

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0410

DEADLINE FOR RECEIPT: Wednesday, August 12, 2015

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

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

Given that this is simply a restatement of 40 CFR 50.18, why is this Rule necessary?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: July 29, 2015

1 15A NCAC 02D .0410 is proposed for amendment as published in 29:20 NCR 2337-2338 as follows:

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

4 (a) The national primary ambient air quality standards for PM2.5 particulate matter are:

5 (1) ~~15.0 micrograms per cubic meter (ug/m3), annual arithmetic mean concentration; and~~

6 (2) ~~35 micrograms per cubic meter (ug/m3), 24 hour average concentration.~~

7 PM2.5 are 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-hour
8 average Concentration measured in the ambient air as PM2.5 (particles with an aerodynamic diameter less than or
9 equal to a nominal 2.5 micrometers) by either:

10 (1) A reference method based on appendix L to 40 C.F.R. Part 50 and designated in accordance with
11 40 C.F.R. Part 53; or

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

13 ~~These standards are attained when the annual arithmetic mean concentration is less than or equal to 15.0 $\mu\text{g}/\text{m}^3$ and~~
14 ~~when the 98th percentile 24 hour concentration is less than or equal to 35 $\mu\text{g}/\text{m}^3$, as determined according to~~
15 ~~Appendix N of 40 CFR Part 50.~~

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

18 ~~(b) For the purpose of determining attainment of the standards in Paragraph (a) of this Rule, particulate matter shall~~
19 ~~be measured in the ambient air as PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5~~
20 ~~micrometers) by either:~~

21 (1) ~~a reference method based on Appendix L of 40 CFR Part 50 and designed according to 40 CFR~~
22 ~~Part 53; or~~

23 (2) ~~an equivalent method designed according to 40 CFR Part 53.~~

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

26
27 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

28 *Eff. April 1, 1999;*

29 *Amended Eff. September 1, 2015; January 1, 2010.*

1 15A NCAC 02D .0544 is amended as published in 29:20 NCR 2338-2340 as follows:

2
3 **15A NCAC 02D .0544 PREVENTION OF SIGNIFICANT DETERIORATION REQUIREMENTS FOR**
4 **GREENHOUSE GASES**

5 (a) The purpose of this Rule is to implement a program for the prevention of significant deterioration of air quality
6 for greenhouse gases as required by 40 CFR 51.166. For purposes of greenhouse gases, the provisions of this Rule
7 shall apply rather than the provisions of Rule .0530 of this Section. A major stationary source or major modification
8 shall not be required to obtain a prevention of significant deterioration (PSD) permit on the sole basis of its
9 greenhouse gases emissions. For all other regulated new source review (NSR) pollutants, the provisions of Rule
10 .0530 of this Section apply.

11 (b) For the purposes of this Rule, the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 shall apply
12 except the definition of "baseline actual emissions." "Baseline actual emissions" means the rate of emissions, in
13 tons per year, of a regulated NSR pollutant, as determined in accordance with Subparagraphs (1) through (3) of this
14 Paragraph:

15 (1) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year,
16 at which the emissions unit ~~actually~~ emitted the pollutant during any consecutive 24-month period
17 selected by the owner or operator within the 5-year period ~~immediately~~ preceding the date that a
18 complete permit application is received by the Division for a permit required under this Rule. The
19 Director shall allow a different time period, not to exceed 10 years ~~immediately~~ preceding the date
20 that a complete permit application is received by the Division, if the owner or operator
21 demonstrates that it is more representative of normal source operation. For the purpose of
22 determining baseline actual emissions, the following shall apply:

23 (A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions
24 associated with startups, shutdowns, and malfunctions;

25 (B) The average rate shall be adjusted downward to exclude any non-compliant emissions
26 that occurred while the source was operating above any emission limitation that was
27 legally enforceable during the consecutive 24-month period;

28 (C) For an existing emission unit (other than an electric utility steam generating unit), the
29 average rate shall be adjusted downward to exclude any emissions that would have
30 exceeded an emission limitation with which the major stationary source ~~must~~ shall
31 currently comply. However, if the State has taken credit in an attainment demonstration
32 or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for
33 an emission limitation that is part of a maximum achievable control technology standard
34 that the Administrator proposed or promulgated under part 63 of the Code of Federal
35 Regulations, the baseline actual emissions shall be adjusted to account for such emission
36 reductions;

1 (D) For an electric utility steam generating unit, the average rate shall be adjusted downward
2 to reflect any emissions reductions under G.S. 143-215.107D and for which cost recovery
3 is sought pursuant to G.S. 62-133.6;

4 (E) For a regulated NSR pollutant, when a project involves multiple emissions units, only
5 one consecutive 24-month period shall be used to determine the baseline actual emissions
6 for all the emissions units being changed. A different consecutive 24-month period for
7 each regulated NSR pollutant can be used for each regulated NSR pollutant; and

8 (F) The average rate shall not be based on any consecutive 24-month period for which there
9 is inadequate information for determining annual emissions, in tons per year, and for
10 adjusting this amount if required by Parts (B) and (C) of this Subparagraph;

11 (2) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions
12 increase that will result from the initial construction and operation of such unit shall equal zero;
13 and thereafter, for all other purposes, shall equal the unit's potential to emit; and

14 (3) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions
15 shall be calculated for existing emissions units in accordance with the procedures contained in
16 Subparagraph (1) of this Paragraph and for a new emissions unit in accordance with the
17 procedures contained in Subparagraph (2) of this Paragraph.

18 (c) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be
19 seven years.

20 (d) In the definition of "subject to regulation", a greenhouse gas's global warming potential is the global warming
21 potential published at Table A-1 of Subpart A of 40 CFR Part 98 and shall include subsequent amendments and
22 editions.

23 ~~(e)~~ The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply.

24 ~~(f)~~ Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR
25 51.166(i) and (a)(7) and by extension in 40 CFR 51.166(j) through (o) and (w). The transition provisions allowed by
26 40 CFR 52.21 (i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum
27 requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as the
28 requirements to be used under this Rule, except as otherwise provided in this Rule. Wherever the language of the
29 portions of 40 CFR 51.166 referenced in this Paragraph speaks of the "plan," the requirements described therein
30 shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of
31 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain
32 requirements in certain circumstances, those exemptions and provisions of nonapplicability are also hereby adopted
33 under this Rule. However, this provision shall not be interpreted so as to limit information that may be requested
34 from the owner or operator by the Director as specified in 40 CFR 51.166(n)(2).

35 ~~(g)~~ 40 CFR 51.166(w)(10)(iv)(a) is changed to read: "If the emissions level calculated in accordance with
36 Paragraph (w)(6) of this Section is equal to or greater than 80 percent of the PAL [plant wide applicability limit]"

1 level, the Director shall renew the PAL at the same level." 40 CFR 51.166(w)(10)(iv)(b) is not incorporated by
2 reference.

3 ~~(g)~~(h) 15A NCAC 02Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or
4 operator of the sources to which this Rule applies shall apply for and receive a permit as required in 15A NCAC
5 02Q .0300 or .0500.

6 ~~(h)~~(i) When a particular source or modification becomes a major stationary source or major modification solely by
7 virtue of a relaxation in any enforceable limitation ~~which~~ that was established after August 7, 1980, on the capacity
8 of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of
9 this Rule shall apply to the source or modification as though construction had not yet begun on the source or
10 modification.

11 ~~(i)~~(j) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated
12 by reference except that the term "Administrator" is replaced with "Director".

13 ~~(j)~~(k) Permits may be issued based on innovative control technology as set forth in 40 CFR 51.166(s)(1) if the
14 requirements of 40 CFR 51.166(s)(2) have been met, subject to the condition of 40 CFR 51.166(s)(3), and with the
15 allowance set forth in 40 CFR 51.166(s)(4).

16 ~~(k)~~(l) A permit application subject to this Rule shall be processed in accordance with the procedures and
17 requirements of 40 CFR 51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the
18 application is complete as to initial information submitted. Commencement of construction before full prevention of
19 significant deterioration approval is obtained constitutes a violation of this Rule.

20 ~~(l)~~(m) Approval of an application with regard to the requirements of this Rule shall not relieve the owner or
21 operator of the responsibility to comply ~~fully~~ with applicable provisions of other rules of this Subchapter or
22 Subchapter 02Q of this Title and any other requirements under local, state, or federal law.

23 ~~(m)~~(n) If the owner or operator of a source is using projected actual emissions to avoid applicability of prevention
24 of significant deterioration requirements, the owner or operator shall notify the Director of the modification before
25 beginning actual construction. The notification shall include:

- 26 (1) a description of the project;
- 27 (2) identification of sources whose emissions could be affected by the project;
- 28 (3) the calculated projected actual emissions and an explanation of how the projected actual emissions
29 were calculated, including identification of emissions excluded by 40 CFR 51.166(b)(40)(ii)(c);
- 30 (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions
31 were calculated; and
- 32 (5) any netting ~~calculations~~ calculations, if applicable.

33 If upon reviewing the notification, the Director finds that the project will cause a prevention of significant
34 deterioration evaluation, then the Director shall notify the owner or operator of his or her findings. The owner or
35 operator shall not make the modification until the owner or operator has received a permit issued pursuant to this
36 Rule. If a permit revision is not required pursuant to this Rule, the owner or operator shall maintain records of
37 annual emissions in tons per year, on a calendar year basis related to the modifications for 10 years following

1 resumption of regular operations after the change if the project involves increasing the emissions unit's design
2 capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five
3 years following resumption of regular operations after the change. The owner or operator shall submit a report to the
4 Director within 60 days after the end of each year during which these records must be generated. The report shall
5 contain the items listed in 40 CFR 51.166(r)(6)(v)(a) through (c). The owner or operator shall make the information
6 documented and maintained under this Paragraph available to the Director or the general public pursuant to the
7 requirements in 40 CFR 70.4(b)(3)(viii).

8 ~~(a)(o)~~ The references to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a
9 specific reference states otherwise. The version of the CFR incorporated in this Rule is that as of July 20, 2011 as set
10 forth here <http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol2/pdf/CFR-2011-title40-vol2-sec51-166.pdf>,
11 <http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol3/pdf/CFR-2011-title40-vol3-sec52-21.pdf>, and with the
12 amendment set forth on 76 FR 43507 at <http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-17256.pdf> and
13 does not include any subsequent amendments or editions to the referenced material. This Rule is applicable in
14 accordance with 40 CFR 51.166(b)(48) and (b)(49)(iv) and (v).

15
16 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-*
17 *215.108(b); 150B-21.6;*
18 *Eff. January 28, 2011 pursuant to E.O. 81, Beverly E. Perdue;*
19 *Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this*
20 *rule;*
21 *Temporary Amendment Eff. December 23, 2011;*
22 *Amended Eff. July 1, ~~2012~~ 2012;*
23 *Temporary Amendment Eff. December 2, ~~2014~~ 2014;*
24 *Amended Eff. September 1, 2015.*
25

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0206

DEADLINE FOR RECEIPT: Wednesday, August 12, 2015

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

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

In (a), are you referring to the fees as set forth in 15A NCAC 02Q .0203? Please consider adding a cross-reference.

In (c), how does a holder of multiple permits arrange to consolidate the payment of annual fees into one annual payment? Do you require a form or some other written request? Please clarify.

The last part of Paragraph (e) is a bit awkward. Does it mean that fee payments collected from synthetic minor facilities will not be included in the accounting, but the accounting will include the summary of expenditures required for the program? Please consider revising to make more clear.

In your history note, why is 150B-21.6 necessary?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: July 29, 2015

1 15A NCAC 02Q .0206 is amended as published in 29:20 NCR 2340 as follows:

2

3 15A NCAC 02Q .0206 PAYMENT OF FEES

4 (a) Payment of fees required under this Section may be by check or money order made payable to the N.C. Department of
5 ~~Environment, Health~~ Environment and Natural Resources. Annual permit fee payments shall refer to the permit number.

6 (b) If, within 30 days after being billed, the permit holder fails to pay an annual fee required under this Section, the Director
7 may initiate action to terminate the permit under Rule .0309 or .0519 of this Subchapter, as appropriate.

8 (c) A holder of multiple permits may arrange to consolidate the payment of annual fees into one annual payment.

9 ~~(d) The permit holder shall submit a written description of current and projected plans to reduce the emissions of air
10 contaminants by source reduction and recycling in accordance with G.S. 143-215.108(g) along with the annual permit fee
11 payment. The description shall include a summary of activities related to source reduction and recycling and a quantification
12 of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction
13 and recycling.~~

14 ~~(d)~~ (d) The payment of the permit application fee required by this Section shall accompany the application and is
15 non-refundable.

16 ~~(e)~~ (e) The Division shall annually prepare and make publicly available an accounting showing aggregate fee payments
17 collected under this Section from facilities which have obtained or will obtain permits under Section .0500 of this Subchapter
18 except synthetic minor facilities and showing a summary of reasonable direct and indirect expenditures required to develop
19 and administer the Title V permit program.

20

21 *History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
22 *rule becomes effective, whichever is sooner;*

23 *Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d); ~~143-215.108~~; 150B-21.6;*

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

25 *Amended Eff. September 1, 2015.*

26

27

28

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0304

DEADLINE FOR RECEIPT: Wednesday, August 12, 2015

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

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

In (a)(4)(A) and (B) and (d)(1) and (2), have you used this language to mirror 143-215.108(c)(5a)(a) and (b)?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: July 29, 2015

1 **15A NCAC 02Q .0304 is amended as published in 29:20 NCR 2340-2341 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
5 and shall be filed in writing according to Rule .0104 of this Subchapter.

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

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

10 (A) bears the date of receipt entered by the clerk of the local 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;

15 ~~(3) for a new facility or modification of an existing facility, a written description of current and projected~~
16 ~~plans to reduce the emissions of air contaminants by source reduction and recycling according to G.S.~~
17 ~~143-215.108(g); the description shall include:~~

18 ~~(A) for an existing facility, a summary of activities related to source reduction and recycling~~
19 ~~and a quantification of air emissions reduced and material recycled during the previous~~
20 ~~year and a summary of plans for further source reduction and recycling; or~~

21 ~~(B) for a new facility, a summary of activities related to and plans for source reduction and~~
22 ~~recycling; and~~

23 ~~(4)~~ (3) for permit renewal, an emissions inventory that contains the information specified under 15A NCAC
24 02D .0202, Registration of Air Pollution Sources (the applicant may use emission inventory forms
25 provided by the Division to satisfy this requirement); and

26 ~~(5)~~ (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if the
27 Director finds this information necessary to evaluate the source, its air pollution abatement
28 equipment, or the facility:

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

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

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

1 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the
2 originally permitted source, application for permit change may be made by letter to the Director at the address
3 specified in Rule .0104 of this Subchapter. The permit renewal, name, or ownership change letter must state that
4 there have been no changes in the permitted facility since the permit was last issued. However, the Director may
5 require the applicant for ownership change to submit additional information, if the Director finds the following
6 information necessary to evaluate the applicant for ownership change, showing that:

- 7 (1) The applicant is financially qualified to carry out the permitted activities, or
- 8 (2) The applicant has substantially complied with the air quality and emissions standards applicable to
9 any activity in which the applicant has previously been engaged, and has been in substantial
10 compliance with federal and state environmental laws and rules.

11 To make a name or ownership change, the applicant shall send the Director the number of copies of letters specified
12 in Rule .0305(a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

13 (e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting
14 procedures may be made by letter to the Director at the address specified in Rule .0104 of this Subchapter. To make
15 changes in construction or test dates or reporting procedures, the applicant shall send the Director the number of
16 copies of letters specified in Rule .0305(a)(5) of this Section signed by a person specified in Paragraph (j) of this
17 Rule.

18 (f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are
19 mailed to the Director at the address specified in Rule .0104 of this Subchapter and postmarked at least 90 days
20 before expiration of the permit.

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

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

25 (i) Requesting additional information. Whenever the information provided on the permit application forms does not
26 adequately describe the source and its air cleaning device, the Director may request that the applicant provide any
27 other information that the Director considers necessary to evaluate the source and its air cleaning device. Before
28 acting on any permit application, the Director may request any information from an applicant and conduct any
29 inquiry or investigation that he considers necessary to determine compliance with applicable standards.

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

- 31 (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly
32 authorized representative, if such representative is responsible for the overall operation of the
33 facility from which the emissions described in the permit application form originates;
- 34 (2) for partnership or limited partnership, by a general partner;
- 35 (3) for a sole proprietorship, by the proprietor;
- 36 (4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected
37 official, or other duly authorized employee.

1 (k) Application fee. With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit
2 application processing fee shall accompany each application. The permit application processing fees are defined in
3 Section .0200 of this Subchapter. A permit application is incomplete until the permit application processing fee is
4 received.

5 (l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant facts
6 pertaining to his permit application and to correct incorrect information on his permit application.

7 (m) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term one
8 complete copy of the application package and any information submitted in support of the application package.

9

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

1 15A NCAC 02Q .0502 is amended as published in 29:20 NCR 2341-2342 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 this Section:

- 6 (1) major facilities;
- 7 (2) facilities with a source subject to 15A NCAC 2D .0524 or 40 CFR Part 60, except new residential
8 wood heaters;
- 9 (3) facilities with a source subject to 15A NCAC 2D .1110 or 40 CFR Part 61, except asbestos
10 demolition and renovation activities;
- 11 (4) facilities with a source subject to 15A NCAC 2D .1111 or 40 CFR Part 63 or any other standard or
12 other requirement under Section 112 of the federal Clean Air Act, except that a source is not
13 required to obtain a permit solely because it is subject to rules or requirements under Section
14 112(r) of the federal Clean Air Act;
- 15 (5) facilities to which 15A NCAC 2D .0517(2), .0528, .0529, or .0534 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
18 70.

19 (b) This Section does not apply to minor facilities with sources subject to requirements of 15A NCAC 2D .0524,
20 .1110, or .1111 or 40 CFR Part 60, 61, or 63 until EPA requires these facilities to have a permit under 40 CFR Part
21 70.

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

24 ~~(e)(d)~~ Once a facility is subject to this Section because of emissions of one pollutant, the owner or operator of that
25 facility shall submit an application that includes all sources of all regulated air pollutants located at the facility
26 except for insignificant activities because of category.

27
28 *History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent*
29 *rule becomes effective, whichever is sooner;*

30 *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

31 *Eff. July 1, 1994;*

32 *Amended Eff. July 1, 1996;*

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

34 *Amended Eff. July 1, ~~2000-2000~~;*

35 *Temporary Amendment Eff. December 2, ~~2014~~. 2014;*

36 *Amended Eff. September 1, 2015.*

37

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0507

DEADLINE FOR RECEIPT: Wednesday, August 12, 2015

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

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

In (b), line 14, what do you mean by "certified by a responsible official"? Do you mean signed by the appropriate person as indicated by 15A NCAC 02Q .0304(j)?

In (d)(3), under what circumstances would the information be required by the Director?

Please begin (d)(3)(A) and (d)(3)(B) with lower case letters.

In (d)(3)(A) and (B), have you used this language to mirror 143-215.108(c)(5a)(a) and (b)?

In (e)(1) and (2), when does the Director have to notify another state? Is there something that you can cross-reference that would give your regulated public notice of when this may occur?

In (e), under what circumstances would the Director request additional application packages?

In (f), to what "requirements that become applicable" are you referring? Are these applicable state and federal environmental laws and rules?

In (i), what do you mean by "as soon as practicable"?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: July 29, 2015

1 **15A NCAC 02Q .0507 is amended as published in 29:20 NCR 2342-2343 as follows:**

2

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

4 (a) Except for:

- 5 (1) minor permit modifications covered under Rule .0515 of this Section,
- 6 (2) significant modifications covered under Rule .0516(c) of this Section, or
- 7 (3) permit applications submitted under Rule .0506 of this Section,

8 the owner or operator of a source shall have one year from the date of beginning of operation of the source to file a
9 complete application for a permit or permit revision. However, the owner or operator of the source shall not begin
10 construction or operation until he has obtained a construction and operation permit pursuant to Rule .0501(c) or (d)
11 and Rule .0504 of this Section.

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

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

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

- 25 (1) for a new facility or an expansion of existing facility, a consistency determination in accordance
26 with G.S. 143-215.108(f) that:
 - 27 (A) bears the date of receipt entered by the clerk of the local government, or
 - 28 (B) consists of a letter from the local government indicating that all zoning or subdivision
29 ordinances are met by the facility;
- 30 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and
31 proof of publication of a legal notice as required under Rule .0113 of this Subchapter; and
- 32 ~~(3) for a new facility or modification of an existing facility, a written description of current and
33 projected plans to reduce the emissions of air contaminants by source reduction and recycling in
34 accordance with G.S. 143-215.108(g); the description shall include:~~
 - 35 ~~(A) for an existing facility, a summary of activities related to source reduction and recycling
36 and a quantification of air emissions reduced and material recycled during the previous
37 year and a summary of plans for further source reduction and recycling; or~~

1 ~~(B) — for a new facility, a summary of activities related to and plans for source reduction and~~
2 ~~recycling; and~~

3 (4) (3) if required by the Director, information showing that:

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

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

8 (e) The applicant shall submit copies of the application package as follows:

9 (1) for sources subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, six copies plus
10 one additional copy for each affected state that the Director has to notify;

11 (2) for sources not subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, four copies
12 plus one additional copy for each affected state that the Director has to notify.

13 The Director may at any time during the application process request additional copies of the complete application
14 package from the applicant.

15 (f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit
16 application shall, upon becoming aware of such failure or incorrect submittal, submit, as soon as possible, such
17 supplementary facts or corrected information. In addition, an applicant shall provide additional information as
18 necessary to address any requirements that become applicable to the source after the date he filed a complete
19 application but prior to release of a draft permit.

20 (g) The applicant shall submit the same number of copies of additional information as required for the application
21 package.

22 (h) The submittal of a complete permit application shall not affect the requirement that any facility have a
23 preconstruction permit under 15A NCAC 02D .0530, .0531, or .0532 or under Section .0400 of this Subchapter.

24 (i) The Director shall give priority to permit applications containing early reduction demonstrations under Section
25 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications as soon as
26 practicable after receipt of the complete permit application.

27 (j) With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application processing
28 fee shall accompany each application. The permit application processing fees are defined in Section .0200 of this
29 Subchapter. Each permit or renewal application is incomplete until the permit application processing fee is received.

30 (k) The applicant shall retain for the duration of the permit term one complete copy of the application package and
31 any information submitted in support of the application package.

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 rule*
35 *becomes effective, whichever is sooner;*

36 *Eff. July 1, 1994;*

37 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*

- 1 *Temporary Amendment Eff. December 1, 1999;*
- 2 *Amended Eff. September 15, 2015; April 1, 2004; July 1, 2000.*