40 CFR Part 50;
- (c) any pollutant regulated underpursuant to 15A NCAC 02D .0524, .1110, or .1111; or 40 CFR Part 60, 61, or 63;
- (d) any pollutant subject to a standard promulgated underpursuant to Section 112 of the federal Clean Air Act or other requirements established underpursuant to Section 112 of the federal Clean Air Act, including Section 112(g) (but only for the facility subject to Section 112(g)(2) of the federal Clean Air Act), (j), or (r) of the federal Clean Air Act; or
- (e) any Class I or II substance listed underpursuant to Section 602 of the federal Clean Air Act.

(31) "Sawmill" means a place or operation where logs are sawed into lumber consisting of one or more of these activities: debarking, sawing, and sawdust handling. Activities that ~~are not~~ shall not be considered part of a sawmill include chipping, sanding, planning, routing, lathing, and drilling.

(32) "Source" means any stationary article, machine, process equipment, or other contrivance, or combination thereof, from which air pollutants emanate or are emitted, either directly or indirectly.

(33) "Toxic air pollutant" means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants that are listed in 15A NCAC 02D .1104.

(34) "Transportation facility" ~~means~~ shall be considered a complex source as defined in G.S. 143-213(22).

(35) "Unadulterated fossil fuel" means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that may result in the emissions of a toxic air pollutant listed underpursuant to 15A NCAC 02D .1104.

*History Note: Authority G.S. 143-212; 143-213; 143-215.3(a)(1);
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule
becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. April 1, 1999; July 1, 1998; July 1, 1996;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. January 1, 2015; December 1, 2005; July 1, ~~2000~~2000;
Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0106 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0106 INCORPORATION BY REFERENCE**

4 ~~(a) Referenced CFR contained in this Subchapter are incorporated by reference.~~

5 ~~(b)(a)~~ The ~~CFR-CFRs incorporated by reference~~ referenced in this Subchapter shall be incorporated by reference and
6 shall ~~automatically~~ include ~~any later subsequent~~ amendments and editions ~~thereto~~ unless a specific rule specifies
7 otherwise.

8 ~~(c)(b)~~ The CFR may be ~~purchased from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250.~~
9 ~~The cost of the 40 CFR Parts 61 to 80 is fourteen dollars (\$14.00).~~ obtained free of charge online at
10 <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

11
12 *History Note: Authority G.S. 143-215.3(a)(1); 150B-21.6;*
13 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
14 *rule becomes effective, whichever is sooner;*
15 *Eff. July 1, ~~1994~~, 1994;*
16 *Readopted Eff. April 1, 2018.*
17
18

1 15A NCAC 02Q .0107 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0107 CONFIDENTIAL INFORMATION**

4 (a) All information required to be submitted to the Commission or the Director ~~underpursuant to 15A NCAC 02Q or~~
5 ~~Subchapter 2D02D of this Title~~ shall be disclosed to the public unless the person submitting the information ~~can~~
6 ~~demonstrate~~demonstrates that the information is entitled to confidential treatment ~~underpursuant to~~ G.S. 143-215.3C.

7 (b) A request that information be treated as confidential shall be made by the person submitting the information at
8 the time that the information is submitted. The request shall state in writing the reasons why the information should
9 be ~~heldtreated as~~ confidential. ~~Any request not meeting these requirements shall be invalid.~~

10 (c) The Director shall decide which information is entitled to confidential treatment and shall notify the person
11 requesting confidential treatment of his or her decision within 180 days of receipt of a request to treat information as
12 confidential.

13 (d) Information for which a request has been made ~~underpursuant to~~ Paragraph (b) of this Rule ~~to treat as confidential~~
14 shall be treated as confidential until the Director decides that it is not confidential.

15
16 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.3C;*

17 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
18 *becomes effective, whichever is sooner;*

19 *Eff. July 1, 1994;*

20 *Amended Eff. April 1, 1999; July 1, ~~1997~~1997;*

21 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0108 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0108 DELEGATION OF AUTHORITY**

4 The Director may delegate the processing of permit applications and the issuance of permits to the Deputy Director,
5 the regional office air quality supervisor, or any supervisor in the Permitting Section of the Division of Air Quality as
6 ~~he [or she] considers appropriate.~~ Quality. This delegation shall not include the authority to deny a permit application
7 or to revoke or suspend a permit.

8
9 *History Note: Authority G.S. 143-215.3(a)(1),(4);*

10 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
11 *rule becomes effective, whichever is sooner;*

12 *Eff. July 1, 1994;*

13 *Amended Eff. July 1, ~~1998.~~1998;*

14 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0109 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0109 COMPLIANCE SCHEDULE FOR PREVIOUSLY EXEMPTED ACTIVITIES**

4 (a) If a source has ~~heretofore~~ been ~~exempted from needing a permit, exempt from permitting but-but~~ because of
5 change in permit exemptions, it is now required to have a ~~permit as follows:~~permit:

6 (1) ~~If~~If the source is located at a facility that currently has an air quality permit, the source shall be
7 added to the air quality permit of the facility the next time that permit is revised or renewed,
8 whichever occurs ~~first~~first; ~~or~~

9 (2) ~~If~~If the source is located at a facility that currently does not have an air quality permit, the owner or
10 operator of that source shall apply for a permit within six months after the effective date of the
11 change in the permit exemption.

12 (b) If a source becomes subject to requirements promulgated under 40 CFR Part 63, the owner or operator of the
13 source shall apply for a permit at least 270 days before the final compliance date of the requirement, unless exempted
14 ~~by pursuant to Rule .0102 of this Section 15A NCAC 02Q [.0102] at least 270 days before the final compliance date of~~
15 ~~the requirement. .0102.~~

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;*

18 *Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective,*
19 *whichever is sooner;*

20 *Eff. July 1, 1994;*

21 *Amended Eff. April 1, 2001; July 1, ~~1996-1996~~;*

22 *Readopted Eff. April 1, 2018.*
23
24

1 15A NCAC 02Q .0110 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0110 RETENTION OF PERMIT AT PERMITTED FACILITY**

4 The permittee shall retain a copy of all active permits issued ~~under~~pursuant to this Subchapter at the facility identified
5 in the permit.

6
7 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;*

8 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
9 *rule becomes effective, whichever is sooner;*

10 *Eff. July 1, ~~1994~~, 1994;*

11 *Readopted Eff. April 1, 2018.*
12
13
14
15

1 15A NCAC 02Q .0111 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0111 APPLICABILITY DETERMINATIONS**

4 Any person may submit a request in writing to the Director requesting a determination as to whether a particular
5 source or facility that the person owns or operates or proposes to own or operate is subject to any of the permitting
6 requirements under pursuant to this Subchapter. The request shall contain ~~such~~ information ~~believed to be~~ sufficient
7 ~~for the Director~~ to make the requested determination. The Director may request any additional information that is
8 needed to make the determination.

9
10 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;*
11 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
12 *rule becomes effective, whichever is sooner;*
13 *Eff. July 1, ~~1994~~, 1994;*
14 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0112 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0112 APPLICATIONS REQUIRING PROFESSIONAL ENGINEER SEAL**

4 ~~(a) This Rule shall not apply to permit applications submitted before December 1, 1994.~~

5 ~~(b)(a) If required by G.S. 89C. A~~ a professional engineer ~~registered in North Carolina~~ shall ~~be required to~~ seal technical
6 portions of air permit applications for new sources and modifications of existing sources as defined in ~~Rule .0103 of~~
7 ~~this Section~~ 15A NCAC 02Q .0103 that involve:

- 8 (1) design;
- 9 (2) determination of applicability and appropriateness; or
- 10 (3) determination and interpretation of ~~performance;~~ performance of air pollution capture and control
11 systems.

12 ~~(c)(b)~~ The requirements of Paragraph ~~(b)(a)~~ of this Rule ~~do~~ shall not apply to the following:

- 13 (1) any source with non-optional air pollution control equipment that constitutes an integral part of the
14 process equipment as originally designed and manufactured by the equipment supplier;
- 15 (2) sources that are permitted ~~underpursuant to Rule .0310 or .0509 of this Subchapter;~~ 15A NCAC 02Q
16 .0310 or .0509;
- 17 (3) paint spray booths without air pollution capture and control systems for volatile organic compound
18 emissions;
- 19 (4) particulate emission sources with air flow rates of less than or equal to 10,000 actual cubic feet per
20 minute;
- 21 (5) nonmetallic mineral processing plants with wet suppression control systems for particulate
22 emissions; or
- 23 (6) permit renewal if no modifications are included in the permit renewal application.

24
25 *History Note:* Authority *G.S. 143-215.3(a)(1); 143-215.108;*

26 *RRC Objection Eff. November 17, 1994 due to lack of statutory authority;*

27 *Eff. February 1, 1995, 1995;*

28 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0113 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0113 NOTIFICATION IN AREAS WITHOUT ZONING**

4 (a) State and local governments ~~are~~shall be exempt from this Rule.

5 (b) Before a person submits a permit application for a new or expanded facility in an area without zoning, he or she
6 ~~shall provide public notification as set out in this Rule.~~shall:

7 ~~(c) A person covered under [pursuant to] this Rule shall publish a legal notice as specified in Paragraph (d) of this~~
8 ~~Rule and shall post a sign as specified in Paragraph (f) of this Rule.~~

9 ~~(d) A person covered under [pursuant to] this Rule shall publish a legal notice in a newspaper of general circulation~~
10 ~~in the area where the source is or will be located at least two weeks before submitting the permit application for the~~
11 ~~source. The notice shall identify:~~

12 (1) ~~publish a legal notice in a newspaper of general circulation in the area where the source is or will be~~
13 ~~located at least two weeks before submitting the permit application for the source. The notice shall~~
14 ~~identify:~~

15 (1) ~~the name of the affected facility;~~

16 (2) ~~the name and address of the permit applicant; and~~

17 (3) ~~the activity or activities involved in the permit action;~~

18 (A) ~~the name of the affected facility;~~

19 (B) ~~the name and address of the permit applicant; and~~

20 (C) ~~the activity or activities involved in the permit action; and~~

21 ~~(e) The permit applicant shall submit with the permit application an affidavit and proof of publication that the legal~~
22 ~~notice required under [pursuant to] Paragraph (d) of this Rule was published.~~

23 ~~(f) A person covered under [pursuant to] this Rule shall post a sign on the property where the new or expanded source~~
24 ~~is or will be located. The sign shall meet the following specifications:~~

25 (2) ~~post a sign on the property where the new or expanded source is or will be located. The sign shall~~
26 ~~meet the following specifications:~~

27 (1) ~~It shall be at least six square feet in area;~~

28 (2) ~~It shall be set off the road right of way, but no more than 10 feet from the road right of way.~~

29 (3) ~~The bottom of the sign shall be at least six feet above the ground;~~

30 (4) ~~It shall contain the following information:~~

31 (A) ~~the name of the affected facility;~~

32 (B) ~~the name and address of the permit applicant; and~~

33 (C) ~~the activity or activities involved in the permit action;~~

34 (5) ~~Lettering shall be a size that the sign can be read by a person with 20/20 vision standing in the center~~
35 ~~of the road; and~~

36 (6) ~~The side with the lettering shall face the road, and sign shall be parallel to the road.~~

1 ~~The sign shall be posted at least 10 days before the permit application is submitted and shall remain posted for at least~~
2 ~~30 days after the application is submitted.~~

3 (A) it shall be at least six square feet in area;

4 (B) it shall be set off the road right-of-way, but no more than 10 feet from the road right-of-
5 way;

6 (C) the bottom of the sign shall be at least six feet above ground;

7 (D) it shall contain the name of the affected facility; the name and address of the permit
8 applicant; and the activity or activities involved in the permit action;

9 (E) lettering shall be a size that the sign can be read by a person with 20/20 vision standing in
10 the center of the road;

11 (F) the side with the lettering shall face the road, and sign shall be parallel to the road; and

12 (G) the sign shall be posted at least 10 days before the permit application is submitted and shall
13 remain posted for at least 30 days after the application is submitted.

14 (c) The permit applicant shall submit with the permit application an affidavit and proof of publication that the legal
15 notice required pursuant to Paragraph (b) of this Rule was published.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

18 *Eff. April 1, 2004.2004;*

19 *Readopted Eff. April 1, 2018.*
20
21

1 15A NCAC 02Q .0202 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0202 DEFINITIONS**

4 For the purposes of this Section, the following definitions apply:

- 5 (1) "Actual emissions" means the actual rate of emissions in tons per year of any air pollutant emitted
6 from the facility over the preceding calendar year. Actual emissions shall be calculated using the
7 sources' actual operating hours, production rates, in-place control equipment, and types of materials
8 processed, stored, or combusted during the preceding calendar year. Actual emissions shall include
9 fugitive emissions as specified in the definition of major source in 40 CFR 70.2. For fee applicability
10 and calculation purposes ~~under Rule .0201 or .0203 of this Section pursuant to 15A NCAC 02Q~~
11 ~~.0201 or .0203~~ and emissions reporting purposes ~~under Rule .0207 of this Section, pursuant to 15A~~
12 ~~NCAC 02Q .0207~~, actual emissions ~~do shall~~ not include emissions beyond the normal emissions
13 during violations, malfunctions, start-ups, and ~~shut-downs, shut-downs~~; do not include a facility's
14 secondary emissions such as those from motor vehicles associated with the ~~facility, facility~~; and do
15 not include emissions from insignificant activities because of category as defined ~~under Rule .0503~~
16 ~~of this Subchapter pursuant to 15A NCAC 02Q .0503~~.
- 17 ~~(2) "Title V facility" means a facility that that is required to have a permit under Section .0500 of this~~
18 ~~Subchapter except perchloroethylene dry cleaners whose potential emissions are less than:~~
19 ~~(a) — 10 tons per year of each hazardous air pollutant,~~
20 ~~(b) — 25 tons per year of all hazardous air pollutants combined, and~~
21 ~~(c) — 100 tons per year of each regulated air pollutant.~~
- 22 (2) "General facility" means a facility obtaining a permit pursuant to 15A NCAC 02Q .0310 or .0509.
- 23 (3) "Minor modification" means a modification made pursuant to 15A NCAC 02Q .0515, Minor Permit
24 Modifications.
- 25 ~~(4) — "Synthetic minor facility" means a facility that would be a Title V facility except that the potential~~
26 ~~emissions are reduced below the thresholds in Paragraph (2) of this Rule by one or more physical~~
27 ~~or operational limitations on the capacity of the facility to emit an air pollutant. Such limitations~~
28 ~~must be enforceable by EPA and may include air pollution control equipment and restrictions on~~
29 ~~hours of operation, the type or amount of material combusted, stored, or processed.~~
- 30 ~~(5)(4)~~ "Significant modification" means a modification made pursuant to 15A NCAC 02Q .0516,
31 Significant Permit Modification.
- 32 ~~(6) — "General facility" means a facility obtaining a permit under Rule .0310 or .0509 of this Subchapter.~~
- 33 ~~(7)(5)~~ "Small facility" means a facility that is not a Title V facility, a synthetic minor facility, a general
34 facility, nor solely a transportation facility.
- 35 ~~(6)~~ "Synthetic minor facility" means a facility that would be a Title V facility except that the potential
36 emissions are reduced below the thresholds in ~~[Paragraph (2)]~~Item (7) of this Rule by one or more
37 physical or operational limitations on the capacity of the facility to emit an air pollutant. Such

1 limitations ~~must~~ shall be enforceable by EPA and may include air pollution control ~~equipment~~
2 ~~and equipment~~, restrictions on hours of operation, and the type or amount of material combusted,
3 stored, or processed.

- 4 (7) "Title V facility" means a facility that is required to have a permit pursuant to 15A NCAC 02Q
5 .0500 except perchloroethylene dry cleaners whose potential emissions are less than:
6 (a) 10 tons per year of each hazardous air ~~pollutant,~~ pollutant;
7 (b) 25 tons per year of all hazardous air pollutants ~~combined,~~ combined; and
8 (c) 100 tons per year of each regulated air pollutant.

9
10 *History Note:* Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d); 150B-21.6;
11 Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective,
12 whichever is sooner;
13 Eff. July 1, 1994;
14 Amended Eff. July 1, 1996;
15 Temporary Amendment Eff. December 1, 1999;
16 Amended Eff. April 1, 2004; August 1, 2002; July 1, ~~2000-2000~~;
17 Readopted Eff. April 1, 2018.
18
19
20

1 15A NCAC 02Q .0203 is readopted with changes as published in 32:04 NCR 165 as follows:

2
3 **15A NCAC 02Q .0203 PERMIT AND APPLICATION FEES**

4 (a) The owner or operator of any facility holding a permit shall pay the following permit fees:

ANNUAL PERMIT FEES
(FEES FOR CALENDAR YEAR 2011)

Facility Category	Tonnage Factor	Basic Permit Fee	Nonattainment Area Added Fee
Title V	\$30.00	\$6,500	\$3,500
Synthetic Minor		\$1,500	
Small		\$250	
General	50% of the otherwise applicable fee		

5
6 A facility, other than a Title V facility, that has been in compliance is eligible for a 25 percent discount from the annual
7 permit fees as described in Paragraph (a) of ~~Rule .0205 of this Section.~~ 15A NCAC 02Q .0205(a). Annual permit fees
8 for Title V facilities shall be adjusted for inflation as described in ~~Rule .0204 of this Section.~~ 15A NCAC 02Q .0204.
9 Annual permit fees for Title V facilities consist of the sum of the applicable fee elements. The current annual permit
10 fees shall be found on the Division's website at ~~http://www.ncair.org/permits/Fee_Table_and_Guide.pdf.~~
11 ~~[https://deq.nc.gov/about/divisions/air-quality/air-quality-permitting/Fee_Table_and_Guide.pdf.]~~
12 ~~https://deq.nc.gov/about/divisions/air-quality/air-quality-permits/modifying-applying-for-air-quality-permit.~~

13 (b) In addition to the annual permit fee, a permit applicant shall pay a non-refundable permit application fee as follows:

PERMIT APPLICATION FEES
(FEES FOR CALENDAR YEAR 1994)

Facility Category	New or Modification	New or Significant Modification	Minor Modification	Ownership Change
Title V		\$7,200	\$700	\$50
Title V (PSD or NSR/NAA)	\$10,900			\$50
Title V (PSD and NSR/NAA)	21,200			\$50
Synthetic Minor	\$400			\$50
Small	\$50			\$50
General	50% of the otherwise applicable fee			\$25

1
2 Permit application fees for Title V facilities shall be adjusted for inflation as described in ~~Rule .0204 of this~~
3 ~~Section 15A NCAC 02Q .0204~~. The current permit application fees shall be found on the Division's website at
4 ~~http://www.ncair.org/permits/Fee_Table_and_Guide.pdf~~, ~~[https://deq.nc.gov/about/divisions/air-quality/air-quality-~~
5 ~~permitting]~~ ~~https://deq.nc.gov/about/divisions/air-quality/air-quality-permits/modifying-applying-for-air-quality-~~
6 ~~permit~~.

7 (c) If a facility, other than a general facility, belongs to more than one facility category, the fees shall be those of the
8 applicable category with the highest fees. If a permit application belongs to more than one type of application, the fee
9 shall be that of the applicable permit application type with the highest fee.

10 (d) The tonnage factor fee shall be applicable only to Title V facilities. It shall be computed by multiplying the tonnage
11 factor indicated in the table in Paragraph (a) of this Rule by the facility's combined total actual emissions of all
12 regulated air pollutants, rounded to the nearest ton, contained in the latest emissions inventory that has been completed
13 by the Division. The calculation shall not include:

- 14 (1) carbon monoxide;
- 15 (2) any pollutant that is regulated solely because it is a Class I or II substance listed ~~under~~ pursuant to
16 Section 602 of the federal Clean Air Act (ozone depleters);
- 17 (3) any pollutant that is regulated solely because it is subject to a regulation or standard ~~under~~ pursuant
18 to Section 112(r) of the federal Clean Air Act (accidental releases); and
- 19 (4) the amount of actual emissions of each pollutant that exceeds 4,000 tons per year.

20 Even though a pollutant may be classified in more than one pollutant category, the amount of pollutant emitted shall
21 be counted only once for tonnage factor fee purposes and in a pollutant category chosen by the permittee. If a facility
22 has more than one permit, the tonnage factor fee for the facility's combined total actual emissions as described in this
23 Paragraph shall be paid only on the permit whose anniversary date first occurs on or after July 1.

24 (e) The nonattainment area added fee shall be applicable only to Title V facilities required to comply with 15A NCAC
25 02D .0531 (Sources in Nonattainment Areas), 15A NCAC 02D .0900 (Volatile Organic Compounds), or 15A NCAC
26 02D .1400 (Nitrogen Oxides) and either:

- 27 (1) are in ~~an~~ area designated in 40 CFR 81.334 as nonattainment, or
- 28 (2) are covered by a nonattainment or maintenance State Implementation Plan submitted for approval
29 or approved as part of 40 CFR Part 52, Subpart II.

30 (f) ~~The facility category, A Title V (PSD or NSR/NAA) NSR/NAA), in the permit application fees table in Paragraph~~
31 ~~(b) of this Rule facility is means~~ a facility whose application shall be subject to review ~~under~~ pursuant to 15A NCAC
32 02D .0530 (Prevention of Significant Deterioration) or 15A NCAC 02D ~~.0531 (Sources in Nonattainment Areas).~~
33 ~~.0531~~.

34 (g) ~~The facility category, A Title V (PSD and NSR/NAA) NSR/NAA), in the permit application fees table in~~
35 ~~Paragraph (b) of this Rule facility is means~~ a facility whose application shall be subject to review ~~under~~ pursuant to
36 15A NCAC 02D .0530 ~~(Prevention of Significant Deterioration)~~ and ~~15A NCAC 02D .0531 (Sources in~~
37 ~~Nonattainment Areas).~~ ~~.0531~~.

1 (h) Minor modification permit applications that are group processed shall require the payment of only one permit
2 application fee per facility included in the group.

3 (i) No permit application fee shall be required for renewal of an existing permit, for changes to an unexpired permit
4 when the only reason for the changes is initiated by the Director or the Commission, for a name change with no
5 ownership change, for a change ~~underpursuant to Rule .0523~~ 15A NCAC 02Q .0523 (Changes Not Requiring Permit
6 ~~Revisions~~)Revisions), of this Subchapter, or for a construction date change, a test date change, a reporting procedure
7 change, or a similar change.

8 (j) The permit application fee paid for modifications ~~underpursuant to~~ 15A NCAC 02Q .0400, Acid Rain Procedures,
9 shall be the fee for the same modification if it were ~~undersubject to~~ 15A NCAC 02D02Q .0500, Title V Procedures.

10 (k) An applicant who files permit applications pursuant to ~~Rule .0504 of this Subchapter~~ 15A NCAC 02Q .0504 shall
11 pay an application fee ~~as would be determined by equal to~~ the application fee for the permit required ~~underpursuant~~
12 ~~to Section .0500 of this Subchapter;~~ 15A NCAC 02Q .0500; this fee shall cover both applications, provided that the
13 second application covers only what is covered under the first application. If permit terms or conditions in an existing
14 or future permit issued ~~underpursuant to Section .0500 of this Subchapter~~ 15A NCAC 02Q .0500 ~~shall be~~
15 established or modified by an application for a modification and if these terms or conditions are enforceable by the
16 Division only, then the applicant shall pay the fee under the column entitled "Minor Modification" in the table in
17 Paragraph (b) of this Rule.

18
19 *History Note: Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d);*

20 *Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective,*
21 *whichever is sooner.*

22 *Eff. July 1, 1994;*

23 *Amended Eff. January 1, 2015; March 1, 2008; April 1, 2004; April 1, 2001; July 1, ~~1996-1996;~~*

24 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0207 is readopted with changes as published in 32:04 NCR 165-166 as follows:

2
3 **15A NCAC 02Q .0207 ANNUAL EMISSIONS REPORTING**

4 (a) The owner or operator of a Title V facility shall report by June 30th of each year the actual emissions during the
5 previous calendar year of:

- 6 (1) volatile organic ~~compounds, compounds;~~
- 7 (2) nitrogen ~~oxides, oxides;~~
- 8 (3) total suspended ~~particulates, particulates;~~
- 9 (4) sulfur ~~dioxide, dioxide;~~
- 10 (5) ~~fluorine, fluorine;~~
- 11 (6) hydrogen ~~chloride, chloride;~~
- 12 (7) hydrogen ~~fluoride, fluoride;~~
- 13 (8) hydrogen ~~sulfide, sulfide;~~
- 14 (9) methyl ~~chloroform, chloroform;~~
- 15 (10) methylene ~~chloride, chloride;~~
- 16 (11) ~~ozone, ozone;~~
- 17 (12) ~~chlorine, chlorine;~~
- 18 (13) ~~hydrazine, hydrazine;~~
- 19 (14) ~~phosphine, phosphine;~~
- 20 (15) particulate matter ~~(PM10), (PM10);~~
- 21 (16) carbon ~~monoxide, monoxide;~~
- 22 (17) ~~lead, lead;~~ and
- 23 (18) perchloroethylene.

24 (b) The accuracy of the report required by Paragraph (a) of this Rule shall be certified by a responsible official of the
25 facility as defined ~~under~~ pursuant to 40 CFR 70.2.

26 (c) The owner or operator of a facility not included in Paragraph (a) of this Rule, other than a transportation facility,
27 that has actual emissions of 25 tons per year or more of nitrogen oxides or volatile organic compounds shall report by
28 June 30th of each year the actual emissions of nitrogen oxides and volatile organic compounds during the previous
29 calendar year, if the facility is in:

- 30 (1) ~~Cabarrus County,~~
- 31 (2) ~~Davidson County,~~
- 32 (3) ~~Durham County,~~
- 33 (4) ~~Forsyth County,~~
- 34 (5) ~~Gaston County,~~
- 35 (6) ~~Guilford County,~~
- 36 (7) ~~Lincoln County,~~
- 37 (8) ~~Mecklenburg County,~~

- (9) ~~Rowan County,~~
(10) ~~Union County,~~
(11) ~~Wake County,~~
(12) ~~Davidson Township and Coddle Creek Township in Iredell County,~~
(13) ~~Dutchville Township in Granville County, or~~
(14) ~~that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to the Yadkin River.~~
(1) the townships of Central Cabarrus, Concord, Georgeville, Harrisburg, Kannapolis, Midland, Mount Pleasant, New Gilead, Odell, Poplar Tent, and Rimertown in Cabarrus County;
(2) the townships of Crowders Mountain, Dallas, Gastonia, Riverbend, and South Point in Gaston County
(3) the townships of Davidson and Coddle Creek in Iredell County;
(4) the townships of Catawba Springs, Lincolnton, and Ironton in Lincoln County;
(5) [all] the townships in Mecklenburg County;
(6) the townships of Atwell, China Grove, Franklin, Gold Hill, Litaker, Locke, Providence, Salisbury, Steele, and Unity in Rowan County; or
(7) the townships of Goose Creek, Marshville, Monroe, Sandy Ridge, and Vance in Union County.

(d) The annual reporting requirement ~~under~~ pursuant to Paragraph (c) of this Rule shall begin with calendar year ~~2007~~ 2017 emissions for facilities in ~~Cabarrus, Lincoln, Rowan, and Union counties and Davidson Township and Coddle Creek Township in Iredell County,~~ the areas identified in Paragraph (c) of this Rule.

(e) The report shall be in or on such form as may be established by the Director. ~~The~~ Pursuant to G.S. 143-215.107(a)(4), the Director may require reporting for sources within a facility, for other facilities, or for other pollutants, parameters, or information, by permit condition or pursuant to 15A NCAC 02D .0202 (Registration of Air Pollution Sources).

History Note: Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d); 143-215.65; 143-215.107; 143B-282; 150B-21.6; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. July 1, 2007; July 1, 1998; July 1, ~~1996~~ 1996; Readopted Eff. April 1, 2018.

1 15A NCAC 02Q .0301 is readopted with changes as published in 32:04 NCR 166 as follows:

2
3
4 **SECTION .0300 - CONSTRUCTION AND OPERATION PERMITS**

5
6 **15A NCAC 02Q .0301 APPLICABILITY**

7 (a) Except for the permit exemptions allowed ~~under pursuant to Rules 15A NCAC 02Q .0102 and .0302 of this~~
8 ~~Subchapter, 15A NCAC 02Q [-900].0900~~ or as allowed ~~under pursuant to G.S. 143-215.108A~~, the owner or operator
9 of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a
10 construction and operation permit ~~in accordance with the procedures under pursuant to Section .0300; 15A NCAC~~
11 ~~02Q .0300~~; however, Title V facilities ~~are shall be~~ subject to the Title V procedures ~~under pursuant to Section .0500~~
12 ~~15A NCAC 02Q .0500~~ including the acid rain procedures ~~under pursuant to Section .0400 15A NCAC 02Q .0400~~ for
13 Title IV sources.

14 (b) The owner or operator of a source required to have a permit ~~under pursuant to~~ this Section ~~may shall~~ also be subject
15 to ~~the applicable~~ air toxic permit procedures ~~under pursuant to 15A NCAC 2Q .0700 02Q .0700.~~

16 (c) The owner or operator of a source required to have a permit under this Section shall pay permit fees required ~~under~~
17 ~~pursuant to Section .0200 of this Subchapter. 15A NCAC 02Q .0200.~~

18
19 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

20 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
21 *becomes effective, whichever is sooner;*

22 *Eff. July 1, 1994;*

23 *Amended Eff. December 1, 2005; July 1, 1998, 1998;*

24 *Readopted Eff. April 1, 2018.*
25
26

1 15A NCAC 02Q .0303 is readopted with changes as published in 32:04 NCR 166-167 as follows:

2
3 **15A NCAC 02Q .0303 DEFINITIONS**

4 For the purposes of this Section, the following definitions apply:

5 ~~(1) "New facility" means a facility that is receiving a permit from the Division for construction and~~
6 ~~operation of a source of an emissions polluting operation that it is not currently permitted.~~

7 ~~(2)(1) "Modified facility" means a modification of an existing facility or source and:~~

8 ~~(a) The permitted facility or source is being modified in such a manner as to require the~~
9 ~~Division to reissue the permit, or a new or reissued permit pursuant to this Section; or~~

10 ~~(b) A new source is being added that requires the Division to reissue the permit in such a~~
11 ~~manner as to require a new or reissued permit pursuant to this Section.~~

12 ~~A modified facility does not include a facility or source that requests to change name or ownership, construction or~~
13 ~~test dates, or reporting procedures.~~

14 ~~A modified facility does not include a facility or source that requests to change name or ownership,~~
15 ~~construction or test dates, or reporting procedures.~~

16 ~~(2) "New facility" means a facility that is receiving a permit from the Division for construction and~~
17 ~~operation of an emission source that it is not currently permitted.~~

18 ~~(3) "Plans and Specifications" means the completed application and any other documents required to~~
19 ~~define the operating conditions of the air pollution source.~~

20 ~~(4) "Responsible official" means one of the following:~~

21 ~~(a) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who~~
22 ~~is in charge of a principal business [function, or]function; any other person who performs~~
23 ~~similar policy or decision-making functions for the [corporation,]corporation; or a [duly~~
24 ~~authorized]duly-authorized representative of such a person if the representative is~~
25 ~~responsible for the overall operation of one or more manufacturing, production, or~~
26 ~~operating facilities applying for or subject to a permit and either:~~

27 ~~(i) the facilities employ more than 250 [persons,]persons or have gross annual sales~~
28 ~~or expenditures exceeding [\$25]twenty-five million dollars (\$25,000,000) (in~~
29 ~~second quarter 1980 dollars); or~~

30 ~~(ii) the delegation of authority to such representatives is approved in advance by the~~
31 ~~permitting authority;~~

32 ~~(b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or~~

33 ~~(c) for a municipality, State, [Federal,]federal, or other public agency: either a principal~~
34 ~~executive officer or ranking elected official. A principal executive officer of a~~
35 ~~[Federal]federal agency includes the chief executive officer having responsibility for the~~
36 ~~overall operations of a principal geographic unit of the agency (e.g., a Regional~~
37 ~~Administrator of EPA).~~

1 ~~(4)~~(5) "Title IV source" means a source that is required to be permitted following the procedures under
2 ~~Section .0400 of this Subchapter.~~ pursuant to 15A NCAC 02Q .0400.

3 ~~(5)~~(6) "Title V source" means a source that is required to be permitted following the procedures under
4 ~~Section .0500 of this Subchapter.~~ pursuant to 15A NCAC 02Q .0500.

5
6 *History Note:* *Authority G.S. 143-213; 143-215.3(a)(1);*
7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
8 *becomes effective, whichever is sooner;*
9 *Eff. July 1, 1994, 1994;*
10 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0304 is readopted with changes as published in 32:04 NCR 167-168 as follows:

2
3 **15A NCAC 02Q .0304 APPLICATIONS**

4 (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and
5 shall be filed in writing according to ~~Rule .0104 of this Subchapter.~~ 15A NCAC 02Q .0104.

6 (b) Information to accompany application. Along with filing a complete application form, the applicant shall also file
7 the following:

8 (1) for a new facility or an expansion of existing facility, a zoning consistency determination according
9 to G.S. 143-215.108(f) that:

10 (A) bears the date of receipt entered by the clerk of the local ~~government, government;~~ or

11 (B) consists of a letter from the local government indicating that all zoning or subdivision
12 ordinances are met by the facility;

13 (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and
14 proof of publication of a legal notice as required ~~under Rule .0113 of this Subchapter;~~ pursuant to
15 15A NCAC 02Q .0113;

16 (3) for permit renewal, an emissions inventory that contains the information specified ~~under~~ pursuant to
17 15A NCAC 02D .0202, Registration of Air Pollution Sources (the applicant ~~may shall~~ use emission
18 inventory forms or electronic data systems provided by the Division to satisfy this requirement);
19 and

20 (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if ~~the~~
21 ~~Director finds~~ this information is necessary to evaluate the source, its air pollution abatement
22 equipment, or the facility:

23 (A) ~~The the~~ applicant is financially qualified to carry out the permitted ~~activities, activities;~~ or

24 (B) ~~The the~~ applicant has substantially complied with the air quality and emissions standards
25 applicable to any activity in which the applicant has previously been engaged, and has been
26 in substantial compliance with federal and ~~state~~ State environmental laws and rules.

27 (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 (prevention of
28 significant deterioration) or .0531 (new source review for sources in nonattainment areas), applicants shall file air
29 permit applications at least 180 days before the projected construction date. For all other sources, applicants shall file
30 air permit applications at least 90 days before the projected date of construction of a new source or modification of an
31 existing source.

32 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the
33 originally permitted source, application for permit change may be made by ~~letter application~~ to the Director at the
34 address specified in ~~Rule .0104 of this Subchapter.~~ 15A NCAC 02Q .0104. The permit renewal, name, or ownership
35 change ~~letter application must shall~~ state that there have been no changes in the permitted facility since the permit was
36 last issued. ~~However, the Director may require the applicant for ownership change to submit additional information,~~
37 ~~if the Director finds the following information necessary to evaluate the applicant for ownership change, showing that:~~

1 ~~(1) — The applicant is financially qualified to carry out the permitted activities, or~~

2 ~~(2) — The applicant has substantially complied with the air quality and emissions standards applicable to~~
3 ~~any activity in which the applicant has previously been engaged, and has been in substantial~~
4 ~~compliance with federal and state environmental laws and rules.~~

5 To make a name or ownership change, the applicant shall send the Director the ~~number of~~ copies of letters specified
6 in ~~Rule .0305(a)(3) or (4) of this Section~~ 15A NCAC 02Q .0305(a)(3) or (4) signed by a ~~person specified in Paragraph~~
7 ~~(j) of this Rule. the responsible official as defined in 15A NCAC 02Q .0303.~~

8 (e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting
9 procedures may be made by letter to the Director at the address specified in ~~Rule .0104 of this Subchapter.~~ 15A NCAC
10 02Q .0104. To make changes in construction or test dates or reporting procedures, the applicant shall send the Director
11 the ~~number of~~ copies of letters specified in ~~Rule .0305(a)(5)~~ 15A NCAC 02Q .0305(a)(5) of this Section signed by a
12 ~~person specified in Paragraph (j) of this Rule. the responsible official as defined in 15A NCAC 02Q .0303.~~

13 (f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are
14 mailed to the Director at the address specified in ~~Rule .0104 of this Subchapter.~~ 15A NCAC 02Q .0104 and postmarked
15 at least 90 days before expiration of the permit.

16 (g) ~~Name, Name~~ or ownership change. The permittee shall file requests for permit name or ownership changes ~~as soon~~
17 ~~as when~~ the permittee is aware of the imminent name or ownership change.

18 (h) Number of copies of additional information. The applicant shall submit the same number of copies of additional
19 information as required for the application package.

20 (i) Requesting additional information. Whenever the information provided on the permit application forms does not
21 adequately describe the source ~~and or~~ its air cleaning device, the Director may request that the applicant provide ~~any~~
22 other information ~~that the Director considers~~ necessary to evaluate the source ~~and or~~ its air cleaning device. Before
23 acting on ~~any~~ a permit application, the Director may request ~~any~~ information from an applicant and conduct any inquiry
24 or investigation that ~~he [or she] is considers~~ necessary to determine compliance with applicable standards.

25 ~~(j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:~~

26 ~~(1) — for corporations, by a principal executive officer of at least the level of vice president, or his duly~~
27 ~~authorized representative, if such representative is responsible for the overall operation of the~~
28 ~~facility from which the emissions described in the permit application form originates;~~

29 ~~(2) — for partnership or limited partnership, by a general partner;~~

30 ~~(3) — for a sole proprietorship, by the proprietor;~~

31 ~~(4) — for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected~~
32 ~~official, or other duly authorized employee.~~

33 ~~(k)(j)~~ Application fee. With the exceptions specified in ~~Rule .0203(i) of this Subchapter.~~ 15A NCAC 02Q .0203(i), a
34 non-refundable permit application processing fee shall accompany each application. The permit application processing
35 fees are ~~defined listed~~ in ~~Section .0200 of this Subchapter.~~ 15A NCAC 02Q .0200. A permit application ~~is shall be~~
36 incomplete until the permit application processing fee is received.

1 ~~(d)~~(k) Correcting submittals of incorrect information. An applicant ~~has~~shall have a continuing obligation to submit
2 relevant facts pertaining to his or her permit application and to correct incorrect information ~~on~~in his or her permit
3 application.

4 ~~(m)~~(l) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term
5 one complete copy of the application package and ~~any~~all information submitted in support of the application package.

6
7 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
8 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is*
9 *effective, whichever is sooner;*
10 *Eff. July 1, 1994;*
11 *Amended Eff. September 1, 2015; January 1, 2009; December 1, 2005; July 1, ~~1999~~1999;*
12 *Readopted Eff. April 1, 2018.*
13
14

1 15A NCAC 02Q .0308 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0308 FINAL ACTION ON PERMIT APPLICATIONS**

4 (a) The Director may:

- 5 (1) issue a permit, permit modification, or a renewal containing the conditions necessary to carry out
6 the purposes of G.S. 143, Article 21B;
7 (2) rescind a permit upon request by the permittee; or
8 (3) deny a permit application when necessary to carry out the purposes of G.S. 143, Article 21B.

9 (b) Any person whose application for a permit, permit modification, renewal, ~~letter requesting change in name or~~
10 ownership, construction or test date, or reporting ~~procedure, procedure is denied~~~~denied~~, or is granted subject to
11 conditions that are ~~unacceptable to him~~~~unacceptable~~, shall have the right to appeal the Director's decision under Article
12 3 of G.S. 150B. ~~The~~Pursuant to G.S. 143-215.108(e), the person shall have 30 days following receipt of the notice of
13 the Director's decision on the application or permit in which to appeal the Director's decision. The permit shall become
14 final if the applicant does not contest the permit within this 30-day period.

15 (c) The Director shall issue or renew a permit for a term of eight years.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*

20 *Eff. July 1, 1994;*

21 *Amended Eff. January 1, ~~2015-2015~~;*

22 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0309 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0309 TERMINATION, MODIFICATION AND REVOCATION OF PERMITS**

4 (a) The Director may terminate, modify, or revoke and reissue any permit issued ~~under~~pursuant to this Section if:

- 5 (1) ~~The the~~ information contained in the application or presented in support thereof is determined to be
6 incorrect;
- 7 (2) ~~The the~~ conditions under which the permit or permit renewal was granted have changed;
- 8 (3) ~~Violations-violations~~ of conditions contained in the permit have occurred;
- 9 (4) ~~The the~~ permit holder fails to pay the fee required ~~under Section .0200 of this Subchapter pursuant~~
10 ~~to 15A NCAC 02Q .0200~~ within 30 days after being billed;
- 11 (5) ~~The the~~ permittee refuses to allow the Director or ~~his~~their authorized representative upon
12 presentation of credentials:
- 13 (A) to ~~enter, enter at reasonable times and using reasonable safety practices,~~ the permittee's
14 premises in which a source of emissions is located or in which any records are required to
15 be kept ~~under pursuant to the~~ terms and conditions of the permit;
- 16 (B) to have ~~access, access at reasonable times,~~ to any copy or records required to be kept ~~under~~
17 ~~pursuant to the~~ terms and conditions of the permit;
- 18 (C) to ~~inspect, inspect at reasonable times and using reasonable safety practices,~~ any source of
19 emissions, control equipment, and any monitoring equipment or method required in the
20 permit; or
- 21 (D) to ~~sample, sample at reasonable times and using reasonable safety practices,~~ any emission
22 source at the facility; or
- 23 (6) ~~The the~~ Director finds that termination, modification, or revocation and reissuance of a permit is
24 necessary to carry out the purpose of G.S. 143, Article 21B.

25 (b) The permittee shall furnish ~~the Division, in a timely manner, any reasonable~~ information that the Director may
26 request in writing to determine whether cause exists for terminating, modifying, or revoking and reissuing the permit
27 or to determine compliance with the permit.

28 (c) ~~The operation of Operating~~ a facility or source after its permit has been terminated is a violation of this Section
29 and G.S. 143-215.108.

30 (d) The permittee may request modifications to his permit.

31 (e) The filing of a request by a permittee for a permit termination, modification, revocation and reissuance, notification
32 of planned changes, or anticipated noncompliance ~~does shall~~ not stay any permit term or condition.

33 (f) ~~When-If~~ a permit is modified, the proceedings shall affect only those parts of the permit that are being modified.

34
35 *History Note:* Authority G.S. 143-215.3(a)(1),(1a),(1b); 143-215.108; 143-215.114A; 143-215.114B;
36 143-215.114C;

1 *Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
2 *is effective, whichever is sooner;*
3 *Eff. July 1, 1994;*
4 *Amended Eff. July 1, ~~1999~~ 1999;*
5 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0310 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0310 PERMITTING OF NUMEROUS SIMILAR FACILITIES**

4 ~~(a) The Director may issue a permit to cover numerous similar facilities or sources.~~

5 ~~(b)(a) The Director shall not issue a single permit under for more than one facility pursuant to this Rule unless the~~
6 ~~following conditions are met: unless:~~

7 (1) ~~There there~~ is no ~~unique~~ difference between the facilities that would require special permit
8 conditions for any individual facility; and

9 (2) ~~No~~ no unique analysis is required for any facility covered ~~under by~~ the permit.

10 ~~(e)(b)~~ A permit issued ~~under~~ pursuant to this Rule shall identify criteria by which facilities or sources ~~may~~ qualify for
11 the permit. The Director shall grant the terms and conditions of the permit to facilities or sources that qualify.

12 ~~(d)(c)~~ The facility or source shall be subject to enforcement action for operating without a permit if the facility or
13 source is later determined not to qualify for the ~~terms and conditions of~~ the permit issued ~~under~~ pursuant to this Rule.

14 ~~(e)(d)~~ The owner or operator of a facility or source that qualifies for a permit issued ~~under~~ pursuant to this Rule shall
15 apply for coverage ~~under by~~ the terms of the permit issued ~~under~~ pursuant to this Rule or shall apply for a standard
16 permit for each facility or source ~~under pursuant to~~ this Section.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

19 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
20 *rule becomes effective, whichever is sooner;*

21 *Eff. July 1, 1994;*

22 *Readopted Eff. April 1, 2018.*
23
24

1 15A NCAC 02Q .0311 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0311 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES**

4 ~~(a)~~—The Director ~~may~~shall not issue a single permit authorizing emissions from a facility or source at multiple
5 temporary ~~sites~~sites unless the permit includes:

6 ~~(b) Permits for facilities at multiple temporary sites shall include:~~

- 7 (1) the identification of each site;
8 (2) the conditions that will assure compliance with all applicable requirements at all approved sites;
9 (3) a requirement that the permittee notify the Division at least 10 days in advance of each change of
10 site; and
11 (4) the conditions that assure compliance with all other provisions of this Section.

12
13 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
14 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
15 *rule becomes effective, whichever is sooner;*
16 *Eff. July 1, 1994;*
17 *Amended Eff. July 1, 1996;*
18 *Readopted Eff. April 1, 2018.*
19
20
21

1 15A NCAC 02Q .0312 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0312 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the following schedule for processing applications for permits, permit modifications,
5 and permit renewals:

6 (1) for permit applications, except for prevention of significant deterioration ~~under~~ pursuant to 15A
7 NCAC ~~2D02D .0530, .0530~~ and case-by-case maximum achievable control technology
8 ~~under~~ pursuant to 15A NCAC ~~2D02D .1109 or .1112, .1112~~; or a request for synthetic minor facility
9 status before one year after EPA approves Section .0500 of this Subchapter:

10 (A) The Division shall send written acknowledgment of receipt of the permit application to the
11 applicant within 10 days of receipt of the application.

12 (B) The Division shall review all permit applications within 45 days of receipt of the
13 application to determine whether the application is complete or incomplete for processing
14 purposes. The Division shall notify the applicant ~~by letter in~~ writing that:

15 (i) ~~stating that~~ the application as submitted is complete and specifying the
16 completeness date,

17 (ii) ~~stating that~~ the application is incomplete, requesting additional information and
18 specifying the deadline date by which the requested information is to be received
19 by the Division, or

20 (iii) ~~stating that~~ the application is incomplete and requesting that the applicant rewrite
21 and resubmit the application.

22 If the Division does not notify the applicant ~~by letter in writing dated~~ within 45 days of
23 receipt of the application that the application is incomplete, the application shall be deemed
24 complete. A completeness determination shall not prevent the Director from requesting
25 additional information at a later date ~~when if~~ such information is ~~considered~~ necessary to
26 properly evaluate the source, its air pollution abatement equipment, or the facility. If the
27 applicant has not provided the requested additional information by the ~~deadline date~~
28 specified in ~~the a letter requesting~~ written request for additional information, the Director
29 ~~may return the application to the applicant as incomplete. shall cease processing the~~
30 ~~application until additional information is provided.~~ The applicant may request a time
31 extension for submittal of the requested additional information.

32 (C) The Division shall determine within 45 days of receipt of a complete application if any
33 additional information is needed to conduct the technical review of the application. A
34 technical completeness determination shall not prevent the Director from requesting
35 additional information at a later date ~~when if~~ such information is ~~considered~~ necessary to
36 properly evaluate the source, its air pollution abatement ~~equipment~~ equipment, or the
37 facility. The Division shall complete the technical review within 90 days of receipt of a

complete application or 10 days after receipt of requested additional information, whichever is later.

(D) If the draft permit is not required to go to public notice or to public hearing, the Director shall issue or deny the permit within 90 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.

(E) If the draft permit is required to go to public notice with a request for opportunity for public hearing ~~under Rule .0306(a) of this Section, pursuant to 15A NCAC 02Q .0306(a),~~ the Director shall:

(i) send the draft permit to public notice within 90 days after receipt of a complete application; and

(ii) complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.

(F) If the draft permit is required to go to public hearing as a result of a request for public hearing ~~under Rule .0307(e) of this Section, pursuant to 15A NCAC 02Q .0307(a),~~ the Director shall:

(i) send the draft permit to public hearing within 45 days after approving the request for the public hearing; and

(ii) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.

(2) for permit applications for prevention of significant deterioration ~~under~~ pursuant to 15A NCAC 2D02D .0530, the processing schedules are set out in ~~those Rules.~~ that Rule.

(3) for permit applications for case-by-case maximum achievable control technology ~~under~~ pursuant to 15A NCAC 2D02D .1109 or .1112:

(A) The Division shall send written acknowledgment of receipt of the permit application to the applicant within 10 days of receipt of the application.

(B) The Division shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes. The Division shall notify the applicant ~~by letter in writing~~ in writing that:

(i) ~~stating that~~ the application as submitted is complete and specifying the completeness ~~date,~~ date;

(ii) ~~stating that~~ the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the ~~Division.~~ Division; or

(iii) ~~stating that~~ the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Division does not notify the applicant ~~by letter in writing~~ dated within 45 days of receipt of the application that the application is incomplete, the application shall be deemed

complete. A completeness determination shall not prevent the Director from requesting additional information at a later date ~~whenif~~ such information is ~~considered~~ necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the ~~deadlinedate~~ specified in the letter requesting additional information, the Director ~~may return the application to the applicant as incomplete.~~ shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.

(C) The Division shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date ~~whenif~~ such information is ~~considered~~ necessary to properly evaluate the source, its air pollution abatement ~~equipment~~equipment, or the facility. The Division shall complete the technical review within 120 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.

(D) The Director shall:

- (i) send the draft permit to public notice within 120 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.

(E) If the draft permit is required to go to public hearing as a result of a request for public hearing ~~under Rule .0307(e) of this Section, pursuant to 15A NCAC 02Q .0307(e),~~ the Director shall:

- (i) send the draft permit to public hearing within 45 days after approving the request for the public hearing; and
- (ii) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.

~~(4) requests for synthetic minor facility status before one year after EPA approves Section .0500 of this Subchapter shall be acted on within one year after EPA approves Section .0500 of this Subchapter.~~

(b) The days that fall between sending out a letter written notification requesting additional information and receiving that additional information shall not be counted in the schedules ~~under~~pursuant to Paragraph (a) of this Rule.

(c) ~~The Director may return at any time applications containing shall cease processing an application that contains~~ insufficient information to complete the review.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;

1 *Eff. February 1, 1995;*
2 *Amended Eff. July 1, ~~1998~~ 1998;*
3 *Readopted Eff. April 1, 2018.*
4
5

1 15A NCAC 02Q .0313 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0313 EXPEDITED APPLICATION PROCESSING SCHEDULE**

4 (a) Using the procedures contained in this Rule may result in a permit that EPA does not recognize as a valid permit.

5 (b) An applicant may file an application to follow the expedited review for application certified by a professional
6 engineer as set out in G.S. 143-215.108(h) if:

7 (1) ~~The~~the applicant specifically requests that the permit application be processed ~~under~~pursuant to the
8 procedures in G.S. 143-215.108(h); and

9 (2) ~~The~~the applicant submits:

10 (A) applications as required ~~under Rules .0304 and .0305 of this Section;~~pursuant to 15A
11 NCAC 02Q .0304 and .0305;

12 (B) a completeness checklist showing that the permit application is complete;

13 (C) a draft permit;

14 (D) ~~any~~all required dispersion modeling;

15 (E) a certification signed by a professional engineer registered in North Carolina certifying the
16 accuracy and completeness of draft permit and the application, including emissions
17 estimates, applicable standards and requirements, and process specifications;

18 (F) a zoning consistency determination as required ~~under Rule .0304(b)(1) of this~~
19 ~~Section;~~pursuant to 15A NCAC 02Q .0304(b)(1);

20 (G) a written description of current and projected plans to reduce the emissions of air
21 contaminants as required ~~under Rule .0304(b)(2) of this Section;~~pursuant to 15A NCAC
22 02Q .0304(b)(2);

23 (H) a financial qualification if required;

24 (I) substantial compliance statement if required; and

25 (J) the application fee as required ~~under Section .0200 of this Subchapter;~~pursuant to 15A
26 NCAC 02Q.0200

27 (c) The applicant shall use the official application forms provided by the Division or a facsimile thereof.

28 (d) The Division shall provide the applicant a checklist of all items of information required to prepare a complete
29 permit application. This checklist shall be ~~the checklist~~ used by the Division to determine if the application is
30 complete.

31 (e) The Division shall provide the applicant a list of permit conditions and terms to include in the draft permit.

32 (f) Before filing a permit application that includes dispersion modeling analysis submitted in support of the
33 application, the applicant shall submit a modeling protocol and receive approval for the dispersion modeling protocol.

34 (g) The Division shall follow the procedures set out in G.S. 143-215.108(h) when processing applications filed in
35 accordance with this Rule.

36
37 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

1 *Eff. July 1, ~~1998~~ 1998;*
2 *Readopted Eff. April 1, 2018.*
3
4
5
6

1 15A NCAC 02Q .0314 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0314 GENERAL ~~PERMIT REQUIREMENTS~~ FOR ALL PERMITS**

4 (a) All emissions limitations, controls, and other requirements imposed by a permit issued pursuant to this Section
5 shall be at least as stringent as any other applicable requirement as defined ~~under Rule .0103 of this~~
6 ~~Subchapter~~ pursuant to 15A NCAC 02Q .0103. The permit shall not waive or make less stringent any limitation or
7 requirement contained in any applicable requirement.

8 (b) Emissions limitations, ~~controls~~ controls, and requirements contained in permits issued pursuant to ~~the this~~ Section
9 shall be permanent, quantifiable, and otherwise enforceable as a practical matter ~~under~~ pursuant to G.S. 143-215.114A,
10 143-215.114B, and 143-215.114C.

11 (c) The owner or operator of a source permitted under this Section shall comply with the permit. Failure of the owner
12 or operator of a permitted source to ~~adhere to~~ comply with the terms and conditions of the permit shall be grounds for:

- 13 (1) enforcement action;
- 14 (2) permit termination, revocation and reissuance, or modification; or
- 15 (3) denial of permit renewal applications.

16 (d) A permit ~~does~~ shall not convey any property rights of any sort, or any exclusive privileges.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

19 *Eff. July 1, ~~1999~~ 1999;*

20 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0315 is readopted with changes as published in 32:04 NCR 170 as follows:

2
3 **15A NCAC 02Q .0315 SYNTHETIC MINOR FACILITIES**

4 (a) A synthetic minor facility ~~is means~~ a facility whose permit contains terms and conditions to avoid the procedures
5 of 15A NCAC ~~2Q-02Q .0500~~, Title V Procedures.

6 (b) The owner or operator of a facility to which 15A NCAC ~~2Q-02Q .0500, Title V Procedures, .0500~~ applies may
7 ~~choose request~~ to have terms and conditions placed in ~~his the facility's~~ permit to restrict ~~operation to limit operations,~~
8 ~~limiting~~ the potential to emit of the facility ~~in order to remove the applicability of and making the requirements of~~
9 15A NCAC ~~2Q-02Q .0500, .0500 inapplicable to the facility.~~ An application for the addition of such terms and
10 conditions shall be processed ~~under pursuant to~~ this Section.

11 (c) A modification to a permit to remove terms and conditions in the permit that ~~removed the applicability of made~~
12 15A NCAC ~~2Q-02Q .0500 inapplicable~~ shall be processed ~~under pursuant to either~~ this Section or 15A NCAC ~~2Q~~
13 ~~02Q .0500~~. The applicant shall choose which ~~of these~~ procedures to follow. However, if the terms and conditions are
14 removed following the procedures of this Section, the permittee shall submit a permit application ~~under pursuant to~~
15 the procedures of 15A NCAC ~~2Q-02Q .0500~~ within one year after the limiting terms and conditions are removed.

16 (d) After a facility is issued a permit that contains terms and conditions ~~to remove the applicability of that made~~ 15A
17 NCAC ~~2Q-02Q .0500, .0500 inapplicable~~, the facility shall comply with the permitting requirements of this Section.

18 (e) The Director may require monitoring, recordkeeping, and reporting necessary to assure compliance with the terms
19 and conditions placed in ~~the a~~ permit ~~to remove the applicability of 15A NCAC 2Q [02Q]-.0500, issued pursuant to~~
20 this Rule.

21
22 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(10); 143-215.108;*

23 *Eff. July 1, ~~1999~~ 1999;*

24 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0401 is readopted with changes as published in 32:04 NCR 171 as follows:

2
3 **SUBCHAPTER 02Q – AIR QUALITY PERMITS PROCEDURES**
4 **SECTION .0400 – ACID RAIN**
5 **PROCEDURES**

6 **15A NCAC 02Q .0401 PURPOSE AND APPLICABILITY**

7 (a) The purpose of this Rule is to implement Phase II of the federal acid rain program pursuant to the requirements of
8 Title IV of the Clean Air Act as provided in 40 ~~C.F.R.~~CFR Parts 72 and 76.

9 (b) This Section ~~applies~~shall apply to the sources described in 40 ~~C.F.R.~~CFR 72.6 with such exceptions as allowed
10 ~~under pursuant to 40 C.F.R. 72.6.~~40 CFR 72.6.

11 (c) A certifying official of any unit may petition the Administrator for a determination of applicability under 40
12 ~~C.F.R.~~CFR 72.6(c). The Administrator's determination of applicability shall be binding upon the Division, except as
13 allowed under 40 ~~C.F.R.~~CFR 72.6(c).

14
15 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(8); 143-215.108;*
16 *Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective,*
17 *whichever is sooner;*
18 *Eff. July 1, 1994;*
19 *Amended Eff. April 1, 2001; April 1, 1999; April 1, ~~1996.~~1996;*
20 *Readopted Eff. April 1, 2018.*
21
22
23

1 15A NCAC 02Q .0501 is readopted with changes as published in 32:04 NCR 171 as follows:

2
3 **SECTION .0500 - TITLE V PROCEDURES**
4

5 **15A NCAC 02Q .0501 PURPOSE OF SECTION AND REQUIREMENT FOR A PERMIT**

6 (a) The purpose of this Section is to establish an air quality permitting program as required ~~under pursuant to~~ Title V
7 of the Clean Air Act and 40 CFR Part 70.

8 ~~(b) The procedures and requirements under this Section do not apply until EPA approves this Section.~~

9 ~~(e)(b)~~ With the exception in Paragraph ~~(d)(c)~~ of this Rule, the owner or operator of an existing facility, new facility,
10 or modification of an existing facility (except for minor modifications ~~under Rule .0515 of this Section~~), pursuant to
11 15A NCAC 02Q .0515), including significant modifications that would not contravene or conflict with a condition in
12 the existing permit, ~~subject to the requirements of this Section~~ shall not begin construction without first obtaining:

- 13 (1) a construction and operation permit following the procedures under set forth in this Section (except
14 for ~~Rule .0504~~), 15A NCAC 02Q .0504), or
15 (2) a construction and operation permit following the procedures under set forth in Rule 15A NCAC
16 02Q .0504 and filing a complete application within 12 months after commencing operation to
17 modify the construction and operation permit to meet the requirements of this Section.

18 ~~(d)(c)~~ If the ~~permittee owner or operator~~ proposes to make a significant modification ~~under pursuant to Rule 15A~~
19 NCAC 02Q .0516 of this Section that would contravene or conflict with a condition in the existing permit, ~~he the~~
20 owner or operator shall not begin construction or make the modification until ~~he the owner or operator~~ has obtained:

- 21 (1) a construction and operation permit following the procedures under set forth in this Section (except
22 for ~~Rule .0504 of this Section~~), 15A NCAC 02Q .0504); or
23 (2) a construction and operation permit following the procedures under set forth in Rule 15A NCAC
24 02Q .0504 of this Section and, before beginning operation, files an application and obtains a permit
25 modifying the construction and operation permit to meet the requirements of this Section (except
26 for ~~Rule .0504 of this Section~~), 15A NCAC 02Q .0504).

27 ~~(e)(d)~~ All facilities subject to this Section ~~must shall~~ have a permit to operate that assures compliance with 40 CFR
28 Part 70 and all applicable federal and State requirements.

29 ~~(f)(e)~~ Except as allowed ~~under pursuant to Rule .0515~~ 15A NCAC 02Q .0515(f) (~~minor modifications~~) of this Section,
30 (minor modifications), no facility subject to the requirements of this Section may operate after the time that it is
31 required to submit a timely and complete application ~~under pursuant to~~ this Section except in compliance with a permit
32 issued ~~under pursuant to~~ this Section. This Paragraph does not apply to ~~initial submittals under Rule .0506 of this~~
33 ~~Section or to permit renewals under pursuant to Rule .0513 of this Section~~, 15A NCAC 02Q .0513.

34 ~~(g)(f)~~ If the conditions of Rule 15A NCAC 02Q .0512(b) (application shield) ~~of this Section~~ are met, the facility's
35 failure to have a permit ~~under pursuant to~~ this Section shall not be a ~~violation~~, violation of operating without a permit.

1 ~~(h)(g)~~ If the owner or operator of a facility subject to the requirements of this Section submits an application for a
2 revision to his permit before receiving the initial permit ~~under-pursuant to~~ this Section, the application for the revision
3 shall be processed ~~under Section .0300 of this Subchapter.~~ pursuant to 15A NCAC 02Q .0300.

4 ~~(h)(h)~~ The owner or operator of a facility or source subject to the requirements of this Section may also be subject to
5 the toxic air pollutant procedures ~~under-set forth in~~ 15A NCAC 2Q .0700.

6 ~~(i)(i)~~ The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject
7 to the procedures ~~under Section .0400 of this Subchapter.~~ pursuant to 15A NCAC 02Q .0400.

8 ~~(e)(j)~~ The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance
9 with the requirements of ~~Section .0200 of this Subchapter.~~ 15A NCAC 02Q .0200.

10
11 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
12 Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule
13 becomes effective, whichever is sooner;
14 Eff. July 1, 1994;
15 Amended Eff. July 1, 1998; July 1, ~~1996.~~ 1996.
16 Readopted Eff. April 1, 2018.
17
18

1 15A NCAC 02Q .0502 is readopted with changes as published in 32:04 NCR 171 as follows:

2
3 **15A NCAC 02Q .0502 APPLICABILITY**

4 (a) Except as provided in Paragraph (b) or (c) of this Rule, the following facilities are required to obtain a permit
5 ~~under pursuant to~~ this Section:

- 6 (1) major facilities;
- 7 (2) facilities with a source subject to 15A NCAC 02D .0524 or 40 CFR Part 60, except new residential
8 wood heaters;
- 9 (3) facilities with a source subject to 15A NCAC 02D .1110 or 40 CFR Part 61, except asbestos
10 demolition and renovation activities;
- 11 (4) facilities with a source subject to 15A NCAC 02D .1111 or 40 CFR Part 63 or any other standard
12 or other requirement ~~under set forth in~~ Section 112 of the federal Clean Air Act, except that a source
13 is not required to obtain a permit solely because it is subject to rules or requirements ~~under set forth~~
14 ~~in~~ Section 112(r) of the federal Clean Air Act;
- 15 (5) facilities to which 15A NCAC 02D .0517(2), .0528, .0529, ~~or .0534~~ .0534, or .1700 applies;
- 16 (6) facilities with a source subject to Title IV or 40 CFR Part 72; or
- 17 (7) facilities in a source category designated by EPA as subject to the requirements of 40 CFR Part 70.

18 (b) This Section does not apply to minor facilities with sources subject to requirements of 15A NCAC 2D .0524,
19 .1110, or .1111 or 40 CFR Part 60, 61, or 63 ~~until EPA requires these facilities to have a permit unless these facilities~~
20 ~~are required to have a permit under pursuant to~~ 40 CFR Part 70.

21 (c) A facility shall not be required to obtain a permit ~~under pursuant to~~ this Section solely on the ~~sole~~ basis of its
22 greenhouse gas emissions.

23 (d) ~~Once-If~~ a facility is subject to this Section because of emissions of one pollutant, the owner or operator of that
24 facility shall submit an application that includes all sources of all regulated air pollutants located at the facility except
25 for insignificant activities because of ~~category-category as defined in 15A NCAC 02Q .0503(7).~~

26
27 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

28 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
29 *becomes effective, whichever is sooner;*

30 *Eff. July 1, 1994;*

31 *Amended Eff. July 1, 1996;*

32 *Temporary Amendment Eff. December 1, 1999;*

33 *Amended Eff. July 1, 2000;*

34 *Temporary Amendment Eff. December 2, 2014;*

35 *Amended Eff. September 1, ~~2015~~ 2015;*

36 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0503 is readopted with changes as published in 32:04 NCR 171-172 as follows:

2
3 **15A NCAC 02Q .0503 DEFINITIONS**

4 For the purposes of this Section, the definitions in ~~G.S. 143-212 and 143-213~~ G.S. 143-212, G.S. 143-213, 15A NCAC
5 ~~2Q~~02Q .0103, and the following definitions apply:

- 6 (1) "Affected States" means all states or local air pollution control agencies whose areas of jurisdiction
7 are:
8 (a) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
9 (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per
10 year, and
11 (ii) D = distance from the facility to the contiguous state or local air pollution control
12 agency in miles
13 unless the applicant can demonstrate ~~to the satisfaction of the Director~~ that the ambient
14 impact in the contiguous states or local air pollution control agencies is less than the
15 incremental ambient levels in 15A NCAC 02D .0532(c)(5); or
16 (b) within 50 miles of the permitted facility.
- 17 (2) "Complete application" means an application that provides all information described ~~under in~~ 40
18 CFR 70.5(c) and such other information that is necessary to determine compliance with all
19 applicable federal and State requirements.
- 20 (3) "Draft permit" means the version of a permit that the Division offers for public participation ~~under~~
21 pursuant to Rule 15A NCAC 02Q .0521 of this Section or affected State review ~~under pursuant to~~
22 Rule 15A NCAC 02Q .0522 of this Section. .0522.
- 23 (4) "Emissions allowable under the permit" means an emissions limit (including a work practice
24 standard) established by a federally enforceable permit term or ~~condition determined at issuance to~~
25 ~~be an applicable requirement that establishes an emissions limit (including a work practice standard)~~
26 condition. or a federally enforceable emissions cap that the facility has assumed to avoid an
27 applicable requirement to which the facility would otherwise be subject.
- 28 (5) "Final permit" means the version of a permit that the Director issues that has completed all review
29 procedures required ~~under pursuant to~~ this Section if the permittee does not file a petition ~~under~~
30 pursuant to Article 3 of G.S. 150B- that is related to the permit.
- 31 (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack,
32 chimney, vent, or other functionally-equivalent opening.
- 33 (7) "Insignificant activities because of category" means:
34 (a) mobile sources;
35 (b) air-conditioning units used for human comfort that are not subject to applicable
36 requirements ~~under pursuant to~~ Title VI of the federal Clean Air Act and do not exhaust air
37 pollutants into the ambient air from any manufacturing or other industrial process;

- (c) ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
- (d) heating units used for human comfort that have a heat input of less than 10,000,000 Btu per hour and that do not provide heat for any manufacturing or other industrial process;
- (e) noncommercial food preparation;
- (f) consumer use of office equipment and products;
- (g) janitorial services and consumer use of janitorial products;
- (h) internal combustion engines used for landscaping purposes;
- (i) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
- (j) demolition and renovation activities covered solely ~~under pursuant to~~ 40 CFR Part 61, Subpart M.
- (8) "Insignificant activities because of size or production rate" means any activity whose emissions would not violate any applicable emissions standard and whose potential emission of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, ~~i.e., potential uncontrolled emissions,~~ are each no more than five tons per year and whose potential emissions of hazardous air pollutants before air pollution control devices, are each below 1000 pounds per year.
- (9) "Minor facility" means any facility that is not a major facility.
- (10) "Operation" means the ~~utilization-use~~ of equipment that emits regulated pollutants.
- (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- (12) "Permit revision" means any permit modification ~~under pursuant to Rule 15A NCAC 02Q .0515, [15A NCAC 02Q] .0516, or [15A NCAC 02Q] .0517 of this Section or any administrative permit amendment under pursuant to Rule 15A NCAC 02Q .0514 of this Section. .0514.~~
- (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to EPA for review ~~under pursuant to Rule .0522 of this Section. 15A NCAC 02Q .0522.~~
- (14) "Relevant source" means only those sources that are subject to applicable requirements.
- (15) "Responsible official" means a responsible official as defined ~~under in~~ 40 CFR 70.2.
- (16) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition. Such changes ~~do shall~~ not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- (17) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures of this Section except that the potential to emit is restricted by one or more federally enforceable physical or operational limitations, including air pollution control equipment and restrictions on hours or operation, the type or amount of material combusted, stored, or processed, or similar parameters.
- (18) "Timely" means:

- 1 ~~(a)~~ for initial permit submittals under Rule .0506 of this Section, before the end of the time
2 period specified for submittal of an application for the respective Standard Industrial
3 Classification;
- 4 ~~(b)~~(a) for a new facility, one year after commencing operation;
- 5 ~~(c)~~(b) for renewal of a permit previously issued under pursuant to this Section, ~~nine~~ six months
6 before the expiration of that permit;
- 7 ~~(d)~~(c) for a minor modification under pursuant to Rule .0515 of this Section, 15A NCAC 02Q
8 .0515, before commencing the modification;
- 9 ~~(e)~~(d) for a significant modification under pursuant to Rule 15A NCAC 02Q .0516 of this Section
10 where the change would not contravene or conflict with a condition in the existing permit,
11 12 months after commencing operation;
- 12 ~~(f)~~(e) for reopening for cause under pursuant to Rule .0517 of this Section, 15A NCAC 02Q
13 .0517, as specified by the Director in ~~the a~~ request for additional information by the
14 Director;
- 15 ~~(g)~~(f) for requests for additional information, as specified by the Director in ~~the a~~ request for
16 additional information by the Director; or
- 17 ~~(h)~~(g) for modifications made under pursuant to Section 112(j) of the federal Clean Air Act, 18
18 months after EPA fails to promulgate a standard for that category of source under pursuant
19 to Section 112 of the federal Clean Air Act by the date established pursuant to Section
20 112(e)(1) or (3) of the federal Clean Air Act.

21

22 *History Note: Authority G.S. 143-215.3(a)(1); 143-212; 143-213;*
23 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
24 *becomes effective, whichever is sooner;*
25 *Eff. July 1, 1994;*
26 *Amended Eff. July 1, 1996;*
27 *Temporary Amendment Eff. December 1, 1999;*
28 *Amended Eff. January 1, 2007; July 1, 2000-2000;*
29 *Readopted Eff. April 1, 2018.*
30
31

1 15A NCAC 02Q .0504 is readopted with changes as published in 32:04 NCR 172 as follows:

2
3 **15A NCAC 02Q .0504 OPTION FOR OBTAINING CONSTRUCTION AND OPERATION PERMIT**

4 (a) Pursuant to ~~Rule .0501(e) or (d)(2) of this Section,~~ 15A NCAC 02Q .0501(c)(2) or (d)(2), the owner or operator
5 of a new or modified facility subject to the requirements of this Section that chooses to obtain a construction and
6 operation permit before the facility must obtain a permit ~~under pursuant to~~ this Section may file an application ~~under~~
7 ~~Section .0300 of this Subchapter pursuant to 15A NCAC 02Q .0300.~~

8 (b) The applicant shall state in his permit application that he ~~or she~~ wishes to follow the procedures ~~under in~~ this Rule.

9 (c) If the option allowed ~~under pursuant to Rule 15A NCAC 02Q .0501(e)(1), .0501(b)(1) of this Section~~ is used, then
10 the application processing procedures for prevention of significant deterioration ~~under in~~ 15A NCAC ~~2D02D~~ .0530
11 and new source review for nonattainment areas ~~under in~~ 15A NCAC ~~2D02D~~ .0531 do not apply. If the option allowed
12 ~~under pursuant to Rule 15A NCAC 02Q .0501(e)(2), .0501(b)(2) of this Section~~ is used, then the application processing
13 procedures in this Section ~~and, and in either of the following rules shall apply:~~

14 (1) ~~under~~ 15A NCAC ~~2D02D~~ .0530 for prevention of significant ~~deterioration, deterioration;~~ or

15 (2) ~~under~~ 15A NCAC ~~2D02D~~ .0531 for new source review for nonattainment ~~areas, areas. [shall~~
16 ~~apply.] shall apply.~~

17 (d) If the procedures ~~under Section .0300 of this Subchapter~~ ~~[pursuant to]~~ in 15A NCAC 02Q .0300 are followed, the
18 permittee shall have one year from the date of beginning operation of the facility or source to file an amended
19 application following the procedures ~~of in~~ this Section. The Director shall place a condition in the construction and
20 operation permit stating this requirement.

21
22 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

23 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
24 *becomes effective, whichever is sooner;*

25 *Eff. July 1, 1994, 1994;*

26 *Readopted Eff. April 1, 2018.*
27
28

1 15A NCAC 02Q .0505 is readopted with changes as published in 32:04 NCR 172 as follows:

2
3 **15A NCAC 02Q .0505 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit, ~~at a minimum,~~ the following information with ~~its~~ application package, the application
5 package shall be returned:

6 (1) for new facilities and modified facilities:

7 (a) an application fee as required ~~under Section .0200 of this Subchapter;~~ pursuant to 15A
8 NCAC 02Q .0200;

9 (b) a consistency determination as required ~~under Rule .0507(d)(1) of this Section;~~ pursuant to
10 15A NCAC 02Q .0507(d)(1);

11 (c) the documentation required ~~under Rule .0507(d)(2) of this Section;~~ pursuant to 15A NCAC
12 02Q .0507(d)(2);

13 (d) a financial qualification or substantial compliance statement if required; and

14 (e) applications as required ~~under Rule .0507(a) and (e) of this Section;~~ pursuant to 15A NCAC
15 02Q .0507(a) and (e) and signed as required by Rule .0520 of this Section; 15A NCAC 02Q
16 .0520;

17 (2) for renewals: applications as required ~~under Rule .0507(a) and (e) of this Section;~~ pursuant to 15A
18 NCAC 02Q .0507(a) and (e) and signed as required by Rule .0520 of this Section; 15A NCAC 02Q
19 .0520;

20 (3) for a name change: three copies of a letter signed by ~~the~~ a responsible official in accordance with
21 ~~Rule .0520~~ 15A NCAC 02Q .0520 indicating the current facility name, the date on which the name
22 change ~~shall~~ will occur, and the new facility name;

23 (4) for an ownership change: an application fee as required ~~under Section .0200 of this Subchapter,~~
24 pursuant to 15A NCAC 02Q .0200; and:

25 (a) three copies of a ~~letter sent by each~~ letters signed by the seller and the buyer indicating the
26 change; or

27 (b) three copies of a letter ~~sent by either~~ bearing the signature of both the seller and ~~buyer;~~ buyer
28 and containing a written agreement with a specific date for the transfer of permit responsibility,
29 coverage, and liability between the current and new permittee; and

30 (5) for corrections of typographical errors; changes of the name, address, or telephone number of any
31 individual identified in the permit; changes in test dates or construction dates; or similar minor
32 changes: three copies of a letter signed by a responsible official in accordance with ~~Rule .0520 of~~
33 ~~this Section~~ 15A NCAC 02Q .0520 describing the proposed change and explaining the need for the
34 proposed change.

35
36 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;

1 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
2 *becomes effective, whichever is sooner;*
3 *Eff. July 1, 1994;*
4 *Amended Eff. April 1, ~~2004~~2004;*
5 *Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0507 is readopted with changes as published in 32:04 NCR 172-173 as follows:

2
3 **15A NCAC 02Q .0507 APPLICATION**

4 (a) Except for:

- 5 (1) minor permit modifications covered ~~under pursuant to Rule .0515 of this Section, 15A NCAC 02Q~~
6 ~~[-.0515;].0515;~~
7 (2) significant modifications covered ~~under pursuant to Rule .0516(e) of this Section, 15A NCAC 02Q~~
8 ~~[-.0516(e);].0516(c);~~ or
9 ~~(3) permit applications submitted under Rule .0506 of this Section,~~
10 ~~(3) renewals submitted [under] pursuant to 15A NCAC 02Q [-.0513;].0513;~~

11 the owner or operator of a source shall have one year from the date of beginning of operation of ~~the a~~ source to file a
12 complete application for a permit or permit revision. However, the owner or operator of ~~the a~~ source shall not begin
13 construction or operation of a source until he or she has obtained a construction and operation permit pursuant to
14 ~~Rule 15A NCAC 02Q .0501(c) or (d) and Rule .0504 of this Section, 15A NCAC 02Q .0504.~~

15 (b) ~~The An~~ application shall include all the information described in 40 CFR 70.3(d) and 70.5(c), including a list of
16 insignificant activities because of size or production ~~rate-rate~~ but not including insignificant activities because of
17 category. ~~The An~~ application ~~form~~ shall be certified by a responsible official for truth, accuracy, and completeness.
18 In ~~the an~~ application submitted pursuant to this Rule, the applicant may attach copies of applications submitted
19 pursuant to ~~Section .0400 of this Subchapter 15A NCAC 02Q .0400~~ or 15A NCAC 02D .0530 or ~~.0531, .0531~~ provided
20 if the information in those applications contains information required in this Section and is current, valid, accurate,
21 and complete.

22 (c) Application for a permit, permit revision, or permit renewal shall be made in accordance with ~~Rule .0104 of this~~
23 ~~Subchapter 15A NCAC 02Q .0104~~ on forms of the Division and shall include plans and specifications giving all
24 necessary data and information as required by this Rule. ~~Whenever If~~ the information provided on these forms does
25 not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the
26 Director may shall request that the applicant provide any other information ~~that the Director considers~~ necessary to
27 evaluate the source and its air pollution abatement equipment.

28 (d) Along with filing a complete ~~application form, application,~~ the applicant shall also file the following:

- 29 (1) for a new facility or an expansion of existing facility, a consistency determination in accordance
30 with G.S. 143-215.108(f) that:
31 (A) bears the date of receipt entered by the clerk of the local ~~government, government;~~ or
32 (B) consists of a letter from the local government indicating that all zoning or subdivision
33 ordinances are met by the facility;
34 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and
35 proof of publication of a legal notice as required ~~under Rule .0113 of this Subchapter; pursuant to~~
36 15A NCAC 02Q .0113; and
37 (3) if required by the Director, information showing that:

- (A) the applicant is financially qualified to carry out the permitted ~~activities, activities;~~ or
- (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been ~~engaged, engaged~~ and has been in substantial compliance with federal and state environmental laws and rules.
- (e) The applicant shall submit copies of the application package as follows:
- (1) for sources subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, ~~six~~ five copies plus one additional copy for each affected state that the Director has to notify pursuant to ~~Rules 15A NCAC 02Q .0521 and .0522 of this Section;~~ 15A NCAC 02Q .0522;
- (2) for sources not subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, ~~four~~ three copies plus one additional copy for each affected state that the Director has to notify pursuant to ~~Rules 15A NCAC 02Q .0521 and .0522 of this Section;~~ 15A NCAC 02Q .0522.
- ~~The Director may at any time during the application process request additional copies of the complete application package from the applicant.~~
- (f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, ~~submit, as soon as possible, submit~~ such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date he filed a complete application but prior to release of a draft permit.
- (g) The applicant shall submit the same number of copies of additional information as required for the application package.
- (h) The submittal of a complete permit application shall not affect the requirement that any facility have a ~~preconstruction~~ permit ~~under pursuant to~~ 15A NCAC 02D .0530, .0531, or .0532 or ~~under Section .0400 of this Subchapter, pursuant to 15A NCAC 02Q .0400.~~
- (i) The Director shall give priority to permit applications containing early reduction demonstrations ~~under pursuant to~~ Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications ~~as soon as practicable~~ after receipt of the complete permit application.
- (j) ~~With the exceptions~~ Except as specified in ~~Rule .0203(i) of this Subchapter, 15A NCAC 02Q .0203(i),~~ a non-refundable permit application processing ~~fee defined in 15A NCAC 02Q .0200,~~ shall accompany each application. ~~The permit application processing fees are defined in Section .0200 of this Subchapter. [15A NCAC 02Q .0200.]~~ Each permit ~~or renewal~~ application ~~is~~ shall be deemed incomplete until the permit application processing fee is received.
- (k) The applicant shall retain for the duration of the permit term one complete copy of the application package and ~~any all~~ information submitted in support of the application package.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994;

1 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*
2 *Temporary Amendment Eff. December 1, 1999;*
3 *Amended Eff. September 1, 2015; April 1, 2004; July 1, ~~2000~~2000;*
4 *Readopted Eff. April 1, 2018.*
5
6

1 15A NCAC 02Q .0508 is readopted with changes as published in 32:04 NCR 173 as follows:

2
3 **15A NCAC 02Q .0508 PERMIT CONTENT**

4 (a) ~~The A~~ permit shall specify and reference the origin and authority for each term or condition and shall identify any
5 differences ~~in form as~~ compared to the applicable requirement on which the term or condition is based.

6 (b) ~~The A~~ permit shall specify emission limitations and standards, including operational requirements and limitations,
7 that assure compliance with all applicable requirements at the time of permit issuance.

8 (c) Where an applicable requirement of the federal Clean Air Act is more stringent than an applicable requirement of
9 rules promulgated pursuant to Title IV, both provisions shall be placed in ~~the a~~ permit. ~~The A~~ permit shall state that
10 both provisions are enforceable by EPA.

11 (d) ~~The A~~ permit for sources using an alternative emission limit established ~~under in~~ 15A NCAC 02D .0501 (d) or
12 15A NCAC 02D .0952 shall contain provisions to ensure that any resulting emissions limit has been demonstrated to
13 be quantifiable, accountable, enforceable, and based on replicable procedures.

14 (e) The expiration date ~~contained in the of a~~ permit shall be for a fixed term of five years for sources covered ~~under~~
15 ~~by~~ Title IV and for a term of no more than five years from the date of issuance for all other sources including solid
16 waste incineration units combusting municipal waste subject to standards ~~under in~~ Section 129(e) of the federal Clean
17 Air Act.

18 (f) ~~The A~~ permit shall contain monitoring and related recordkeeping and reporting requirements as specified in 40
19 CFR 70.6(a)(3) and ~~70.6(e)(1)-70.6(c)(1)~~, including conditions requiring:

20 (1) the permittee to submit reports of ~~any~~ required monitoring at least every six months. The permittee
21 shall submit reports:

22 (A) on forms obtained from the Division at the address in ~~Rule .0104 of this Subchapter, 15A~~
23 ~~NCAC 02Q .0104;~~

24 (B) in a manner as specified by a permit ~~condition, condition;~~ or

25 (C) on other forms that contain the information required by this Subchapter or as specified by
26 a permit condition; ~~and~~

27 (2) the permittee to report:

28 (A) malfunctions, emergencies, and other upset conditions as prescribed in 15A NCAC 02D
29 .0524, .0535, .1110, or ~~.1111, .1111; and~~

30 (B) deviations quarterly from permit requirements not covered ~~under by~~ 15A NCAC 02D
31 .0524, .0535, .1110, or .1111. The permittee shall include the probable cause of such
32 ~~deviation deviations~~ and any corrective actions or preventive measures ~~taken-taken; and-~~

33 (3) ~~The the~~ responsible official to certify all deviations from permit requirements.

34 (g) At the request of ~~the a~~ permittee, the Director may allow records to be maintained in ~~computerized electronic~~ form
35 in lieu of maintaining paper ~~records records~~. The Director shall make this decision based on factors such as whether
36 the if computerized electronic records contain the same information as the paper records would contain, records and
37 the availability of the electronic records for inspection to demonstrate compliance.

1 (h) ~~The A~~ permit for facilities covered ~~under by~~ 15A NCAC 02D .2100, Risk Management Program, shall contain:

2 (1) a statement listing 15A NCAC 02D .2100 as an applicable requirement; ~~and~~

3 (2) conditions that require the owner or operator of the facility to submit:

4 (A) a compliance schedule for meeting the requirements of 15A NCAC 02D .2100 by the dates
5 provided in 15A NCAC 02D .2101(a); or

6 (B) as part of the compliance certification ~~under required by~~ Paragraph ~~(+)(n)~~ of this Rule, a
7 certification statement that the source is in compliance with all requirements of 15A NCAC
8 02D .2100, including the registration and submission of the risk management plan.

9 The content of the risk management plan need not ~~itself~~ be incorporated as a permit term or condition.

10 (i) ~~The A~~ permit shall:

11 (1) contain a condition prohibiting emissions exceeding any allowances that a facility lawfully holds
12 ~~under pursuant to Title IV; IV~~ but shall not limit the number of allowances held by a ~~permittee, but~~
13 ~~the permittee. A~~ permittee ~~may shall~~ not use allowances as a defense to noncompliance with any
14 other applicable requirement;

15 (2) contain a severability clause so that various permit requirements will continue to be valid in the
16 event of a challenge to any other portion of the permit;

17 (3) state that noncompliance with any condition of the permit is grounds for enforcement action; for
18 permit termination, revocation and reissuance, or modification; or for denial of a permit renewal
19 application;

20 (4) state that the permittee may not use as a defense in an enforcement action that it would have been
21 necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions
22 of the permit;

23 (5) state that the Director may reopen, modify, revoke and reissue, or terminate the permit for reasons
24 specified in ~~Rule 15A NCAC 02Q .0517 or .0519 of this Section;~~

25 (6) state that the filing of a request by the permittee for a permit revision, revocation and reissuance, ~~or~~
26 termination, notification of planned changes, or anticipated noncompliance does not stay any permit
27 condition;

28 (7) specify the conditions ~~under in~~ which the permit ~~shall will~~ be reopened before the expiration of the
29 permit;

30 (8) state that the permit does not convey any property rights of any sort, or any exclusive privileges;

31 (9) state that the permittee ~~shall will~~ furnish to the Division, in a timely manner:

32 (A) any ~~reasonable~~ information that the Director may request in writing to determine whether
33 cause exists for modifying, revoking and reissuing, or terminating the permit or to
34 determine compliance with the permit, and

35 (B) copies of records required to be kept by the permit when such copies are requested by the
36 Director.

- (For (The permit shall also state that for information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.)
- (10) contain a provision to ensure that the permittee pays fees required ~~by~~ under Section .0200 of this Subchapter; 15A NCAC 02Q .0200;
 - (11) contain a condition that authorizes the permittee to make Section 502(b)(10) changes, off-permit changes, or emission trades in accordance with ~~Rule .0523 of this Section;~~ 15A NCAC 02Q .0523;
 - (12) include all applicable requirements for all sources covered ~~under by~~ the permit;
 - (13) include fugitive emissions, if regulated, in the same manner as stack emissions;
 - (14) contain a condition requiring annual reporting of actual emissions as required ~~under by~~ Rule .0207 of this Subchapter; 15A NCAC 02Q 0207;
 - (15) include all sources including insignificant activities; and
 - (16) contain other provisions the Director considers appropriate.
- (j) ~~The A~~ permit shall state the terms and conditions for reasonably anticipated operating scenarios identified by the applicant in the application. These terms and conditions shall:
- (1) require the permittee, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the operating scenario ~~under in~~ which it is operating;
 - (2) extend the permit shield described in ~~Rule 15A NCAC 02Q .0512 of this Section~~ to all terms and conditions ~~under in~~ each such operating scenario; and
 - (3) ensure that each operating scenario meets all applicable requirements of Subchapter 02D of this Chapter and of this Section.
- (k) ~~The A~~ permit shall identify which terms and conditions are enforceable by:
- (1) both EPA and the Division;
 - (2) the Division only;
 - (3) EPA only; and
 - (4) citizens ~~under pursuant to~~ the federal Clean Air Act.
- (l) ~~The A~~ permit shall state that the permittee ~~shall will~~ allow personnel of the Division to:
- (1) enter the permittee's premises where the permitted facility is located or emissions-related activity is conducted, or where records are kept ~~under by~~ the conditions of the permit;
 - (2) have access to and ~~copy, at reasonable times, copy~~ any records that are required to be kept ~~under by~~ the conditions of the permit;
 - (3) inspect ~~at reasonable times and using reasonable safety practices~~ any source, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required ~~under by~~ the permit; and
 - (4) sample or monitor substances or parameters, ~~using reasonable safety practices,~~ for the purpose of assuring compliance with the permit or applicable ~~requirements at reasonable times requirements.~~

(m) When a compliance schedule is required ~~under by~~ 40 CFR 70.5(c)(8) or ~~under by~~ a rule contained in Subchapter 02D of this Chapter, the permit shall contain the compliance schedule and shall state that the permittee shall submit at least semiannually, or more frequently if specified in the applicable requirement, a progress report. The progress report shall contain:

- (1) dates for achieving the activities, milestones, or compliance required in the compliance ~~schedule,~~ schedule and dates when such activities, milestones, or compliance were achieved; and
- (2) an explanation of why any dates in the compliance schedule were not or will not be ~~met, met~~ and any preventive or corrective measures adopted.

(n) The permit shall contain requirements for compliance certification with the terms and conditions in the permit that are enforceable by EPA ~~under pursuant to~~ Title V of the federal Clean Air Act, including emissions limitations, standards, ~~or and~~ work practices. The permit shall specify:

- (1) the frequency (not less than annually or more frequently as specified in the applicable requirements) of submissions of compliance certifications;
- (2) a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices; and
- (3) a requirement that the compliance certification include:
 - (A) the identification of each term or condition of the permit that is the basis of the certification;
 - (B) the status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the methods or means designated in 40 CFR 70.6(c)(5)(iii)(B). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance ~~is was~~ required and in which an excursion or exceedance as defined ~~under in~~ 40 CFR 64 occurred;
 - (C) whether compliance was continuous or intermittent;
 - (D) the identification of the ~~method(s) methods~~ or other means used by the owner and operator for determining the compliance status with each term and condition during the certification period; these methods shall include the methods and means required ~~under in~~ 40 CFR Part 70.6(a)(3); and
 - (E) such other facts as the Director may require to determine the compliance status of the source; and
- (4) that all compliance certifications be submitted to EPA as well as to the Division.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(10); 143-215.108; Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. July 1, 1996;

1 *Temporary Amendment Eff. December 1, 1999;*
2 *Amended Eff. August 1, 2008; June 1, 2008; January 1, 2007; December 1, 2005; April 1, 2001;*
3 *July 1, ~~2000~~2000;*
4 *Readopted Eff. April 1, 2018.*
5
6

1 15A NCAC 02Q .0509 is readopted with changes as published in 32:04 NCR 173 as follows:

2
3 **15A NCAC 02Q .0509 PERMITTING OF NUMEROUS SIMILAR FACILITIES**

4 (a) The Director ~~may issue, after~~ shall not issue a single permit to cover numerous similar facilities or sources unless
5 a notice and opportunity for public participation has been provided as required by in Rule .0521 of this Section, 15A
6 NCAC 02Q [.0521,].0521. ~~a permit to cover numerous similar facilities or sources.~~

7 (b) The Director shall not issue a single permit for numerous similar facilities and sources pursuant to this Rule unless:
8 under this Rule unless the following conditions are met:

9 (1) ~~There~~there is no unique difference between the facilities or sources that would require special permit
10 conditions for any individual ~~facility;~~ facility or source; and

11 (2) ~~Nono~~ unique analysis is required for any facility or source covered underby the permit.

12 (c) A permit issued underpursuant to this Rule shall comply with all the requirements of this Section.

13 (d) A permit issued underpursuant to this Rule shall identify criteria by which facilities or sources may qualify for
14 the permit. To facilities or sources that qualify, the Director shall grant the terms and conditions of the permit.

15 (e) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source
16 is later determined not to qualify for the terms and conditions of the permit issued underpursuant to this Rule.

17 (f) Sources subject to Title IV shall not be eligible for a permit issued underpursuant to this Rule.

18 (g) The owner or operator of a facility or source that qualifies for a permit issued underpursuant to this Rule shall
19 apply for coverage underby the terms of the permit issued underpursuant to this Rule or shall apply for a
20 ~~regular standard~~ permit for each facility or source underpursuant to this Section.

21 (h) The Division need not repeat the public participation procedures required underpursuant to Rule 15A NCAC 02Q
22 .0521 of this Section when it grants a request by a permit applicant to operate underby a permit issued underpursuant
23 to this Rule.

24
25 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

26 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
27 *rule becomes effective, whichever is sooner;*

28 *Eff. July 1, 1994, 1994;*

29 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0510 is readopted with changes as published in 32:04 NCR 173 as follows:

2
3 **15A NCAC 02Q .0510 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES**

4 (a) The Director ~~may~~ may issue a single permit authorizing emissions from similar operations by the same facility
5 owner or operator at multiple temporary ~~sites~~ sites, based on factors such as those set forth in this Rule.

6 (b) ~~In order for a facility to~~ No facility shall qualify for a permit for multiple temporary ~~site under this Rule, the~~
7 ~~operation must involve~~ sites pursuant to this Rule unless the operation involves at least one change of site during the
8 term of the permit.

9 (c) Sources subject to Title IV shall not be eligible for a permit ~~under~~ pursuant to this Section.

10 (d) Permits for facilities at multiple temporary sites shall include:

- 11 (1) identification of each site;
12 (2) conditions that will assure compliance with all applicable requirements at all authorized locations;
13 (3) requirements that the permittee notify the Division at least 10 days in advance of each change of
14 location; and
15 (4) conditions that assure compliance with all other provisions of this Section.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
19 *rule becomes effective, whichever is sooner;*
20 *Eff. July 1, 1994;*
21 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0512 is readopted with changes as published in 32:04 NCR 173 as follows:

2
3 **15A NCAC 02Q .0512 PERMIT SHIELD AND APPLICATION SHIELD**

4 (a) Permit Shield:

5 (1) The Director shall place in a permit issued ~~underpursuant to~~ this Section a permit term or condition
6 (a permit shield) stating that compliance with the conditions of the permit shall be deemed
7 compliance with applicable requirements specifically identified in the permit in effect as of the date
8 of permit issuance, provided that:

9 (A) ~~Such~~such applicable requirements are included and are specifically identified in the permit;

10 or

11 (B) ~~The~~the Director, in acting on the permit application or revision, determines in writing that
12 other requirements specifically identified are not applicable to the ~~source,source~~ and the
13 permit includes ~~the~~that determination or a concise summary thereof.

14 (2) A permit that does not expressly state that a permit shield exists shall be presumed not to provide
15 such a shield.

16 (3) A permit shield shall state that it does not alter or affect:

17 (A) the power of the Commission, Secretary of the Department, or Governor under G.S.
18 143-215.3(a)(12) or EPA under Section 303 of the federal Clean Air Act;

19 (B) the liability of an owner or operator of a facility for any violation of applicable
20 requirements prior to the effective date of the permit or at the time of permit issuance;

21 (C) the applicable requirements under Title IV; or

22 (D) the ability of the Director (or EPA ~~underpursuant to~~ Section 114 of the federal Clean Air
23 Act) to obtain information to determine compliance of the facility with its permit, this
24 Section, or Subchapter ~~2D02D~~ of this Chapter.

25 (4) A permit shield shall not apply to any change made at a facility that does not require a permit
26 revision.

27 (5) A permit shield shall not extend to minor permit modifications made ~~underpursuant to Rule .0515~~
28 ~~of this Section.~~ 15A NCAC 02Q .0515.

29 (b) Application Shield.

30 (1) Except as provided in Subparagraph (b)(2) of this Rule, if the applicant submits a timely and
31 complete application for permit issuance (including for renewal), the facility's failure to have a
32 permit ~~underpursuant to~~ this Section shall not be a violation:

33 (A) unless the delay in final action is due to the ~~failure of the applicant's timely submission of~~
34 failure of the applicant to timely submit information as required or requested by the
35 Director, or

36 (B) until the Director takes final action on the permit application.

1 (2) Subparagraph (b)(1) of this Rule shall cease to apply if, subsequent to the completeness
2 determination made ~~underpursuant to Rule .0507 of this Section, 15A NCAC 02Q .0507,~~ the
3 applicant fails to ~~submit~~submit by the deadline specified in writing by the Director, any additional
4 information identified as being needed to process the application.

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6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
8 *rule becomes effective, whichever is sooner;*
9 *Eff. July 1, 1994;*
10 *Amended Eff. July 1, ~~1997~~.1997;*
11 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0513 is readopted with changes as published in 32:04 NCR 173 as follows:

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3 **15A NCAC 02Q .0513 PERMIT RENEWAL AND EXPIRATION**

4 (a) Permits being renewed ~~are shall be~~ subject to the procedural requirements of this Section, including those for
5 public participation and affected ~~State-state~~ and EPA review.

6 (b) Permit expiration ~~terminates shall terminate~~ the facility's right to operate unless a complete renewal application
7 has been submitted at least ~~nine-six~~ months before the date of permit expiration.

8 (c) If the permittee or applicant has complied with ~~Rule .0512(b)(1) of this Section, 15A NCAC 02Q .0512(b)(1),~~ the
9 existing permit shall not expire until the renewal permit has been issued or denied. All terms and conditions of the
10 existing permit shall remain in effect until the renewal permit has been issued or denied.

11
12 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
13 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
14 *rule becomes effective, whichever is sooner;*
15 *Eff. July 1, ~~1994~~ 1994;*
16 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0514 is readopted with changes as published in 32:04 NCR 173-174 as follows:

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3 **15A NCAC 02Q .0514 ADMINISTRATIVE PERMIT AMENDMENTS**

4 (a) An "administrative permit amendment" means a permit revision that:

- 5 (1) corrects typographical errors;
- 6 (2) identifies a change in the name, ~~address~~address, or telephone number of any individual identified in
- 7 the ~~permit~~permit or provides a similar minor administrative change at the facility;
- 8 (3) requires more frequent monitoring or reporting by the permittee;
- 9 (4) changes test dates or construction dates provided that no applicable requirements are violated by the
- 10 change in test dates or construction dates;
- 11 (5) moves terms and conditions from the State-enforceable only portion of a permit to the
- 12 ~~State and federal enforceable~~State- and federal-enforceable portion of the permit provided that
- 13 terms and conditions being moved have become federally enforceable through Section 110, 111, or
- 14 112 or other parts of the federal Clean Air Act;
- 15 (6) moves terms and conditions from the federal-enforceable only portion of a permit to the
- 16 ~~State and federal enforceable~~State- and federal-enforceable portion of the permit; ~~or~~
- 17 (7) changes the permit number without changing any portion of the permit that is federally enforceable
- 18 that would not otherwise qualify as an administrative ~~amendment~~amendment;
- 19 ~~(8) removes non-applicable permit conditions; or~~
- 20 ~~(9) removes references to equipment that has been permanently removed from service.~~

21 (b) In making administrative permit amendments, the Director:

- 22 (1) shall take final action on a request for an administrative permit amendment within 60 days after
- 23 receiving such ~~request~~request;
- 24 (2) may make administrative amendments without providing notice to the public or any affected
- 25 ~~State(s)~~states pursuant to 15A NCAC 02Q .0521(a), provided he ~~or she~~ designates any such permit
- 26 revision as having been made pursuant to this ~~Rule~~Rule; and
- 27 (3) shall submit a copy of the revised permit to EPA.

28 (c) The permittee may implement the changes addressed in the request for an administrative amendment immediately

29 upon submittal of the request.

30 (d) Upon taking final action granting a request for an administrative permit amendment, the Director shall allow

31 coverage by the permit shield ~~underpursuant to Rule 15A NCAC 02Q .0512 of this Section~~ for the administrative

32 permit amendments made.

33 (e) Administrative amendments for sources covered ~~underpursuant to~~ Title IV shall be governed by rules in ~~Section~~

34 ~~.0400 of this Subchapter~~15A NCAC 02Q .0400.

35 (f) This Rule shall not ~~be used to make changes apply~~ to the state-enforceable only part of a Title V permit. For the

36 state-enforceable only part of a Title V permit, ~~Rule .0316 of this Subchapter~~ 15A NCAC 02Q .0316 shall ~~be used~~

37 ~~for govern~~ administrative permit amendments.

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History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule
becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. January 1, 2007; July 1, ~~1997~~1997;
Readopted Eff. April 1, 2018.

1 15A NCAC 02Q .0515 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0515 MINOR PERMIT MODIFICATIONS**

4 (a) The procedures set out in this Rule ~~may shall be used for apply to~~ permit modifications ~~whenif~~ the modifications:

- 5 (1) do not violate any applicable requirement;
- 6 (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements
- 7 in the permit;
- 8 (3) do not require or change a case-by-case determination of an emission limitation or other standard,
- 9 ~~or~~ a source-specific determination for temporary sources of ambient impacts, or a visibility or
- 10 increment analysis;
- 11 (4) do not seek to establish or change a permit term or condition for which there is no corresponding
- 12 underlying applicable requirement and that the facility has assumed to avoid an applicable
- 13 requirement to which the facility would otherwise be subject. Such terms and conditions include:
- 14 (A) a federally enforceable emissions cap assumed to avoid an applicable requirement
- 15 ~~underpursuant to~~ any provision of Title I of the federal Clean Air Act; or
- 16 (B) an alternative emissions limit approved as part of an early reduction plan submitted
- 17 pursuant to Section 112(i)(5) of the federal Clean Air Act;
- 18 (5) are not modifications ~~underpursuant to~~ any provision of Title I of the federal Clean Air Act; and
- 19 (6) are not required to be processed as a significant modification ~~underpursuant to Rule .0516 of this~~
- 20 ~~Section. 15A NCAC 02Q .0516.~~

21 (b) In addition to the items required ~~under Rule .0505 of this Section, pursuant to 15A NCAC 02Q .0505,~~ an

22 application requesting the use of the procedures set out in this Rule shall include:

- 23 (1) an application form including:
- 24 (A) a description of the ~~change,change;~~
- 25 (B) the emissions resulting from the ~~change,change;~~ and
- 26 (C) identification of any new applicable requirements that will apply if the change occurs;
- 27 (2) a list of the facility's other pending applications awaiting group processing and a determination of
- 28 whether the requested modification, aggregated with these other applications, equals or exceeds the
- 29 thresholds set out ~~underin~~ Subparagraphs (c)(1) through (3) of this Rule;
- 30 (3) the applicant's suggested draft permit;
- 31 (4) certification by a responsible official that the proposed modification meets the criteria for using the
- 32 procedures set out in this Rule and a request that these procedures be used; and
- 33 (5) complete information for the Director to use to notify EPA and affected ~~States-states.~~

34 (c) The Director shall use group processing for minor permit modifications processed ~~underpursuant to~~ this Rule. The

35 Director shall notify EPA and affected ~~Statesstates~~ of the requested permit revisions ~~underpursuant to~~ this Rule and

36 shall provide the information specified in ~~Rule .0522 of this Section. 15A NCAC 02Q .0522~~ on a quarterly basis. If

37 the aggregated emissions from all pending minor permit modifications equal or exceed:

1 (1) 10 percent of the emissions allowed for the source for which the change is ~~requested, requested;~~
2 (2) 20 percent of the applicable definition of major ~~facility, facility;~~ or
3 (3) five tons per year,
4 then the Director shall notify EPA and affected ~~States~~ states within five business days of the requested permit revision
5 ~~underpursuant to~~ this Rule and provide the information specified in ~~Rule .0522 of this Section; 15A NCAC 02Q .0522.~~
6 (d) Within 90 days after receiving a complete application that ~~causes exceeds~~ the thresholds in Subparagraphs (c)(1),
7 (2), or (3) of this Rule ~~to be exceeded~~ or 15 days after the end of EPA's 45-day review period, whichever is later, the
8 Director shall:
9 (1) issue the permit modification as proposed;
10 (2) deny the permit modification application;
11 (3) determine that the requested modification does not qualify for the procedures set out in this Rule
12 and should ~~therefore,~~ be processed ~~underpursuant to Rule .0516 of this Section; 15A NCAC 02Q~~
13 .0516; or
14 (4) revise the draft permit modification and transmit the proposed permit to EPA.
15 (e) If the thresholds in Subparagraphs (c)(1), (2), and (3) of this Rule are not exceeded, the Director shall, within 180
16 days after receiving a completed application for a permit modification or 15 days after the end of EPA's 45-day review
17 period, whichever is later:
18 (1) issue the permit modification as proposed;
19 (2) deny the permit modification application;
20 (3) determine that the requested modification does not qualify for the procedures set out in this Rule
21 and should ~~therefore,~~ be processed ~~underpursuant to Rule .0516 of this Section; 15A NCAC 02Q~~
22 .0516; or
23 (4) revise the draft permit modification and transmit the proposed permit to EPA.
24 (f) The permit applicant may make the change proposed in his minor permit modification application immediately
25 after filing the completed application with the Division. After the applicant makes the change, the facility shall comply
26 with both the applicable requirements governing the change and the proposed permit terms and conditions until the
27 Director takes one of the final actions specified in Paragraph ~~(d)(1) through (d)(4)~~ (e)(d) of this Rule. Between the
28 filing of the permit modification application and the Director's final action, the facility need not comply with the
29 existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with its proposed
30 permit terms and conditions during this time period, the Director may enforce the terms and conditions of the existing
31 permit that the applicant seeks to ~~modify, modify, as necessary to ensure protection of air quality.~~
32 (g) The permit shield allowed ~~underpursuant to Rule 15A NCAC 02Q .0512 of this Section~~ shall not extend to minor
33 permit modifications.
34 (h) If the State-enforceable only portion of the permit is revised, the procedures in ~~Section .0300 of this Subchapter~~
35 15A NCAC 02Q. 0300 shall be followed.
36 (i) The proceedings shall affect only those parts of the permit related to the modification.
37

1 *History Note:* *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
2 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
3 *becomes effective, whichever is sooner;*
4 *Eff. July 1, 1994;*
5 *Amended Eff. July 1, ~~1997~~1997;*
6 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0516 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0516 SIGNIFICANT PERMIT MODIFICATION**

4 (a) The procedures set out in this Rule shall ~~be used for~~apply to applications requesting permit modifications
5 ~~underpursuant to~~ this Rule or permit modifications that ~~do not qualify for~~are not governed by Rule 15A NCAC 02Q
6 .0514, .0515, .0523, or .0524 of this Section. .0524.

7 ~~(b) Significant modifications include modifications that:~~

8 (1) ~~involve a significant change in existing monitoring permit terms or conditions or relax any reporting~~
9 ~~or recordkeeping permit terms or conditions;~~

10 (2) ~~require or change a case-by-case determination of an emissions limitation or other standard, or a~~
11 ~~source-specific determination for temporary sources of ambient impacts, or a visibility or increment~~
12 ~~analysis;~~

13 (3) ~~seek to establish or change a permit term or condition for which there is no corresponding underlying~~
14 ~~applicable requirement and that the facility has assumed to avoid an applicable requirement to which~~
15 ~~the facility would otherwise be subject; or~~

16 (4) ~~are modifications under any provision of 15A NCAC 2D or 2Q or Title I of the federal Clean Air~~
17 ~~Act not processed under Rule .0514, .0515, .0523, or .0524 of this Section.~~

18 ~~(c)(b)~~ An application for a significant permit modification that would contravene or conflict with ~~thean~~ existing permit
19 shall be processed following the procedure set out in ~~Rule .0501(d) of this Section.~~ 15A NCAC 02Q
20 [.0501(d)].0501(c).

21 ~~(d)(c)~~ An application for a significant permit modification that does not contravene or conflict with ~~thean~~ existing
22 permit shall be processed following the procedure set out in ~~Rule .0501(e) of this Section.~~ 15A NCAC 02Q
23 [.0501(d)].0501(b).

24 ~~(e)(d)~~ This Rule shall not preclude the permittee from making changes consistent with this Section that would render
25 existing permit compliance terms and conditions irrelevant.

26 ~~(f)(e)~~ Except for the State-enforceable only portion of the permit, the procedures set out in Rule 15A NCAC 02Q .0507,
27 .0521, or .0522 of this Section shall be followed to revise a permit ~~underpursuant to~~ this Rule. If the State-enforceable
28 only portion of the permit is revised, the procedures in Section .0300 of this Subchapter 15A NCAC 02Q .0300 shall
29 be followed. The proceedings shall affect only those parts of the permit related to the significant modification.

30 ~~(h)(f)~~ Significant permit modifications shall be covered ~~underby~~ the permit shield in accordance with ~~Rule .0512 of~~
31 ~~this Section.~~ 15A NCAC 02Q .0512.

32
33 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
34 Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent
35 rule becomes effective, whichever is sooner;
36 Eff. July 1, 1994, 1994;
37 Readopted Eff. April 1, 2018.

1 15A NCAC 02Q .0517 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0517 REOPENING FOR CAUSE**

4 (a) A permit shall be reopened and revised under the following circumstances:

- 5 (1) ~~Additional~~additional applicable requirements become applicable to a facility with a remaining
6 permit term of three or more years;
- 7 (2) ~~Additional~~additional requirements (including excess emissions requirements) become applicable to
8 a source covered by Title IV ~~(Upon~~(upon approval by EPA, excess emissions offset plans shall be
9 deemed to be incorporated into the ~~permit~~permit);
- 10 (3) ~~The~~the Director or EPA finds that the permit contains a material mistake or that inaccurate
11 statements were made in establishing the emissions standards or other terms or conditions of the
12 permit; or
- 13 (4) ~~The~~the Director or EPA determines that the permit must be revised or revoked to assure compliance
14 with the applicable requirements.

15 (b) Any permit reopening ~~under~~pursuant to Subparagraph (a)(1) of this Rule shall be completed or a revised permit
16 issued within 18 months after the applicable requirement is promulgated. No reopening is required if the effective
17 date of the requirement is after the expiration of the permit term unless the term of the permit was extended pursuant
18 to ~~Rule .0513(c) of this Section~~ 15A NCAC 02Q .0513(c).

19 (c) Except for the State-enforceable only portion of the permit, the procedures set out in ~~Rule~~15A NCAC 02Q .0507,
20 ~~[15A NCAC 02Q] .0521, .0521~~ or ~~[15A NCAC 02Q] .0522 of this Section~~ shall be followed to reissue a permit that
21 has been reopened ~~under~~pursuant to this Rule. If the State-enforceable only portion of the permit is reopened, the
22 procedures in ~~Section .0300 of this Subchapter~~ 15A NCAC 02Q .0300 shall be followed. The proceedings shall affect
23 only those parts of the permit for which cause to reopen exists.

24 (d) The Director shall notify the permittee at least 60 days in advance of the date that the permit is to be reopened,
25 except in cases of imminent threat to public health or safety the Director may notify the permittee less than 60 days
26 before reopening the permit. The notice shall explain why the permit is being reopened.

27 (e) Within 90 days, or 180 days if EPA extends the response period, after receiving notification from EPA that it finds
28 that a permit ~~needs to~~should be terminated, modified, or revoked and reissued, the Director shall send to EPA a
29 proposed determination of termination, modification, or revocation and reissuance, as appropriate.

30
31 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
32 Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent
33 rule becomes effective, whichever is sooner;
34 Eff. July 1, 1994;
35 Amended Eff. July 1, ~~1997~~1997;
36 Readopted Eff. April 1, 2018.
37

1 15A NCAC 02Q .0518 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0518 FINAL ACTION**

4 (a) The Director may:

- 5 (1) issue a permit, permit revision, or ~~a~~ renewal containing the conditions necessary to carry out the
6 purposes of G.S. 143, Article 21B and the federal Clean Air Act;
7 (2) rescind a permit upon request by the permittee; or
8 (3) deny a permit application when necessary to carry out the purposes of G.S. 143, Article 21B and the
9 federal Clean Air Act.

10 (b) The Director may not issue a final permit or permit revision, except administrative permit amendments ~~covered~~
11 ~~underpursuant to Rule .0514 of this Section, 15A NCAC 02Q .0514,~~ until EPA's 45-day review period has expired or
12 until EPA has notified the Director that EPA will not object to issuance of the permit or permit revision, whichever
13 occurs first. The Director shall issue the permit or permit revision within five days of receipt of notification from EPA
14 that it will not object to issuance or of the expiration of EPA's 45-day review period, whichever occurs first.

15 (c) If EPA objects to a proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of
16 EPA's objection. The Director shall not issue a permit ~~underpursuant to~~ this Section over EPA's objection.

17 (d) If EPA does not object in writing to the issuance of a permit, any person may petition EPA to make such objections
18 by following the procedures and meeting the requirements ~~underof~~ 40 CFR 70.8(d).

19 (e) No permit shall be issued, revised, or renewed ~~underpursuant to~~ this Section unless all the procedures set out in
20 this Section have been followed and all the requirements of this Section have been met. ~~Default issuance of a permit,~~
21 ~~permit revision, or permit renewal by the Director is prohibited. The Director shall not issue any permit, permit~~
22 ~~revision, or permit renewal pursuant to this Section by default.~~

23 (f) Thirty days after issuing a permit, including a permit issued pursuant to ~~Rule .0509 of this Section, 15A NCAC~~
24 ~~02Q .0509,~~ that is not challenged by the applicant, the Director shall notice the issuance of the final permit. The notice
25 shall be issued on the North Carolina Division of Air Quality web site at <http://www.ncair.org/permits/>.
26 <http://deq.nc.gov/about/divisions/air-quality>. The notice shall include the name and address of the facility and ~~the~~
27 permit number.

28
29 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

30 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
31 *becomes effective, whichever is sooner;*

32 *Eff. July 1, 1994;*

33 *Amended Eff. January 1, 2010; February 1, ~~1995, 1995;~~*

34 *Readopted Eff. April 1, 2018.*
35
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1 15A NCAC 02Q .0519 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0519 TERMINATION, MODIFICATION, REVOCATION OF PERMITS**

4 (a) The Director may terminate, modify, or revoke and reissue a permit issued ~~under~~pursuant to this Section if:

- 5 (1) ~~The~~the information contained in the application or presented in support thereof is determined to be
6 incorrect;
- 7 (2) ~~The~~the conditions ~~under~~by which the permit or permit renewal was granted have changed;
- 8 (3) ~~Violations of conditions contained in the permit have occurred;~~permit conditions have been
9 violated;
- 10 (4) ~~The~~the permit holder fails to pay fees required ~~under Section .0200 of this Subchapter pursuant to~~
11 15A NCAC 02Q .0200 within 30 days after being billed;
- 12 (5) ~~The~~the permittee refuses to allow the Director or his authorized ~~representative~~representative, upon
13 presentation of credentials:
- 14 (A) to ~~enter, enter~~ at reasonable times and using reasonable safety practices, the permittee's
15 premises in which a source of emissions is located or in which any records are required to
16 be kept ~~under~~by the terms and conditions of the permit;
- 17 (B) to have ~~access, access~~ at reasonable times, to any copy or records required to be kept
18 ~~under~~by the terms and conditions of the permit;
- 19 (C) to ~~inspect, inspect~~ at reasonable times and using reasonable safety practices, any source of
20 emissions, control equipment, and any monitoring equipment or method required in the
21 permit; or
- 22 (D) to ~~sample, sample~~ at reasonable times and using reasonable safety practices, any emission
23 source at the facility;
- 24 (6) ~~the~~the EPA requests that the permit be revoked ~~under~~pursuant to 40 CFR 70.7(g) or 70.8(d); or
- 25 (7) ~~The~~the Director finds that termination, modification or revocation and reissuance of a permit is
26 necessary to carry out the purpose of G.S. 143, Article 21B.

27 (b) To operate a facility or source after its permit has been revoked ~~is~~shall be a violation of this ~~Section and G.S.~~
28 143-215.108, Section.

29
30 *History Note: Authority G.S. 143-215.3(a)(1),(1a),(1b); 143-215.107(a)(10); 143-215.108;*
31 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
32 *rule becomes effective, whichever is sooner;*
33 *Eff. July 1, 1994, 1994;*
34 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0520 is readopted with changes as published in 32:04 NCR 174 as follows:

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3 **15A NCAC 02Q .0520 CERTIFICATION BY RESPONSIBLE OFFICIAL**

4 (a) A responsible official shall certify the truth, accuracy, and completeness of any application form, report, or
5 compliance certification required ~~under~~ by this Section or by a term or condition in a permit issued ~~under~~ pursuant to
6 this Section.

7 (b) This certification shall state that, based on information and belief formed after reasonable inquiry, the
8 ~~statement~~ statements and information in the document are true, accurate, and complete.

9
10 *History Note: Authority G.S. 143-215.3(a)(1),(2); 143-215.107(a)(10); 143-215.108;*
11 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
12 *rule becomes effective, whichever is sooner;*
13 *Eff. July 1, 1994;*
14 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0521 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0521 PUBLIC PARTICIPATION**

4 (a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and
5 permit revisions except permit revisions issued ~~underpursuant to Rules~~ 15A NCAC 02Q .0514, ~~[15A NCAC 02Q]~~
6 ~~.0515, .0524 of this Section and [15A NCAC 02Q] .0524.~~ The Director shall give public notice with an opportunity
7 for comments and a hearing on draft permit revisions issued ~~underpursuant to Rule~~ 15A NCAC 02Q .0514, ~~[15A~~
8 ~~NCAC 02Q] .0515, and [15A NCAC 02Q] .0524 of this Section~~ if the Director finds it is in the best interest of the
9 public.

10 (b) ~~The notice~~ Notice of any draft permit for an existing facility for which a public hearing is ~~scheduled,~~ scheduled or
11 ~~for a new facility,~~ facility shall be given by publication in a newspaper of general circulation in the area where the
12 facility is located, posted on the North Carolina Division of Air Quality web site at <http://www.ncair.org/permits/>,
13 <http://deq.nc.gov/about/divisions/air-quality>, and emailed to persons who are on the Division's emailing list for air
14 quality permits.

15 (c) ~~The notice~~ Notice for existing facilities for which a public hearing is not scheduled shall be given by posting the
16 draft permit on the North Carolina Division of Air Quality web site, site at ~~[http://deq.nc.gov/about/divisions/air-~~
17 ~~quality,] -http://deq.nc.gov/about/divisions/air-quality~~ and shall be emailed to persons who are on the Division's
18 emailing list for air quality permit notices.

19 (d) The notice shall identify:

- 20 (1) the affected facility;
21 (2) the name and address of the permittee;
22 (3) the name and address of the person to whom to send comments and requests for public hearing;
23 (4) the name, address, and telephone number of Divisional staff from whom interested persons may
24 obtain additional information, including copies of the permit draft, the application, compliance plan,
25 monitoring and compliance reports, all other relevant supporting materials, and all other materials
26 available to Division that are relevant to the permit decision;
27 (5) the activity or activities involved in the ~~permit~~ permitted action;
28 (6) any emissions change involved in any permit modification;
29 (7) a brief description of the comment procedures;
30 (8) the procedures to follow to request a hearing unless a hearing has already been scheduled; and
31 (9) the time and place of ~~any hearing that has all~~ hearing that have already been scheduled.

32 (e) The Director shall send a copy of the notice to affected ~~States-states~~ and EPA.

33 (f) The notice shall allow 30 days for public comments.

34 (g) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public
35 hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.

36 (h) If EPA requests a record of the comments and of the issues raised during the public participation process, the
37 Director shall provide EPA this record.

(i) Persons who desire to be placed on the Division's email notification list for air quality permit notices shall subscribe to the permits email list serve at <http://www.ncair.org/permits/> ~~http://www.ncair.org/permits/~~ <http://deq.nc.gov/about/divisions/air-quality>.

*History Note: Authority G.S. 143-215.3(a)(1),(3); 143-215.107(a)(10); 143-215.108; 143-215.111(4);
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule
becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. January 1, 2010; July 1, ~~1998-1998~~;
Readopted Eff. April 1, 2018.*

1 15A NCAC 02Q .0522 is readopted with changes as published in 32:04 NCR 174 as follows:

2
3 **15A NCAC 02Q .0522 REVIEW BY EPA AND AFFECTED STATES**

4 (a) The Director shall provide EPA with a copy of each permit application, including any application for permit
5 revision, each proposed permit, and each final permit issued underpursuant to this Section. If EPA has informed the
6 Director that a permit application summary and relevant portion of the permit application and compliance plan are all
7 it needs sufficient, the Director may provide this abridgement in place these documents instead of the complete
8 application.

9 (b) The Division shall retain for five years a copy of all permit applications, permits, and other related material
10 submitted to or issued by the Division underpursuant to this Section.

11 (c) The Director shall provide notice to each affected Statestate of each draft permit at or before the time notice is
12 provided to the public underpursuant to Rule .0521 of this Section. 15A NCAC 02Q .0521.

13 (d) The Director, in writing, shall notify EPA and any affected Statestate of any refusal by the Division to accept all
14 recommendations for the proposed permit that the affected Statestate submitted during the public or affected Statestate
15 review period and shall state the reasons for not accepting any such recommendations.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; 143-215.111(5);*
18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
19 *rule becomes effective, whichever is sooner;*
20 *Eff. July 1, 1994, 1994;*
21 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0523 is readopted with changes as published in 32:04 NCR 174-175 as follows:

2
3 **15A NCAC 02Q .0523 CHANGES NOT REQUIRING PERMIT REVISIONS**

4 (a) Section 502(b)(10) changes:

- 5 (1) ~~The~~A permittee may make Section 502(b)(10) changes without having his or her permit revised if:
- 6 (A) ~~The~~the changes are not a modification ~~under~~pursuant to 15A NCAC 02D or Title I of the
- 7 federal Clean Air Act;
- 8 (B) ~~The~~the changes do not cause the emissions allowed ~~under~~in the permit to be exceeded;
- 9 (C) ~~The~~the permittee notifies the Director and EPA ~~with written notification~~in writing at least
- 10 seven days before the change is made; and
- 11 (D) ~~The~~the permittee attaches the notice to the relevant permit.
- 12 (2) The written notification required ~~under~~by Part (a)(1)(C) of this Rule shall include:
- 13 (A) a description of the ~~change~~,change;
- 14 (B) the date on which the change will ~~occur~~,occur;
- 15 (C) ~~any change~~all changes in ~~emissions~~,emissions; and
- 16 (D) ~~any~~all permit term or conditions that ~~is~~are no longer applicable as a result of the change.
- 17 (3) Section 502(b)(10) changes shall be made in the permit the next time that the permit is revised or
- 18 renewed, whichever comes first.

19 (b) Off-permit changes. A permittee may make changes in his or her operation or emissions without revising his or

20 her permit if:

- 21 (1) ~~The~~the change affects only insignificant activities and the activities remain insignificant after the
- 22 ~~change~~,change; or
- 23 (2) ~~The~~the change is not covered ~~under~~by any applicable ~~requirement~~,requirement; and
- 24 (3) ~~[The]~~the changes are consistent with this Section and would ~~not~~ render existing permit compliance
- 25 ~~terms and conditions irrelevant~~.

26 (c) Emissions trading.

- 27 (1) To the extent that emissions trading is allowed ~~under~~pursuant to 15A NCAC 02D, including
- 28 subsequently adopted maximum achievable control technology standards, emissions trading ~~is~~shall
- 29 ~~be~~ allowed without permit revisions provided that:
- 30 (A) ~~All~~all applicable requirements are met;
- 31 (B) ~~The~~the permittee complies with all terms and conditions of the permit in making the
- 32 emissions trade; and
- 33 (C) ~~The~~the permittee notifies the Director and EPA ~~with written notification~~in writing at least
- 34 seven days before the trade is ~~made~~; ~~this notification requirement does not apply to trades~~
- 35 ~~made under 15A NCAC 02D .1419, Nitrogen Oxide Budget Trading Program, 15A NCAC~~
- 36 ~~.02D .2408, Trading Program and Banking (CAIR), or 15A NCAC 02D .2510, Trading~~
- 37 ~~and Banking (CAMR)-made~~.

- (2) If an emissions cap has been established by a permit condition for the purposes of limiting emissions below that allowed by an otherwise applicable requirement, emissions trading ~~is~~shall be allowed to the extent allowed by the permit if:
- (A) ~~An~~an emissions cap is established in the permit to limit emissions;
 - (B) ~~The~~the permit specifies the emissions limits with which each source shall comply ~~under~~with any applicable requirement;
 - (C) ~~The~~the permittee complies with all permit terms that ensure the emissions trades are enforceable, accountable, and quantifiable;
 - (D) ~~The~~the permittee complies with all applicable requirements;
 - (E) ~~The~~the permittee complies with the emissions trading procedures in the permit; and
 - (F) ~~The~~the permittee notifies the Director and EPA ~~with written notification~~in writing at least seven days before the trade is made.
- (3) The written notification required ~~under~~in Subparagraph (1) of this Paragraph shall include:
- (A) a description of the ~~change~~change;
 - (B) the date on when the change will ~~occur~~occur;
 - (C) ~~any~~the change in ~~emissions~~emissions;
 - (D) the permit requirement with which the facility or source will comply using the emissions trading provision of the applicable provision of 15A NCAC ~~02D.02D~~; and
 - (E) the pollutants emitted subject to the emissions trade.
- ~~This Subparagraph does not apply to trades made under 15A NCAC 02D .1419, Nitrogen Oxide Budget Trading Program, 15A NCAC .02D .2408 Trading Program and Banking, or 15A NCAC 02D .2510, Trading and Banking.~~
- (4) The written notification required ~~under~~in Subparagraph (2) of this Paragraph shall include:
- (A) a description of the ~~change~~change;
 - (B) the date on when the change will ~~occur~~occur;
 - (C) the changes in emissions that will result and how the increases and decrease in emissions will comply with the terms and conditions of the permit.
- (d) The permit ~~shield~~ allowed ~~under~~pursuant to Rule 15A NCAC 02Q .0512 ~~of this Section~~ ~~does~~shall not apply to changes made ~~under~~pursuant to Paragraphs (a), (b), or (c) of this Rule.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. June 1, 2008; December 1, ~~2005~~2005;
Readopted Eff. April 1, 2018.

1 15A NCAC 02Q .0524 is readopted with changes as published in 32:04 NCR 175 as follows:

2
3 **15A NCAC 02Q .0524 OWNERSHIP CHANGE**

4 (a) Applications for ownership changes shall:

5 (1) contain the information required ~~underby Rule .0505(4) of this Subchapter, 15A NCAC 02Q~~
6 ~~[-.0505(4),].0505(4);~~ and

7 (2) follow the procedures ~~underset forth in Section .0300 of this Subchapter, 15A NCAC 02Q .0300.~~

8 (b) ~~When~~If the Director permits an ownership change, he ~~or she~~ shall submit a copy of the permit to EPA as an
9 administrative amendment.

10
11 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
12 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
13 *rule becomes effective, whichever is sooner;*
14 *Eff. July 1, ~~1994~~1994;*
15 *Readopted Eff. April 1, 2018.*
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1 15A NCAC 02Q .0525 is readopted with changes as published in 32:04 NCR 175 as follows:

2
3 **15A NCAC 02Q .0525 APPLICATION PROCESSING SCHEDULE**

4 ~~(a) Except for permit applications submitted under Rule .0506 of this Subchapter, the~~ The Division shall adhere to
5 the following schedule in processing permit applications for permits, significant permit modifications, and permit
6 renewal applications:

7 (1) The Division shall send written acknowledgment of receipt of ~~the an~~ application to the applicant
8 within 10 days of receipt of the application.

9 (2) The Division shall review all permit applications within 60 days of receipt of the application to
10 determine whether the application is complete or incomplete. The Division shall notify the applicant
11 by letter:

12 ~~(A)~~(a) stating that the application as submitted is complete and specifying the completeness
13 date, date:

14 ~~(B)~~(b) stating that the application is incomplete, requesting additional information information,
15 and specifying the deadline date by which the requested information is to is required to be
16 received by the Division, Division; or

17 ~~(C)~~(c) stating that the application is incomplete and requesting that the applicant rewrite and
18 resubmit the application.

19 ~~If the Division does not notify the applicant by letter dated within 60 days of receipt of the application that the~~
20 ~~application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent~~
21 ~~the Director from requesting additional information at a later date when such information is considered necessary to~~
22 ~~properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided~~
23 ~~the requested additional information by the deadline specified in the letter requesting additional information, the~~
24 ~~Director may return the application to the applicant as incomplete. The applicant may request a time extension for~~
25 ~~submittal of the requested additional information. A completeness determination shall not be necessary for minor~~
26 ~~modifications under Rule .0514 of this Section.~~

27 If the Division does not notify the applicant by letter dated within 60 days of receipt of the
28 application that the application is incomplete, the application shall be deemed complete. A
29 completeness determination shall not prevent the Director from requesting additional information
30 at a later date [when] if such information is [considered] necessary to properly evaluate the source,
31 its air pollution abatement equipment, or the facility. If the applicant has not provided the requested
32 additional information by the [deadline] date specified in the letter requesting additional information,
33 the Director [may withdraw the application to the applicant as incomplete.] shall cease processing
34 the application until additional information is provided. The applicant may request a time extension
35 for submittal of the requested additional information. A completeness determination shall not be
36 necessary for minor modifications [under] pursuant to 15A NCAC 02Q .0515.

- 1 (3) The Division shall determine within 60 days of receipt of a complete application if any additional
2 information is needed to conduct the technical review of the application. A technical completeness
3 determination shall not prevent the Director from requesting additional information at a later date
4 when such information is ~~considered~~ necessary to properly evaluate the source, its air pollution
5 abatement equipment or the facility. The Division shall complete the technical review within 270
6 days of receipt of a complete application or 10 days after receipt of requested additional information,
7 whichever is later.
- 8 (4) The Director shall send the public notice for public comment on the draft permit to affected states,
9 to EPA, and to persons on the mailing list within 270 days after receipt of a complete application or
10 10 days after receipt of requested additional information, whichever is later.
- 11 (5) If a public hearing is requested and approved by the Director for a draft permit, it shall be held
12 within 45 days of the Director's decision to hold a public hearing.
- 13 (6) The Director shall complete the review of the record and send the proposed permit to EPA:
14 ~~(A)~~(a) within 30 days after the close of the public comment period if there is no public hearing on
15 the draft permit; or
16 ~~(B)~~(b) within 45 days after the close of the public hearing if there is a public hearing on the draft
17 permit.
- 18 (7) If EPA does not object to the proposed permit, the Director shall issue the permit within five days
19 after:
20 ~~(A)~~(a) expiration of EPA 45-day review period; or
21 ~~(B)~~(b) receipt of notice from EPA that it will not object to issuance, whichever comes first.
- 22 (8) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days
23 after receipt of EPA's objections.

24 ~~(b) The Director may return at any time applications containing insufficient information to complete the review.~~

25
26 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
27 *Eff. February 1, 1995;*
28 *Amended Eff. July 1, 1998. 1998;*
29 *Readopted Eff. April 1, 2018.*
30
31

1 15A NCAC 02Q .0526 is readopted with changes as published in 32:04 NCR 175 as follows:

2
3 **15A NCAC 02Q .0526 112(J) CASE-BY-CASE MACT PROCEDURES**

4 (a) ~~The An~~ owner or operator of a source required to apply maximum achievable control technology (MACT)
5 underpursuant to 15A NCAC 02D .1109 shall follow the permit procedures set out in this Rule.

6 (b) For the purposes of this Rule, the definitions in 15A NCAC ~~02D.1109~~, 02D .1109, 40 CFR 63.51, 40 CFR 63.2,
7 and the following definitions apply:

8 (1) "Equivalent emission limitation" means an emission limitation, established underpursuant to
9 Section 112(j) of the federal Clean Air Act, that is equivalent to the MACT standard that EPA would
10 have promulgated underpursuant to Section 112(d) or (h) of the federal Clean Air Act.

11 (2) "Source category schedule for standards" means the schedule for promulgating MACT standards
12 issued pursuant to Section 112(e) of the federal Clean Air Act.

13 (3) "Title V permit" means a permit issued underpursuant to this Section.

14 (c) Except as provided for in Paragraph (d) or (e) of this Rule, the owner or operator of a source required to apply
15 MACT underpursuant to 15A NCAC ~~2D02D~~ .1109 shall submit an application for a permit or for a significant permit
16 revision revision, as applicable underpursuant to this Section, whichever is applicable. Section.

17 (d) Approval process for new and existing affected ~~sources.~~ [Sources]-sources that are subject to Section 112(j) as of
18 the Section 112(j) deadline. The requirements of Subparagraphs (d)(1) and (2) of this Paragraph shall apply to major
19 sources that include, as of the Section 112(j) deadline, one or more sources in a category or subcategory for which the
20 EPA has failed to promulgate an emission standard [under]pursuant to 40 CFR Part 63 on or before an applicable
21 Section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified
22 in a Title V permit issued to the facility pursuant to the requirements of 40 CFR Part 63, Subpart B, shall apply to
23 such sources.

24 (1) The owner or operator shall submit an application for a permit or for a revision to an existing Title
25 V permit issued or a pending Title V permit [meeting]that meets the requirements of Subparagraph
26 (m)(1) of this Rule by the Section 112(j) deadline if the owner or operator can reasonably determine
27 that one or more sources at the facility belong in a category or subcategory subject to Section 112(j)
28 of the federal Clean Air Act.

29 (2) The owner or operator of a source that does not submit an application [under]pursuant to
30 Subparagraph (d)(1)(A) of this Rule and [that]is notified in writing by the Division that one or more
31 sources at the facility belong to a category or subcategory subject to Section 112(j) of the federal
32 Clean Air Act shall submit an application for a Title V permit or for a revision to an existing Title
33 V permit [meeting]that meets the requirements of Paragraph (m)(1) of this Rule within 30 days after
34 being notified in writing by the Division. The Division [is]shall not be required to make [such]this
35 notification.

36 (3) The requirements in Parts (A) and (B) of this Subparagraph shall apply [when]if the owner or
37 operator has obtained a Title V permit that incorporates a Section 112(g) case-by-case MACT

determination by the Division ~~under~~ pursuant to 15A NCAC 02D .1112, but has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act.

(A) ~~When~~ If the owner or operator has a Title V permit that incorporates a Section 112(g) case-by-case MACT determination ~~under~~ pursuant to 15A NCAC 02D .1112, the owner or operator shall submit an application ~~meeting~~ that meets the requirements of Paragraph (m)(1) of this Rule for a Title V permit revision within 30 days of the Section 112(j) deadline or within 30 days of being notified ~~that~~ in writing by the Division that one or more sources at the major facility belong in such category or subcategory. The Division shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that Division would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Division determines the previously adopted 112(g) emission limitations are substantially as effective, then the Division shall retain the existing limitations in the permit to effectuate Section 112(j) of the federal Clean Air Act. If the Division does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule ~~are~~ shall be satisfied upon issuance of a revised Title V permit incorporating any additional Section 112(j) requirements.

(B) ~~When~~ If the owner or operator that has submitted a Title V permit application that incorporates a Section 112(g) case-by-case MACT determination by the Division ~~under~~ pursuant to 15A NCAC 02D .1112, but has not received the permit incorporating the Section 112(g) requirements, the owner or operator shall continue to ~~pursue~~ apply for a Title V permit that addresses the requirements of Section 112(g) of the federal Clean Air Act. The owner or operator shall submit a permit application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days of issuance of that Title V permit. The Division shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Division would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Division determines ~~that~~ the previously adopted 112(g) emission limitations are substantially as effective, then the Director shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Division does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule ~~are~~ shall be satisfied upon issuance of a revised Title V permit incorporating any additional Section 112(j) requirements.

1 ~~(1) Sources subject to Section 112(j) as of the Section 112(j) deadline. The requirements of~~
2 ~~Subparagraphs (d)(1)(A) and (B) of this Paragraph shall apply to major sources that include, as of~~
3 ~~the Section 112(j) deadline, one or more sources in a category or subcategory for which the EPA~~
4 ~~has failed to promulgate an emission standard under 40 CFR Part 63 on or before an applicable~~
5 ~~Section 112(j) deadline. Existing source MACT requirements (including relevant compliance~~
6 ~~deadlines), as specified in a Title V permit issued to the facility pursuant to the requirements of 40~~
7 ~~CFR Part 63, Subpart B, shall apply to such sources.~~

8 ~~(A) The owner or operator shall submit an application for a permit or for a revision to an~~
9 ~~existing Title V permit issued or a pending Title V permit meeting the requirements of~~
10 ~~Subparagraph (m)(1) of this Rule by the Section 112(j) deadline if the owner or operator~~
11 ~~can reasonably determine that one or more sources at the facility belong in a category or~~
12 ~~subcategory subject to Section 112(j) of the federal Clean Air Act.~~

13 ~~(B) The owner or operator of a source that does not submit an application under Subparagraph~~
14 ~~(d)(1)(A) of this Rule and that is notified in writing by the Division that one or more sources~~
15 ~~at the facility belong to a category or subcategory subject to Section 112(j) of the federal~~
16 ~~Clean Air Act shall submit an application for a Title V permit or for a revision to an existing~~
17 ~~Title V permit meeting the requirements of Paragraph (m)(1) of this Rule within 30 days~~
18 ~~after being notified in writing by the Division. The Division is not required to make such~~
19 ~~notification.~~

20 ~~(C) The requirements in Parts (i) and (ii) of this Subparagraph shall apply when the owner or~~
21 ~~operator has obtained a Title V permit that incorporates a Section 112(g) case by case~~
22 ~~MACT determination by the Division under 15A NCAC 02D .1112, but has not submitted~~
23 ~~an application for a Title V permit revision that addresses the emission limitation~~
24 ~~requirements of Section 112(j) of the federal Clean Air Act.~~

25 ~~(i) When the owner or operator has a Title V permit that incorporates a Section~~
26 ~~112(g) case by case MACT determination under 15A NCAC 02D .1112, the~~
27 ~~owner or operator shall submit an application meeting the requirements of~~
28 ~~Paragraph (m)(1) of this Rule for a Title V permit revision within 30 days of the~~
29 ~~Section 112(j) deadline or within 30 days of being notified that in writing by the~~
30 ~~Division that one or more sources at the major facility belong in such category or~~
31 ~~subcategory. The Division shall use the procedures in 40 CFR 63.52(e) to~~
32 ~~determine whether the emission limitations adopted pursuant to the prior 112(g)~~
33 ~~case by case MACT determination are substantially as effective as the emission~~
34 ~~limitations that Division would otherwise adopt pursuant to Section 112(j) of the~~
35 ~~federal Clean Air Act for the source in question. If the Division determines the~~
36 ~~previously adopted 112(g) emission limitations are substantially as effective, then~~
37 ~~the Division shall retain the existing limitations in the permit to effectuate Section~~

112(j) of the federal Clean Air Act. If the Division does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule are satisfied upon issuance of a revised Title V permit incorporating any additional Section 112(j) requirements.

(ii) ~~When the owner or operator that has submitted a Title V permit application that incorporates a Section 112(g) case by case MACT determination by the Division under 15A NCAC 02D .1112, but has not received the permit incorporating the Section 112(g) requirements, the owner or operator shall continue to pursue a Title V permit that addresses the requirements of Section 112(g) of the federal Clean Air Act. The owner or operator shall submit a permit application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days of issuance of that Title V permit. The Division shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case by case MACT determination are substantially as effective as the emission limitations that the Division would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Division determines the previously adopted 112(g) emission limitations are substantially as effective, then the Director shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Division does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule are satisfied upon issuance of a revised Title V permit incorporating any additional Section 112(j) requirements.~~

(e) Sources that become subject to Section 112(j) of the federal Clean Air Act after the Section 112(j) deadline and that do not have a Title V permit addressing Section 112(j) requirements. The requirements of this Paragraph shall apply to sources that do not meet the criteria in Paragraph (d) of this Rule on the Section 112(j) deadline and are ~~therefore~~ not subject to Section 112(j) of the federal Clean Air Act on that date, but ~~where events occur~~ subsequent to the Section 112 (j) deadline ~~the source becomes subject to that would bring the source under~~ the requirements of this ~~Rule, Rule~~ and the source does not have a Title V permit that addresses the requirements of Section 112(j) of the federal Clean Air Act.

(1) ~~When~~If one or more sources in a category or subcategory subject to the requirements of this Rule are installed at a major ~~source, source~~ or result in the source becoming a major source due to the installation, and the installation does not invoke Section 112(g) requirements in 15A NCAC 02D .1112, the owner or operator shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days of startup of the source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Rule, shall apply to such sources. The Division shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g)

case-by-case MACT determination are substantially as effective as the emission limitations that the Division would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Division determines the previously adopted 112(g) emission limitations are substantially as effective, then the Division shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Division does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule ~~are~~ shall be satisfied upon issuance of a revised Title V permit incorporating any additional Section 112(j) requirements.

(2) ~~When~~If one or more sources in a category or subcategory subject to 112(j) requirements are installed at a major source or result in the source becoming a major source due to the installation, and the installation requires 112(g) emission limitations to be established and permitted ~~under~~pursuant to 15A NCAC 02Q .0528, .0528 and the owner or operator has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act, the owner or operator shall apply for and obtain a Title V permit that addresses the emission limitation requirements of Section 112(g) of the federal Clean Air Act. Within 30 days of issuance of that Title V permit, the owner or operator shall submit an application ~~meeting that meets~~ the requirements of Paragraph (m)(1) of this Rule for a revision to the existing Title V permit. The Division shall determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Division would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Division determines the previously adopted 112(g) emission limitations are substantially as effective, then the Division shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Division does not retain the previously adopted 112(g) emission limitations, the permit shall be revised to incorporate any additional Section 112(j) requirements.

(3) The owner or operator of an area source that, due to a relaxation in any federally enforceable emission limitation (such as a restriction on hours of ~~operation~~), increases its potential to emit hazardous air pollutants such that the source becomes a major source that is subject to this Rule, shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days after the date that such source becomes a major source. The Director shall use the procedures in Paragraph (n) of this Rule in reviewing the application. The existing source MACT requirements (including relevant compliance ~~deadlines~~), shall apply to such sources.

(4) If EPA establishes a lesser quantity emission rate ~~under~~pursuant to Section 112(a)(1) of the Federal Clean Air Act that results in an area source becoming a major source that is subject to this Rule, then the owner or operator of such a major source shall submit an application ~~meeting that meets~~ the requirements of Paragraph (m)(1) of this Rule on or before the date six months after the date that such source becomes a major source. Existing source MACT requirements (including relevant

compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Rule, shall apply to such sources.

(f) Sources that have a Title V permit addressing Section 112(j) requirements. The requirements of this Paragraph apply to major sources that include one or more sources in a category or subcategory for which EPA fails to promulgate an emission standard on or before the Section 112(j) deadline, ~~and~~ the owner or operator has a permit meeting the Section 112(j) requirements, and ~~whereif~~ changes occur at the major source to equipment, activities, or ~~both, both~~ subsequent to the Section 112(j) deadline.

(1) If the Title V permit already provides the requirements that address the events ~~that occur underdescribed in~~ this Paragraph subsequent to the Section 112(j) deadline, then the source shall comply with the applicable new source MACT or existing source MACT requirements as specified in the permit, and the Section 112(j) requirements ~~are thus~~ shall be deemed satisfied.

(2) If the Title V permit does not contain the requirements that address the events ~~that occur underdescribed in~~ this Paragraph subsequent to the Section 112(j) deadline, then the owner operator shall submit an application for a revision ~~to of~~ the existing Title V permit that meets the requirements of Paragraph (m)(1) of this Rule within 30 days of beginning construction. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this ~~Rule~~ Rule, shall apply to such sources.

(g) Requests for applicability determination. An owner or operator who is unsure of whether one or more sources at a major source belong in a category or subcategory for which EPA has failed to promulgate an emission standard ~~under this pursuant to~~ 40 CFR Part 63 may, on or before an applicable Section 112(j) deadline, request an applicability determination from the Division by submitting an application ~~meetingthat meets~~ the requirements of Paragraph (m)(1) of this Rule by the applicable deadlines specified in Paragraphs (d), (e), or (f) of this Rule.

(h) An owner or operator who submits a Part 1 MACT application ~~meetingthat meets~~ the requirements of Paragraph (m)(1) of this Rule shall submit a Part 2 MACT application ~~meetingthat meets~~ the requirements of Paragraph (m)(2) of this Rule no later than the applicable date specified in 40 CFR 63 Subpart B Table 1. The submission date specified in 40 CFR 63 Subpart B Table 1 for Miscellaneous Organic Chemical Manufacturing shall apply to sources in each of the source categories listed in 40 CFR 63 Subpart B Table 2. ~~WhenIf~~ an owner or operator is required by 15A NCAC 02D .1109 and this Rule to submit an application meeting the requirements of Paragraph (m)(1) of this Rule by a date that is after the date for a Part 2 MACT application for sources in the category or subcategory in question established by 40 CFR 63 Subpart B Table 1, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Paragraph (m)(2) of this Rule within 60 additional days after the applicable deadline for submission of the Part 1 MACT application. The Part 2 applications shall be reviewed by the Division according to the procedures established in 40 CFR 63.55.

(1) Any owner or operator who submitted a request for an applicability determination on or before May 15, 2002, that remained pending as of May 30, 2003, and who still wishes to obtain such a determination ~~mustshall~~ resubmit that request by the date that is 60 days after the Administrator publishes in the Federal Register a proposed standard ~~underpursuant to~~ Section 112(d) or 112(h) of

1 the Clean Air Act for the category or subcategory in question. Such a resubmitted request ~~must~~shall
2 be supplemented to discuss the relation between the ~~source(s)~~sources in question and the
3 applicability provision in the proposed standard for the category or subcategory in question, and to
4 explain why there may still be uncertainties that require a determination of applicability. The
5 Director shall take action on each supplemented and resubmitted request within an additional 60
6 days after the applicable deadline for the resubmitted request. If more than three years remain on
7 the current Title V permit, the owner or operator shall submit an application for a Title V permit
8 revision to make any conforming changes in the permit required to adopt the existing emission
9 limitations as the Section 112(j) MACT emission limitations. If less than three years remain on the
10 current Title V permit, any required conforming changes shall be made when the permit is renewed.
11 If the applicability determination is positive, the owner or operator shall submit a Part 2 MACT
12 application meeting the requirements of Paragraph (m)(2) of this Rule by the date specified for the
13 category or subcategory in question in 40 CFR 63 Subpart B Table 1. If the applicability
14 determination is negative, no further action by the owner or operator ~~is~~shall be necessary.

- 15 (2) An owner or operator who has submitted an application ~~meeting that meets~~ the requirements of
16 Paragraph (m)(1) of this Rule may request a determination of whether emission limitations adopted
17 pursuant to a prior case-by-case MACT determination ~~under~~pursuant to Section 112(g) that apply
18 to one or more sources in a relevant category or subcategory are substantially as effective as the
19 emission limitations that the Division would otherwise adopt pursuant to this Rule for the source in
20 question. Such a request must be submitted by the date for the category or subcategory in question
21 specified in 40 CFR 63 Subpart B Table 1. Each request for a determination ~~under~~pursuant to this
22 Paragraph shall be construed as a complete application for an equivalent emission limitation
23 ~~under~~pursuant to this Rule. If the Director determines that the emission limitations in the prior case-
24 by-case MACT determination are substantially as effective as the emission limitations the Director
25 would otherwise adopt ~~under~~pursuant to this Rule, then the Director ~~must~~shall adopt the existing
26 emission limitations in the permit as the emission limitations to effectuate Section 112(j) for the
27 source in question. If the Director determines that the emission limitations in the prior case-by-case
28 MACT determination ~~under~~pursuant to Section 112(g) are not substantially as effective as the
29 emission limitations that the Director would otherwise adopt for the source in question
30 ~~under~~pursuant to this Rule, the Director ~~must~~shall make a new MACT determination and adopt a
31 Title V permit incorporating an appropriate equivalent emission limitation ~~under~~pursuant to this
32 Rule. The Division shall use the procedures in 40 CFR 63.52(e) to determine whether the emission
33 limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially
34 as effective as the emission limitations which Division would otherwise adopt pursuant to Section
35 112(j) of the federal Clean Air Act for the source in question.

- 36 (i) If the Director disapproves a permit application submitted ~~under~~pursuant to this Rule or determines that the
37 application is incomplete, the owner or operator shall revise and resubmit the application to meet the Director's

1 objections not later than six months after first receiving notification that the application has been disapproved or is
2 incomplete.

3 (j) If the owner or operator of a source subject to this Rule has submitted a timely and complete application for a
4 permit, significant permit revision, or administrative amendment required by this Rule, any failure to have this permit
5 shall not be a violation of the requirements of this Rule unless the delay in final action is due to the failure of the
6 applicant to submit, in a timely manner, information required or requested to process the application.

7 (k) The permit shall contain the items specified in 40 CFR 63.52 including:

- 8 (1) specification of the affected source and the new affected ~~source~~source;
- 9 (2) ~~an emission limitation (or limitations)~~emission limitations or emission ~~standards~~standards equivalent
10 to existing source MACT and ~~an emission limitation (or limitations)~~emission limitations equivalent
11 to new source MACT for control of emissions of hazardous air pollutants for that category or
12 subcategory determined ~~by the Director~~ according to 40 CFR 63.55(a) on a case-by-case basis;
- 13 (3) ~~any~~ emission limits, production limits, operational ~~limits~~limits, or other terms and conditions
14 necessary to ensure practicable enforceability of the MACT emission limitation;
- 15 (4) ~~any~~ notification, operation and maintenance, performance testing, monitoring, reporting, and
16 recordkeeping requirements; and
- 17 (5) ~~a compliance date(s)~~compliance dates by which the owner or operator of an existing source ~~shall~~is
18 required to be in compliance with the MACT emission limitation and all other applicable terms and
19 conditions of the ~~permit~~permit, not to exceed three years from the date of issuance of the
20 ~~permit~~permit. ~~(The~~The owner or operator of a new affected source shall comply with a new source
21 MACT level of control immediately upon ~~startup~~startup.

22 (l) Early reductions made pursuant to Section 112(i)(5)(A) of the federal Clean Air Act shall be achieved not later
23 than the date on which the relevant standard should have been promulgated according to the source category schedule
24 for standards.

25 (m) A permit application for a MACT determination shall consist of two parts.

- 26 (1) The Part 1 application shall contain the information required ~~under~~by 40 CFR 63.53(a) and shall be
27 submitted by the applicable deadline specified in Paragraph (d), (e), or (f) of this Rule.
- 28 (2) The Part 2 application shall contain the information required ~~under~~by 40 CFR 63.53(b) and shall be
29 submitted no later than the deadline in 40 CFR 63 Subpart B Table 1.

30 (n) Permit application review. The Director shall follow 40 CFR ~~63.55 (a)~~63.55(a) in reviewing permit applications
31 for MACT. The resulting MACT determination shall be incorporated into the facility's Title V permit according to the
32 procedures established ~~under~~in this Section. Following submittal of a Part 1 or Part 2 MACT application, the Director
33 may request, pursuant to 15A NCAC 02Q .0507(c) and .0525(a), additional information from the owner or operator;
34 and the owner or operator shall submit the requested information within 30 days. A Part 2 MACT application ~~is~~shall
35 be deemed complete if it is sufficient to begin processing the application for a Title V permit addressing Section 112(j)
36 requirements. If the Division disapproves a permit application or determines that the application is incomplete, the
37 owner or operator shall revise and resubmit the application to meet the objections of the Division within the time

1 period specified by the ~~Division. Such time period shall~~ Division, which shall not exceed six months from the date
2 that the owner or operator is first notified that the application has been disapproved or is incomplete. After receipt of
3 a complete Part 2 MACT application that is subsequently approved by the Division. The the Director shall issue a
4 Title V permit ~~meeting that meets~~ requirements after receipt of a complete Part 2 MACT application
5 requirements. following the schedule in 15A NCAC 02Q .0525.

6 (o) The following requirements shall apply to case-by-case determinations of equivalent emission limitations when a
7 MACT standard is subsequently promulgated:

8 (1) If EPA promulgates an emission standard that is applicable to one or more sources within a major
9 facility before the date a proposed permit ~~under~~ pursuant to this Rule is approved, the permit shall
10 contain the promulgated standard rather than the emission limitation determined ~~under~~ pursuant to
11 15A NCAC 02D .1109, and the owner or operator of the source shall comply with the promulgated
12 standard by the compliance date in the promulgated standard.

13 (2) If EPA promulgates an emission standard that is applicable to a source after the date that a permit
14 is issued ~~under~~ pursuant to this Rule, the Director shall revise the permit on its next renewal to reflect
15 the promulgated standard. ~~(Subparagraph~~ Subparagraph (a)(1) of Rule 15A NCAC 02Q .0517 of this
16 ~~Section does~~ shall not apply to requirements established ~~under~~ pursuant to this ~~Rule.)~~ Rule. The
17 Director shall establish a compliance date in the revised permit that assures that the owner or
18 operator ~~shall comply~~ complies with the promulgated standard within a reasonable time, but no
19 longer than eight years after such standard is promulgated or eight years after the date by which the
20 owner or operator was first required to comply with the emission limitation established by permit,
21 whichever is earlier. ~~However, in no event shall the~~ The period for compliance for existing sources
22 ~~shall not~~ be shorter than that provided for existing sources in the promulgated standard.

23 (3) Notwithstanding the requirements of Subparagraphs (1) or (2) of this Paragraph, if EPA promulgates
24 an emission standard that is applicable to a source after the date a proposed permit is approved, the
25 Director ~~need not~~ shall not be required to change the emission limitation in the permit to reflect the
26 promulgated standard if the level of control required by the emission limitation in the permit is as
27 effective as that required by the promulgated standard. If EPA promulgates an emission standard
28 that is applicable to an affected source after the date a permit application is ~~approved,~~ approved and
29 the level of control required by the promulgated standard is less stringent than the level of control
30 required by ~~any~~ an emission limitation in the prior MACT determination, the Division ~~is not~~ shall not
31 ~~be~~ required to incorporate ~~any~~ less stringent emission limitation of the promulgated ~~standards~~
32 ~~and~~ standards after considering the effects on air quality. The Division may consider any more
33 stringent ~~provisions~~ provision of the MACT determination to be applicable legal
34 ~~requirements~~ requirements, as necessary to protect air quality, when issuing or revising such a Title
35 V permit.

36
37 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

1 *Eff. July 1, 1996;*
2 *Amended Eff. February 1, ~~2004~~2004;*
3 *Readopted Eff. April 1, 2018.*
4

1 15A NCAC 02Q .0527 is readopted with changes as published in 32:04 NCR 175 as follows:

2
3 **15A NCAC 02Q .0527 EXPEDITED APPLICATION PROCESSING SCHEDULE**

4 (a) Using the procedures contained in this Rule may result in a permit that EPA does not recognize as a valid permit.

5 (b) An applicant may file an application to follow the expedited review for application certified by a professional
6 engineer as set out in G.S. 143-215.108(h) if:

7 (1) ~~The~~the applicant specifically requests that the permit application be processed ~~under~~pursuant to the
8 procedures in G.S. 143-215.108(h); and

9 (2) ~~The~~the applicant submits:

10 (A) applications as required ~~underby~~ Rules .0505 and .0507 of this Section; 15A NCAC 02Q
11 .0507;

12 (B) a completeness check list showing that the permit application is complete;

13 (C) a draft permit;

14 (D) any required dispersion modeling;

15 (E) a certification signed by a professional engineer registered in North Carolina certifying the
16 accuracy and completeness of draft permit and the application, including emissions
17 estimates, applicable standards and requirements, and process specifications;

18 (F) a consistency determination as required ~~underpursuant to~~ Rule .0507(d)(1) of this Section;
19 15A NCAC 02Q .0507(d)(1);

20 (G) a written description of current and projected plans to reduce the emissions of air
21 contaminants as required ~~underpursuant to~~ Rule .0507(d)(2) of this Section; 15A NCAC
22 02Q .0507(d)(2);

23 (H) a financial qualification if required;

24 (I) substantial compliance statement if required; and

25 (J) the application fee as required ~~under Section .0200 of this Subchapter, pursuant to 15A~~
26 NCAC 02Q .0200.

27 (c) The applicant shall use the official application forms provided by the Division or a facsimile thereof.

28 (d) The Division shall provide the applicant a checklist of all items of information required to prepare a complete
29 permit application. This checklist shall be ~~the checklist~~ used by the Division to determine if the application is
30 complete.

31 (e) The Division shall provide the applicant a list of permit conditions and terms to include in the draft permit.

32 (f) Before filing a permit application that includes dispersion modeling analysis submitted in support of the
33 application, the applicant shall submit a modeling protocol and receive approval for the dispersion modeling protocol.

34 (g) The Division shall follow the procedures set out in G.S. 143-215.108(h) when processing applications filed in
35 accordance with this Rule.

1 (h) ~~The decision that the Director shall make on applications processed under this Rule is either to deny the permit or~~
2 ~~to submit a proposed permit to EPA. In implementing this Rule, the Director shall either deny the permit or submit a~~
3 proposed permit to EPA.

4 (i) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:

5 (1) expiration of EPA 45-day review period; or

6 (2) receipt of notice from EPA that it will not object to issuance, whichever comes first.

7 (j) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt
8 of EPA's objections.

9
10 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

11 *Eff. July 1, ~~1998~~, 1998;*

12 *Readopted Eff. April 1, 2018.*
13
14

1 15A NCAC 02Q .0528 is readopted with changes as published in 32:04 NCR 175 as follows:

2
3 **15A NCAC 02Q .0528 112(G) CASE-BY-CASE MACT PROCEDURES**

4 (a) Applicability. ~~The~~An owner or operator of a source required to apply maximum achievable control technology
5 (MACT) ~~underpursuant to~~ 15A NCAC ~~2D02D~~ .1112 shall follow the permit procedures set out in this Rule.

6 (b) Construction prohibition. ~~After July 1, 1998 a~~ A person shall not begin ~~actual~~ construction or reconstruction of a
7 major source of hazardous air pollutants unless:

8 (1) ~~The~~the major source has been specifically regulated or exempted from regulation ~~under by:~~

9 (A) 15A NCAC ~~2D02D~~ .1109 or ~~1111, 1111~~; or

10 (B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act
11 ~~underpursuant to~~ 40 CFR Part ~~63, 63~~ and the owner and operator has fully complied with
12 all procedures and requirements for preconstruction review established by that standard,
13 including any applicable requirements set forth in 40 CFR Part 63, Subpart A; or

14 ~~and the owner and operator has fully complied with all procedures and requirements for preconstruction review~~
15 ~~established by that standard, including any applicable requirements set forth in 40 CFR Part 63, Subpart A; or~~

16 (2) ~~The~~the Division has made a final and effective case-by-case determination ~~underpursuant to~~ 15A
17 NCAC 02D .1112 such that emissions from the constructed or reconstructed major source will be
18 controlled to a level no less stringent than the maximum achievable control technology emission
19 limitation for new sources.

20 (c) Requirements for constructed and reconstructed major sources. ~~When~~If a case-by-case determination of MACT
21 is required by 15A NCAC ~~2D02D~~ .1112, the owner ~~and~~or operator shall submit a permit application to the Division
22 and the Division shall process the application following the procedures of ~~Rule .0501(e) of this Section.~~ 15A NCAC
23 02Q .0501(c).

24 (d) Alternative operating scenarios. When applying for a permit, the owner or operator may request approval of case-
25 by-case MACT determinations for alternative operating scenarios. Approval of such determinations ~~satisfies~~shall
26 satisfy the requirements of Section 112(g) of the federal Clean Air Act for each such scenario.

27 (e) Application requirements for a case-by-case MACT determination. The owner or operator of a source required to
28 apply MACT ~~under Rule~~pursuant to 15A NCAC ~~2D02D~~ .1112 shall submit a permit application that contains all the
29 information required ~~under by~~ 40 CFR 63.43(e).

30 (f) Reporting to the EPA. Within 60 days of the issuance of a permit ~~underpursuant to~~ this Section or ~~Section .0300~~
31 ~~of this Subchapter~~ 15A NCAC 02Q .0300 incorporating that incorporates a MACT determination, the Director shall
32 provide a copy of ~~such~~the permit to ~~EPA, the EPA~~ and shall provide a summary in ~~a compatible~~
33 inclusion in the MACT ~~data base~~database.

34
35 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5),(10);

36 *Eff. July 1, 1998, 1998;*

37 *Readopted Eff. April 1, 2018.*

1.5102 DEFINITION OF TERMS

The following words and phrases when used in this Ordinance shall, for the purpose of this Ordinance, have the meanings respectively ascribed to them in this Regulation, unless a different meaning clearly is indicated. Provided further that to the extent that any definition in MCAPCO Regulation 1.5102 - "Definition of Terms" conflicts with any definition(s) included in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures", such MCAPCO Article 2.0000 definition(s) shall control.

- (1) **"Administrator"** means the Director of Mecklenburg County Air Quality when it appears in any Code of Federal Regulation incorporated by reference in this Ordinance, unless:
 - (a) a specific Regulation in this Ordinance specifies otherwise, or
 - (b) the U.S. Environmental Protection Agency in its delegation or approval states that a specific authority of the Administrator of the Environmental Protection Agency is not included in its delegation or approval.
- (2) **"Aerosol"** means a dispersion or suspension of small solid or liquid particles or any combination thereof in the air or other gaseous medium.
- (3) **"Air Contaminant"** means any smoke, soot, dust, fly ash, cinders, dirt, noxious or obnoxious acid, fumes, oxides, gases, vapors, odors, toxic or radioactive substance, waste particulate, solid, liquid, or gaseous matter or any other materials in the outdoor atmosphere.
- (4) **"Air Pollutant"** means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive ~~substance~~ substance, or matter that is emitted into or otherwise enters the ambient air. Water vapor shall not be considered an air pollutant.
- (5) **"Air Pollution"** means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human or animal life, or to the property of others, or that interfere with the comfortable enjoyment of life or property or the conducting of business.
- (6) **"Allowable Emissions"** means the maximum emissions allowed by the applicable Regulations ~~contained~~ set forth in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures" or by permit conditions, if the permit limits emissions to a lesser amount.
- (7) **"Alteration"** means any modification which could change the emission characteristics.
- (8) **"Applicable Requirements"** means:
 - (A) any requirement listed in this Ordinance;
 - (B) any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through rulemaking ~~under~~ pursuant to Title I of the federal Clean Air ~~Act~~ Act, that implements the relevant requirements of the federal Clean Air Act including any revisions to 40 CFR Part 52;
 - (C) any term or condition of a permit for a facility ~~covered under~~ pursuant to this Ordinance;
 - (D) any standard or other requirement ~~under~~ pursuant to Section 111 or 112 of the federal Clean Air Act, but not including the contents of any risk management plan required ~~under~~ pursuant to Section 112 of the federal Clean Air Act;
 - (E) any standard or other requirement ~~under~~ pursuant to Title IV of the federal Clean Air Act;
 - (F) any standard or other requirement governing solid waste incineration ~~under~~ pursuant

- to Section 129 of the federal Clean Air Act;
- (G) any standard or other requirement ~~under~~ pursuant to Section 183(e), 183(f), or 328 of the federal Clean Air Act;
 - (H) any standard or requirement ~~under~~ pursuant to Title VI of the federal Clean Air Act unless a permit for such requirement is not required ~~under~~ pursuant to this Section;
 - (I) any requirement ~~under~~ pursuant to Section 504(b) or 114(a)(3) of the federal Clean Air Act; or
 - (J) any national ambient air quality standard or increment or visibility requirement ~~under~~ pursuant to Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal Clean Air Act.
- (9) **“Applicant”** means any person who is applying for an air quality permit from the Department.
 - (10) **“Application Package”** means all elements or documents ~~needed~~ required to make an application complete.
 - (11) **“Ashes”** means cinders, fly ash, or any other solid material resulting from combustion, and may include unburned combustibles.
 - (12) **“A.S.M.E.”** means the American Society of Mechanical Engineers.
 - (13) **“A.S.T.M.”** means the American Society for Testing Materials.
 - (14) **“Atmosphere”** means the air that envelops or surrounds the earth.
 - (15) **“Board”** means the Mecklenburg County Board of County Commissioners.
 - (16) **“Btu Hour Input”** means the gross calorific value of fuel fired per hour in fuel-burning equipment. (Gross calorific value shall be determined by standard procedures of A.S.T.M.)
 - (17) **“CFR”** means the Code of Federal Regulations.
 - (18) **“Cinders”** means particles not ordinarily considered as fly ash or dust because of their greater size, consisting mainly of fused ash and/or burned matter.
 - (19) **“Combustible Material”** means any substance that, when ignited, will burn in the air.
 - (20) **“Combustible Refuse”** means any combustible waste material containing carbon in a free or combined state other than liquids or gases.
 - (21) **“Combustion Contaminants”** means particulate matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.
 - (22) **“Commission”** means the Mecklenburg County Air Quality Commission.
 - (23) **“Construction”** means change in the method of operation or any change, including on-site fabrication, erection, installation, replacement, demolition, or modification of a source, that results in a change in emissions or affects the compliance status. The following activities ~~are not~~ shall not be considered construction:
 - (a) clearing and grading;
 - (b) building access roads, driveways, and parking lots;
 - (c) building and installing underground pipe work, including water, sewer, electric, and telecommunications utilities; or
 - (d) building ancillary structures, including fences and office buildings that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required ~~under~~ pursuant to G.S. 143-215.108.
 - (24) **“Control Equipment”** means any equipment which has the function of controlling process, fuel-burning, or refuse-burning equipment and thus reduces the creation of, or the emission of, air contaminants to the atmosphere, or both.
 - (25) **“County”** means Mecklenburg County, North Carolina.

- (26) **“Department”** means Mecklenburg County Air Quality which may also be identified using the acronym (“MCAQ”).
- (27) **“Director”** means the Director of Mecklenburg County Air Quality or his duly authorized representatives.
- (28) **“Dust”** means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, etc.
- (29) **“Emission”** means the release into the outdoor atmosphere of air contaminants.
- (30) **“EPA”** means the United States Environmental Protection Agency or the administrator of the Environmental Protection Agency.
- (31) **“EPA Approves”** means full approval, interim approval, or partial approval by EPA.
- (32) **“Equivalent Unadulterated Fuels”** means used oils that have been refined such that the content of toxic additives or contaminants in the oils are no greater than those in unadulterated fossil fuels.
- (33) **“Facility”** means all of the ~~pollutant-emitting~~ pollutant-emitting activities, except transportation facilities, that are located on one or more contiguous or adjacent properties under common control.
- (34) **“Federally Enforceable”** or **“Federal Enforceable”** means enforceable by the EPA.
- (35) **“Fly Ash”** means particulate matter capable of being air-borne or gas-borne and consisting essentially of fused ash and/or unburned material.
- (36) **“Fuel”** means any form of combustible matter - solid, liquid, or gas, excluding combustible refuse.
- (37) **“Fuel Burning Operation”** means use of furnace, boiler, device, or mechanism used principally, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.
- (38) **“Fuel Combustion Equipment”** means any fuel burning source covered ~~under~~ pursuant to MCAPCO Regulations 2.0503 - “Particulates from Fuel Burning Indirect Heat Exchangers”, 2.0504 - “Particulates from Wood Burning Indirect Heat Exchangers” or 40 CFR Part 60 Subparts D - “Fossil fuel-fired steam generators”, Da - “Electric utility steam generating units”, Db - “Industrial - commercial - institutional steam generating units”, or Dc - “Small industrial - commercial - institutional steam generating units”.
- (39) **“Furnace”** means an enclosed space provided for the ignition and/or combustion of fuel.
- (40) **“Green Wood”** means wood with a moisture content of 18 percent or more.
- (41) **“Hazardous Air Pollutant”** means any pollutant that has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants listed only in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”, but not pursuant to Section 112(b), shall not be included in this definition.
- (42) **“Insignificant Activities”** means activities defined as insignificant activities because of category or as insignificant activities because of size or production rate ~~under~~ pursuant to MCAPCO Regulation 1.5503 - “Definitions”.
- (43) **“Lesser Quantity Cutoff”** means:
 - (A) for a source subject to the requirements of Section 112(d) or 112(j) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which the following are not required:
 - (i) maximum achievable control technology (MACT) or generally available control

- technology (GACT), including work practice standards, ~~requirement under~~ pursuant to Section 112(d) of the federal Clean Air Act;
- (ii) a MACT standard established ~~under~~ pursuant to Section 112(j) of the federal Clean Air Act; or
 - (iii) substitute MACT or GACT adopted ~~under~~ pursuant to Section 112(l) of the federal Clean Air Act.
- (B) for modification of a source subject to, or that may be subject to, the requirements of Section 112(g) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which MACT is not required to be applied ~~under~~ pursuant to Section 112(g) of the federal Clean Air Act; or
 - (C) for all other sources, potential emissions of each hazardous air pollutant below 10 tons per year and the aggregate potential emissions of all hazardous air pollutants below 25 tons per year.
- (44) **“Major Facility”** means a major source as defined ~~under~~ pursuant to 40 CFR 70.2.
 - (45) **“Mass Emission Rate”** means the weight discharged per unit of time.
 - (46) **“Mist”** means a suspension of any finely-divided liquid in any gas or atmosphere.
 - (47) **“Modification”** means any physical change or change in operation that results in a change in emissions or affects the compliance status of the source or the facility.
 - (48) **“Modified Facility”** means the modification of an existing facility or source and:
 - (A) the permitted facility or source is being modified in such a manner to require ~~the Department to reissue the permit, or~~ a new or reissued permit pursuant to this Article;
or
 - (B) a new source is being added ~~that requires the Department to reissue the permit. in~~ such a manner as to require a new or reissued permit pursuant to this Article.

A modified facility does not include a facility or source that requests to change name or ownership, construction or test dates, or reporting procedures.
 - (49) **“New Facility”** means a facility that is receiving a permit from the Department for construction and operation of an air pollution source and the facility is not currently permitted by the Department.
 - (50) **“Odor”** means that property of an air contaminant that affects the sense of smell.
 - (51) **“Open Fire”** means any combustion process from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.
 - (52) **“Owner or Operator”** means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
 - (53) **“Peak Shaving Generator”** means a generator that is located at a facility and is used only to serve that facility’s on-site electrical load during peak demand periods for the purpose of reducing the cost of electricity; it does not generate electricity for resale. A peak shaving generator also may be used for emergency backup.
 - (54) **“Permit”** means the binding written document, including any revisions thereto, issued pursuant to G.S. 143-215.108 to the owner or operator of a facility or source that emits one or more air pollutants and that allows that facility or source to operate in compliance with G.S. 143-215.108. This document shall specify the requirements applicable to the facility or source and to the permittee.
 - (55) **“Permittee”** means the person who has ~~received~~ been issued an air quality permit from the Department.
 - (56) **“Person”** means any individual natural person, firms, partnerships, associations, public or

private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations, or other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

- (57) **“Plans and Specifications”** means the completed application and any other documents required to define the operating conditions of the air pollution source.
- (58) **“Portable Generator”** means a generator permanently mounted on a trailer or a frame with wheels.
- (59) **“Potential Emissions”** means the rate of emissions of any air pollutant that would occur at the facility’s maximum capacity to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a facility to emit an air pollutant shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations shall include the air pollution control equipment, restriction on hours of operation or the type or amount of material combusted, stored or processed. Potential emissions shall include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions ~~do~~ shall not include a facility’s secondary emissions such as those from motor vehicles associated with the facility and ~~do~~ shall not include emissions from insignificant activities because of category as defined ~~under~~ in MCAPCO Regulation 1.5503 - “Definitions”. If MCAPCO Regulation 1.5211 - “Applicability” or a Rule or Regulation in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants ~~covered-regulated under-pursuant to~~ that Regulation.
- (60) **“Private Residence”** means containing fewer than three dwelling units.
- (61) **“Process Equipment”** means any equipment, device, or contrivance for changing any materials or for storage or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use of which may cause any discharge of an air contaminant into the outdoor atmosphere but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this Ordinance.
- (62) **“Refuse”** means any garbage, rubbish, or trade waste.
- (63) **“Refuse-Burning Equipment”** means any equipment, device, or contrivance used for the destruction of garbage, rubbish, and/or other wastes by burning, and all appurtenances thereto.
- (64) **“Regulated Air Pollutant”** means:
 - (A) nitrogen oxides or any volatile organic compound as defined under 40 CFR 51.100;
 - (B) any pollutant for which there is an ambient air quality standard as defined ~~under~~ pursuant to 40 CFR Part 50;
 - (C) any pollutant that is regulated ~~under-pursuant to~~ MCAPCO Regulation 2.0524 - “New Source Performance Standards” or MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”, or MCAPCO Regulation 2.1111 - “Maximum Achievable Control Technology”; or 40 CFR Parts 60, 61, or 63;
 - (D) any pollutant subject to a standard promulgated ~~under-pursuant to~~ Section 112 of the federal Clean Air Act or other requirements established ~~under-pursuant to~~ Section 112 of the federal Clean Air Act, including Section 112(g) (but only for the facility subject to Section 112 (g)(2) of the federal Clean Air Act), Section 112 (j) or (r) of the federal Clean Air Act;
 - (E) any Class I or II substance listed ~~under-pursuant to~~ Section 602 of the federal Clean Air Act; or

- (F) any toxic air pollutant listed in MCAPCO Regulation 2.1104 - "Toxic Air Pollutant Guidelines".
- (65) **"Respondent"** means the person against whom a penalty has been assessed.
- (66) **"Responsible official"** means one of the following:
- (A) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who is in charge of a principal business function; any other person who performs similar policy or decision-making functions for the corporation; or a duly-authorized representative of such a person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or
 - (ii) the delegation of authority to such representatives is approved in advance by the permitting authority;
 - (B) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
 - (C) for a municipality, State, federal, or other public agency: either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).
- (67) **"Saw Mill"** means a place or operation where logs are sawed into lumber consisting of one or more of these activities: debarking, sawing, and sawdust handling. Activities that ~~are~~ ~~not~~ shall not be considered part of a saw mill include chipping, sanding, planning, routing, lathing, and drilling.
- (67) **"SIP"** means the North Carolina State Implementation Plan for Air Quality and the Mecklenburg County portion thereof.
- (68) **"Solid Fuel"** means a fuel which is fired as a solid such as coal, lignite, and wood.
- (69) **"Soot"** means agglomerated particles consisting mainly of carbonaceous material.
- (70) **"Source"** means any stationary article, machine, process equipment, or other contrivance, or combination thereof, from which air pollutants emanate or are emitted, either directly or indirectly.
- (71) **"Stack"** means any chimney, flue, conduit, or opening arranged for the emission of solids, liquids, gases, or aerosols into the outdoor atmosphere.
- (72) **"Stack Height"** means the vertical distance measured in feet between the point of discharge from the stack or chimney into the outdoor atmosphere and the elevation of the land thereunder.
- (73) **"Standard Conditions"** means a gas temperature of 70 degrees Fahrenheit and a gas pressure of 29.92 inches of mercury.
- (74) **"Title IV Source"** means a source that is required to be permitted following the procedures under MCAPCO Section 1.5400 - "Acid Rain Procedures".
- (75) **"Title V Source"** means a source that is required to be permitted following the procedures under MCAPCO Section 1.5500 - "Title V Procedures".
- (76) **"Toxic Air Pollutants"** means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in MCAPCO Regulation 2.1104 - "Toxic Air Pollutant Guidelines".

- (77) **“Trade Secret”** means business or technical information, which in accordance with N.C. G.S. 66-152 includes but is not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:
- (A) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
 - (B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (78) **“Transportation Facility”** ~~means~~ shall be considered a complex source as defined in G.S. 143-213(22).
- (79) **“Unadulterated Fossil Fuel”** means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that may result in the emissions of a toxic air pollutant listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.
- (80) **“Vapor”** means the gaseous form of a substance which normally exists in the solid or liquid state.
- (81) **“Volatile or Volatile Matter”** means the gaseous constituents of solid fuels as determined by procedures defined in current A.S.T.M. Methods.

MCAQ History Note:

Amended Eff. December 18, 2018; December 15, 2015

1.5105 DELEGATION OF AUTHORITY

(a) The Director may delegate the processing of permit applications, the issuance of permits, the modification of permits, and the renewal of permits to the supervisory level that he or she considers appropriate, provided this delegation shall not include the authority to deny a permit or permit renewal or to revoke, or suspend a permit. The Director shall appoint adequate administrative and technical staff within the Department to assure the efficient administration of this section.

(b) The Director may delegate the issuance, modification, revocation, denial and enforcement of Special Open Burning Permits and approvals of training fires to the supervisory level he considers appropriate.

(c) The Director may delegate the administration and enforcement of MCAPCO Regulation 1.5106 - "Open Burning" to the County Fire Marshal.

MCAQ History Note: Amended Eff. December 18, 2018

1.5111 GENERAL RECORDKEEPING, REPORTING AND MONITORING REQUIREMENTS

(a) This Regulation applies to all regulated sources of air pollution located in Mecklenburg County and is in addition to those to which the provisions of MCAPCO Section 2.0900 - "Volatile Organic Compounds" are applicable.

(b) Notwithstanding Paragraph (a), Subparagraph (c)(5) of this Regulation is applicable to those sources to which the provisions of MCAPCO Section 2.0900 - "Volatile Organic Compounds" are applicable.

(c) The owner or operator of any air pollution emission source or control equipment shall maintain:

- (1) records detailing all activities relating to any compliance schedule entered into with Mecklenburg County Air Quality,
- (2) records detailing all malfunctions of air pollution control equipment,
- (3) records of all testing conducted to demonstrate compliance with emission limits derived through application of this Ordinance,
- (4) records of all monitoring conducted under Paragraph (h) of this Regulation.
- (5) For sources to which MCAPCO Regulations 2.0524 - "New Source Performance Standards", 2.1110 - "National Emission Standards for Hazardous Air Pollutants", 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Non-Attainment Areas" are applicable, records that demonstrate that the principles and practices of pollution prevention to reduce or eliminate air pollutants produced or created at the source are actively and routinely considered and are being practiced at the facility.

(d) The owner or operator of any air pollution emission source or control equipment shall submit reports detailing the nature, specific sources, total annual quantities of air pollutant emissions or sufficient information to estimate the quantities of air pollutant emissions as required by air quality permits and as required for registration of an air pollution source. Other pertinent information shall be supplied to the Director when requested.

(e) Title V facilities that have emissions of the regulated pollutants listed below shall report actual and potential emissions by April 30th of each year for the previous calendar year.

- (1) volatile organic ~~compounds~~, compounds;
- (2) nitrogen ~~oxides~~, oxides;
- (3) total suspended ~~particulates~~, particulates;
- (4) sulfur ~~dioxide~~, dioxide;
- (5) ~~fluorine~~, fluorine;
- (6) hydrogen ~~chloride~~, chloride;
- (7) hydrogen ~~fluoride~~, fluoride;
- (8) hydrogen ~~sulfide~~, sulfide;
- (9) methyl ~~chloroform~~, chloroform;
- (10) methylene ~~chloride~~, chloride;
- (11) ~~ozone~~, ozone;
- (12) chlorine, chlorine;

- (13) ~~hydrazine~~, hydrazine;
- (14) ~~phosphine~~, phosphine;
- (15) particulate matter ~~(PM10)~~, (PM10);
- (16) carbon ~~monoxide~~, monoxide;
- (17) ~~lead~~, lead; and
- (18) perchloroethylene.

(f) Facilities, other than Title V, that have potential emissions of 5 tons per year or more of any pollutant shown in Paragraph (e) of this Regulation, shall report actual and potential emissions by April 30th of each year for the previous calendar year.

(g) The accuracy of reports required by Paragraphs (e) and (f) of this Regulation shall be certified by a responsible official of the facility as defined ~~under~~ pursuant to 40 CFR 70.2. Reporting may be required for other facilities by permit condition or pursuant to MCAPCO Regulation 2.0202 - "Registration of Air Pollution Sources".

(h) The owner or operator of any air pollution emission source or control equipment shall:

- (1) install, operate, and maintain process and/or control equipment monitoring instruments or procedures as necessary to comply with Paragraphs (c) and (d) of this Regulation; and
- (2) maintain, in writing, data and/or reports relating to monitoring instruments or procedures which will, upon review, document the compliance status of the air pollution emission source or control equipment to the satisfaction of the Director.

(i) Copies of all records and reports required under Paragraphs (c), (d), (e) and (h) of this Regulation shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted. However, the Director may extend the retention period in particular instances.

(j) Copies of all records and reports required under this Section shall be made available within a reasonable time to the Director upon written request.

MCAQ History Note:

Amended Eff. December 18, 2018; December 15, 2015

1.5112 INCORPORATION BY REFERENCE

~~(a) Anywhere there is a reference to regulations contained in the Code of Federal Regulations (CFR) or to an American Society for Testing and Materials method (ASTM) in this Ordinance, those regulations are incorporated by reference.~~

~~(b)~~(a) The Code of Federal Regulations and American Society for Testing and Materials methods ~~incorporated by reference~~ referenced in this Ordinance shall be incorporated by reference and shall automatically include any later subsequent amendments thereto unless a specific regulation specifies otherwise.

(c) The Code of Federal Regulations may be ~~purchased from the Superintendent of Documents, P. O. Box 371954, Pittsburgh, PA 15250.~~ obtained free of charge online at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

~~The cost of the referenced documents are as follows:~~

- ~~(1) 40 CFR Parts 1 to 51: fifty dollars (\$50.00);~~
- ~~(2) 40 CFR Part 52: thirty nine dollars (\$39.00);~~
- ~~(3) 40 CFR Parts 53 to 59: eleven dollars (\$11.00);~~
- ~~(4) 40 CFR Part 60: thirty six dollars (\$36.00);~~
- ~~(5) 40 CFR Parts 61 to 71: thirty six dollars (\$36.00);~~
- ~~(6) 40 CFR Parts 72 to 85: forty one dollars (\$41.00);~~
- ~~(7) 40 CFR Part 86: forty dollars (\$40.00);~~
- ~~(8) 40 CFR Parts 87 to 135: five dollars (\$5.00);~~
- ~~(9) 40 CFR Parts 260 to 299: forty dollars (\$40.00);~~

~~These prices are October 15, 1996 prices.~~

~~(d) The American Society for Testing and Materials methods may be purchased from Mecklenburg County Air Quality, 2145 Suttle Avenue Charlotte, North Carolina 28208 at a price of twenty five cents (\$0.25) per page.~~

*State History Note: Authority G.S. 143-215.3(a)(1); 150B-21.6;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994.1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5211 APPLICABILITY

(a) The exemptions listed in Paragraphs (f) and (g) do not apply to facilities required to have a permit ~~under~~ pursuant to MCAPCO Section 1.5500 - "Title V Procedures".

(b) Except as provided in Subparagraph (c)(1) or unless otherwise exempted in Paragraphs (f) and (g) of this Regulation, an owner or operator shall have received a permit from the Department and shall comply with the conditions of such permit before:

- (1) constructing or operating any air pollution source that emits one or more of the pollutants listed in Paragraph (d) of this Regulation;
 - (2) constructing or operating any equipment which may result in the emission of air pollutants listed in Paragraph (d) of this Regulation;
 - (3) altering or changing the construction or method of operation of any equipment or process from which one or more of the air pollutants listed in Paragraph (d) of this Regulation are or may be emitted;
- or
- (4) constructing, operating, or modifying a facility that has the potential to emit at least 10 tons per year of any hazardous air pollutant or 25 tons per year of all hazardous air pollutants combined, or that are subject to requirements established ~~under~~ pursuant to the following sections of the federal Clean Air Act:
 - (A) Section 112(d), emission standards;
 - (B) Section 112(f), standards to protect public health and the environment;
 - (C) Section 112(g), construction and reconstruction;
 - (D) Section 112(h), work practice standards and other requirements;
 - (E) Section 112(i)(5), early reduction;
 - (F) Section 112(j), federal failure to promulgate standards;
 - (G) Section 112(r), accidental releases.

(c) Stationary Source Construction and Operation Permit: With the exception allowed by G.S. 143-215.108A, the owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit ~~in accordance with the standard procedures under~~ pursuant to MCAPCO Section 1.5200 - "Air Quality Permits"; however Title V facilities shall be subject to the Title V procedures ~~under~~ pursuant to MCAPCO Section 1.5500 - "Title V Procedures" and the acid rain procedures ~~under~~ pursuant to MCAPCO Section 1.5400 - "Acid Rain Procedures". A facility also may be subject to the air toxic procedures ~~under~~ pursuant to MCAPCO Section 1.5700 - "Toxic Air Pollutant Procedures".

- (1) The format design of permits issued exclusively ~~under~~ pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" shall be determined by the Director.
 - (A) The Director may format and issue permits by source, process, facility or any other method determined appropriate for the situation or circumstances.
 - (B) Permit(s) shall establish conditions, limits, and compliance methodology necessary to ensure construction and operation in accordance with this Ordinance.
 - (C) A facility's permit(s) may contain construction and operating conditions which allow:
 - (i) minor equipment and product additions/substitutions, and/or

- (ii) minor increases in emissions of certain air pollutants, the extent of which shall be stipulated in the permit.
- (D) Permits may not contain construction and operating conditions which:
 - (i) without prior review and permit approval by the Department, subject the facility to Regulations delineated in Paragraph (e) of this Regulation,
 - (ii) contradict any other Regulation adopted directly by this Ordinance or by reference,
 - (iii) cause the source to be in non-compliance with the permit or this Ordinance.
- (2) Factors the Director shall consider when determining the format design of a permit may include but are not limited to:
 - (A) the information supplied in the application, and other information determined relevant by the Department;
 - (B) the type of facility or source;
 - (C) type and amount of emissions;
 - (D) the compliance history of the facility operator and owner; and
 - (E) limitations imposed by other Department regulations, or any applicable local, state or federal rule, regulation or ordinance.

(d) List of regulated pollutants:

- (1) sulfur dioxide;
- (2) total suspended particulates;
- (3) particulate matter (PM10/PM2.5);
- (4) carbon monoxide;
- (5) nitrogen oxides;
- (6) volatile organic compounds;
- (7) lead and lead compounds;
- (8) fluorides;
- (9) total reduced sulfur;
- (10) reduced sulfur compounds;
- (11) hydrogen sulfide;
- (12) sulfuric acid mists;
- (13) asbestos;
- (14) arsenic and arsenic compounds;
- (15) beryllium and beryllium compounds;
- (16) cadmium and cadmium compounds;
- (17) chromium (VI) and chromium (VI) compounds;
- (18) mercury and mercury compounds;
- (19) hydrogen chloride;
- (20) vinyl chloride;
- (21) benzene;
- (22) ethylene oxide;
- (23) dioxins and furans;
- (24) ozone; or
- (25) any toxic air pollutant listed in MCAPCO Regulation 2.1104 - "Toxic Air Pollutant"

Guidelines”.

(e) A source subject to any of the following Regulations is not exempted from the permit requirements, and the exemptions listed in paragraph (f) and (g) of this section do not apply:

- (1) new source performance standards ~~under~~ pursuant to MCAPCO Regulation 2.0524 - “New Source Performance Standards” or 40 CFR Part 60, except when the following activities are eligible for exemption ~~under~~ pursuant to Paragraphs (f) or (g) of this Regulation:
 - (A) 40 CFR Part 60, Subpart Dc, small industrial, commercial, and institutional steam generating units;
 - (B) 40 CFR Part 60, Subpart Kb, volatile organic liquid storage vessels;
 - (C) 40 CFR Part 60, Subpart AAA, new residential wood heaters;
 - (D) 40 CFR Part 60, Subpart WWW, municipal solid waste landfills;
 - (E) 40 CFR Part 60, Subpart JJJ, petroleum drycleaners;
 - (F) 40 CFR Part 60, Subpart IIII, stationary compressions ignition internal combustion engines; or
 - (G) 40 CFR Part 60, Subpart JJJJ, stationary spark ignition internal combustion engines;
- (2) national emission standards for hazardous air pollutants ~~under~~ pursuant to MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants” or 40 CFR Part 61, except asbestos demolition and renovation activities which are eligible for exemption ~~under~~ pursuant to Paragraphs (f) or (g) of this Regulation;
- (3) prevention of significant deterioration ~~under~~ pursuant to MCAPCO Regulation 2.0530 - “Prevention of Significant Deterioration”;
- (4) new source review ~~under~~ pursuant to MCAPCO Regulations 2.0531 - “Sources in Nonattainment Areas” or 2.0532 - “Sources Contributing to an Ambient Violation”;
- (5) sources emitting volatile organic compounds subject to the requirements of MCAPCO Section – 2.0900 – “Volatile Organic Compounds” according to MCAPCO Regulation 2.0902 - “Applicability” Paragraph (f);
- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants ~~under~~ pursuant to MCAPCO Regulations 2.1109 - “112(j) Case-By-Case Maximum Achievable Control Technology”, 2.1111 - “Maximum Achievable Control Technology”, 2.1112 - “112(g) Case-By-Case Maximum Achievable Control Technology” or 40 CFR Part 63; or to apply generally available control technology (GACT) or work practice standards for hazardous air pollutants ~~under~~ pursuant to 40 CFR Part 63, except when the following activities are eligible for exemption ~~under~~ pursuant to Paragraphs (f) or (g) of this Regulation:
 - (A) 40 CFR 63, Subpart M, dry cleaning facilities;
 - (B) 40 CFR 63, Subpart ZZZZ, stationary reciprocating internal combustion engines;
 - (C) 40 CFR 63, Subpart BBBB, gasoline bulk terminals, bulk plants and pipeline facilities;
 - (D) 40 CFR 63, Subpart CCCCCC, gasoline dispensing facilities;
 - (E) 40 CFR 63, Subpart HHHHHH, paint stripping and miscellaneous surface coating;
 - (F) 40 CFR 63, Subpart JJJJJ, industrial, commercial, and institutional boilers; or

- (7) sources at facilities subject to MCAPCO Section 2.1100 - "Control of Toxic Air Pollutants". (If a source qualifies for an exemption in Subparagraph (A)(1) through (A)(24)(27) in MCAPCO Regulation 1.5702 - "Exemptions", or does not emit a toxic air pollutant for which the facility at which it is located has been modeled, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraphs (f) or (g) of this Regulation)

(f) A facility does not need a permit or permit modification ~~under~~ pursuant to this Article if the facility's uncontrolled potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, or carbon monoxide are each no more than five tons, and uncontrolled potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; however the Director may require the owner or operator of these activities to register them ~~under~~ pursuant to MCAPCO Regulation 2.0202 - "Registration of Air Pollution Sources". A facility permit may be required for equipment with uncontrolled potential emissions greater than five tons for one or more of the aforementioned pollutants, while exempting equipment emitting only pollutants whose facility-wide uncontrolled potential emissions are less than five tons. Emissions from equipment exempted ~~under~~ pursuant to Subparagraph (g)(1) shall not be included when determining potential for the purposes of this Paragraph, but emissions from equipment exempted ~~under~~ pursuant to Subparagraph (g)(2) shall.

(g) The following activities ~~do~~ shall not ~~need~~ require a permit or permit modification ~~under~~ pursuant to this Article; however the Director may require the owner or operator of these activities to register them ~~under~~ pursuant to MCAPCO Regulation 2.0202 - "Registration of Air Pollution Sources":

(1) **activities exempted because of category:**

(A) maintenance, upkeep, and replacement:

- (i) maintenance, structural changes, or ~~repairs~~ repair activities ~~which~~ that do not ~~change-increase~~ the capacity of such ~~process, process fuel burning, or control equipment,~~ and do not ~~involve~~ cause any change in the quality or nature or an increase in quantity of an emission of any regulated air ~~pollutants; pollutant;~~
- (ii) housekeeping activities or building maintenance procedures, including painting buildings, paving parking lots, resurfacing floors, repairing roof ~~repair, roofs,~~ washing, using portable vacuum cleaners, sweeping, ~~use of~~ using and associated storing of janitorial products and associated storage of janitorial products, or removing insulation insulation; removal;
- (iii) ~~use of~~ using office supplies, supplies to maintain copying equipment, or blueprint machines;
- (iv) ~~use of~~ using fire fighting equipment (excluding stationary internal combustion engines); or
- (v) ~~paving parking lots; or~~
- (vi) ~~replacement of~~ replacing existing equipment with equipment of the same ~~size, size (or smaller),~~ type, and function that does not result in an increase to the actual or potential emission of regulated air ~~pollutants~~ pollutants, ~~and that~~ does not affect the facility's compliance status, with any other applicable local or federal requirements, and with replacement equipment

that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be lawfully operated under pursuant to that permit without any changes in modifying the permit;

- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (C) laboratory or classroom activities:
 - (i) bench-scale, on-site equipment used ~~exclusively for experimentation, the chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments; or for diagnosis of illness, training, or instructional purposes~~;
 - (ii) ~~bench-scale experimentation, chemical or physical analysis, training or instruction from not-for-profit, non-production educational laboratories;~~
 - (iii) ~~bench-scale experimentation, chemical or physical analysis, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illnesses; or~~
 - (iv) ~~research and development laboratory activities provided the activity produces that produce no commercial product or feedstock material; or~~
 - (iii) educational activities, including wood working, welding, and automotive repair;
- (D) storage tanks:
 - (i) storage tanks solely used to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquefied petroleum gas;
 - (ii) storage tanks used to store gasoline or ethanol-based fuels for which there are no applicable requirements;
 - (iii) storage tanks solely used to store inorganic liquids; or
 - (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency response to an unanticipated release of hazardous materials;
- (E) combustion and heat transfer equipment:
 - (i) heating units used for human comfort, excluding space heaters burning distillate oil, kerosene, natural gas, or liquefied petroleum gas operating by direct heat transfer and solely used for comfort heat; used oil, that have a heat input of less than 10 million Btu per hour and that do not provide heat for any manufacturing or other industrial process;
 - (ii) residential wood stoves, heaters, or fireplaces; or
 - (iii) ~~hot~~ water heaters ~~which~~ that are used for domestic purposes only and are not used to heat process water;
- (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no ~~applicable~~ local or federal air requirements;
- (G) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, ~~lubricants~~ lubricants, or cooling oils;
- (H) solvent recycling: portable solvent distillation systems used for on-site solvent

recycling if:

- (i) the portable solvent distillation system is not:
 - (I) owned by the facility, and
 - (II) operated at the facility for more than seven consecutive days; and
 - (ii) the material is recycled at the site of origin;
- (I) processes:
- (i) electric motor burn-out ovens with secondary combustion chambers or afterburners;
 - (ii) electric motor bake-on ovens;
 - (iii) burn-off ovens with afterburners for paint-line hangers with afterburners; hangers;
 - (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes ~~where bleach or solvent dyes are not used;~~ that do not use bleach or solvent dyes; or
 - (v) ~~blade wood planers planing~~ woodworking operations processing only green wood;
- (J) solid waste landfills: municipal solid waste landfills (This does not apply to flares and other sources of combustion at solid waste landfills; these flares and other combustion sources are required to be permitted ~~under~~ pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" unless they qualify for another exemption ~~under~~ pursuant to this Paragraph.)
- (K) miscellaneous:
- (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
 - (ii) ~~non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the federal Clean Air Act (Generators are required to be permitted under MCAPCO Section 1.5200 - "Air Quality Permits" unless they qualify for another exemption under this Paragraph.);~~ engines regulated pursuant to Title II of the federal Clean Air Act (Emission Standards for Moving Sources);
 - ~~(iii) portable generators regulated by rules adopted under Title II of the Federal Clean Air Act;~~
 - ~~(iv)~~(iii) equipment used for ~~the preparation of~~ preparing food for direct on-site human consumption;
 - ~~(v)~~(iv) a source whose emissions are regulated only ~~under~~ pursuant to Section 112(r) or Title VI (~~Stratospheric Ozone Protection~~) of the federal Clean Air Act;
 - ~~(vi)~~(v) exit gases from in-line process analyzers;
 - ~~(vii)~~(vi) stacks ~~or~~ and vents ~~to~~ that prevent the escape of sewer gases from domestic waste through plumbing traps;
 - ~~(viii)~~(vii) refrigeration equipment that ~~is consistent~~ complies with the regulations set forth in Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA ~~under~~ pursuant to Title VI for stratospheric ozone protection, except ~~those units~~ refrigeration equipment used as or in conjunction with air pollution control equipment equipment.

~~(A unit Refrigeration equipment used as or in conjunction with air pollution control equipment is required to be permitted shall obtain a permit under pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" unless it qualifies for another exemption under pursuant to this Paragraph.);Paragraph;~~

~~(ix)(viii)~~ equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic ~~compounds compounds~~.
~~(Equipment Equipment that emits volatile organic compounds is required to be permitted shall obtain a permit under pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" unless it qualifies for another exemption under pursuant to this Paragraph.);Paragraph;~~

~~(x)(ix)~~ equipment that does not emit any regulated air pollutants; or

~~(xi)(x)~~ sources for which there are no applicable requirements.

(2) **activities exempted because of size and production rate:**

(A) storage tanks:

- (i) above-ground storage tanks with a storage capacity of no more than 1,100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F; or
- (ii) underground storage tanks with a storage capacity of no more than 2,500 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F;

(B) combustion and heat transfer equipment: equipment (includes direct-fired equipment that only emit regulated pollutants from fuel combustion):

- (i) fuel combustion equipment, ~~except for~~ (excluding internal combustion ~~engines, engines~~) firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed with natural gas or liquefied petroleum gas with a heat input of less than:
 - (I) 10 million Btu per hour for which construction, modification, or reconstruction commenced after June 9, 1989; or
 - (II) 30 million Btu per hour for which construction, modification, or reconstruction commenced on or before June 10, 1989; (Internal combustion engines are required to be permitted under MCAPCO Section 1.5200 - "Air Quality Permits" unless they qualify for another exemption under this Paragraph.)
- (ii) fuel combustion ~~equipment, equipment except for~~ (excluding internal combustion ~~engines, engines~~) firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels with a heat input rating less than 65 million Btu per hour (Internal combustion engines are required to be permitted ~~under pursuant to~~ MCAPCO Section 1.5200 - "Air Quality Permits" unless they qualify for another exemption ~~under pursuant to~~ this Paragraph.);
- (iii) space heaters burning waste oil if:
 - (I) the heater burns only oil that the owner or operator generates or used oil from ~~"do-it-yourself"~~ do-it-yourself oil changers who generate used oil as household wastes; and

- (II) the heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; ~~and~~
 - ~~(III) the combustion gases from the heater are vented to the ambient air;~~
 - (iv) fuel combustion equipment with a heat input rating less than 10 million Btu per hour that is used solely for space heating except:
 - (I) space heaters burning waste oil, or
 - (II) internal combustion engines;
 - (v) emergency use generators and other emergency use internal combustion engines not regulated ~~by rules adopted under~~ pursuant to Title II of the federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of not more than:
 - (I) 680 kilowatts (electric) or 1000 horsepower for natural gas-fired engines;
 - (II) 1800 kilowatts (electric) or 2510 horsepower for liquefied petroleum gas-fired engines; or
 - (III) 590 kilowatts (electric) or 900 horsepower for diesel-fired engines or kerosene-fired engines; or
 - (IV) 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines (Self-propelled vehicles with internal combustion engines are exempted ~~under~~ pursuant to Subpart (g)(1)(K)(i) of this Paragraph.);
 - (vi) portable generators and other portable equipment with internal combustion engines not regulated ~~by rules adopted under~~ pursuant to Title II of the federal Clean Air Act, (except self-propelled vehicles), that operate at the facility no more than a combined 350 hours for any 365-day period, provided the generators or engines have a rated capacity of no more than 750 kilowatts (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation;
 - (vii) peak-shaving generators that produce no more than 325,000 kilowatt-hours of electric energy for any 12-month period provided records are maintained to verify the energy production on a monthly basis and on a 12-month basis;
- (C) gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4,000 gallons;
- (D) processes:
- (i) printing, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices) located at a facility whose facility-wide emissions of volatile organic compounds are less than five tons per year potential.
For the processes listed in this Subpart (Subpart (D)(i) only), maximum capacity shall be determined in the following manner:
 - (I) for processes operating less than five years the maximum capacity shall be determined using the projected greatest hourly emission rate multiplied by 8760 hours;
 - (II) for processes operating five years or longer the maximum capacity shall be determined using the greatest actual hourly emission rate

occurring during the previous five years of operation multiplied by 8760 hours.

- (ii) sawmills that saw no more than 2,000,000 board feet per year provided that only green wood is sawed;
- (iii) electrostatic dry powder coating operations with filters or powder recovery systems including dry powder coating operations equipped with curing ovens with a heat input of less than 10,000,000 Btu/hour;
- (E) miscellaneous:
 - (i) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser cutoff emission rates;
 - (ii) any incinerator ~~covered under~~ that meets the requirements set forth in Subparagraph (c)(4) of MCAPCO Regulation 2.1201 - "Purpose and Scope"; or
 - (iii) dry cleaning facilities that are not a major source as defined in 40 CFR 63 Subpart M - "National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (F) case-by-case exemption: activities that the applicant demonstrates to ~~the satisfaction of the Director.~~ Director do not violate any applicable emission control standard.
 - ~~(i) — to be negligible in their air quality impacts,~~
 - ~~(ii) — not to have any air pollution control device, and~~
 - ~~(iii) — not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater.~~

(h) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

(i) Emissions from stationary source activities identified in Paragraphs (f) and (g) of this Regulation shall be included in determining compliance with the toxic air pollutant requirements ~~under pursuant to~~ MCAPCO Section 2.1100 - "Control of Toxic Air Pollutants" or MCAPCO Section 1.5700 - "Toxic Air Pollutant Procedures" according to MCAPCO Regulation 1.5702 - "Exemptions".

(j) The owner or operator of a facility or source claiming an activity is exempt exemption under pursuant to this Regulation shall ~~provide~~ submit emissions data, documentation of equipment type, or other supporting documents to the Director documentation upon request that the facility or source is qualified for that exemption.

(k) Sources of air pollution for which there is an ambient air quality or emission control standard and which the Director considers likely to contravene the applicable standard shall apply for a permit as required in Paragraph (b) of this Regulation.

(l) If the Director finds that an activity exempted ~~under~~ pursuant to Paragraphs (f) or (g) of this Regulation is in violation of or has violated an applicable Regulation in this Ordinance, he shall

revoke the permit exemption for that activity and require that activity to be permitted ~~under~~
pursuant to Section 1.5200 - “Air Quality Permits”.

MCAQ History Note:

Amended Eff. December 18, 2018; December 15, 2015

1.5212 APPLICATIONS

(a) Application for a permit required under this Regulation shall be made on official forms of the Director and shall include:

- (1) applicable plans and specifications to define the source's operating conditions;
- (2) the nature and amounts of emissions to be emitted by the source or emitted by associated mobile sources;
- (3) the location, design, construction and operation of the facility, building, structure, or installation; and
- (4) any other documents required by the Director to ~~ensure~~^{insure} that there will be no violations of the control strategy set forth in the SIP and no interference with the attainment or maintenance of a national ambient air quality standard; and
- (5) Either of the following:
 - (A) Determination letter(s) issued on the letterhead of and signed by the official(s) charged with administering the zoning and subdivision ordinances of the local government(s) having land use jurisdiction over the land on which the facility and its appurtenances are to be located stating whether the proposed facility would be consistent with such ordinances. Such determination letters should describe the facility as it is described in the draft permit application, a copy of Section A, General Information from the application which must be attached to the determination letter(s). Letters stating that the facility would be inconsistent with such ordinances should state the specific reasons for the determination of inconsistency and should have attached a copy of the ordinance or all sections relevant to the determination of inconsistency; or
 - (B) Evidence, such as the original signed receipt of a certified or hand-delivered letter, indicating that the clerk(s) of the local government(s) having zoning and subdivision jurisdiction over the land on which the facility and its appurtenances are to be located have received from the applicant a copy of the draft permit application and a request for a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility would be consistent with such ordinance(s).

Applicants should make all reasonable efforts to obtain the determination letters referenced in Part (5)(A) above since failure to obtain such letters would delay issuance of permits and in some cases may even result in denial of a permit. The requirement found in this Subparagraph (5) shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 (low-level radioactive waste facilities) or 130A-293 (hazardous waste facilities).

(b) A permit application may be obtained from, and shall be filed in writing with the:

*Director, Mecklenburg County Air Quality
2145 Suttle Avenue
Charlotte, North Carolina 28208.*

A non-refundable permit application processing fee shall accompany each application or group of applications submitted simultaneously. The permit application and annual administering and monitoring fee rates are set forth in MCAPCO Regulation 1.5231 - "Air Quality Fees". Each

permit or renewal application ~~is~~ shall be incomplete until the permit application processing fee and the zoning and subdivision determination letter(s) or proof the permit application has been submitted to the local government(s) having zoning and subdivision jurisdiction as described in Subparagraph (a)(5) above has been received.

(c) Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that the Director considers necessary, and may require the submission of plans, specifications, and any other documents, evidence, or information required to define the operating conditions of the air pollution source.

(d) The Director shall have the power to require that an applicant satisfy the Director that the applicant, or any parent or subsidiary corporation if the applicant is a corporation:

- (1) is financially qualified to carry out the activity for which a permit is required under this Ordinance;
and
- (2) has substantially complied with the air quality and emission control standards applicable to any activity in which the applicant previously has engaged, and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment, including but not limited to the provisions of federal and state law incorporated by reference into this Ordinance.

(e) Application for ownership transfer of a permit may be made by letter to the Director if no alteration or modification has been made to the originally permitted facility. The ownership change letter must state that there have been no changes in the permitted facility since the permit was issued. However, the Director may require the applicant for ownership change to submit additional information showing that:

- (1) the applicant is financially qualified to carry out the permitted activities under this ~~Ordinance,~~ Ordinance;
or
- (2) the applicant substantially has complied with the air quality and emissions standards applicable to any activity in which the applicant has engaged previously, and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment, including but not limited to the provisions of federal and ~~state~~ State law incorporated by reference into this Ordinance.

The applicant shall file requests for permit name or ownership changes ~~as soon as~~ when the applicant is aware of the imminent name or ownership change.

(f) Application for changes in construction or test dates or reporting procedures may be made by letter to the Director. To make changes in construction or test dates or reporting procedures, the letter must be signed by ~~a person specified in Paragraph (h) of this Regulation.~~ the responsible official as defined in MCAPCO Regulation 1.5102 – “Definitions”.

(g) Permit applicants shall submit copies of the application package as follows:

- (1) 2 copies for sources subject to the requirements of MCAPCO Regulations 2.0530 - “Prevention of Significant Deterioration”, 2.0531 - “Sources in Non-Attainment Areas”,

or

- (2) 1 copy for sources not subject to the requirements of MCAPCO Regulations 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Non-Attainment Areas".

If the facility requests that any information be considered confidential, a "Public Record Copy" as described in Paragraph (h) must also be submitted. The Director may at any time during the application process request additional copies of the complete application package from the applicant.

(h) Information considered confidential is governed by North Carolina General Statute (NCGS) 66-152 and MCAPCO Regulation 1.5217 - "Confidential Information". If the facility believes that any information included in the application constitutes a "trade secret" as defined by NCGS. 66-152, and that it meets the other conditions imposed by NCGS Statute 132-1.2, such information may be designated as "confidential information" or "trade secret" in the application and omitted from the copy marked as the "Public Record Copy". Every place where confidential information is omitted in the Public Record Copy, it must be indicated as "[Trade Secret Information Deleted]". If an application with information marked as "confidential" or "trade secret" is submitted without the additional Public Record Copy or if information that is clearly not a trade secret is omitted from the Public Record Copy, the application package may be returned to the applicant without being processed.

~~(i) Permit applications submitted pursuant to this Regulation shall be signed as follows:~~

- ~~(1) for corporations, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emissions described in the permit application originate or will originate;~~
- ~~(2) for partnership or limited partnership, by a general partner;~~
- ~~(3) for a sole proprietorship, by the proprietor;~~
- ~~(4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected official, or duly authorized employee.~~

Permit applications submitted pursuant to this Regulation must be signed by the responsible official as defined in MCAPCO Regulation 1.5102 – "Definitions".

MCAQ History Note:

Amended Eff. December 18, 2018; December 15, 2015

1.5213 ACTION ON APPLICATION; ISSUANCE OF PERMIT

(a) Schedule for processing applications

Except as listed in subparagraphs (1) and (2) below, the Director shall review and take final action on all permit applications submitted under MCAPCO Section 1.5200 - "Air Quality Permits" in accordance with MCAPCO Regulation 1.5215 - "Application Processing Schedule". All permits, or decisions denying permits shall be in writing.

- (1) Permit applications submitted in accordance with
 - (A) MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or
 - (B) MCAPCO Regulation 2.0531 - "Sources in Non-Attainment Areas",shall follow the processing, public notice and hearing schedule as set out in those Regulations.
- (2) Permit applications to be issued under:
 - (A) MCAPCO Section 1.5500 - "Title V Procedures" shall follow the schedule found in MCAPCO Regulation 1.5525 - "Application Processing Schedule";
 - (B) MCAPCO Section 2.0800 - "Transportation Facilities" shall follow the schedule found in MCAPCO Regulation 1.5607 - "Application Processing Schedule".

(b) Zoning determination letter

No permits shall be issued until either the determination letter(s) described in MCAPCO Regulation 1.5212 - "Applications" Part (a)(5)(A) or evidence of a request for such letter(s) as described in MCAPCO Regulation 1.5212 - "Applications" Part (a)(5)(B) have been received by the Director. Unless the relevant local government makes a determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Director shall attach as a condition of any permit which is issued, a requirement that the applicant prior to construction or operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of construction or operation of the facility. Unless the determination letter(s) as described in MCAPCO Regulation 1.5212 - "Applications" Part (a)(5)(A) are received by the Director, issuance of a permit cannot occur until fifteen (15) days has passed following the receipt by the clerk(s) of the local government(s) of the request for the determination letter. Issuance of a permit where determination letter(s) stating consistency with the applicable ordinance(s) have not been received is in the discretion of the Director. Even under circumstances where a determination letter is received which states that the proposed facility would be consistent with the applicable ordinances, the Director may include conditions in the permit requiring compliance with all local ordinances prior to construction or operation of the proposed facility.

(c) Public notice

Public notice of action for applications processed and permits to be issued under MCAPCO Section 1.5200 - "Air Quality Permits" is provided as follows:

- (1) Except for permits proposed as in Subparagraph (2) below, the Director shall:
 - (A) advertise proposed permit application approvals or disapprovals by placing these actions on the agenda of the Commission. Public comment on the proposed action(s) will be received during the meeting and for 15 days

- thereafter; or
- (B) at the applicant's request and expense, the Director may advertise the proposed permit application approvals or disapprovals in a major local newspaper of general circulation. Public comment on the proposed action(s) will be received for 15 days after the date the notice is published, including during any Commission meeting held during said 15 day period. The Department will provide the notice to the applicant, who will have a notice published in the legal section of the classified advertisements of a major local newspaper of general circulation. The applicant shall provide certified proof of advertisement and pay a \$1,000 fee. All comments will be considered prior to final action.
- (2) Public notice and a 15 day comment period prior to permit issuance will not be required for permit modifications which:
 - (A) are allowed by an existing permit, initiated and reported by the facility as required;
or
 - (B) will not result in an increase in emissions.
 - (3) The following permits and activities will be placed on the Commission's agenda:
 - (A) permits which do not require a public notice before issuance;
and
 - (B) the Department's acknowledgment of receipt of a "Construction/Operational Change Notification".

Such permits and activities will be subject to an opportunity for a hearing in accordance with Paragraph (f) of this Regulation.

(d) Permit actions initiated by the Director

Subject to the requirements of MCAPCO Regulation 1.5232 - "Issuance, Revocation, and Enforcement of Permits", the Director may:

- (1) issue a permit or renewal containing the conditions necessary to carry out the purposes of this Ordinance and G.S. Chapter 143, Article 21B;
- (2) modify or revoke any permit upon giving 60 days notice to the persons affected;
- (3) deny a permit application when necessary to carry out the purposes of this Ordinance and G.S. Chapter 143, Article 21B.

(e) Permit applicant's right to administrative hearing

- (1) Any person whose application for a permit or renewal is denied by final action of the Director or is granted subject to conditions which are ~~unacceptable to him~~ unacceptable, or whose permit is modified or revoked shall have the right to a hearing before the Commission, upon making demand therefor within 30 days following the giving of notice by the Director as to his decision upon such application. A person who seeks to appeal a modified permit may appeal only with respect to:
 - (A) any new conditions and limitations
or
 - (B) any existing conditions and limitations from the previous permit which are modified.

Unless such demand for a hearing is made, the decision of the Director on the application shall be final and binding. A demand for such hearing shall be filed with the Director, who promptly shall transmit such demand to the Commission.

- (2) Applicants which are denied a permit by the Director's failure to take final action as provided in MCAPCO Regulation 1.5215 - "Application Processing Schedule" may seek judicial review as provided in NCGS 143-215.5 and Article 4 of Chapter 150B of the General Statutes.

(f) Public hearing

The Director may initiate a public hearing in response to permit modifications taken by a facility and which are allowed by an existing permit or before issuing any permit under MCAPCO Section 1.5200 - "Air Quality Permits" when he has determined that significant public interest exists or that the public interest will be served.

- (1) With respect to draft permits, except for permits drafted and proposed in accordance with Subparagraphs (2) and (3) of this Paragraph, where the Director has initiated the public hearing procedure, the Director shall:
 - (A) send the draft to public hearing within 45 days after initiating the public hearing procedure; and
 - (B) take final action within 30 days after the close of the public hearing.
- (2) Permits drafted and proposed in accordance with MCAPCO Regulation 2.1109 - "Case-by-Case Maximum Achievable Control Technology" will follow the schedule found in MCAPCO Regulation 1.5215 - "Application Processing Schedule", Subparagraph (a)(3).
- (3) Permits drafted and proposed in accordance with MCAPCO Regulations 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Non-Attainment Areas" will follow the procedures set out in those Regulations.
- (4) The information submitted by the owner or operator, and the Department's review shall be made available for public inspection at the Department office during the period of public notice.
- (5) Informing the public of the application review and related information, and of hearings scheduled in accordance with Subparagraphs (1) and (2) of Paragraph (f) shall be accomplished by publishing a notice in a major newspaper of general circulation in Mecklenburg County at least 30 days prior to the public hearing.

Confidential material will be handled in accordance with MCAPCO Regulation 1.5217 - "Confidential Information".

(g) Proposed permits submitted to EPA

Proposed permits to be issued pursuant to 2.0530 - "Prevention of Significant Deterioration", or 2.0531 - "Sources in Non-Attainment Areas" shall be submitted by the Director to the EPA for review. If and when a permit is issued by the Department containing conditions determined by 2.0530 - "Prevention of Significant Deterioration", or 2.0531 - "Sources in Non-Attainment Areas", a copy of the permit shall be sent to EPA.

(h) Stringency of permit requirements

All emission limitations, controls, and other requirements imposed by a permit issued pursuant to

this Ordinance shall be at least as stringent as all applicable Regulations contained in this Ordinance. The permit shall not waive or make less stringent any limitation or requirement contained in any applicable Regulation.

(i) Enforceability of permit requirements

Emission limitations, controls and requirements contained in permits issued pursuant to this Ordinance shall be permanent, quantifiable, and otherwise enforceable as a practical matter under G.S. ~~143-215-114~~, 143-215-114A, 143-215-114B, and 143-215-114C.

(j) Alternative mix of controls

In a permit application for an alternative mix of controls under MCAPCO Regulation 2.0501 - "Compliance With Emission Control Standards" Paragraph (f), the owner or operator of the facility shall demonstrate to the satisfaction of the Director that the proposal is equivalent to the existing requirements of the SIP in total allowed emissions, enforceability, reliability, and environmental impact. A public hearing shall be held before any permit containing alternative emission limitations is issued. The public hearing shall be held before the Mecklenburg County Air Quality Commission and be preceded by a 30-day period of public notice during which the Director's analysis and draft permit shall be available for public inspection and comment in the Department's office. The proposed permit will be submitted by the Director for review to the EPA and if and when a permit containing these conditions is issued, it will be submitted by the Director to EPA for inclusion as part of the federally approved SIP. When a permit containing these conditions is approved by EPA, it will become a part of the SIP as an appendix available for inspection at the Department's offices. Until EPA approves the SIP revision embodying the permit containing an alternative mix of controls, the facility shall continue to meet the otherwise applicable existing SIP requirements. The revision will be approved or disapproved by EPA on the basis of the revision's consistency with EPA's "Policy for Alternative Emission Reduction Options Within State Implementation Plans" as promulgated in the Federal Register of December 11, 1979, pages 71780-71788, and subsequent rulings.

MCAQ History Note: Amended Eff. December 18, 2018

1.5215 APPLICATION PROCESSING SCHEDULE

(a) The Department shall adhere to the following schedule for processing applications for permits, permit modifications, and permit renewals.

- (1) The Department shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes except for those to which the following is applicable:
 - MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration",
 - MCAPCO Regulation 2.0531 - "Sources in Nonattainment Areas",
 - MCAPCO Regulation 2.1109 - "112(j) Case-by-Case Maximum Achievable Control Technology",
 - MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology".
- (A) The Department shall notify the applicant ~~by letter~~ in writing that:
 - (i) ~~stating that~~ the application as submitted is complete and specifying the completeness date,
 - (ii) ~~stating that~~ the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Department, or
 - (iii) ~~stating that~~ the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Department does not notify the applicant ~~by letter~~ in writing dated within 45 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date ~~when if~~ such information is ~~considered~~ necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the ~~deadline date~~ specified in ~~the a letter requesting~~ written request for additional information, the Director ~~may return the application to the applicant as incomplete. shall~~ cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.
- (B) If the draft permit does not go to public hearing, the Director shall issue or deny the permit within 90 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (C) If the draft permit is required to go to public hearing under MCAPCO Regulation 1.5213 - "Action of Application; Issuance of Permit" Subparagraph (c)(2) or Paragraph (f), the Director shall:
 - (i) send the draft permit to public hearing within 45 days after deciding to hold a public hearing; and
 - (ii) take final action on the permit within 30 days after the close of the public hearing.
- (2) Permit applications reviewed with respect to MCAPCO Regulations 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Nonattainment Areas", shall follow the processing schedules as set out in ~~those Regulations. that~~ Regulation.

- (3) With respect to case-by-case maximum achievable control technology ~~under~~ pursuant to MCAPCO Regulation 2.1109 - "112(j) Case-by-Case Maximum Achievable Control Technology" or MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology", the Director shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes.

(A) The Director shall notify the applicant ~~by letter~~ in writing that:

- (i) ~~stating that~~ the application as submitted is complete and specifying the completeness date,
- (ii) ~~stating that~~ the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Department, or
- (iii) ~~stating that~~ the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Department does not notify the applicant ~~by letter~~ in writing dated within 45 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date ~~when if~~ such information is ~~considered~~ necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information.

(B) The Director shall:

- (i) send the draft permit to public notice within 120 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later; and
- (ii) take final action on the permit within 30 days after the close of the public comment period.

(C) If the draft permit is required to go to public hearing ~~under~~ pursuant to MCAPCO Regulation 1.5213 - "Action on Application; Issuance of Permit", the Director shall:

- (i) send the draft permit to public hearing within 45 days after deciding to hold a public hearing; and
- (ii) take final action on the permit within 30 days after the close of the public hearing.

(b) The number of days between sending a ~~letter~~ written notification requesting additional information and receiving that additional information shall not be counted in the schedules ~~under~~ pursuant to Paragraph (a) of this Regulation.

(c) The Director ~~may return at any time applications containing~~ shall cease processing an application that contains insufficient information to complete the review ~~at any time~~.

(d) If the Director does not take final action on a permit application within the schedules

specified in this Regulation, the failure shall constitute a final agency decision to deny the permit. A permit applicant which has been denied a permit by the Director's failure to take final action may seek judicial review as provided in GS 143-215.5 and Article 4 of Chapter 150B of the General Statutes.

MCAQ History Note: Amended Eff. December 18, 2018

1.5216 NOTIFICATION IN AREAS WITHOUT ZONING

(a) State and local governments ~~are~~ shall be exempt from this Regulation.

(b) Before a person submits a permit application for a new or expanded facility in an area without zoning, he ~~or she shall provide public notification as set out in this Regulation.~~ shall:

~~(c) A person covered under this Regulation shall publish a legal notice as specified in Paragraph (d) of this Regulation and shall post a sign as specified in Paragraph (f) of this Regulation.~~

~~(d) A person covered under this Regulation shall publish a legal notice in a newspaper of general circulation in the area where the source is or will be located at least two weeks before submitting the permit application for the source. The notice shall identify:~~

~~(1) publish a legal notice in a newspaper of general circulation in the area where the source is or will be located at least two weeks before submitting the permit application for the source. The notice shall identify:~~

~~—— (1) the name of the affected facility;~~

~~—— (2) the name and address of the permit applicant; and~~

~~—— (3) the activity or activities involved in the permit action;~~

~~(A) the name of the affected facility;~~

~~(B) the name and address of the permit applicant; and~~

~~(C) the activity or activities involved in the permit action; and~~

~~(e) The permit applicant shall submit with the permit application an affidavit and proof of publication that the legal notice required under Paragraph (d) of this Regulation was published.~~

~~(f) A person covered under this Regulation shall post a sign on the property where the new or expanded source is or will be located. The sign shall meet the following specifications:~~

~~(2) post a sign on the property where the new or expanded source is or will be located. The sign shall meet the following specifications:~~

~~(1) It shall be at least six square feet in area;~~

~~—— (2) It shall be set off the road right-of-way, but no more than 10 feet from the road right-of-way.~~

~~—— (3) The bottom of the sign shall be at least six feet above the ground;~~

~~—— (4) It shall contain the following information:~~

~~—— (A) the name of the affected facility;~~

~~—— (B) the name and address of the permit applicant; and~~

~~—— (C) the activity or activities involved in the permit action;~~

~~—— (5) Lettering shall be a size that the sign can be read by a person with 20/20 vision standing in the center of the road; and~~

~~—— (6) The side with the lettering shall face the road, and sign shall be parallel to the road.~~

~~The sign shall be posted at least 10 days before the permit application is submitted and shall remain posted for at least 30 days after the application is submitted.~~

~~(A) it shall be at least six square feet in area;~~

~~(B) it shall be set off the road right-of-way, but no more than 10 feet from the road right-of-way;~~

~~(C) the bottom of the sign shall be at least six feet above ground;~~

- (D) it shall contain the name of the affected facility; the name and address of the permit applicant; and the activity or activities involved in the permit action;
- (E) lettering shall be a size that the sign can be read by a person with 20/20 vision standing in the center of the road;
- (F) the side with the lettering shall face the road, and sign shall be parallel to the road; and
- (G) the sign shall be posted at least 10 days before the permit application is submitted and shall remain posted for at least 30 days after the application is submitted.

(c) The permit applicant shall submit with the permit application an affidavit and proof of publication that the legal notice required pursuant to Paragraph (b) of this Rule was published.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. April 1, 2004;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5217 CONFIDENTIAL INFORMATION

(a) All information required to be submitted to the Director ~~under~~ pursuant to this Ordinance shall be disclosed to the public unless the person submitting the information ~~can demonstrate~~ demonstrates that the information is entitled to confidential treatment ~~under~~ pursuant to G.S. 143-215.3C.

(b) A request that information be treated as confidential shall be made by the person submitting the information at the time that the information is submitted. The request shall state in writing the reasons why the information should be ~~held~~ treated as confidential. Any request not meeting these requirements shall be invalid.

(c) The Director shall decide which information is entitled to confidential treatment and shall notify the person requesting confidential treatment of his or her decision within 180 days of receipt of a request to treat information as confidential.

(d) Information for which a request has been made ~~under~~ pursuant to Paragraph (b) of this Regulation ~~to treat as confidential~~ shall be treated as confidential until the Director decides that it is not confidential.

*State History Note: Authority G.S.143-215.3(a)(1); 143-215.3C;
Eff. July 1, 1994;
Amended Eff. April 1, 1999; July 1, ~~1997~~.1997;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5218 COMPLIANCE SCHEDULE FOR PREVIOUSLY EXEMPTED ACTIVITIES

(a) If a source has ~~heretofore been exempted from needing a permit, exempt from permitting but~~ but, because of change in permit exemptions, it is now required to have a ~~permit as follows:~~ permit:

- (1) ~~If~~ if the source is located at a facility that currently has an air quality permit, the source shall be added to the air quality permit of the facility the next time that permit is revised or renewed, whichever occurs ~~first~~ first; ~~or~~
- (2) ~~If~~ if the source is located at a facility that currently does not have an air quality permit, the owner or operator of that source shall apply for a permit within six months after the effective date of the change in the permit exemption.

(b) If a source becomes subject to requirements promulgated under 40 CFR Part 63, the owner or operator of the source shall apply for a permit at least 270 days before the final compliance date of the requirement, unless exempted ~~by~~ pursuant to MCAPCO Regulation 1.5211 - "Applicability" ~~at least 270 days before the final compliance date of the requirement.~~

*State History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
Eff. July 1, 1994;
Amended Eff. April 1, 2001; July 1, ~~1996~~ 1996;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5219 RETENTION OF PERMIT AT PERMITTED FACILITY

The permittee shall retain a copy of all active permits issued ~~under~~ pursuant to this Article at the facility identified in the permit.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
the permanent
rule becomes effective, whichever is sooner;
Eff. July 1, ~~1994~~. 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5220 APPLICABILITY DETERMINATIONS

Any person may submit a request in writing to the Director requesting a determination as to whether a particular source or facility that the person owns or operates or proposes to own or operate is subject to any of the permitting requirements ~~under~~ pursuant to this Article. The request shall contain ~~such~~ information ~~believed to be~~ sufficient for the Director to make the requested determination. The Director may request any additional information that is needed to make the determination.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
 Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
 the permanent
 rule becomes effective, whichever is sooner;
 Eff. July 1, ~~1994~~. 1994;
 Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5221 PERMITTING OF NUMEROUS SIMILAR FACILITIES

~~(a)~~ The Director may issue a permit to cover numerous similar facilities or sources.

~~(b)~~(a) The Director shall not issue a single permit under for more than one facility pursuant to this Regulation unless the following conditions are met: unless:

- (1) There is no ~~unique~~ difference between the facilities that would require special permit conditions for any individual facility; and
- (2) No unique analysis is required for any facility covered ~~under~~ by the permit.

~~(e)~~(b) A permit issued ~~under~~ pursuant to this Regulation shall identify criteria by which facilities or sources ~~may~~ qualify for the permit. The Director shall grant the terms and conditions of the permit to facilities or sources that qualify.

~~(d)~~(c) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source is later determined not to qualify for ~~the terms and conditions~~ of the permit issued ~~under~~ pursuant to this Regulation.

~~(e)~~(d) The owner or operator of a facility or source that qualifies for a permit issued ~~under~~ pursuant to this Regulation shall apply for coverage ~~under~~ by the terms of the permit issued ~~under~~ pursuant to this Regulation or shall apply for a standard permit for each facility or source under pursuant to this Section.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
the permanent
rule becomes effective, whichever is sooner;
Eff. July 1, 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5222 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES

(a) The Director ~~may~~ shall not issue a single permit authorizing emissions from a facility or source at multiple temporary ~~sites~~ sites unless the permit includes:

~~(b) Permits for facilities at multiple temporary sites shall include:~~

- (1) the identification of each site,
- (2) the conditions that will assure compliance with all applicable requirements at all approved sites,
- (3) a requirement that the permittee notify the Department at least 10 days in advance of each change of site, and
- (4) the conditions that assure compliance with all other provisions of this Section.

*History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.108; Eff. July 1, 1994;
Amended Eff. July 1, 1996.
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5231 AIR QUALITY FEES

(a) For the purpose of this Regulation, the following definitions apply:

- (1) **“Actual Emissions”** means the actual rate of emissions in tons per year of any air pollutant emitted from the facility over the preceding calendar year. Actual emissions shall be calculated using the source’s or sources’ actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Actual emissions shall include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. For fee applicability and calculation purposes under this Regulation, actual emissions ~~do~~ shall not include emissions beyond the normal emissions such as during violations, malfunctions, start-ups and shut downs, and emissions from permit exempt activities listed in MCAPCO Regulations 1.5211 - “Applicability”, Subparagraphs (g)(1) and (g)(2) [for non-Title V facilities] or 1.5503 - “Definitions”, Subparagraph (7) “Insignificant activities because of category” [for Title V facilities].
- (2) **“Administrative Change”** means an ownership transfer, or change to a construction date, test date, monitoring range, or reporting procedure.
- (3) **“B Facility”** means a facility whose potential emissions are equal to or exceed 25 tons per year, but are less than 100 tons per year for any regulated pollutant under MCAPCO Article 2.0000 - “Air Pollution Control Regulations and Procedures”.
- (4) **“Burning Approval Inspection”** means the activity conducted by the Mecklenburg County Fire Marshal to verify information necessary for the issuance of special burning approvals as specified in MCAPCO Regulation 1.5106 - “Open Burning”.
- (5) **“C Facility”** means a facility whose potential emissions are less than 25 tons per year for any regulated pollutant under MCAPCO Article 2.0000 - “Air Pollution Control Regulations and Procedures”.
- (6) **“Fiscal Year”** means the Federal Fiscal Year (FFY). The Federal Fiscal Year runs from October 1 of the prior year through September 30 of the year being described. For example, the 2012 Federal Fiscal Year (FFY2012) is the period from October 1, 2011 through September 30, 2012.
- (7) **“General Facility”** means a facility obtaining a permit under MCAPCO Regulations 1.5221 - “Permitting of Numerous Similar Facilities” or 1.5509 - “Permitting of Numerous Similar Facilities”.
- (8) **“Minor Modification”** means a Title V permit modification made pursuant to MCAPCO Regulation 1.5515 – “Minor Permit Modifications” ~~or for Transportation means a request for a time extension on a current, active permit that does not require changes to level of service analysis or modeling demonstration.~~ Modifications”.
- (9) **“Model”** means a refined modeling demonstration required to be submitted by the facility to determine compliance with MCAPCO Section 2.1100 – “Control of Toxic Air Pollutants” ~~or a modeling demonstration to determine compliance with MCAPCO Section 2.0800 – “Transportation Facilities” Pollutants”.~~
- (10) **“NESHAP Facility”** means a facility subject to a national emission standard for hazardous air pollutants in MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”.
- (11) **“NESHAP Amounts of Asbestos”** means amounts of asbestos containing materials that when measured equals or exceeds 160 square feet or 260 linear feet or 35 cubic feet and regulated by MCAPCO Regulation 2.1110 - “National Emission Standards for

- Hazardous Air Pollutants”, which references 40 CFR 61.141 “Definitions”.
- (12) **“NESHAP Demolition and Renovation”** means a demolition or renovation project which is subject to the national emission standard for hazardous air pollutants in MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”, which references 40 CFR 61.141 “Definitions”.
- (13) **“NESHAP Notification”** means the required information for the renovation/demolition of a facility as defined by MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”.
- (14) **“New or Significant Modification”** means a Title V permit application for a facility not previously required to have a permit under MCAPCO Section 1.5500 – “Title V Procedures” or a Title V permit modification made pursuant to MCAPCO Regulation 1.5516 – “Significant Permit Modification”, ~~or for Transportation means an application for a transportation facility that does not have a current, active permit to construct or an application for a transportation facility that requires changes to the level of service analysis or modeling demonstration.~~ **Modification”**.
- (15) **“Performance Testing”** means testing required by a facility’s permit, or as requested by the Director.
- (16) **“PSD Facility”** means a plant site having one or more sources subject to the prevention of significant deterioration requirements of MCAPCO Regulation 2.0530 - “Prevention of Significant Deterioration” or a plant site applying for a permit for a major stationary source or a major modification subject to MCAPCO Regulation 2.0530 - “Prevention of Significant Deterioration”.
- (17) **“Registered Facility”** means a facility supplying information as required in MCAPCO Regulation 2.0202 - “Registration of Air Pollution Sources”.
- (18) **“SB (Select B)”** means a B facility as defined in this Regulation, where the potential of pollutant(s) emitted are equal to or exceed 25 tons of either volatile organic compounds (VOCs) or nitrogen oxides (NOx).
- (19) **Stage I Facility** means a permitted facility required under MCAPCO Regulation 2.0928 – “Gasoline Service Stations Stage I” to install Stage I controls as defined in MCAPCO Regulation 2.0901 – “Definitions”.
- (20) **“Synthetic Minor Facility”** means a facility that would be a Title V facility except that the potential emissions are reduced below the thresholds defined in “Title V facility” of this Regulation by one or more physical or operational limitations on the capacity of the facility to emit an air pollutant. Such limitations ~~must~~ shall be enforceable by EPA and may include air pollution control equipment, restrictions on hours of operation, ~~or~~ and the type or amount of material combusted, stored or processed.
- (21) **“Title V Facility”** means a facility that has or will have potential emissions of:
- (A) 100 tons per year or more of at least one regulated air pollutant,
 - (B) 10 tons per year or more of at least one hazardous air pollutant, or
 - (C) 25 tons per year or more of all hazardous air pollutants combined.
- ~~(22) “Transportation Facility” means a facility requiring a permit under MCAPCO Section 2.0800 – “Transportation Facilities”.~~
- ~~(23)~~(22) **“Variance Request”** means the information submitted subject to MCAPCO Regulation 1.5305 - “Variances”.
- ~~(24)~~(23) **“112(r) Facility”** means a facility that is required to submit and implement a Risk Management Plan under 40 CFR 68 – “Chemical Accident Prevention Provisions”

(b) Fees shall be charged for processing an application or group of applications submitted simultaneously for an air permit, for administering and monitoring compliance with the terms of a facility's air permit and for other specified air quality activities conducted by the Department.

(1) — For the federal fiscal year starting October 1, 2011 and ending September 30, 2012 (FFY2012) the following fees are in effect:

Table 1. FFY2012 Permit Application and Annual Administering and Compliance Fees

FACILITY CATEGORY	PERMIT APPLICATION FEE		ANNUAL ADMINISTERING AND COMPLIANCE FEES		
			FACILITY FEE	ACTUAL EMISSION FEE/TPY	NON ATTAINMENT
Registered	\$100		N/A	N/A	N/A
Stage I/II	\$100		\$110	\$39	\$200
C	\$100		\$550	\$39	\$200
B	\$100		\$1100	\$39	\$200
SB	\$300		\$1540	\$39	\$500
Synthetic Minor	\$400		\$4510	\$39	\$500
PSD	\$12000		N/A	N/A	N/A
NSR	\$12000		N/A	N/A	N/A
General	50% of the otherwise applicable fees				
	NEW or SIGNIFICANT MODIFICATION	MINOR MODIFICATION			
Title V	\$9000	\$800	\$6600	\$39	\$500
Transportation	\$1500	\$400	N/A	N/A	N/A

Table 2. FFY2012 Fees Specific to Certain Facility Activities or Requests

Performance Testing	\$200	Submitted with the annual administering and compliance fee for each source test conducted the previous calendar year as listed in the fee invoice
Administrative Change Permit Application	\$100	Submitted with the proper documentation for an ownership transfer, or change to a construction date, test date, monitoring range, or reporting procedure

Table 3. ~~FFY2012 Other Air Quality Fees~~

Variance Request	\$100	Submitted with the required variance documentation
Burning Approval Inspection	\$25	Submitted with application to designated authority

(2) ~~For federal fiscal year FFY2013 and FFY2014. The following fees will be in effect as of October 1, 2012 ending September 30, 2014:~~

Table 4. ~~FFY2013 and FFY2014 Permit Application and Annual Administering and Compliance Fees~~

FACILITY CATEGORY	PERMIT APPLICATION FEE		ANNUAL ADMINISTERING AND COMPLIANCE FEES		
			FACILITY FEE	ACTUAL EMISSION FEE/TPY	NON ATTAINMENT
Registered	\$200		N/A	N/A	N/A
Stage I/II	\$200		\$105	\$45	\$200
C	\$250		\$585	\$45	\$200
B	\$250		\$1175	\$45	\$200
SB	\$500		\$1645	\$45	\$500
Synthetic Minor	\$750		\$4955	\$45	\$500
PSD	\$12000		N/A	N/A	N/A
NSR	\$12000		N/A	N/A	N/A
112(r)	NA		\$500	NA	NA
General	50% of the otherwise applicable fees				
	NEW or SIGNIFICANT MODIFICATION	MINOR MODIFICATION			
Title V	\$10000	\$1000	\$8050	\$45	\$500
Transportation	\$1500	\$400	N/A	N/A	N/A

Table 5. ~~FFY 2013 and FFY2014 Fees Specific to Certain Facility Activities or Requests~~

Performance Testing	\$500	Submitted with the annual administering and compliance fee for each source test conducted the previous calendar year as listed in the fee invoice
Administrative Change Permit Application	\$100	Submitted with the proper documentation for an ownership transfer, or change to a construction date, test date, monitoring range, or reporting procedure
Model Review	\$500	Submitted with the application fee for any permit application that requires review of a model demonstration to determine compliance with MCAPCO Sections 2.1100 —“Control of Toxic Air Pollutants” or 2.0800 —“Transportation Facilities”

Table 6. — FFY2013 and FFY2014 Other Air Quality Fees

Variance Request	\$200	Submitted with the required variance documentation
Burning Approval Inspection	\$25	Submitted with application to designated authority

- (3) For federal fiscal year FY2015 and beyond. The following fees will be in effect as of October 1, 2014, until revised:

Table 7.1. FFY2015 and Beyond Permit Application and Annual Administering and Compliance Fees

FACILITY CATEGORY	PERMIT APPLICATION FEE		ANNUAL ADMINISTERING AND COMPLIANCE FEES		
			FACILITY FEE	ACTUAL EMISSION FEE/TPY	NON ATTAINMENT
Registered	\$200		N/A	N/A	N/A
Stage I/II	\$200		\$100	\$50	\$200
C	\$250		\$625	\$50	\$200
B	\$250		\$1250	\$50	\$200
SB	\$500		\$1750	\$50	\$500
Synthetic Minor	\$750		\$5400	\$50	\$500
PSD	\$12000		N/A	N/A	N/A
NSR	\$12000		N/A	N/A	N/A
112(r)	NA		\$500	NA	NA
General	50% of the otherwise applicable fees				
	NEW or SIGNIFICANT MODIFICATION	MINOR MODIFICATION			
Title V	\$10000	\$1000	\$9500	\$50	\$500

Transportation	\$1500	\$400	N/A	N/A	N/A
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Table 8.2. FFY 2015 and Later Fees Specific to Certain Facility Activities or Requests

Performance Testing	\$500	Submitted with the annual administering and compliance fee for each source test conducted the previous calendar year as listed in the fee invoice
Administrative Change Permit Application	\$100	Submitted with the proper documentation for an ownership transfer, or change to a construction date, test date, monitoring range, or reporting procedure
Model Review	\$500	Submitted with the application fee for any permit application that requires review of a model demonstration to determine compliance with MCAPCO Sections 2.1100 – “Control of Toxic Air Pollutants” or 2.0800 – “Transportation Facilities”

Table 9. FFY2015 and Beyond Other Air Quality Fees

Variance Request	\$200	Submitted with the required variance documentation
Burning Approval Inspection	\$25	Submitted with application to designated authority

(c) For the purposes of this Regulation, a single facility is defined to be any contiguous area under one ownership and in which permitted activities occur. If a facility or source belongs to more than one category, the fees shall be those of the applicable category with the highest fees. No fees, except for burning approval inspection fees, are required to be paid under this Regulation by a farmer who submits an application or receives an approval that pertains to his farming operations. The fee paid for tons of emissions excludes the following emissions: carbon monoxide, any pollutant that is regulated solely because it is a Class I or II substance listed ~~under~~ pursuant to Section 602 of the federal Clean Air Act (ozone depleters), any pollutant that is regulated solely because it is subject to a regulation or standard ~~under~~ pursuant to Section 112(r) of the federal Clean Air Act (accidental releases), and the amount of actual emissions of each pollutant that exceeds 4,000 tons per year.

(d) The appropriate permit application fee listed in Paragraph (b) of this Regulation is required for technical changes such as changing the location of a source; adding additional emission sources, pollutants, or control equipment; or changing a permit condition such that a change in air pollutant emissions could result. An administrative change permit application fee is required for administrative changes such as ownership transfers, construction date changes, test date

changes, or reporting procedure changes. With exception of permits modified in accordance with MCAPCO Regulation 1.5232 - "Issuance, Revocation, and Enforcement of Permits", no permit application fee is required for changes to an permit initiated by the Director to correct processing errors, to change permit conditions, or to implement new standards.

(e) Payment of permit application fees and annual administering and compliance monitoring fees shall be by check or money order made payable to Mecklenburg County Air Quality. The payment should refer to the air permit application or permit number.

(f) The payment of the permit application fee required by Paragraphs (b) or (d) of this Regulation shall accompany the permit or permit modification application and is non-refundable. If the permit application fee is not paid when the application is filed, the application shall be considered incomplete until the fee is paid.

(g) Facilities paying the initial administering and compliance monitoring fee will be billed after the facility notifies the Department in accordance with MCAPCO Regulation 1.5214 - "Commencement of Operation". ~~For transportation facilities, only a permit application fee is required and no subsequent annual administering and compliance monitoring fee is necessary.~~

(h) A facility which has permanently ceased operations at a site and requests that the permit(s) be voided, will not be required to pay the next annual administering and compliance monitoring fee for said permits. To resume the operation(s) after permit(s) have been voided will require the issuance of a new permit. A facility that is moved to a new site may receive credit for any unused portion of an annual administering and compliance monitoring fee if the permit for the old site is relinquished. Only one annual administering and compliance monitoring fee needs to be paid annually for each facility.

(i) If a permit holder fails to pay an annual administering and compliance monitoring fee within 30 days after being billed, the Director shall rebill and impose a penalty in the amount of 10% of the fee for each month the payment is late. For continued failure to pay past 60 days, the Director may initiate action to revoke the permit.

(j) The fees as determined in Paragraph (b) of this Regulation for Title V facilities may be adjusted as of September 30th of each year for inflation. The inflation adjustment shall be done by the method described in 40 CFR 70.9(b)(2)(iv).

(k) The following fees shall be charged for the processing of a NESHAP demolition &

renovation notification. The payment of the demolition & renovation NESHAP notification fee shall be by check or money order made payable to Mecklenburg County.

NESHAP Demolition & Renovation Notification Fees

TYPE OF NOTIFICATION	FEE AMOUNT PER NOTIFICATION	
Renovations subject to notification requirements of MCAPCO 2.1110	\$300	
Moving or relocation of structure (as single unit)	None or < NESHAP amounts of asbestos present	With removal of NESHAP amounts of asbestos
<250 sq. ft.	\$50	\$50
≥250 sq. ft.	\$100	\$100
Demolitions subject to notification requirements of MCAPCO 2.1110	None or < NESHAP amounts of asbestos present	With removal of NESHAP amounts of asbestos
Area or Floor Space		
<500 sq.ft.	\$50	\$50
≥500 but <5000 sq.ft.	\$350	\$650
≥5000 but <10,000 sq.ft.	\$450	\$750
≥10,000 sq.ft.	\$650	\$950

Should the NESHAP notification be canceled, the fees paid are refundable upon written request to the Director, except for a \$50 service charge for each notification.

MCAQ History Note: Amended Eff. December 18, 2018

1.5232 ISSUANCE, REVOCATION, AND ENFORCEMENT OF PERMITS

(a) Any permit issued ~~under~~ pursuant to MCAPCO Sections 1.5200 - "Air Quality Permits" or 1.5600 - "Transportation Facility Procedures" may be revoked or modified if:

- (1) the information contained in the application for such permit or presented in support thereof is determined to be incorrect;
- (2) the regulations or conditions under which the permit or renewal thereof, was granted have changed including but not limited to changes in surrounding land use, affected population or relevant documented advances in scientific, medical or technical knowledge;
- (3) violations of conditions contained in the permit have occurred;
- (4) the annual review of permits by the Director indicates a permit modification is required to reflect the current operating conditions. Among the factors the Director shall consider during the annual review of permits are:
 - (A) the type of facility or source,
 - (B) regulation applicability,
 - (C) the addition/replacement of equipment or process(es) allowed by the existing permit,
 - (D) recordkeeping and monitoring reports and notifications,
 - (E) increases in emissions that occurred during the previous renewal period,
 - (F) compliance history of the facility operator and owner,
 - and
 - (G) any other applicable requirements of the permit and this Ordinance;
- (5) construction does not commence within 18 months of the date of issuance or once begun, ceases for a period of 18 consecutive months;
- (6) operation of a process or facility ceases permitted activities for a period of 18 consecutive months;
- (7) the permittee refuses to allow the Director or his authorized representative upon presentation of credentials:
 - (A) to enter the permittee's premises where a source of emissions is located or in which any records are required to be kept ~~under~~ pursuant to terms and conditions of the permit;
 - (B) to have access to records required to be kept ~~under~~ pursuant to the terms and conditions of the permit;
 - (C) to inspect any source of emissions, control equipment, and any monitoring equipment or method required in the permit; or
 - (D) to sample any emission source at the facility; or
- (8) the permittee refuses to pay the fee required under MCAPCO Regulation 1.5231- "Air Quality Fees" after being properly notified by the Department.
- (9) the permittee fails to pay a civil penalty within 20 days after the date that the permittee has been notified that the civil penalty has been finally assessed under MCAPCO Regulation 1.5304.

(b) Failure to apply for and obtain a permit required by MCAPCO Section 1.5200 - "Air Quality Permits" or any violation of or failure to act in accordance with the terms, conditions, or requirements of any permit shall subject the responsible person(s) to the enforcement sanctions of MCAPCO Section 1.5300 - "Enforcement; Variances; Judicial Review" and of Chapter 143,

Article 21B of the General Statutes of North Carolina.

(c) The permittee shall furnish the Department, in a timely manner determined by the Director, any information that is requested in writing to determine whether cause exists for revoking or modifying the permit or to determine compliance with the permit.

(d) The filing of a request by a permittee for a permit modification, revocation, reissuance, notification of planned changes, or anticipated noncompliance does not stay any permit term or condition.

(e) Approval of any construction, modification or operation of any source shall not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy set forth in the SIP.

MCAQ History note: Amended Eff. December 18, 2018

1.5233 APPLICATIONS REQUIRING PROFESSIONAL ENGINEER SEAL

~~(a) This Regulation shall not apply to permit applications submitted before January 1, 1995.~~

~~(b)(a)~~ If required by G.S. 89C, ~~A~~a professional engineer registered in North Carolina shall be required to seal technical portions of air permit applications for new sources and modifications of existing sources as defined in MCAPCO Regulation 1.5102 – “Definition Of Terms” that involve:

- (1) design,
- (2) determination of applicability and appropriateness,
or
- (3) determination and interpretation of performance of air pollution capture and control systems.

~~(c)(b)~~ The requirements of Paragraph ~~(b)~~ (a) of this Regulation ~~do~~ shall not apply to the following:

- (1) any source with non-optional air pollution control equipment that constitutes an integral part of the process equipment as originally designed and manufactured by the equipment supplier,
- (2) sources that are permitted ~~under~~ pursuant to MCAPCO Regulation 1.5221 - “Permitting of Numerous Similar Facilities” or 1.5509 - “Permitting of Numerous Similar Facilities”,
- (3) paint spray booths without air pollution capture and control systems for volatile organic compound emissions,
- (4) particulate emission sources with air flow rates of less than or equal to 10,000 actual cubic feet per minute,
- (5) nonmetallic mineral processing plants with wet suppression control systems for particulate emissions,
or
- (6) permit renewal if no modifications are included in the permit renewal application.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. February 1, ~~1995~~ 1995;
Readopted Eff. April 1, 2018.*

MCAPCO History Note: Amended Eff. December 18, 2018

1.5235 EXPEDITED APPLICATION PROCESSING SCHEDULE

(a) Using the procedures contained in this Regulation may result in a permit that EPA does not recognize as a valid permit.

(b) An applicant may file an application to follow the expedited review for application certified by a professional engineer as set out in G.S. 143-215.108(h) if:

- (1) ~~The~~ the applicant specifically requests that the permit application be processed ~~under~~ pursuant to the procedures in G.S. 143-215.108(h); and
- (2) ~~The~~ the applicant submits:
 - (A) applications as required ~~under~~ pursuant to MCAPCO Regulation 1.5212 - "Applications";
 - (B) a completeness checklist showing that the permit application is complete;
 - (C) a draft permit;
 - (D) ~~any~~ all required dispersion modeling;
 - (E) a certification signed by a professional engineer registered in North Carolina certifying the accuracy and completeness of draft permit and the application, including emissions estimates, applicable standards and requirements, and process specifications;
 - (F) a consistency determination as required ~~under~~ pursuant to MCAPCO Regulation 1.5212 - "Applications";
 - (G) a written description of current and projected plans to reduce the emissions of air contaminants as required ~~under~~ pursuant to MCAPCO Regulation 1.5212 - "Applications";
 - (H) a financial qualification if required;
 - (I) substantial compliance statement if required;
and
 - (J) the application fee as required ~~under~~ pursuant to MCAPCO 1.5231 - "Air Quality Fees"

(c) The applicant shall use the official application forms provided by the Department or a facsimile thereof.

(d) The Department shall provide the applicant a checklist of all items of information required to prepare a complete permit application. This checklist shall be ~~the checklist~~ used by the Department to determine if the application is complete.

(e) The Department shall provide the applicant a list of permit conditions and terms to include in the draft permit.

(f) Before filing a permit application that includes dispersion modeling analysis submitted in support of the application, the applicant shall submit a modeling protocol and receive approval for the dispersion modeling protocol.

(g) The Department shall follow the procedures set out in G.S. 143-215.108(h) when processing applications filed in accordance with this Regulation.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. July 1, 1998.
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5236 SYNTHETIC MINOR FACILITIES

(a) A synthetic minor facility ~~is~~ means a facility whose permit contains terms and conditions to avoid the procedures of MCAPCO Section 1.5500 - "Title V Procedures".

(b) The owner or operator of a facility to which MCAPCO Section 1.5500 - "Title V Procedures" applies may ~~choose~~ request to have terms and conditions placed in ~~his~~ the facility's permit to restrict ~~operation to limit operations~~, limiting the potential to emit of the facility ~~in order to remove the applicability of~~ and making the requirements of MCAPCO Section 1.5500 - "Title V Procedures" inapplicable to the facility. An application for the addition of such terms and conditions shall be processed ~~under~~ pursuant to MCAPCO Section 1.5200 - "Air Quality Permits".

(c) A modification to a permit to remove terms and conditions in the permit that ~~removed the applicability of~~ made MCAPCO Section 1.5500 - "Title V Procedures" inapplicable shall be processed ~~under~~ pursuant to either MCAPCO Section 1.5200 - "Air Quality Permits" or Section 1.5500 - "Title V Procedures". The applicant shall choose which of these procedures to follow. However, if the terms and conditions are removed following the procedures of MCAPCO Section 1.5200 - "Air Quality Permits", the permittee shall submit a permit application ~~under~~ pursuant to the procedures of MCAPCO Section 1.5500 - "Title V Procedures" within one year after the limiting terms and conditions are removed.

(d) After a facility is issued a permit that contains terms and conditions ~~to remove the applicability of~~ that made MCAPCO Section 1.5500 - "Title V Procedures" inapplicable, the facility shall comply with the permitting requirements of MCAPCO Section 1.5200 - "Air Quality Permits".

(e) The Director may require monitoring, recordkeeping, and reporting necessary to assure compliance with the terms and conditions placed in ~~the~~ a permit ~~to remove the applicability of~~ MCAPCO Section 1.5500 - "Title V Procedures". pursuant to this Regulation.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66;
143-215.107(a)(10); 143-215.108;
Eff. July 1, , ~~1999~~ 1999;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5401 PURPOSE AND APPLICABILITY

(a) The purpose of this Regulation is to implement Phase II of the federal acid rain program pursuant to the requirements of Title IV of the Clean Air Act as provided in 40 CFR Parts 72 and 76.

(b) This Section ~~applies~~shall apply to the sources described in 40 CFR 72.6 with such exceptions as allowed under 40 CFR 72.6.

(c) A certifying official of any unit may petition the EPA Administrator for a determination of applicability ~~under~~pursuant to 40 CFR 72.6(c). The Administrator's determination of applicability shall be binding upon the Department, except as allowed under 40 CFR 72.6(c).

*State History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(8); 143-215.108;
Eff. July 1, 1994;
Amended Eff. April 1, 2001, April 1, 1999; April 1, , ~~1996~~.1996;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5501 PURPOSE OF SECTION AND REQUIREMENT FOR A PERMIT

(a) The purpose of this Section is to establish an air quality permitting program as required ~~under pursuant to~~ Title V of the Clean Air Act and 40 CFR Part 70.

~~(b) The procedures and requirements under this Section do not apply until EPA approves this Section.~~

~~(e)(b)~~ With the exception in Paragraph ~~(d)(c)~~ of this Regulation, the owner or operator of an existing facility, new facility, or modification of an existing facility except for minor modifications ~~under pursuant to~~ MCAPCO Regulation 1.5515 - "Minor Permit Modifications", including significant modifications that would not contravene or conflict with a condition in the existing permit, ~~subject to the requirements of this Section~~ shall not begin construction without first obtaining:

- (1) a construction and operation permit following the procedures ~~under set forth in~~ this Section except for MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit",
or
- (2) a construction and operation permit following the procedures ~~under set forth in~~ MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit" and filing a complete application within 12 months after commencing operation to modify the construction and operation permit to meet the requirements of this Section.

~~(d)(c)~~ If the ~~permittee owner or operator~~ proposes to make a significant modification ~~under pursuant to~~ MCAPCO Regulation 1.5516 - "Significant Permit Modification" that would contravene or conflict with a condition in the existing permit, ~~he the owner or operator~~ shall not begin construction or make the modification until ~~he the owner or operator~~ has obtained:

- (1) a construction and operation permit following the procedures ~~under set forth in~~ this Section except for MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit";
or
- (2) a construction and operation permit following the procedures ~~under set forth in~~ MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit" and, before beginning operation, files an application and obtains a permit modifying the construction and operation permit to meet the requirements of this Section except for MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit".

~~(e)(d)~~ All facilities subject to this Section ~~must~~shall have a permit to operate that assures compliance with 40 CFR Part 70 and all applicable federal and State requirements.

~~(f)(e)~~ Except as allowed ~~under pursuant to~~ MCAPCO Regulation 1.5515 - "Minor Permit Modifications" Paragraph (f), no facility subject to the requirements of this Section may operate after the time that it is required to submit a timely and complete application ~~under pursuant to~~ this Section except in compliance with a permit issued ~~under pursuant to~~ this Section. This

Paragraph does not apply to ~~initial submittals under pursuant to MCAPCO Regulation 1.5506 - “Initial Permit Application Submittal” or to permit renewals under pursuant to MCAPCO Regulation 1.5513 - “Permit Renewal and Expiration”.~~

~~(e)~~(f) If the conditions of MCAPCO Regulation 1.5512 - “Permit Shield and Application Shield” Paragraph (b) are met, the facility’s failure to have a permit ~~under pursuant to this~~ Section shall not be a ~~violation.~~ violation of operating without a permit.

~~(h)~~(g) If the owner or operator of a facility subject to the requirements of this Section submits an application for a revision to his permit before receiving the initial permit ~~under pursuant to this~~ Section, the application for the revision shall be processed under MCAPCO Section 1.5200 - “Air Quality Permits”.

~~(i)~~(h) The owner or operator of a facility or source subject to the requirements of this Section may also be subject to the toxic air pollutant procedures ~~under pursuant to~~ MCAPCO Section 1.5700 - “Toxic Air Pollutant Procedures”.

~~(j)~~(i) The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject to the procedures ~~under pursuant to~~ MCAPCO Section 1.5400 - “Acid Rain Procedures”.

~~(k)~~(j) The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance with the requirements of MCAPCO Regulation 1.5231 - “Air Quality Fees”.

State History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, 1998; July 1, ~~1996.~~1996; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5502 APPLICABILITY

(a) Except as provided in Paragraph (b) ~~or (c)~~ of this Regulation, the following facilities are required to obtain a permit ~~under~~ pursuant to this Section:

- (1) major facilities;
- (2) facilities with a source subject to MCAPCO Regulation 2.0524 - “New Source Performance Standards” or 40 CFR Part 60, except new residential wood heaters;
- (3) facilities with a source subject to MCAPCO Regulation 2.1110 - “National Emission Standards For Hazardous Air Pollutants” or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (4) facilities with a source subject to MCAPCO Regulation 2.1111 - “Maximum Achievable Control Technology” or 40 CFR Part 63 or any other standard or other requirement ~~under~~ set forth in Section 112 of the federal Clean Air Act, except that a source is not required to obtain a permit solely because it is subject to rules or requirements ~~under~~ set forth in Section 112(r) of the federal Clean Air Act;
- (5) facilities to which MCAPCO Regulations 2.0517 - “Emissions From Plants Producing Sulfuric Acid”, 2.0528 - “Total Reduced Sulfur From Kraft Pulp Mills”, or 2.0529 - “Fluoride Emissions From Primary Aluminum Reduction Plants”, or MCAPCO Section 2.1700 – Municipal Solid Waste Landfills applies;
- (6) facilities with a source subject to Title IV or 40 CFR Part 72;
or
- (7) facilities in a source category designated by EPA as subject to the requirements of 40 CFR Part 70.

(b) This Section does not apply to minor facilities with sources subject to requirements of MCAPCO Regulation 2.0524 - “New Source Performance Standards”, 2.1110 - “National Emission Standards For Hazardous Air Pollutants” or 2.1111 - “Maximum Achievable Control Technology” or 40 CFR Part 60, 61, or 63 ~~until EPA requires these facilities to have a permit unless these facilities are required to have a permit~~ under pursuant to 40 CFR Part 70.

(c) A facility shall not be required to obtain a permit ~~under~~ pursuant to this Section on the sole basis of its greenhouse gas emissions.

(d) ~~One~~ If a facility is subject to this Section because of emissions of one pollutant, the owner or operator of that facility shall submit an application that includes all sources of all regulated air pollutants located at the facility except for insignificant activities because of ~~category~~ category as defined in MCAPCO Regulation 1.5503 – “Definitions”, Item (7).

State History Note:

*Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. September 1, 2015, July 1, 1999; July 1, 1996.
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018; December 15, 2015

1.5503 DEFINITIONS

For the purposes of this Section, the definitions in ~~G.S. 143-212 and 143-213~~ G.S. 143-212, G.S. 143-213, MCAPCO Regulation 1.5102 – “Definition of Terms”, and the following definitions apply:

- (1) **“Affected States”** means all states or local air pollution control agencies whose areas of jurisdiction are:
 - (A) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
 - (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per year, and
 - (ii) D = distance from the facility to the contiguous state or local air pollution control agency in miles unless the applicant can demonstrate ~~to the satisfaction of the Director~~ that the ambient impact in the contiguous states or local air pollution control agencies is less than the incremental ambient levels in MCAPCO Regulation 2.0532 - “Sources Contributing to an Ambient Violation” Subparagraph (c)(5);
 - or
 - (B) within 50 miles of the permitted facility.
- (2) **“Complete Application”** means an application that provides all information described ~~under in~~ 40 CFR 70.5(c) and such other information that is necessary to determine compliance with all applicable federal and State requirements.
- (3) **“Draft Permit”** means the version of a permit for which the Department offers for public participation ~~under pursuant to~~ MCAPCO Regulation 1.5521 - “Public Participation” or affected State review ~~under pursuant to~~ MCAPCO Regulation 1.5522 - “Review By EPA and Affected States”.
- (4) **“Emissions Allowable Under the Permit”** means an emissions limit (including a work practice standard) established by a federally enforceable permit term or condition ~~determined at issuance to be an applicable requirement that establishes an emissions limit (including a work practice standard) condition,~~ or a federally enforceable emissions cap that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject.
- (5) **“Final Permit”** means the version of a permit that the Director issues that has completed all review procedures required ~~under pursuant to~~ this Section if the permittee does not file a petition ~~under pursuant to~~ Article 3 of G.S. ~~150B. 150B.~~ that is related to the permit.
- (6) **“Fugitive Emissions”** means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (7) **“Insignificant Activities because of Category”** means:
 - (A) mobile sources;
 - (B) air-conditioning units used for human comfort that are not subject to applicable requirements ~~under pursuant to~~ Title VI of the federal Clean Air Act and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (C) ventilating units used for human comfort ~~that have a heat input of less than 10,000,000 Btu per hour and~~ that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (D) heating units used for human comfort that have a heat input of less than

10,000,000 Btu per hour and that do not provide heat for any manufacturing or other industrial process;

- (E) noncommercial food preparation;
 - (F) consumer use of office equipment and products;
 - (G) janitorial services and consumer use of janitorial products;
 - (H) internal combustion engines used for landscaping purposes;
 - (I) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
 - (J) demolition and renovation activities covered solely under pursuant to 40 CFR Part 61, Subpart M.
- (8) **“Insignificant Activities because of Size or Production Rate”** means any activity whose emissions would not violate any applicable emissions standard and whose potential emission of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, ~~i.e., potential uncontrolled emissions,~~ are each no more than five tons per year and whose potential emissions of hazardous air pollutants before air pollution control devices, are each below 1,000 pounds per year.
- (9) **“Minor Facility”** means any facility that is not a major facility.
- (10) **“Operation”** means the ~~utilization~~ use of equipment that emits regulated pollutants.
- (11) **“Permit Renewal”** means the process by which a permit is reissued at the end of its term.
- (12) **“Permit Revision”** means any permit modification under pursuant to MCAPCO Regulations 1.5515 - “Minor Permit Modifications”, 1.5516 - “Significant Permit Modification”, or 1.5517 - “Reopening For Cause” or any administrative permit amendment under pursuant to MCAPCO Regulation 1.5514 - “Administrative Permit Amendments”.
- (13) **“Proposed Permit”** means the version of a permit that the Director proposes to issue and forwards to EPA for review under pursuant to MCAPCO Regulation 1.5522 - “Review By EPA and Affected States”.
- (14) **“Relevant Source”** means only those sources that are subject to applicable requirements.
- (15) **“Responsible Official”** means a responsible official as defined under in 40 CFR 70.2.
- (16) **“Section 502(b)(10) Changes”** means changes that contravene an express permit term or condition. Such changes ~~do~~ shall not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- (17) **“Synthetic Minor Facility”** means a facility that would otherwise be required to follow the procedures of MCAPCO Section 1.5500 - “Title V Procedures” except that the potential to emit is restricted by one or more federally enforceable physical or operational limitations, including air pollution control equipment and restrictions on hours of operation, the type or amount of material combusted, stored, or processed, or similar parameters.
- (18) **“Timely”** means:
- (A) ~~for initial permit submittals under MCAPCO Regulation 1.5506 — “Initial Permit Application Submittal”, before the end of the time period specified for submittal of an application for the respective Standard Industrial Classification;~~
 - (B)(A) for a new facility, one year after commencing operation;
 - (C)(B) for renewal of a permit previously issued under pursuant to this Section, ~~nine~~ six months before the expiration of that permit;
 - (D)(C) for a minor modification under pursuant to MCAPCO Regulation 1.5515 -

- “Minor Permit Modifications”, before commencing the modification;
- (E)(D) for a significant modification ~~under~~ pursuant to MCAPCO Regulation 1.5516 - “Significant Permit Modification” where the change would not contravene or conflict with a condition in the existing permit, 12 months after commencing operation;
 - (F)(E) for reopening for cause ~~under~~ pursuant to MCAPCO Regulation 1.5517 - “Reopening For Cause”, as specified by the Director in ~~the~~ a request for additional information by the Director;
 - (G)(F) for requests for additional information, as specified by the Director in ~~the~~ a request for additional information by the Director; or
 - (H)(G) for modifications made ~~under~~ pursuant to Section 112(j) of the federal Clean Air Act, 18 months after EPA fails to promulgate a standard for that category of source ~~under~~ pursuant to Section 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or (3) of the federal Clean Air Act.

State History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-212; 143-213; Eff. July 1, 1994; Amended Eff. January 1, 2007; July 1, 2000; July 1, ~~1996~~. 1996; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5504 OPTION FOR OBTAINING CONSTRUCTION AND OPERATION PERMIT

(a) Pursuant to MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" ~~Paragraph~~ Subparagraph (b)(2) or Subparagraph (c)(2), the owner or operator of a new or modified facility subject to the requirements of this Section that chooses to obtain a construction and operation permit before the facility must obtain a permit ~~under~~ pursuant to this Section may file an application ~~under~~ pursuant to MCAPCO Section 1.5200 - "Air Quality Permits".

(b) The applicant shall state in his permit application that he or she wishes to follow the procedures ~~under~~ in this Regulation.

(c) If the option allowed ~~under~~ pursuant to MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Subparagraph (b)(1) is used, then the application processing procedures for prevention of significant deterioration ~~under~~ in MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" and new source review for nonattainment areas ~~under~~ in MCAPCO Regulation 2.0531 - "Sources in Non-Attainment Areas" do not apply. If the option allowed under MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Subparagraph (b)(2) is used, then the application processing procedures in this Section ~~and:~~ and in either of the following rules shall apply:

- (1) ~~under~~ MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" for prevention of significant ~~deterioration~~, deterioration, or
- (2) ~~under~~ MCAPCO Regulation 2.0531 - "Sources in Non-Attainment Areas" for new source review for nonattainment ~~areas~~, areas. ~~shall apply.~~

(d) If the procedures ~~under~~ in MCAPCO Section 1.5200 - "Air Quality Permits" are followed, the permittee shall have one year from the date of beginning operation of the facility or source to file an amended application following the procedures ~~of~~ in this Section. The Director shall place a condition in the construction and operation permit stating this requirement.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. October 16, 2018

1.5505 APPLICATION SUBMITTAL CONTENT

If an applicant does not submit, ~~at a minimum~~, the following information with ~~is~~ its application package, the application package shall be returned:

- (1) for new facilities and modified facilities:
 - (A) an application fee as required under MCAPCO Regulation 1.5231 - “Air Quality Fees”,
 - (B) a consistency determination as required ~~under~~ pursuant to MCAPCO Regulation 1.5507 - “Application” Subparagraph (d)(1),
 - (C) the documentation required ~~under~~ pursuant to MCAPCO Regulation 1.5507 - “Application” Subparagraph (d)(2),
 - (D) a financial qualification or substantial compliance statement if required, and
 - (E) applications as required ~~under~~ pursuant to MCAPCO Regulation 1.5507 - “Application” Paragraphs (a) and (e) and signed as required by MCAPCO Regulation 1.5520 - “Certification By Responsible Official”;
- (2) for renewals: applications as required ~~under~~ pursuant to MCAPCO Regulation 1.5507 - “Application” Paragraphs (a) and (e) and signed as required by MCAPCO Regulation 1.5520 - “Certification By Responsible Official”;
- (3) for a name change: three copies of a letter signed by ~~the~~ a responsible official in accordance with MCAPCO Regulation 1.5520 - “Certification By Responsible Official” indicating the current facility name, the date on which the name change ~~shall~~ will occur, and the new facility name;
- (4) for an ownership change: a permit processing fee for administrative changes as required under MCAPCO Regulation 1.5231 - “Air Quality Fees”, and:
 - (A) three copies of ~~a letter sent by each~~ letters signed by the seller and the buyer indicating the change,
 - or
 - (B) three copies of a letter ~~sent by either~~ bearing the signature of both the seller and buyer, and containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee;
- and
- (5) for corrections of typographical errors; changes of the name, address, or telephone number of any individual identified in the permit; changes in test dates or construction dates; or similar minor changes: three copies of a letter signed by a responsible official in accordance with MCAPCO Regulation 1.5520 - “Certification By Responsible Official” describing the proposed change and explaining the need for the proposed change.

*State History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. April 1, 1994. 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5507 APPLICATION

(a) Except for:

- (1) minor permit modifications covered ~~under~~ pursuant to MCAPCO Regulation 1.5515 - "Minor Permit Modifications",
- (2) significant modifications covered ~~under~~ pursuant to MCAPCO Regulation 1.5516 - "Significant Permit Modification" Paragraph (c),
or
- (3) ~~permit applications submitted under MCAPCO Regulation 1.5506 - "Initial Permit Application Submittal",~~
- (3) renewals submitted pursuant to MCAPCO Regulation 1.5513 - "Permit Renewal and Expiration";

the owner or operator of a source shall have one year from the date of beginning of operation of ~~the a~~ source to file a complete application for a permit or permit revision. However, the owner or operator of ~~the a~~ source shall not begin construction or operation of a source until he or she has obtained a construction and operation permit pursuant to MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph (e) ~~(b)~~ or ~~(d)~~ (c) and MCAPCO Regulation 1.5504 - "Option For Obtaining Construction and Operation Permit".

(b) ~~The An~~ application shall include all the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production ~~rate; rate~~ but not including insignificant activities because of category. ~~The An~~ application ~~form~~ shall be certified by a responsible official for truth, accuracy, and completeness. In ~~the an~~ application submitted pursuant to this Regulation, the applicant may attach copies of applications submitted pursuant to MCAPCO Section 1.5400 - "Acid Rain Procedures" or MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", Areas ~~provided if~~ the information in those applications contains information required in this Section and is current, ~~valid,~~ accurate, and complete.

(c) Application for a permit, permit revision, or permit renewal shall be made ~~in accordance with MCAPCO Regulation 1.5504 - "Option For Obtaining Construction and Operation Permit"~~ on forms of the Department and shall include plans and specifications giving all necessary data and information as required by this Regulation. ~~Whenever~~ If the information provided on these forms does not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the Director ~~may~~ shall request that the applicant provide any other information ~~that the Director considers~~ necessary to evaluate the source and its air pollution abatement equipment.

(d) Along with filing a complete ~~application form,~~ application, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local ~~government,~~ government; or
 - (B) consists of a letter from the local government indicating that all zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of an existing facility in an area without zoning, an

affidavit and proof of publication of a legal notice as required ~~under~~ pursuant to MCAPCO Regulation 1.5216 - "Notification in Areas Without ~~Zoning~~", Zoning"; and

- (3) if required by the Director, information showing that:
- (A) the applicant is financially qualified to carry out the permitted ~~activities~~, activities; or
 - (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been ~~engaged~~, engaged and has been in substantial compliance with federal and state environmental laws and Rules.

(e) The applicant shall submit copies of the application package as follows:

- (1) for sources subject to the requirements of MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", or MCAPCO Section 2.1200 - "Control of Emissions From Incinerators", three copies;
- (2) for sources not subject to the requirements of MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", or MCAPCO Section 2.1200 - "Control of Emissions From Incinerators", two copies.

If the facility requests that any information be considered confidential, a "Public Record Copy" must also be submitted. Information considered confidential is governed by North Carolina General Statute (NCGS) 66-152 and MCAPCO Regulation 1.5217 - "Confidential Information". If the facility believes that any information included in the application constitutes a "trade secret" as defined by NCGS. 66-152, and that it meets the other conditions imposed by NCGS Statute 132-1.2, such information may be designated as "confidential information" or "trade secret" in the application and omitted from the copy marked as the "Public Record Copy". Every place where confidential information is omitted in the Public Record Copy, it must be indicated as "[Trade Secret Information Deleted]". If an application with information marked as "confidential" or "trade secret" is submitted without the additional Public Record Copy or if information that is clearly not a trade secret is omitted from the Public Record Copy, the application package may be returned to the applicant without being processed.

~~The Director may at any time during the application process request additional copies of the complete application package from the applicant.~~

(f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, ~~submit, as soon as possible, submit~~ such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date he filed a complete application but prior to release of a draft permit.

(g) The applicant shall submit the same number of copies of additional information as required for the application package.

(h) The submittal of a complete permit application shall not affect the requirement that any facility have a ~~preconstruction permit under~~ pursuant to MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration", or Regulation 2.0531 - "Sources in Nonattainment Areas", Regulation 2.0532 - "Sources Contributing to an Ambient Violation", or under pursuant to MCAPCO Section 1.5400 - Acid Rain Procedures".

(i) The Director shall give priority to permit applications containing early reduction demonstrations ~~under~~ pursuant to Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications ~~as soon as practicable~~ after receipt of the complete permit application.

(j) ~~With the exception of~~ Except for permit changes initiated by the Director, a non-refundable permit application processing fee shall accompany each application. No permit application processing fee is required for changes initiated by the Director to an unexpired permit to correct processing errors, change permit conditions, or to implement new standards. ~~The permit application processing fees are defined in MCAPCO Section 1.5200 - "Air Quality Permits".~~ Each permit or renewal application ~~is~~ shall be deemed incomplete until the permit application processing fee is received.

(k) The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package.

State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995; Temporary Amendment Eff. December 1, 1999; Amended Eff. September 1, 2015; April 1, 2004; July 1, 2000, 2000; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018; December 15, 2015

1.5508 PERMIT CONTENT

(a) ~~The A~~ permit shall specify and reference the origin and authority for each term or condition and shall identify any differences ~~in form as~~ compared to the applicable requirement on which the term or condition is based.

(b) ~~The A~~ permit shall specify emission limitations and standards, including operational requirements and limitations, that assure compliance with all applicable requirements at the time of permit issuance.

(c) Where an applicable requirement of the federal Clean Air Act is more stringent than an applicable requirement of rules promulgated pursuant to Title IV, both provisions shall be placed in ~~the a~~ permit. ~~The A~~ permit shall state that both provisions are enforceable by EPA.

(d) ~~The A~~ permit for sources using an alternative emission limit established ~~under in~~ MCAPCO Regulation 2.0501 - "Compliance With Emission Control Standards" Paragraph ~~(f) (d)~~ or 2.0952 - "Petition For Alternative Controls" shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(e) The expiration date ~~contained in the~~ of a permit shall be for a fixed term of five years for sources covered ~~under by~~ Title IV and for a term of no more than five years from the date of issuance for all other sources including solid waste incineration units combusting municipal waste subject to standards ~~under in~~ Section 129(e) of the federal Clean Air Act.

(f) ~~The A~~ permit shall contain monitoring and related recordkeeping and reporting requirements as specified in 40 CFR 70.6(a)(3) and ~~70.6(e)(1)~~ 70.6(c)(1), including conditions requiring:

- (1) the permittee to submit reports of ~~any~~ required monitoring at least every six months.
The permittee shall submit reports:
 - (A) on forms obtained from the Department,
 - (B) in a manner as specified by a permit ~~condition~~, condition; or
 - (C) on other forms that contain the information required by these Regulations or as specified by a permit condition; ~~and~~
- (2) the permittee to report:
 - (A) malfunctions, emergencies, and other upset conditions as prescribed in MCAPCO Regulation 2.0524 - "New Source Performance Standards", 2.0535 - "Excess Emissions Reporting and Malfunctions", 2.1110 - "National Emission Standards for Hazardous Air Pollutants" or 2.1111 - "Maximum Achievable Control Technology"; and
 - (B) deviations quarterly from permit requirements not covered ~~under by~~ MCAPCO Regulation 2.0524 - "New Source Performance Standards", 2.0535 - "Excess Emissions Reporting and Malfunctions", 2.1110 - "National Emission Standards for Hazardous Air Pollutants" or 2.1111 - "Maximum Achievable Control Technology". The permittee shall include the probable cause of such ~~deviation~~ deviations and any corrective actions or preventive measures ~~taken~~.
taken; and
- (3) the responsible official to certify all deviations from permit requirements.

(g) At the request of ~~the~~ a permittee, the Director shall allow records to be maintained in ~~computerized-electronic form~~ in lieu of maintaining paper ~~records-records~~. The Director shall make this decision based on factors such as whether the if computerized-electronic records contain the same information as the paper records would contain. records and the availability of the electronic records for inspection to demonstrate compliance.

(h) ~~The~~ A permit for facilities covered ~~under~~ by MCAPCO Section 2.2100 - "Risk Management Program", shall contain:

- (1) a statement listing MCAPCO Section 2.2100 - "Risk Management Program" as an applicable requirement; and
- (2) conditions that require the owner or operator of the facility to submit:
 - (A) a compliance schedule for meeting the requirements of MCAPCO Section 2.2100 - "Risk Management Plan" by the dates provided in MCAPCO Regulation 2.2101 - "Applicability" Paragraph (a); or
 - (B) as part of the compliance certification ~~under~~ required by Paragraph ~~(t)~~ (n) of this Regulation, a certification statement that the source is in compliance with all requirements of MCAPCO Section 2.2100 - "Risk Management Plan", including the registration and submission of the risk management plan.

The content of the risk management plan need not ~~itself~~ be incorporated as a permit term or condition.

(i) ~~The~~ A permit shall:

- (1) contain a condition prohibiting emissions exceeding any allowances that a facility lawfully holds ~~under~~ pursuant to Title IV; IV but shall not limit the number of allowances held by a permittee, but ~~permittee, but the permittee~~. A permittee may shall not use allowances as a defense to noncompliance with any other applicable requirement;
- (2) contain a severability clause so that various permit requirements will continue to be valid in the event of a challenge to any other portion of the permit;
- (3) state that noncompliance with any condition of the permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;
- (4) state that the permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit;
- (5) state that the Director may reopen, modify, revoke and reissue, or terminate the permit for reasons specified in MCAPCO Regulations 1.5517 - "Reopening for Cause" or 1.5519 - "Termination, Modification, Revocation of Permits";
- (6) state that the filing of a request by the permittee for a permit revision, revocation and reissuance, ~~or~~ termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition;
- (7) specify the ~~condition under~~ conditions in which the permit ~~shall~~ will be reopened before the expiration of the permit;
- (8) state that the permit does not convey any property rights of any sort, or any exclusive privileges;

- (9) state that the permittee ~~shall~~ will furnish to the Department, in a timely manner;
 - (A) any ~~reasonable~~ information that the Director may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit, and
 - (B) copies of records required to be kept by the permit when such copies are requested by the Director.

~~(For (The permit shall also state that for~~ information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.)
 - (10) contain a provision to ensure that the permittee pays fees required ~~under~~ by MCAPCO Section 1.5200 - "Air Quality Permits";
 - (11) contain a condition that authorizes the permittee to make Section 502(b)(10) changes, off-permit changes, or emission trades in accordance with MCAPCO Regulation 1.5523 - "Changes Not Requiring Permit Revisions";
 - (12) include all applicable requirements for all sources covered ~~under~~ by the permit;
 - (13) include fugitive emissions, if regulated, in the same manner as stack emissions;
 - (14) contain a condition requiring annual reporting of actual emissions as required under MCAPCO Regulation 1.5111 - "General Recordkeeping, Reporting and Monitoring Requirements" Paragraph (e);
 - (15) include all sources including insignificant activities; and
 - (16) contain such other provisions as the Director considers appropriate.
- (j) ~~The A~~ permit shall state the terms and conditions for reasonably anticipated operating scenarios identified by the applicant in the application. These terms and conditions shall:
- (1) require the permittee, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the operating scenario ~~under~~ in which it is operating;
 - (2) extend the permit shield described in MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" to all terms and conditions ~~under~~ in each such operating scenario; and
 - (3) ensure that each operating scenario meets all applicable requirements of MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures" and of this Section.
- (k) ~~The A~~ permit shall identify which terms and conditions are enforceable by:
- (1) both EPA and the Department,
 - (2) the Department only,
 - (3) by EPA only, and
 - (4) citizens ~~under~~ pursuant to the federal Clean Air Act.
- (l) ~~The A~~ permit shall state that the permittee ~~shall~~ will allow personnel of the Department to:
- (1) enter the permittee's premises where the permitted facility is located or emissions-related activity is conducted, or where records are kept ~~under~~ by the conditions of the permit;
 - (2) have access to and ~~copy, at reasonable times, copy~~ any records that are required to be kept ~~under~~ by the conditions of the permit;

- (3) inspect ~~at reasonable times and using reasonable safety practices~~ any source, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required ~~under~~ by the permit; and
- (4) sample or monitor substances or parameters, ~~using reasonable safety practices,~~ for the purpose of assuring compliance with the permit or applicable ~~requirements at reasonable times.~~ requirements.

(m) When a compliance schedule is required ~~under~~ by 40 CFR 70.5(c)(8) or ~~under~~ by a Regulation contained in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures", the permit shall contain the compliance schedule and shall state that the permittee shall submit at least semiannually, or more frequently if specified in the applicable requirement, a progress report. The progress report shall contain:

- (1) dates for achieving the activities, milestones, or compliance required in the compliance ~~schedule,~~ schedule and dates when such activities, milestones, or compliance were achieved; and
- (2) an explanation of why any dates in the compliance schedule were not or will not be ~~met,~~ met and any preventive or corrective measures adopted.

(n) The permit shall contain requirements for compliance certification with the terms and conditions in the permit that are enforceable by EPA ~~under~~ pursuant to Title V of the federal Clean Air Act, including emissions limitations, standards, ~~or~~ and work practices. The permit shall specify:

- (1) the frequency (not less than annually or more frequently as specified in the applicable ~~requirements~~ requirements) ~~or by the Director~~ of submissions of compliance certifications;
- (2) a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;
- (3) a requirement that the compliance certification include:
 - (A) the identification of each term or condition of the permit that is the basis of the certification;
 - (B) the status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the methods or means designated in 40 CFR 70.6(c)(5)(iii)(B). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance ~~is~~ was required and in which an excursion or exceedance as defined ~~under~~ in 40 CFR 64 occurred;
 - (C) whether compliance was continuous or intermittent;
 - (D) the identification of the ~~method(s)~~ methods or other means used by the owner and operator for determining the compliance status with each term and condition during the certification period; these methods shall include the methods and means required ~~under~~ in 40 CFR Part 70.6(a)(3); and
 - (E) such other facts as the Director may require to determine the compliance status of the source; and
- (4) that all compliance certifications be submitted to EPA as well as to the Department.

State History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66;
143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. January 1, 2007; December 1, 2005; April 1, 2001; July 1, 2000; July 1, ~~1996~~ 1996;
Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5509 PERMITTING OF NUMEROUS SIMILAR FACILITIES

(a) The Director ~~may issue, after~~ shall not issue a single permit to cover numerous similar facilities or sources unless a notice and opportunity for public participation has been provided as required by ~~in~~ MCAPCO Regulation 1.5521 - "Public Participation", Participation. ~~a permit to cover numerous similar facilities or sources.~~

(b) The Director shall not issue a single permit for numerous similar facilities and sources pursuant to this Regulation unless: ~~under this Regulation unless the following conditions are met:~~

- (1) ~~There~~ there is no ~~unique~~ difference between the facilities or sources that would require special permit conditions for any individual ~~facility;~~ facility or source; and
- (2) ~~No~~ no unique analysis is required for any facility or source covered ~~under~~ by the permit.

(c) A permit issued ~~under~~ pursuant to this Regulation shall comply with all the requirements of this Section.

(d) A permit issued ~~under~~ pursuant this Regulation shall identify criteria by which facilities or sources may qualify for the permit. To facilities or sources that qualify, the Director shall grant the terms and conditions of the permit.

(e) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source is later determined not to qualify for the terms and conditions of the permit issued ~~under~~ pursuant this Regulation.

(f) Sources subject to Title IV shall not be eligible for a permit issued ~~under~~ pursuant this Regulation.

(g) The owner or operator of a facility or source that qualifies for a permit issued ~~under~~ pursuant this Regulation shall apply for coverage ~~under~~ by the terms of the permit issued under this Regulation or shall apply for a ~~regular~~ standard permit for each facility or source ~~under~~ pursuant this Section.

(h) The Department need not repeat the public participation procedures required ~~under~~ pursuant MCAPCO Regulation 1.5521 - "Public Participation" ~~when~~ if it grants a request by a permit applicant to operate ~~under~~ by a permit issued ~~under~~ pursuant this Regulation.

State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994-1994; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5510 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES

(a) The Director may issue a single permit authorizing emissions from similar operations by the same facility owner or operator at multiple temporary ~~sites~~sites, based on factors such as those set forth in this Regulation.

(b) ~~In order for a facility to~~No facility shall qualify for a permit for multiple temporary sites ~~under this Regulation, the operation must involve~~ pursuant to this Regulation unless the operation involves at least one change of site during the term of the permit.

(c) Sources subject to Title IV shall not be eligible for a permit ~~under~~pursuant to this Section.

(d) Permits for facilities at multiple temporary sites shall include:

- (1) identification of each site;
- (2) conditions that will assure compliance with all applicable requirements at all authorized locations;
- (3) requirements that the permittee notify the Department at least 10 days in advance of each change of location;
and
- (4) conditions that assure compliance with all other provisions of this Section.

State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5512 PERMIT SHIELD AND APPLICATION SHIELD

(a) Permit Shield:

- (1) The Director shall place in a permit issued ~~under~~ pursuant to this Section a permit term or condition (a permit shield) stating that compliance with the conditions of the permit shall be deemed in compliance with applicable requirements specifically identified in the permit in effect as of the date of permit issuance, provided that:
 - (A) such applicable requirements are included and are specifically identified in the permit;
or
 - (B) the Director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the ~~source~~, source and the permit includes ~~the~~ that determination or a concise summary thereof.
- (2) A permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
- (3) A permit shield shall state that it does not alter or affect:
 - (A) the power of the Department or EPA under Section 303 of the federal Clean Air Act;
 - (B) the liability of an owner or operator of a facility for any violation of applicable requirements prior to the effective date of the permit or at the time of permit issuance;
 - (C) the applicable requirements under Title IV;
or
 - (D) the ability of the Director (or EPA ~~under~~ pursuant to Section 114 of the federal Clean Air Act) to obtain information to determine compliance of the facility with its permit, this Section, or MCAPCO Article 2.0000.
- (4) A permit shield shall not apply to any change made at a facility that does not require a permit revision.
- (5) A permit shield shall not extend to minor permit modifications made ~~under~~ pursuant to MCAPCO Regulation 1.5515 - "Minor Permit Modifications".

(b) Application Shield.

- (1) Except as provided in Subparagraph (b)(2) of this Regulation, if the applicant submits a timely and complete application for permit issuance (including for renewal), the facility's failure to have a permit ~~under~~ pursuant to this Section shall not be a violation:
 - (A) unless the delay in final action is due to the ~~failure of the applicant's timely submission of~~ failure of the applicant to timely submit information as required or requested by the Director, or
 - (B) until the Director takes final action on the permit application.
- (2) Subparagraph (b)(1) of this Regulation shall cease to apply if, subsequent to the completeness determination made ~~under~~ pursuant to MCAPCO Regulation 1.5507 - "Application", the applicant fails to submit by the deadline specified in writing by the Director, any additional information identified as being needed to process the application.

*State History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, ~~1997~~ 1997;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5513 PERMIT RENEWAL AND EXPIRATION

(a) Permits being renewed ~~are~~ shall be subject to the procedural requirements of this Section, including those for public participation and affected ~~State~~ state and EPA review.

(b) Permit expiration ~~terminates~~ shall terminate the facility's right to operate unless a complete renewal application has been submitted at least ~~nine~~ six months before the date of permit expiration.

(c) If the permittee or applicant has complied with MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" Subparagraph (b)(1), the existing permit shall not expire until the renewal permit has been issued or denied. All terms and conditions of the existing permit shall remain in effect until the renewal permit has been issued or denied.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
the permanent
rule becomes effective, whichever is sooner;
Eff. July 1, ~~1994~~ 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5514 ADMINISTRATIVE PERMIT AMENDMENTS

(a) An “administrative permit amendment” means a permit revision that:

- (1) corrects typographical errors;
- (2) identifies a change in the name, ~~address~~ address, or telephone number of any individual identified in the ~~permit~~, permit or provides a similar minor administrative change at the facility;
- (3) requires more frequent monitoring or reporting by the permittee;
- (4) changes in test dates or construction dates provided that no applicable requirements are violated by the change in test dates or construction dates;
- (5) moves terms and conditions from the Mecklenburg County-enforceable only portion of a permit to the Mecklenburg ~~County-and federal-enforceable~~ County- and federal-enforceable portion of the permit provided that terms and conditions being moved have become federally enforceable through Section 110, 111, or 112 or other parts of the federal Clean Air Act;
- (6) moves terms and conditions from the federal-enforceable only portion of a permit to the Mecklenburg ~~County-and federal-enforceable~~ County- and federal-enforceable portion of the permit; ~~or~~
- (7) changes the permit number without changing any portion of the permit that is federally enforceable that would not otherwise qualify as an administrative ~~amendment~~, amendment;
- (8) removes non-applicable permit conditions; or
- (9) removes references to equipment that has been permanently removed from service.

(b) In making administrative permit amendments, the Director:

- (1) shall take final action on a request for an administrative permit amendment within 60 days after receiving such ~~request~~, request;
- (2) may make administrative amendments without providing notice to the public or any affected ~~State(s)~~ states pursuant to MCAPCO Regulation 1.5521 – “Public Participation” Paragraph (a), provided he or she designates any such permit revision as having been made pursuant to this ~~Regulation~~, Regulation; and
- (3) shall submit a copy of the revised permit to EPA.

(c) The permittee may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(d) Upon taking final action granting a request for an administrative permit amendment, the Director shall allow coverage by the permit shield ~~under~~ pursuant to MCAPCO Regulation 1.5512 - “Permit Shield and Application Shield” for the administrative permit amendments made.

(e) Administrative amendments for sources covered ~~under~~ pursuant to Title IV shall be governed by Regulations in MCAPCO Section 1.5400 - “Acid Rain Procedures”.

(f) This Rule shall not ~~be used to make changes~~ apply to the Mecklenburg County-enforceable only part of a Title V permit. For the Mecklenburg County-enforceable only part of a Title V

permit, MCAPCO Section 1.5200 – “Air Quality Permits” shall ~~be used for govern~~
administrative permit amendments.

*State History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days
or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. January 1, 2007; July 1, ~~1997~~1997;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5515 MINOR PERMIT MODIFICATIONS

(a) The procedures set out in this Regulation ~~may~~shall be used for apply to permit modifications ~~when if~~ the modifications:

- (1) do not violate any applicable requirement;
- (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- (3) do not require or change a case-by-case determination of an emission limitation or other standard, ~~or~~ a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (4) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject. Such terms and conditions include:
 - (A) a federally enforceable emissions cap assumed to avoid an applicable requirement ~~under~~ pursuant to any provision of Title I of the federal Clean Air Act; or
 - (B) an alternative emissions limit approved as part of an early reduction plan submitted pursuant to Section 112(i)(5) of the federal Clean Air Act;
- (5) are not modifications ~~under~~ pursuant to any provision of Title I of the federal Clean Air Act; and
- (6) are not required to be processed as a significant modification ~~under~~ pursuant to MCAPCO Regulation 1.5516 - "Significant Permit Modification".

(b) In addition to the items required ~~under~~ pursuant to MCAPCO Regulation 1.5505 - "Application Submittal Content", an application requesting the use of the procedures set out in this Regulation shall include:

- (1) an application form including:
 - (A) a description of the ~~change~~, change;
 - (B) the emissions resulting from the ~~change~~, change; and
 - (C) identification of any new applicable requirements that will apply if the change occurs;
- (2) a list of the facility's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the thresholds set out ~~under~~ in Subparagraphs (c)(1) through (3) of this Regulation;
- (3) the applicant's suggested draft permit;
- (4) certification by a responsible official that the proposed modification meets the criteria for using the procedures set out in this Regulation and a request that these procedures be used;
and
- (5) complete information for the Director to use to notify EPA and affected ~~States~~: states.

(c) The Director shall use group processing for minor permit modifications processed ~~under~~ pursuant to this Regulation. The Director shall notify EPA and affected ~~States~~ states of the requested permit revisions ~~under~~ pursuant to this Regulation and shall provide the information specified in MCAPCO Regulation 1.5522 - "Review by EPA and Affected States" on a quarterly

basis. If the aggregated emissions from all pending minor permit modifications equal or exceed:

- (1) 10 percent of the emissions allowed for the source for which the change is ~~requested,~~
requested;
- (2) 20 percent of the applicable definition of major ~~facility,~~ facility;
- or
- (3) five tons per year,

then the Director shall notify EPA and affected ~~States~~ states within five business days of the requested permit revision ~~under~~ pursuant to this Regulation and shall provide the information specified in MCAPCO Regulation 1.5522 - "Review by EPA and Affected States".

(d) Within 90 days after receiving a complete application that ~~causes-exceeds~~ the thresholds in Paragraphs (c)(1), (2), or (3) of this Regulation ~~to be exceeded~~ or 15 days after the end of EPA's 45-day review period, whichever is later, the Director shall:

- (1) issue the permit modification as proposed;
- (2) deny the permit modification application;
- (3) determine that the requested modification does not qualify for the procedures set out in this Regulation and should ~~therefore,~~ be processed ~~under~~ pursuant to MCAPCO Regulation 1.5516 - "Significant Permit Modification";
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

(e) If the thresholds in Paragraphs (c)(1), (2), and (3) of this Regulation are not exceeded, the Director shall, within 180 days after receiving a completed application for a permit modification or 15 days after the end of EPA's 45-day review period, whichever is later:

- (1) issue the permit modification as proposed;
- (2) deny the permit modification application;
- (3) determine that the requested modification does not qualify for the procedures set out in this Regulation and should ~~therefore,~~ be processed ~~under~~ pursuant to MCAPCO Regulation 1.5516 - "Significant Permit Modification"; or
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

(f) The permit applicant may make the change proposed in his minor permit modification application immediately after filing the completed application with the Department. After the applicant makes the change, the facility shall comply with both the applicable requirements governing the change and the proposed permit terms and conditions until the Director takes one of the final actions specified in ~~Subparagraphs Paragraph (d)(1) through (d)(4)~~ (d) of this Regulation. Between the filing of the permit modification application and the Director's final action, the facility need not comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions of the existing permit that the applicant seeks to ~~modify-modify,~~ as necessary to ensure protection of air quality.

(g) The permit shield allowed under MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" shall not extend to minor permit modifications.

(h) If the Mecklenburg County-enforceable only portion of the permit is revised, the procedures in MCAPCO Section 1.5200 - "Air Quality Permits" shall be followed.

(i) The proceedings shall affect only those parts of the permit related to the modification.

State History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, ~~1997~~ 1997; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5516 SIGNIFICANT PERMIT MODIFICATION

(a) The procedures set out in this Regulation shall ~~be used for~~ apply to applications requesting permit modifications ~~under~~ pursuant to this Regulation or permit modifications that ~~do not qualify for~~ are not governed by MCAPCO Regulations 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", 1.5523 - "Changes Not Requiring Permit Revisions", or 1.5524 - "Ownership Change".

~~(b)~~ Significant modifications include modifications that:

- ~~(1)~~ involve a significant change in existing monitoring permit terms or conditions or relax any reporting or recordkeeping permit terms or conditions;
- ~~(2)~~ require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- ~~(3)~~ seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject;
- ~~(4)~~ are modifications under any provision of Article 1.0000 or Article 2.0000 or Title I of the federal Clean Air Act not processed under MCAPCO Regulations 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", 1.5523 - "Changes Not Requiring Permit Revisions", or 1.5524 - "Ownership Change".

~~(e)~~(b) An application for a significant permit modification that would contravene or conflict with ~~the~~ an existing permit shall be processed following the procedure set out in MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph ~~(d)~~ (c).

~~(d)~~(c) An application for a significant permit modification that does not contravene or conflict with ~~the~~ an existing permit shall be processed following the procedure set out in MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph ~~(e)~~ (b).

~~(e)~~(d) This Regulation shall not preclude the permittee from making changes consistent with this Section that would render existing permit compliance terms and conditions irrelevant.

~~(f)~~(e) Except for the Mecklenburg County-enforceable only portion of the permit, the procedures set out in MCAPCO Regulations 1.5507 - "Application", 1.5521 - "Public Participation", or 1.5522 - "Review by EPA And Affected States" shall be followed to revise a permit ~~under~~ pursuant to this Regulation. If the Mecklenburg County-enforceable only portion of the permit is revised, the procedures in MCAPCO Section 1.5200 - "Air Quality Permits" shall be followed. The proceedings shall affect only those parts of the permit related to the significant modification.

~~(g)~~(f) Significant permit modifications shall be covered ~~under~~ by the permit shield in accordance with Regulation 1.5512 - "Permit Shield and Application Shield".

State History Note: Statutory Authority G.S. 143-215.3(a)(1);
143-215.107(a)(10); 143-215.108;

Eff. July 1, ~~1994~~1994;
Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5517 REOPENING FOR CAUSE

(a) A permit shall be reopened and revised under the following circumstances:

- (1) ~~Additional~~-additional applicable requirements become applicable to a facility with a remaining permit term of three or more years;
- (2) ~~Additional~~-additional requirements (including excess emissions requirements) become applicable to a source covered by Title IV ~~(Upon~~ (upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into the permit);
- (3) ~~The~~ the Director or EPA finds that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit;
or
- (4) ~~The~~ the Director or EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Any permit reopening ~~under~~ pursuant to Subparagraph (a)(1) of this Regulation shall be completed or a revised permit issued within 18 months after the applicable requirement is promulgated. No reopening is required if the effective date of the requirement is after the expiration of the permit term unless the term of the permit was extended pursuant to MCAPCO Regulation 1.5513 - "Permit Renewal and Expiration" Paragraph (c).

(c) Except for the Mecklenburg County-enforceable only portion of the permit, the procedures set out in MCAPCO Regulations 1.5507 - "Application", 1.5521 - "Public Participation", or 1.5522 - "Review by EPA and Affected States" shall be followed to reissue a permit that has been reopened ~~under~~ pursuant to this Regulation. If the Mecklenburg County enforceable only portion of the permit is reopened, the procedures in MCAPCO Section 1.5200 - "Air Quality Permits" shall be followed. The proceedings shall affect only those parts of the permit for which cause to reopen exists.

(d) The Director shall notify the permittee at least 60 days in advance of the date that the permit is to be reopened, except in cases of imminent threat to public health or emergency the Director may notice the permittee in less than 60 days before reopening the permit. The notice shall explain why the permit is being reopened.

(e) Within 90 days, or 180 days if EPA extends the response period, after receiving notification from EPA that it finds that a permit ~~needs to~~ should be terminated, modified, or revoked and reissued, the Director shall send to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate.

*State History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. July 1, 1997-1997;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5518 FINAL ACTION

(a) The Director may:

- (1) issue a permit, permit revision, or ~~a~~ renewal containing the conditions necessary to carry out the purposes of G.S. Chapter 143, Article 21B and the federal Clean Air Act; or
- (2) rescind a permit upon request by the permittee;
or
- (3) deny a permit application when necessary to carry out the purposes of G.S. Chapter 143, Article 21B and the federal Clean Air Act.

(b) The Director may not issue a final permit or permit revision, except administrative permit amendments ~~covered under~~ pursuant to MCAPCO Regulation 1.5514 - "Administrative Permit Amendments", until EPA's 45-day review period has expired or until EPA has notified the Director that EPA will not object to issuance of the permit or permit revision, whichever occurs first. The Director shall issue the permit or permit revision within five days of receipt of notification from EPA that it will not object to issuance or of the expiration of EPA's 45-day review period, whichever occurs first.

(c) If EPA objects to a proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objection. The Director shall not issue a permit ~~under~~ pursuant to this Section over EPA's objection.

(d) If EPA does not object in writing to the issuance of a permit, any person may petition EPA to make such objections by following the procedures and meeting the requirements ~~under~~ of 40 CFR 70.8(d).

(e) No permit shall be issued, revised, or renewed ~~under~~ pursuant to this Section unless all the procedures set out in this Section have been followed and all the requirements of this Section have been met. ~~Default issuance of a permit, permit revision, or permit renewal by the Director is prohibited. The Director shall not issue any permit, permit revision, or permit renewal pursuant to this Section by default.~~

(f) Thirty days after issuing a permit, including a permit issued pursuant to MCAPCO Regulation 1.5509 - "Permitting of Numerous Similar Facilities", that is not challenged by the applicant, the Director shall notice the issuance of the final permit. The notice shall be issued on the Mecklenburg County Air Quality web site at <http://airquality.charmeck.org>. The notice shall include the name and address of the facility and the permit number.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. March 16, 2011; July 1, 1994; Amended Eff. February 1, 1995; 1995;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5519 TERMINATION, MODIFICATION, REVOCATION OF PERMITS

(a) The Director may terminate, modify, or revoke and reissue a permit issued ~~under~~ pursuant to this Section if:

- (1) the information contained in the application or presented in support thereof is determined to be incorrect;
- (2) the conditions under which the permit or permit renewal was granted have changed;
- (3) ~~violations of conditions contained in the permit have occurred;~~ permit conditions have been violated;
- (4) the permit holder fails to pay fees required ~~under~~ pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" within 30 days after being billed;
- (5) the permittee refuses to allow the Director or his authorized ~~representative~~ representative, upon presentation of credentials:
 - (A) to ~~enter, enter~~ enter at reasonable times and using reasonable safety practices, the permittee's premises in which a source of emissions is located or in which any records are required to be kept ~~under~~ by the terms and conditions of the permit;
 - (B) to have ~~access, access~~ access at reasonable times, to any copy or records required to be kept under terms and conditions of the permit;
 - (C) to ~~inspect, inspect~~ inspect at reasonable times and using reasonable safety practices, any source of emissions, control equipment, and any monitoring equipment or method required in the permit; or
 - (D) to ~~sample, sample~~ sample at reasonable times and using reasonable safety practices, any emission source at the facility;
- (6) the EPA requests that the permit be revoked ~~under~~ pursuant to 40 CFR 70.7(g) or 70.8(d);
or
- (7) the Director finds that termination, modification or revocation and reissuance of a permit is necessary to carry out the purpose of G.S. Chapter 143, Article 21B.

(b) To operate a facility or source after its permit has been revoked is shall be a violation of this ~~Section and G.S. 143-215.108.~~ Section.

~~(c) The Director shall notify the permittee at least 60 days in advance of the date that the permit is to be terminated, modified, or revoked and reissued.~~

~~(d) Any person whose permit is terminated, modified, or revoked and reissued shall have the right to appeal the Director's decision in accordance with MCAPCO Regulation 1.5306—"Hearings" which references Article 3 of G.S. 150B. The person shall have 30 days following receipt of the notice of the Director's decision on the termination, modification, or revocation and reissuance in which to appeal the Director's decision.~~

*State History Note: Authority G.S. 143-215.3(a)(1), (1a), (1b); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994. 1994;*

Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5520 CERTIFICATION BY RESPONSIBLE OFFICIAL

(a) A responsible official shall certify the truth, accuracy, and completeness of any application form, report, or compliance certification required ~~under~~ by this Section or by a term or condition in a permit issued ~~under~~ pursuant to this Section.

(b) This certification shall state that, based on information and belief formed after reasonable inquiry, the ~~statement~~ statements and information in the document are true, accurate, and complete.

State History Note: Authority G.S. 143-215.3(a)(1),(2); 143-215.107(a)(10); 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5521 PUBLIC PARTICIPATION

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued ~~under~~ pursuant to MCAPCO Regulation 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", or 1.5524 - "Ownership Change". The Director ~~may~~ shall give public notice with an opportunity for comments and a hearing on draft permit revisions issued ~~under~~ pursuant to MCAPCO Regulation 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", or 1.5524 - "Ownership Change".

(b) ~~The notice~~ Notice of any draft permit for an existing facility for which a public hearing is scheduled or for a new facility shall be given by publication in a newspaper of general circulation in the area where the facility is located and posted on the Mecklenburg County Air Quality web site at <http://airquality.charmeck.org>, and shall be available for review at Mecklenburg County Air Quality.

(c) Notice of any draft permit for an existing facility for which a public hearing is not scheduled shall be given by posting on the Mecklenburg County Air Quality web site at <http://airquality.charmeck.org>, and shall be available for review at Mecklenburg County Air Quality.

~~(e)~~(d) The notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of Department staff from whom interested persons may obtain additional information, including copies of the permit draft, the application, compliance plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to the Department that are relevant to the permit decision;
- (5) the activity or activities involved in the ~~permit~~ permitted action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the comment procedures;
- (8) the procedures to follow to request a hearing unless a hearing has already been scheduled;
and
- (9) the time and place of ~~any hearing that has~~ all hearings that have already been scheduled.

~~(d)~~(e) The Director shall send a copy of the notice to affected ~~States~~ states and EPA.

~~(e)~~(f) The notice shall allow 30 days for public comments.

~~(f)~~(g) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.

~~(g)~~(h) If EPA requests a record of the comments and of the issues raised during the public participation process, the Director shall provide EPA this record.

~~(h)~~(i) Confidential material shall be handled in accordance with MCAPCO Regulation 1.5217 - "Confidential Information".

*State History Note: Authority G.S. 143-215.3(a)(1),(3); 143-215.107(a)(10); 143-215.108; 143-215.111(4);
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994;
Amended Eff. January 1, 2010; July 1, ~~1998-1998~~;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5522 REVIEW BY EPA AND AFFECTED STATES

- (a) The Director shall provide EPA with a copy of each permit application, including any application for permit revision, each proposed permit, and each final permit issued ~~under~~ pursuant to this Section. If EPA has informed the Director that a permit application summary and relevant portion of the permit application and compliance plan are ~~all it needs, sufficient~~, the Director may provide ~~this abridgement in place~~ these documents instead of the complete application.
- (b) The Department shall retain for five years a copy of all permit applications, permits, and other related material submitted to or issued by the Department ~~under~~ pursuant to this Section.
- (c) The Director shall provide notice to each affected ~~State~~ state of each draft permit at or before the time notice is provided to the public ~~under~~ pursuant to MCAPCO Regulation 1.5521 - "Public Participation".
- (d) The Director, in writing, shall notify EPA and any affected ~~State~~ state of any refusal by the Department to accept all recommendations for the proposed permit that the affected ~~State~~ state submitted during the public or affected ~~State~~ state review period and shall state the reasons for not accepting any such recommendations.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; 143-215.111(5);
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. July 1, 1994. 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5523 CHANGES NOT REQUIRING PERMIT REVISIONS

(a) Section 502(b)(10) changes:

- (1) ~~The A~~ permittee may make Section 502(b)(10) changes without having his or her permit revised if:
 - (A) the changes are not a modification ~~under~~ pursuant to MCAPCO Article 2.0000 or Title I of the federal Clean Air Act;
 - (B) the changes do not cause the emissions allowable ~~under~~ in the permit to be exceeded;
 - (C) the permittee notifies the Director and EPA ~~with written notification in writing~~ at least seven days before the change is made; and
 - (D) the permittee attaches the notice to the relevant permit.
- (2) The written notification required ~~under~~ by Part (a)(1)(C) of this Regulation shall include:
 - (A) a description of the ~~change, change;~~
 - (B) the date when the change will ~~occur~~, occur;
 - (C) ~~any change~~ all changes in emissions, emissions; and
 - (D) ~~any all~~ permit term or conditions that ~~is~~ are no longer applicable as a result of the change.
- (3) Section 502(b)(10) changes shall be made in the permit the next time that the permit is revised or renewed, whichever comes first.

(b) Off-permit changes. A permittee may make changes in his or her operation or emissions without revising his or her permit if:

- (1) the change affects only insignificant activities and the activities remain insignificant after the ~~change, or change;~~
- (2) the change is not covered ~~under~~ by any applicable ~~requirement. requirement; and~~
- (3) the changes are consistent with this Section and would not render existing permit compliance terms and conditions irrelevant.

(c) Emissions trading.

- (1) To the extent that emissions trading is allowed ~~under~~ pursuant to MCAPCO Article 2.0000, including subsequently adopted maximum achievable control technology standards, emissions trading ~~is~~ shall be allowed without permit revisions provided that:
 - (A) all applicable requirements are met;
 - (B) the permittee complies with all terms and conditions of the permit in making the emissions trade; and
 - (C) the permittee notifies the Director and EPA ~~with written notification in writing~~ at least seven days before the trade is ~~made; this notification requirement does not apply to trades made under MCAPCO Regulations 2.2408—“Trading Program and Banking” (CAIR), or 2.2510—“Trading and Banking” (CAMR).~~ made.
- (2) If an emissions cap has been established by a permit condition for the purposes of limiting emissions below that allowed by an otherwise applicable requirements, emissions trading ~~is~~ shall be allowed to the extent allowed by the permit if:

- (A) an emissions cap is established in the permit to limit emissions;
 - (B) the permit specifies the emissions limits with which each source shall comply under any applicable requirement;
 - (C) the permittee complies with all permit terms that ensure the emissions trades are enforceable, accountable, and quantifiable;
 - (D) the permittee complies with all applicable requirements;
 - (E) the permittee complies with the emissions trading procedures in the permit;
 - (F) the permittee notifies the Director and EPA ~~with written notification~~ in writing at least seven days before the trade is made.
- (3) The written notification required ~~under~~ in Subparagraph (1) of this Paragraph shall include:
- (A) a description of the ~~change~~, change;
 - (B) the date on when the change will ~~occur~~, occur;
 - (C) ~~any the change in emissions~~, emissions;
 - (D) the permit requirement with which the facility or source will comply using the emissions trading provision of the applicable provision of MCAPCO Article ~~2.0000~~, 2.0000; and
 - (E) the pollutants emitted subject to the emissions trade.
- (4) The written notification required ~~under~~ in Subparagraph (2) of this Paragraph shall include:
- (A) a description of the ~~change~~, change;
 - (B) the date on when the change will ~~occur~~, occur;
 - (C) the changes in emissions that will result and how the increases and decrease in emissions will comply with the terms and conditions of the permit.

(d) The permit shield allowed ~~under~~ pursuant to MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" ~~does~~ shall not apply to changes made ~~under~~ pursuant to Paragraphs (a), (b), or (c) of this Regulation.

State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. June 1, 2008; December 1, ~~2005~~2005; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5524 OWNERSHIP CHANGE

(a) Applications for ownership changes shall:

- (1) contain the information required ~~under~~ by MCAPCO Regulation 1.5505 - "Application Submittal Content" Paragraph (4), and
- (2) follow the procedures ~~underset forth in~~ MCAPCO Section 1.5200 - "Air Quality Permits".

(b) ~~When~~ If the Director permits an ownership change, he or she shall submit a copy of the permit to EPA as an administrative amendment.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until
the permanent
rule becomes effective, whichever is sooner;
Eff. July 1, ~~1994~~ 1994;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5525 APPLICATION PROCESSING SCHEDULE

(a) ~~Except for permit applications submitted under MCAPCO Regulation 1.5506 – “Initial Permit Application Submittal”, the~~ The Department shall adhere to the following schedule in processing permit applications for permits, significant permit modifications, and permit renewal applications:

- (1) The Department shall send written acknowledgment of receipt of ~~the~~ an application to the applicant within 10 days of receipt of the application.
- (2) The Department shall review all permit applications within 60 days of receipt of the application to determine whether the application is complete or incomplete. The Department shall notify the applicant by letter:
 - (A) stating that the application as submitted is complete and specifying the completeness ~~date, date;~~
 - (B) stating that the application is incomplete, requesting additional ~~information~~ information, and specifying the ~~deadline-date~~ by which the requested information is to be received by the ~~Department, Department;~~
 - or
 - (C) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Department does not notify the applicant by letter dated within 60 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date ~~when~~ if such information is ~~considered~~ necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the ~~deadline-date~~ specified in the letter requesting additional information, the Director ~~may return the application to the applicant as incomplete.~~ shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information. A completeness determination shall not be necessary for minor modifications ~~under~~ pursuant to MCAPCO Regulation 1.5514 - “Administrative Permit Amendments”.

- (3) The Department shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is ~~considered~~ necessary to properly evaluate the source, its air pollution abatement equipment or the facility. The Department shall complete the technical review within 270 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (4) The Director shall send the public notice for public comment on the draft permit to affected states, to EPA, and to persons on the mailing list within 270 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (5) If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director’s decision to hold a public hearing.
- (6) The Director shall complete the review of the record and send the proposed permit to

EPA:

- (A) within 30 days after the close of the public comment period if there is no public hearing on the draft permit,
or
 - (B) within 45 days after the close of the public hearing if there is a public hearing on the draft permit.
- (7) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:
- (A) expiration of EPA 45-day review period,
or
 - (B) receipt of notice from EPA that it will not object to issuance,
whichever comes first.
- (8) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objections.

~~(b) The Director may return at any time applications containing insufficient information to complete the review.~~

State History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. February 1, 1995; Amended Eff. July 1, 1998, 1998; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5526 112(j) CASE-BY-CASE MACT PROCEDURES

(a) ~~The~~ An owner or operator of a source required to apply maximum achievable control technology (MACT) ~~under~~ pursuant to MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" shall follow the permit procedures set out in this Regulation.

(b) For the purposes of this Regulation, the definitions in MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology", 40 CFR 63.51, 40 CFR 63.2, and the following definitions apply:

- (1) **"Equivalent emission limitation"** means an emission limitation, established ~~under~~ pursuant to Section 112(j) of the federal Clean Air Act, that is equivalent to the MACT standard that EPA would have promulgated under Section 112(d) or (h) of the federal Clean Air Act.
- (2) **"Source category schedule for standards"** means the schedule for promulgating MACT standards issued pursuant to Section 112(e) of the federal Clean Air Act.
- (3) **"Title V permit"** means a permit issued ~~under~~ pursuant to this Section.

(c) Except as provided for in Paragraph (d) or (e) of this Regulation, the owner or operator of a source required to apply MACT ~~under~~ pursuant to MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" shall submit an application for a permit or for a significant permit ~~revision~~ revision, ~~under~~ pursuant to this Section, ~~whichever is applicable.~~ Section.

(d) Approval process for new and existing affected ~~sources~~ sources that are subject to Section 112(j) as of the Section 112(j) deadline. The requirements of Subparagraphs (d)(1) and (2) of this Paragraph shall apply to major sources that include, as of the Section 112(j) deadline, one or more sources in a category or subcategory for which the EPA has failed to promulgate an emission standard pursuant to 40 CFR Part 63 on or before an applicable Section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued to the facility pursuant to the requirements of 40 CFR Part 63, Subpart B, shall apply to such sources.

- (1) The owner or operator shall submit an application for a permit or for a revision to an existing Title V permit issued or a pending Title V permit that meets the requirements of Subparagraph (m)(1) of this Regulation by the Section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the facility belong in a category or subcategory subject to Section 112(j) of the federal Clean Air Act.
- (2) The owner or operator of a source that does not submit an application pursuant to Subparagraph (d)(1)(A) of this Regulation and is notified in writing by the Department that one or more sources at the facility belong to a category or subcategory subject to Section 112(j) of the federal Clean Air Act shall submit an application for a Title V permit or for a revision to an existing Title V permit that meets the requirements of Paragraph (m)(1) of this Regulation within 30 days after being notified in writing by the Department. The Department shall not be required to make this notification.

- (3) The requirements in Parts (A) and (B) of this Subparagraph shall apply if the owner or operator has obtained a Title V permit that incorporates a Section 112(g) case-by-case MACT determination by the Department pursuant to MCAPCO Regulation 2.1112 – “Small Municipal Waste Combusters”, but has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act.
- (A) If the owner or operator has a Title V permit that incorporates a Section 112(g) case-by-case MACT determination pursuant to MCAPCO Regulation 2.1112, the owner or operator shall submit an application that meets the requirements of Paragraph (m)(1) of this Regulation for a Title V permit revision within 30 days of the Section 112(j) deadline or within 30 days of being notified in writing by the Department that one or more sources at the major facility belong in such category or subcategory. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Department shall retain the existing limitations in the permit to effectuate Section 112(j) of the federal Clean Air Act. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation shall be satisfied upon issuance of a revised Title V permit incorporating any additional Section 112(j) requirements.
- (B) If the owner or operator that has submitted a Title V permit application that incorporates a Section 112(g) case-by-case MACT determination by the Department pursuant to MCAPCO Regulation 2.1112, but has not received the permit incorporating the Section 112(g) requirements, the owner or operator shall continue to apply for a Title V permit that addresses the requirements of Section 112(g) of the federal Clean Air Act. The owner or operator shall submit a permit application meeting the requirements of Paragraph (m)(1) of this Regulation within 30 days of issuance of that Title V permit. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines that the previously adopted 112(g) emission limitations are substantially as effective, then the Director shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation shall be satisfied upon issuance of a

revised Title V permit incorporating any additional Section 112(j) requirements.

~~(1) Sources subject to section 112(j) as of the section 112(j) deadline. The requirements of Parts (d)(1)(A) and (B) of this Paragraph shall apply to major sources that include, as of the section 112(j) deadline, one or more sources in a category or subcategory for which the EPA has failed to promulgate an emission standard under 40 CFR Part 63 on or before an applicable section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued to the facility pursuant to the requirements of 40 CFR Part 63, Subpart B, shall apply to such sources.~~

~~————— (A) The owner or operator shall submit an application for a permit or for a revision to an existing Title V permit issued or a pending Title V permit meeting the requirements of Subparagraph (m)(1) of this Regulation by the section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the facility belong in a category or subcategory subject to Section 112(j) of the federal Clean Air Act.~~

~~————— (B) The owner or operator of a source that does not submit an application under Part (d)(1)(A) of this Regulation and that is notified in writing by the Department that one or more sources at the facility belong to a category or subcategory subject to Section 112(j) of the federal Clean Air Act shall submit an application for a Title V permit or for a revision to an existing Title V permit meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days after being notified in writing by the Department. The Department is not required to make such notification.~~

~~————— (C) The requirements in Subparts (i) and (ii) of this Part shall apply when the owner or operator has obtained a Title V permit that incorporates a section 112(g) case by case MACT determination by the Department under MCAPCO Regulation 2.1112 “112(g) Case By Case Maximum Achievable Control Technology”, but has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act.~~

~~————— (i) When the owner or operator has a Title V permit that incorporates a section 112(g) case by case MACT determination under MCAPCO Regulation 2.1112 “112(g) Case By Case Maximum Achievable Control Technology”, the owner or operator shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation for a Title V permit revision within 30 days of the section 112(j) deadline or within 30 days of being notified that in writing by the Department that one or more sources at the major facility belong in such category or subcategory. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case by case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission~~

limitations are substantially as effective, then the Department shall retain the existing limitations in the permit to effectuate Section 112(j) of the federal Clean Air Act. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation are satisfied upon issuance of a revised Title V permit incorporating any additional section 112 (j) requirements.

(ii) When the owner or operator that has submitted a Title V permit application that incorporates a section 112(g) case by case MACT determination by the Department under MCAPCO Regulation “112(g) Case By Case Maximum Achievable Control Technology”, but has not received the permit incorporating the section 112(g) requirements, the owner or operator shall continue to pursue a Title V permit that addresses the requirements of Section 112(g) of the federal Clean Air Act. The owner or operator shall submit a permit application meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days of issuance of that Title V permit. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case by case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Director shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation are satisfied upon issuance of a revised Title V permit incorporating any additional section 112 (j) requirements.

(e) Sources that become subject to Section 112(j) of the federal Clean Air Act after the section 112(j) deadline and that do not have a Title V permit addressing section 112(j) requirements. The requirements of this Paragraph shall apply to sources that do not meet the criteria in Paragraph (d) of this Regulation on the section 112(j) deadline and are ~~therefore~~ not subject to Section 112(j) of the federal Clean Air Act on that date, but ~~where events occur~~ subsequent to the section 112 (j) deadline the source becomes subject to that would bring the source under the requirements of this ~~Regulation~~, Regulation and the source does not have a Title V permit that addresses the requirements of Section 112(j) of the federal Clean Air Act.

- (1) ~~When~~ If one or more sources in a category or subcategory subject to the requirements of this Regulation are installed at a major ~~source~~, source or result in the source becoming a major source due to the installation, and the installation does not invoke section 112(g) requirements in MCAPCO Regulation 2.1112 - “112(g) Case-By-Case Maximum Achievable Control Technology”, the owner or operator shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days of startup of the source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Regulation, shall apply to such sources. The

- Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Department shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation ~~are~~ shall be satisfied upon issuance of a revised Title V permit incorporating any additional section 112 (j) requirements.
- (2) ~~When~~ If one or more sources in a category or subcategory subject to 112(j) requirements are installed at a major source or result in the source becoming a major source due to the installation, and the installation requires 112(g) emission limitations to be established and permitted ~~under~~ pursuant to MCAPCO 1.5528 - "112(g) Case-By-Case MACT Procedures", and the owner or operator has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act, the owner or operator shall apply for and obtain a Title V permit that addresses the emission limitation requirements of Section 112(g) of the federal Clean Air Act. Within 30 days of issuance of that Title V permit, the owner or operator shall submit an application ~~meeting that meets~~ meeting that meets the requirements of Subparagraph (m)(1) of this Regulation for a revision to the existing Title V permit. The Department shall determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Department shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the permit shall be revised to incorporate any additional Section 112(j) requirements.
- (3) The owner or operator of an area source that, due to a relaxation in any federally enforceable emission limitation (such as a restriction on hours of ~~operation~~;
operation) increases its potential to emit hazardous air pollutants such that the source becomes a major source that is subject to this Regulation, shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days after the date that such source becomes a major source. The Director shall use the procedures in Paragraph (n) of this Regulation in reviewing the application. The existing source MACT requirements (including relevant compliance ~~deadlines~~;
deadlines) shall apply to such sources.
- (4) If EPA establishes a lesser quantity emission rate ~~under~~ pursuant to section 112(a)(1) of the federal Clean Air Act that results in an area source becoming a major source that is subject to this Regulation, then the owner or operator of such a major source shall submit an application ~~meeting that meets~~ meeting that meets the requirements of Subparagraph (m)(1) of this Regulation on or before the date six months after the date that such

source becomes a major source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Regulation, shall apply to such sources.

(f) Sources that have a Title V permit addressing section 112(j) requirements. The requirements of this Paragraph apply to major sources that include one or more sources in a category or subcategory for which EPA fails to promulgate an emission standard on or before the section 112(j) deadline, ~~and~~ the owner or operator has a permit meeting the section 112(j) requirements, and ~~where~~ if changes occur at the major source to equipment, activities, or ~~both~~, both subsequent to the section 112(j) deadline.

- (1) If the Title V permit already provides the requirements that address the events that occur under this Paragraph subsequent to the section 112(j) deadline, then the source shall comply with the applicable new source MACT or existing source MACT requirements as specified in the permit, and the section 112(j) requirements are thus satisfied.
- (2) If the Title V permit does not contain the requirements that address the events ~~that occur under~~ described in this Paragraph subsequent to the section 112(j) deadline, then the owner operator shall submit an application for a revision ~~to~~ of the existing Title V permit that meets the requirements of Subparagraph (m)(1) of this Regulation within 30 days of beginning construction. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this ~~Regulation~~ Regulation, shall apply to such sources.

(g) Requests for applicability determination. An owner or operator who is unsure of whether one or more sources at a major source belong in a category or subcategory for which EPA has failed to promulgate an emission standard ~~under this~~ pursuant to 40 CFR Part 63 may, on or before an applicable section 112(j) deadline, request an applicability determination from the Department by submitting an application ~~meeting that meets~~ the requirements of Subparagraph (m)(1) of this Regulation by the applicable deadlines specified in paragraphs (d), (e), or (f) of this Regulation.

(h) An owner or operator who submits a Part 1 MACT application ~~meeting that meets~~ the requirements of Subparagraph (m)(1) of this Regulation shall submit a Part 2 MACT application ~~meeting that meets~~ the requirements of Subparagraph (m)(2) of this Regulation no later than the applicable date specified in 40 CFR 63 Subpart B Table 1. The submission date specified in 40 CFR 63 Subpart B Table 1 for Miscellaneous Organic Chemical Manufacturing shall apply to sources in each of the source categories listed in 40 CFR 63 Subpart B Table 2. ~~When~~ If an owner or operator is required by MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" and this Regulation to submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation by a date that is after the date for a Part 2 MACT application for sources in the category or subcategory in question established by 40 CFR 63 Subpart B Table 1, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Subparagraph (m)(2) of this Regulation within 60 additional days after the applicable deadline for submission of the Part 1 MACT application. The Part 2 applications shall be reviewed by the Department according to the procedures established in 40 CFR 63.55.

- (1) Any owner or operator who submitted a request for an applicability determination on or before May 15, 2002, that remained pending as of May 30, 2003, and who still wishes to obtain such a determination ~~must~~ shall resubmit that request by the date that is 60 days after the Administrator publishes in the Federal Register a proposed standard ~~under~~ pursuant to Section 112(d) or 112(h) of the Clean Air Act for the category or subcategory in question. Such a resubmitted request ~~must~~ shall be supplemented to discuss the relation between the ~~source(s)~~ sources in question and the applicability provision in the proposed standard for the category or subcategory in question, and to explain why there may still be uncertainties that require a determination of applicability. The Director shall take action on each supplemented and resubmitted request within an additional 60 days after the applicable deadline for the resubmitted request. If more than three years remain on the current Title V permit, the owner or operator shall submit an application for a Title V permit revision to make any conforming changes in the permit required to adopt the existing emission limitations as the section 112(j) MACT emission limitations. If less than three years remain on the current Title V permit, any required conforming changes shall be made when the permit is renewed. If the applicability determination is positive, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Subparagraph (m)(2) of this Regulation by the date specified for the category or subcategory in question in 40 CFR 63 Subpart B Table 1. If the applicability determination is negative, no further action by the owner or operator ~~is~~ shall be necessary.
- (2) An owner or operator who has submitted an application ~~meeting~~ that meets the requirements of Subparagraph (m)(1) of this Regulation may request a determination of whether emission limitations adopted pursuant to a prior case-by-case MACT determination ~~under~~ pursuant to section 112(g) that apply to one or more sources in a relevant category or subcategory are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to this Regulation for the source in question. Such a request must be submitted by the date for the category or subcategory in question specified in 40 CFR 63 Subpart B Table 1. Each request for a determination ~~under~~ pursuant to this Paragraph shall be construed as a complete application for an equivalent emission limitation ~~under~~ pursuant to this Regulation. If the Director determines that the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations the Director would otherwise adopt ~~under~~ pursuant to this Regulation, then the Director ~~must~~ shall adopt the existing emission limitations in the permit as the emission limitations to effectuate section 112(j) for the source in question. If the Director determines that the emission limitations in the prior case-by-case MACT determination ~~under~~ pursuant to section 112(g) are not substantially as effective as the emission limitations that the Director would otherwise adopt for the source in question ~~under~~ pursuant to this Regulation, the Director ~~must~~ shall make a new MACT determination and adopt a Title V permit incorporating an appropriate equivalent emission limitation ~~under~~ pursuant to this Regulation. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations which Department would otherwise adopt pursuant to Section

112(j) of the federal Clean Air Act for the source in question.

(i) If the Director disapproves a permit application submitted ~~under~~ pursuant to this Regulation or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the Director's objections not later than six months after first receiving notification that the application has been disapproved or is incomplete.

(j) If the owner or operator of a source subject to this Regulation has submitted a timely and complete application for a permit, significant permit revision, or administrative amendment required by this Regulation, any failure to have this permit shall not be a violation of the requirements of this Regulation unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application.

(k) The permit shall contain the items specified in 40 CFR 63.52 including:

- (1) specification of the affected source and the new affected ~~source~~, source;
- (2) ~~an emission limitation (or limitations)~~ emission limitations or emission ~~standards~~ standards equivalent to existing source MACT and ~~an emission limitation (or limitations)~~ emission limitations equivalent to new source MACT for control of emissions of hazardous air pollutants for that category or subcategory determined ~~by the Director~~ according to 40 CFR 63.55(a) on a case-by-case basis;
- (3) ~~any~~ emission limits, production limits, operational ~~limits~~ limits, or other terms and conditions necessary to ensure practicable enforceability of the MACT emission limitation;
- (4) ~~any~~ notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements; and
- (5) ~~a compliance date(s)~~ compliance dates by which the owner or operator of an existing source ~~shall~~ is required to be in compliance with the MACT emission limitation and all other applicable terms and conditions of the ~~permit~~ permit, not to exceed three years from the date of issuance of the ~~permit~~ permit. ~~(The~~ The owner or operator of a new affected source shall comply with a new source MACT level of control immediately upon ~~startup~~ startup.

(l) Early reductions made pursuant to Section 112(i)(5)(A) of the federal Clean Air Act shall be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(m) A permit application for a MACT determination shall consist of two parts.

- (1) The Part 1 application shall contain the information required ~~under~~ by 40 CFR 63.53(a) and shall be submitted by the applicable deadline specified in Paragraph (d), (e), or (f) of this Regulation.
- (2) The Part 2 application shall contain the information required ~~under~~ by 40 CFR 63.53(b) and shall be submitted no later than the deadline in 40 CFR 63 Subpart B Table 1.

(n) Permit application review. The Director shall follow 40 CFR 63.55(a) in reviewing permit

applications for MACT. The resulting MACT determination shall be incorporated into the facility's Title V permit according to the procedures established ~~under~~ in this Section. Following submittal of a Part 1 or Part 2 MACT application, the Director may request, pursuant to MCAPCO Regulation 1.5507 - "Application" Paragraph (c) and Regulation 1.5525 - "Application Processing Schedule" Paragraph (a), additional information from the owner or operator; and the owner or operator shall submit the requested information within 30 days. A Part 2 MACT application ~~is~~ shall be deemed complete if it is sufficient to begin processing the application for a Title V permit addressing section 112(j) requirements. If the Department disapproves a permit application or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the objections of the Department within the time period specified by the ~~Department. Such time period shall~~ Department, which shall not exceed six months from the date that the owner or operator is first notified that the application has been disapproved or is incomplete. After receipt of a complete Part 2 MACT application that is subsequently approved by the Division, The the Director shall issue a Title V permit ~~meeting that meets~~ meets Section 112(j) requirements ~~after receipt of a complete Part 2 MACT application~~ requirements following the schedule in MCAPCO Regulation 1.5525 - "Application Processing Schedule".

(o) The following requirements shall apply to case-by-case determinations of equivalent emission limitations when a MACT standard is subsequently promulgated:

- (1) If EPA promulgates an emission standard that is applicable to one or more sources within a major facility before the date a proposed permit ~~under~~ pursuant to this Regulation is approved, the permit shall contain the promulgated standard rather than the emission limitation determined ~~under~~ pursuant to MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology", and the owner or operator of the source shall comply with the promulgated standard by the compliance date in the promulgated standard.
- (2) If EPA promulgates an emission standard that is applicable to a source after the date that a permit is issued ~~under~~ pursuant to this Regulation, the Director shall revise the permit on its next renewal to reflect the promulgated standard. ~~(Subparagraph Subparagraph (a)(1) of MCAPCO Regulation 1.5517 - "Reopening for Cause" does shall not apply to requirements established under pursuant to this Regulation.)~~ Regulation. The Director shall establish a compliance date in the revised permit that assures that the owner or operator ~~shall comply~~ complies with the promulgated standard within a reasonable time, but no longer than eight years after such standard is promulgated or eight years after the date by which the owner or operator was first required to comply with the emission limitation established by permit, whichever is earlier. ~~However, in no event shall the~~ The period for compliance for existing sources be shorter than that provided for existing sources in the promulgated standard.
- (3) Notwithstanding the requirements of Subparagraphs (1) or (2) of this Paragraph, if EPA promulgates an emission standard that is applicable to a source after the date a proposed permit is approved, the Director ~~need not~~ shall not be required to change the emission limitation in the permit to reflect the promulgated standard if the level of control required by the emission limitation in the permit is as effective as that required by the promulgated standard. If EPA promulgates an emission standard that is applicable to an affected source after the date a permit application is ~~approved,~~

approved and the level of control required by the promulgated standard is less stringent than the level of control required by ~~any~~ an emission limitation in the prior MACT determination, the Department Division ~~is not~~ shall not be required to incorporate ~~any~~ a less stringent emission limitation of the promulgated ~~standards~~ and standards after considering the effects on air quality. The Division may consider any more stringent ~~provisions~~ provision of the MACT determination to be applicable legal ~~requirements~~ requirements, as necessary to protect air quality, when issuing or revising such a Title V permit.

State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1996; Amended Eff. February 1, 2004.2004; Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5527 EXPEDITED APPLICATION PROCESSING SCHEDULE

(a) Using the procedures contained in this Regulation may result in a permit that EPA does not recognize as a valid permit.

(b) An applicant may file an application to follow the expedited review for application certified by a professional engineer as set out in G.S. 143-215.108(h) if:

- (1) ~~The~~ the applicant specifically requests that the permit application be processed ~~under~~ pursuant to the procedures in G.S. 143-215.108(h); and
- (2) ~~The~~ the applicant submits:
 - (A) applications as required ~~under by~~ pursuant to MCAPCO Regulations 1.5505 - "Application Submittal Content" and 1.5507 - "Application";
 - (B) a completeness check list showing that the permit application is complete;
 - (C) a draft permit;
 - (D) any required dispersion modeling;
 - (E) a certification signed by a professional engineer registered in North Carolina certifying the accuracy and completeness of draft permit and the application, including emissions estimates, applicable standards and requirements, and process specifications;
 - (F) a consistency determination as required ~~under~~ pursuant to MCAPCO Regulation 1.5507 - "Application" Subparagraph (d)(1);
 - (G) a written description of current and projected plans to reduce the emissions of air contaminants as required ~~under~~ pursuant to MCAPCO Regulation 1.5507 - "Application" Subparagraph (d)(2);
 - (H) a financial qualification if required;
 - (I) substantial compliance statement if required;
and
 - (J) the application fee as required ~~under~~ pursuant to MCAPCO Regulation 1.5231 - "Air Quality Fees".

(c) The applicant shall use the official application forms provided by the Department or a facsimile thereof.

(d) The Department shall provide the applicant a checklist of all items of information required to prepare a complete permit application. This checklist shall be ~~the checklist~~ used by the Department to determine if the application is complete.

(e) The Department shall provide the applicant a list of permit conditions and terms to include in the draft permit.

(f) Before filing a permit application that includes dispersion modeling analysis submitted in support of the application, the applicant shall submit a modeling protocol and receive approval for the dispersion modeling protocol.

(g) The Department shall follow the procedures set out in G.S. 143-215.108(h) when processing applications filed in accordance with this Regulation.

(h) ~~The decision that the Director shall make on applications processed under this Regulation is either to deny the permit or to submit a proposed permit to EPA. In implementing this Regulation, the Director shall either deny the permit or submit a proposed permit to EPA.~~

(i) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:

(1) expiration of EPA 45-day review period;

or

(2) receipt of notice from EPA that it will not object to issuance,
whichever comes first.

(j) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objections.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. July 1, ~~1998~~1998;
Readopted Eff. April 1, 2018*

MCAQ History Note: Amended Eff. December 18, 2018

1.5528 112(g) CASE-BY-CASE MACT PROCEDURES

(a) Applicability. ~~The~~ An owner or operator of a source required to apply maximum achievable control technology (MACT) ~~under~~ pursuant to MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology" shall follow the permit procedures set out in this Regulation.

(b) Construction prohibition. ~~After July 1, 1998 a~~ A person shall not begin ~~actual~~ construction or reconstruction of a major source of hazardous air pollutants unless:

- (1) ~~The~~ the major source has been specifically regulated or exempted from regulation ~~under:~~ by:
 - (A) MCAPCO Regulations 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" or 2.1111 - "Maximum Achievable Control Technology"; Technology;
 - or
 - (B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act ~~under~~ pursuant to 40 CFR Part 63, 63 and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in 40 CFR Part 63, Subpart A; or
~~and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in 40 CFR Part 63, Subpart A;~~
- or
- (2) ~~The~~ the Department has made a final and effective case-by-case determination ~~under~~ pursuant to MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology" such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(c) Requirements for constructed and reconstructed major sources. ~~When~~ If a case-by-case determination of MACT is required by MCAPCO Regulation 2.1112 - "112(g) Case-By-Case Maximum Achievable Control Technology", the owner ~~and~~ or operator shall submit a permit application to the Department and the Department shall process the application following the procedures of MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph(c).

(d) Alternative operating scenarios. When applying for a permit, the owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such determinations ~~satisfies~~ shall satisfy the requirements of Section 112(g) of the federal Clean Air Act for each such scenario.

(e) Application requirements for a case-by-case MACT determination. The owner or operator of a source required to apply MACT ~~under~~ pursuant to MCAPCO Regulation 2.1112 - "112(g) Case-By-Case Maximum Achievable Control Technology" shall submit a permit application that contains all the information required ~~under~~ by 40 CFR 63.43(e).

(f) Reporting to the EPA. Within 60 days of the issuance of a permit ~~under~~ pursuant to this Section or Section 1.5200 - “Air Quality Permits” ~~incorporating~~ that incorporates a MACT determination, the Director shall provide a copy of such ~~the~~ permit ~~to EPA,~~ the EPA and shall provide a summary in a ~~compatible~~ electronic format for inclusion in the MACT ~~data base.~~ Database.

State History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10);
Eff. July 1, ~~1998~~ 1998;
Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018