

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: All Rules Submitted

DEADLINE FOR RECEIPT: Friday, October 9, 2020

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

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

In reviewing this Rule, the staff recommends the following technical changes be made:

On each Submission for Permanent Rule form:

In Box 6, I take it you re-noticed the hearing date to reflect the change from the date published in the Register? When was the notice sent out? And was that the same notice that extended the comment period? When did the comment period end?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2020

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0546

DEADLINE FOR RECEIPT: Friday, October 9, 2020

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

In reviewing this Rule, the staff recommends the following technical changes be made:

Please format changes made after adoption pursuant to Rule 26 NCAC 02C .0405(b)(1).

I am only asking – what is the purpose of Paragraph (a)? Why do you need it?

In (b), line 6, which definitions in 02D and 02Q? Several rules will contain defined terms. Do you mean to refer to 02D .0101 and 02Q .0103 and .0303? If so, why not state that?

In (b)(1), line 9, what is “impermeable”? Does your regulated public know?

In (b)(2), line 11, who will decide if this is “specifically” used for fumigation?

In (b)(3), line 13, please delete “and” between “container” and “where”

In (b)(6), what is the citation for this law? Is it elsewhere, such as in a definition rule?

In (b)(7), line 22, what do you mean by “reasonably be expected”? By whom?

In (e), lines 31 and 32, “visible and legible” to whom?

On line 33, what is the “federally approved fumigant label”? Also, I believe “federally-approved” should be hyphenated.

In (f), line 35, please replace the period after “.0600” with a colon.

In (f)(1), line 37, I take it your regulated public knows what the “appropriate” regional office will be based upon the list in Rule 02D .0103?

In (f)(2), Page 2, line 1, what is meant by a “quarterly summary report”?

On line 2, why is “Permittee” capitalized?

Also on line 2, I take it you mean “responsible official” as defined by Rule 02Q .0303?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2020

Consider beginning (f)(2)(A) through (C) with articles.

In (f)(2)(D) and (E), what is meant by “summary”?

In (g), will this alternate compliance schedule be based upon a request by the permittee?

In the History Note, isn't G.S. 143-215.107(a)(4) also applicable here, given Paragraph (f)? If so, please be sure to separate the serial citations to 143-215.107 with semicolons.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 25, 2020

1 15A NCAC 02D .0546 is adopted with changes as published in 34:15 NCR 1336 as follows:

2
3 **15A NCAC 02D .0546 CONTROL OF EMISSIONS FROM LOG FUMIGATION OPERATIONS**

4 (a) Purpose. The purpose of this Rule is to establish emission control requirements for hazardous air pollutants and
5 toxic air pollutants from log fumigation operations.

6 (b) Definitions. For the purpose of this Rule, the following definitions and definitions in this Subchapter or 15A
7 NCAC 02Q apply:

8 (1) “Bulk or tarpaulin log fumigation” means the fumigation of logs that are placed in piles on an
9 impermeable surface and covered with a weighted-down tarpaulin.

10 (2) “Chamber log fumigation” means the fumigation of logs inside a sealed building or structure that
11 is specifically used for fumigation. Chambers used for fumigation may be either atmospheric or
12 vacuum type.

13 (3) “Container log fumigation” means the fumigation of logs inside a container and where the doors
14 of the container are closed and sealed.

15 (4) “Fumigant” means the hazardous air pollutant or toxic air pollutant that is used to eliminate the
16 pests within the logs.

17 (5) “Fumigation operation” means the period of time that the fumigant is injected and retained in the
18 ~~container or chamber~~ container, chamber, or bulk piles for the purposes of treating the logs for
19 insects and other pests to prevent the transfer of exotic organisms.

20 (6) “Hazardous air pollutant” means any pollutant listed under Section 112(b) of the federal Clean Air
21 Act.

22 (7) “Public right-of-way” means an access area where people can reasonably be expected to be
23 present for any or all parts of a 24-hour period.

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

26 (c) Applicability. This Rule applies to new, existing, and modified bulk, chamber, and container log fumigation
27 operations that use a hazardous air pollutant or toxic air pollutant as a fumigant.

28 (d) Emission Control Requirements. The owner or operator of a log fumigation operation shall comply with the
29 Toxic Air Pollutant Guidelines specified in 15A NCAC 02D .1104 and follow the procedures specified in 15A
30 NCAC 02D .1106, 15A NCAC 02Q .0709, and .0710.

31 (e) The owner or operator shall post signs notifying the public of fumigation operations. The signs shall be visible
32 and legible at the fence or property line closest to any public right-of-way. The signs shall remain in place at all times
33 and shall conform to the format for placards mandated by the federally approved fumigant label.

34 (f) Monitoring, Recordkeeping and Reporting. The owner or operator of a bulk, chamber, or container log fumigation
35 operation shall comply with the requirements pursuant to 15A NCAC 02D .0600.

36 (1) The owner or operator shall send an initial notification of commencement of operations to the
37 appropriate Division of Air Quality regional office within 15 days of initial fumigation start-up.

1 (2) The owner or operator shall submit a quarterly summary report, with the original signature of the
2 Permittee or the authorized responsible official, of the monitoring and recordkeeping activities
3 postmarked no later than 30 days after the end of each calendar year quarter. The report shall contain
4 the following:

5 (A) company name, address, and facility ID number;

6 (B) calendar year quarter represented by the report;

7 (C) daily and total fumigant usage in pounds for each quarter;

8 (D) a summary of the monitoring data required by the permit that was collected during the
9 quarter; and

10 (E) a summary of exceedances from the levels established in the permit that occurred during
11 the quarter of any monitoring parameters.

12 (g) Compliance Schedule. The owner or operator of an existing log fumigation operation subject to this Rule shall
13 achieve compliance within 60 days after the Rule is effective or in accordance with an alternate compliance schedule
14 approved by the Director. In establishing an alternate compliance schedule, the Director shall consider whether the
15 compliance approach chosen by the facility involves the purchase and installation of a control device. New and
16 modified facilities shall achieve compliance with this Rule upon start-up.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);*
19 *Eff. November 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1104

DEADLINE FOR RECEIPT: Friday, October 9, 2020

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

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 5, what is "significant" ambient air concentration?

And who determines if these "may" adversely affect human health? Based upon what?

On line 8, what are the acceptable ambient levels per cubic meter for asbestos?

On Page 3, in the "Annual" column for methyl bromide included the footnote of "a" Therefore, the language should be underlined on Page 4, line 1.

Also for methyl bromide, I note that the agency did not adopt the standards published as options for the 24-hour column. As the Notice of Text specifically invited comments on these options, I take it the level was adopted as a result of public comment?

In the History Note, please separate the serial citations to G.S. 143-215.107 with semicolons like so: 143-215.107(a)(3); 143-215.107(a)(4); 143-215.107(a)(5);

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 25, 2020

15A NCAC 02D .1104 is amended with changes as published in 34:15 NCR 1337 as follows:

15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the facility's premises to any significant ambient air concentration that may adversely affect human health, except as allowed pursuant to 15A NCAC 02Q .0700. In determining these significant ambient air concentrations, the Division shall be governed by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure, except for asbestos:

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
acetaldehyde (75-07-0)				27
acetic acid (64-19-7)				3.7
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)		0.03	1	
ammonia (7664-41-7)				2.7
aniline (62-53-3)			1	
arsenic and inorganic arsenic compounds	2.1 x 10 ⁻⁶			
asbestos (1332-21-4)	2.8 x 10 ⁻⁶ fibers/ml			
aziridine (151-56-4)		0.006		
benzene (71-43-2)	1.2 x 10 ⁻⁴			
benzidine and salts (92-87-5)	1.5 x 10 ⁻⁸			
benzo(a)pyrene (50-32-8)	3.3 x 10 ⁻⁵			
benzyl chloride (100-44-7)			0.5	
beryllium (7440-41-7)	4.1 x 10 ⁻⁶			
beryllium chloride (7787-47-5)	4.1 x 10 ⁻⁶			
beryllium fluoride (7787-49-7)	4.1 x 10 ⁻⁶			
beryllium nitrate (13597-99-4)	4.1 x 10 ⁻⁶			
bioavailable chromate pigments, as chromium (VI) equivalent	8.3 x 10 ⁻⁸			

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
bis-chloromethyl ether (542-88-1)	3.7×10^{-7}			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	4.4×10^{-4}			
cadmium (7440-43-9)	5.5×10^{-6}			
cadmium acetate (543-90-8)	5.5×10^{-6}			
cadmium bromide (7789-42-6)	5.5×10^{-6}			
carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7×10^{-3}			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3×10^{-3}			
chloroprene (126-99-8)		0.44	3.5	
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		
epichlorohydrin (106-89-8)	8.3×10^{-2}			
ethyl acetate (141-78-6)			140	
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0×10^{-4}			
ethylene dichloride (107-06-2)	3.8×10^{-3}			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7×10^{-5}			
ethyl mercaptan (75-08-1)			0.1	
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin	7.6×10^{-8}			

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
(57653-85-7)				
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25
hydrogen sulfide (7783-06-4)		0.12		
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
<u>methyl bromide (74-83-9)</u> [Option 1] [Option 2] [Option 3]	<u>0.005^a</u>	<u>[0.005]</u> <u>[0.078]</u> <u>[0.078] 1.0</u>		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4 x 10 ⁻²		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		0.0006		
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1 x 10 ⁻⁶			

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m ³) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
n-nitrosodimethylamine (62-75-9)	5.0 x 10 ⁻⁵			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	8.3 x 10 ⁻⁸			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9 x 10 ⁻¹			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3 x 10 ⁻⁵			
soluble chromate compounds, as chromium (VI) equivalent		6.2 x 10 ⁻⁴		
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0 x 10 ⁻⁹			
1,1,2,2-tetrachloroethane (79-34-5)	6.3 x 10 ⁻³			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584-84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9 x 10 ⁻²			
vinyl chloride (75-01-4)	3.8 x 10 ⁻⁴			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65

^a This compound has not been defined as a carcinogen.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282;

1 *Eff. May 1, 1990;*
2 *Amended Eff. September 1, 1992; March 1, 1992;*
3 *Temporary Amendment Eff. July 20, 1997;*
4 *Amended Eff. July 7, 2014; May 1, 2014; March 1, 2010; June 1, 2008; April 1, 2005; April 1, 2001;*
5 *July 1, 1998;*
6 *Readopted Eff. July 1, ~~2018-2018~~;*
7 *Amended Eff. November 1, 2020.*

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