

G.S. 150B-21.3A Report for 15A NCAC Chapter 02D, AIR POLLUTION CONTROL REQUIREMENTS								
Agency - Environmental Management Commission								
Comment Period - March 13, 2015 - June 19, 2015								
Date Submitted to APO - Filled in by RRC staff								
Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
SECTION .0100 - DEFINITIONS AND REFERENCES	15A NCAC 02D .0101	DEFINITIONS	Amended Eff. January 1, 2015	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0103	COPIES OF REFERENCED FEDERAL REGULATIONS	Amended Eff. December 1, 2005	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary without substantive public interest
	15A NCAC 02D .0104	INCORPORATION BY REFERENCE	Amended Eff. July 1, 1998	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary without substantive public interest
	15A NCAC 02D .0105	MAILING LIST	Amended Eff. April 1, 2003	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary without substantive public interest
SECTION .0200 - AIR POLLUTION SOURCES	15A NCAC 02D .0201	CLASSIFICATION OF AIR POLLUTION SOURCES	Amended Eff. July 1, 1984	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0202	REGISTRATION OF AIR POLLUTION SOURCES	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
SECTION .0300 - AIR POLLUTION EMERGENCIES	15A NCAC 02D .0301	PURPOSE	Eff. February 1, 1976	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0302	EPISODE CRITERIA	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0303	EMISSION REDUCTION PLANS	Amended Eff. July 1, 1984	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0304	PREPLANNED ABATEMENT PROGRAM	Amended Eff. July 1, 1988	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0305	EMISSION REDUCTION PLAN: ALERT LEVEL	Amended Eff. July 1, 1984	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0306	EMISSION REDUCTION PLAN: WARNING LEVEL	Amended Eff. July 1, 1984	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0307	EMISSION REDUCTION PLAN: EMERGENCY LEVEL	Amended Eff. July 1, 1984	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

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SECTION .0400 - AMBIENT AIR QUALITY STANDARDS	15A NCAC 02D .0401	PURPOSE	Amended Eff. December 1, 1992	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0402	SULFUR OXIDES	Amended Eff. September 1, 2011	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	Yes	Necessary with substantive public interest
	15A NCAC 02D .0403	TOTAL SUSPENDED PARTICULATES	Amended Eff. July 1, 1988	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0404	CARBON MONOXIDE	Amended Eff. October 1, 1989	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0405	OZONE	Amended Eff. January 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	Yes	Necessary with substantive public interest
	15A NCAC 02D .0407	NITROGEN DIOXIDE	Amended Eff. September 1, 2011	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0408	LEAD	Amended Eff. January 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0409	PM10 PARTICULATE MATTER	Amended Eff. January 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0410	PM2.5 PARTICULATE MATTER	Amended Eff. September 1, 2015	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0501	COMPLIANCE WITH EMISSION CONTROL STANDARDS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
SECTION .0500 - EMISSION CONTROL STANDARDS	15A NCAC 02D .0502	PURPOSE	Amended Eff. June 1, 1981	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0503	PARTICULATES FROM FUEL BURNING INDIRECT HEAT EXCHANGERS	Amended Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0504	PARTICULATES FROM WOOD BURNING INDIRECT HEAT EXCHANGERS	Amended Eff. August 1, 2002	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0506	PARTICULATES FROM HOT MIX ASPHALT PLANTS	Amended Eff. August 1, 2004	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

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	15A NCAC 02D .0507	PARTICULATES FROM CHEMICAL FERTILIZER MANUFACTURING PLANTS	Amended Eff. April 1, 2003	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0508	PARTICULATES FROM PULP AND PAPER MILLS	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0509	PARTICULATES FROM MICA OR FELDSPAR PROCESSING PLANTS	Amended Eff. April 1, 2003	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0510	PARTICULATES FROM SAND, GRAVEL, OR CRUSHED STONE OPERATIONS	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0511	PARTICULATES FROM LIGHTWEIGHT AGGREGATE PROCESSES	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0512	PARTICULATES FROM WOOD PRODUCTS FINISHING PLANTS	Amended Eff. January 1, 1985	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0513	PARTICULATES FROM PORTLAND CEMENT PLANTS	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0514	PARTICULATES FROM FERROUS JOBBING FOUNDRIES	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D.0515	PARTICULATES FROM MISCELLANEOUS INDUSTRIAL PROCESSES	Amended Eff. April 1, 2003	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0516	SULFUR DIOXIDE EMISSIONS FROM COMBUSTION SOURCES	Amended Eff. July 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0517	EMISSIONS FROM PLANTS PRODUCING SULFURIC ACID	Amended Eff. January 1, 1985	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0519	CONTROL OF NITROGEN DIOXIDE AND NITROGEN OXIDES EMISSIONS	Amended Eff. July 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0521	CONTROL OF VISIBLE EMISSIONS	Amended Eff. January 1, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0524	NEW SOURCE PERFORMANCE STANDARDS	Amended Eff. July 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(b)	No	Necessary with substantive public interest

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	15A NCAC 02D .0527	EMISSIONS FROM SPODUMENE ORE ROASTING	Amended Eff. January 1, 1985	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0528	TOTAL REDUCED SULFUR FROM KRAFT PULP MILLS	Amended Eff. July 1, 1988	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .0529	FLUORIDE EMISSIONS FROM PRIMARY ALUMINUM REDUCTION PLANTS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .0530	PREVENTION OF SIGNIFICANT DETERIORATION	Amended Eff. September 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0531	SOURCES IN NONATTAINMENT AREAS	Amended Eff. September 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0532	SOURCES CONTRIBUTING TO AN AMBIENT VIOLATION	Amended Eff. July 1, 1994	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0533	STACK HEIGHT	Amended Eff. July 1, 1994	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0534	FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER INDUSTRY	Eff. November 1, 1982	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .0535	EXCESS EMISSIONS REPORTING AND MALFUNCTIONS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0536	PARTICULATE EMISSIONS FROM ELECTRIC UTILITY BOILERS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	Yes	Necessary with substantive public interest
	15A NCAC 02D .0537	CONTROL OF MERCURY EMISSIONS	Amended Eff. July 1, 1996	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .0538	CONTROL OF ETHYLENE OXIDE EMISSIONS	Amended Eff. June 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .0539	ODOR CONTROL OF FEED INGREDIENT MANUFACTURING PLANTS	Amended Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .0540	PARTICULATES FROM FUGITIVE DUST EMISSION SOURCES	Amended Eff. July 10, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0541	CONTROL OF EMISSIONS FROM ABRASIVE BLASTING	Eff. July 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest

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	15A NCAC 02D .0542	CONTROL OF PARTICULATE EMISSIONS FROM COTTON GINNING OPERATIONS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0543	BEST AVAILABLE RETROFIT TECHNOLOGY	Amended Eff. May 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA 169A, 40 CFR Part 51	No	Necessary with substantive public interest
	15A NCAC 02D .0544	PREVENTION OF SIGNIFICANT DETERIORATION REQUIREMENTS FOR GREENHOUSE GASES	Amended Eff. September 1, 2015	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	40 CFR 51.166	No	Necessary with substantive public interest
SECTION .0600 - MONITORING: RECORDKEEPING: REPORTING	15A NCAC 02D .0601	PURPOSE AND SCOPE	Amended Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0602	DEFINITIONS	Amended Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0604	EXCEPTIONS TO MONITORING AND REPORTING REQUIREMENTS	Amended Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0605	GENERAL RECORDKEEPING AND REPORTING REQUIREMENTS	Amended Eff. January 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0606	SOURCES COVERED BY APPENDIX P OF 40 CFR PART 51	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0607	LARGE WOOD AND WOOD-FOSSIL FUEL COMBINATION UNITS	Amended Eff. July 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0608	OTHER LARGE COAL OR RESIDUAL OIL BURNERS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0610	FEDERAL MONITORING REQUIREMENTS	Amended Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0611	MONITORING EMISSIONS FROM OTHER SOURCES	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0612	ALTERNATIVE MONITORING AND REPORTING PROCEDURES	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

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	15A NCAC 02D .0613	QUALITY ASSURANCE PROGRAM	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0614	COMPLIANCE ASSURANCE MONITORING	Amended Eff. January 1, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .0615	DELEGATION	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
SECTION .0900 - VOLATILE ORGANIC COMPOUNDS	15A NCAC 02D .0901	DEFINITIONS	Amended Eff. January 1, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0902	APPLICABILITY	Amended Eff. May 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0903	RECORDKEEPING: REPORTING: MONITORING	Amended Eff. May 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0906	CIRCUMVENTION	Amended Eff. January 1, 1985	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0909	COMPLIANCE SCHEDULES FOR SOURCES IN OZONE NONATTAINMENT AND MAINTENANCE AREAS	Amended Eff. May 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0912	GENERAL PROVISIONS ON TEST METHODS AND PROCEDURES	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0918	CAN COATING	Amended Eff. July 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0919	COIL COATING	Amended Eff. July 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0922	METAL FURNITURE COATINGS	Amended Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0923	SURFACE COATING OF LARGE APPLIANCE PARTS	Amended Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0924	MAGNET WIRE COATING	Amended Eff. July 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest

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	15A NCAC 02D .0925	PETROLEUM LIQUID STORAGE IN FIXED ROOF TANKS	Amended Eff. March 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0926	BULK GASOLINE PLANTS	Amended Eff. July 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0927	BULK GASOLINE TERMINALS	Amended Eff. January 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0928	GASOLINE SERVICE STATIONS STAGE I	Amended Eff. July 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0930	SOLVENT METAL CLEANING	Amended Eff. March 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0931	CUTBACK ASPHALT	Amended Eff. December 1, 1989	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0932	GASOLINE TRUCK TANKS AND VAPOR COLLECTION SYSTEMS	Amended Eff. August 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0933	PETROLEUM LIQUID STORAGE IN EXTERNAL FLOATING ROOF TANKS	Amended Eff. June 1, 2004	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0935	FACTORY SURFACE COATING OF FLAT WOOD PANELING	Amended Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0937	MANUFACTURE OF PNEUMATIC RUBBER TIRES	Amended Eff. July 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0943	SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0944	MANUFACTURE OF POLYETHYLENE: POLYPROPYLENE AND POLYSTYRENE	Eff. May 1, 1985	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0945	PETROLEUM DRY CLEANING	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0947	MANUFACTURE OF SYNTHESIZED PHARMACEUTICAL PRODUCTS	Eff. July 1, 1994	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest



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	15A NCAC 02D .0948	VOC EMISSIONS FROM TRANSFER OPERATIONS	Amended Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0949	STORAGE OF MISCELLANEOUS VOLATILE ORGANIC COMPOUNDS	Amended Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0951	RACT FOR SOURCES OF VOLATILE ORGANIC COMPOUNDS	Amended Eff. May 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0952	PETITION FOR ALTERNATIVE CONTROLS FOR RACT	Amended Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0955	THREAD BONDING MANUFACTURING	Eff. May 1, 1995	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0956	GLASS CHRISTMAS ORNAMENT MANUFACTURING	Eff. May 1, 1995	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0957	COMMERCIAL BAKERIES	Eff. May 1, 1995	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 2D .0958	WORK PRACTICES FOR SOURCES OF VOLATILE ORGANIC COMPOUNDS	Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0959	PETITION FOR SUPERIOR ALTERNATIVE CONTROLS	Eff. April 1, 2003	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0960	CERTIFICATION OF LEAK TIGHTNESS TESTER	Amended Eff. July 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .0961	OFFSET LITHOGRAPHIC PRINTING AND LETTERPRESS PRINTING	Amended Eff. May 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0962	INDUSTRIAL CLEANING SOLVENTS	Amended Eff. May 1, 2013	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0963	FIBERGLASS BOAT MANUFACTURING MATERIALS	Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0964	MISCELLANEOUS INDUSTRIAL ADHESIVES	Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest



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	15A NCAC 02D .0965	FLEXIBLE PACKAGE PRINTING	Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0966	PAPER, FILM AND FOIL COATINGS	Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0967	MISCELLANEOUS METAL AND PLASTIC PARTS COATINGS	Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
	15A NCAC 02D .0968	AUTOMOBILE AND LIGHT DUTY TRUCK ASSEMBLY COATINGS	Eff. September 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110, 182	No	Necessary with substantive public interest
SECTION .1000 - MOTOR VEHICLE EMISSION CONTROL STANDARD	15A NCAC 02D .1001	PURPOSE	Amended Eff. August 1, 2002	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1002	APPLICABILITY	Amended Eff. January 1, 2014	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1003	DEFINITIONS	Amended Eff. February 1, 2014	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1005	ON-BOARD DIAGNOSTIC STANDARDS	Amended Eff. January 1, 2014	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1006	SALE AND SERVICE OF ANALYZERS	Amended Eff. January 1, 2014.	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1008	HEAVY DUTY DIESEL ENGINE REQUIREMENTS	Amended Eff. July 18, 2002	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1010	HEAVY-DUTY VEHICLE IDLING RESTRICTIONS	Eff. July 10, 2010	Necessary with substantive public interest	No		No	Necessary with substantive public interest
SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS	15A NCAC 02D .1101	PURPOSE	Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1102	APPLICABILITY	Amended Eff. July 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1103	DEFINITION	Amended Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1104	TOXIC AIR POLLUTANT GUIDELINES	Amended Eff. July 7, 2014	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest
	15A NCAC 02D .1105	FACILITY REPORTING, RECORDKEEPING	Amended Eff. April 1, 1999	Necessary with substantive public interest	No		No	Necessary with substantive public interest

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	15A NCAC 02D .1106	DETERMINATION OF AMBIENT AIR CONCENTRATION	Amended Eff. July 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1107	MULTIPLE FACILITIES	Amended Eff. July 1, 1998	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1108	MULTIPLE POLLUTANTS	Eff. May 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1109	112(J) CASE-BY-CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY	Amended Eff. February 1, 2004	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112	No	Necessary with substantive public interest
	15A NCAC 02D .1110	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112	No	Necessary with substantive public interest
	15A NCAC 02D .1111	MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY	Amended Eff. January 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112	No	Necessary with substantive public interest
	15A NCAC 02D .1112	112(G) CASE BY CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112	No	Necessary with substantive public interest
SECTION .1200 - CONTROL OF EMISSIONS FROM INCINERATORS	15A NCAC 02D .1201	PURPOSE AND SCOPE	Amended Eff. July 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1202	DEFINITIONS	Amended Eff. July 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1203	HAZARDOUS WASTE INCINERATORS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112	No	Necessary with substantive public interest
	15A NCAC 02D .1204	SEWAGE SLUDGE AND SLUDGE INCINERATORS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1205	LARGE MUNICIPAL WASTE COMBUSTORS	Amended Eff. July 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1206	HOSPITAL, MEDICAL, AND INFECTIOUS WASTE INCINERATORS	Amended Eff. January 1, 2011	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1207	CONICAL INCINERATORS	Amended Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1208	OTHER INCINERATORS	Amended Eff. August 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest

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	15A NCAC 02D .1210	COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1211	OTHER SOLID WASTE INCINERATION UNITS	Eff. August 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1212	SMALL MUNICIPAL WASTE COMBUSTORS	Eff. July 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
SECTION .1300 - OXYGENATED GASOLINE STANDARD	15A NCAC 02D .1301	PURPOSE	Amended Eff. September 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1302	APPLICABILITY	Amended Eff. September 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1303	DEFINITIONS	Eff. September 1, 1992	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1304	OXYGEN CONTENT STANDARD	Amended Eff. September 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1305	MEASUREMENT AND ENFORCEMENT	Amended Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
SECTION .1400 – NITROGEN OXIDES	15A NCAC 02D .1401	DEFINITIONS	Amended Eff. July 18, 2002	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1402	APPLICABILITY	Amended Eff. January 1, 2010	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1403	COMPLIANCE SCHEDULES	Amended Eff. July 1, 2007	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1404	RECORDKEEPING: REPORTING: MONITORING:	Amended Eff. September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1405	CIRCUMVENTION	Eff. April 1, 1995	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1407	BOILERS AND INDIRECT-FIRED PROCESS HEATERS	Temporary Amendment expired September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

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	15A NCAC 02D .1408	STATIONARY COMBUSTION TURBINES	Temporary Amendment expired September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1409	STATIONARY INTERNAL COMBUSTION ENGINES	Temporary Amendment expired September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCACC 02D .1410	EMISSIONS AVERAGING	Amended Eff. September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1411	SEASONAL FUEL SWITCHING	Temporary Amendment expired September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1412	PETITION FOR ALTERNATIVE LIMITATIONS	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1413	SOURCES NOT OTHERWISE LISTED IN THIS SECTION	Amended Eff. July 18, 2002	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1414	TUNE-UP REQUIREMENTS	Amended Eff. July 18, 2002	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1415	TEST METHODS AND PROCEDURES	Amended Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1418	NEW ELECTRIC GENERATING UNITS, LARGE BOILERS, AND LARGE I/C ENGINES	Amended Eff. September 29, 2009	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1423	LARGE INTERNAL COMBUSTION ENGINES	Eff. July 18, 2002	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
SECTION .1600 - GENERAL CONFORMITY	15A NCAC 02D .1601	PURPOSE, SCOPE AND APPLICABILITY	Amended Eff. April 1, 1999	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .1602	DEFINITIONS	Eff. April 1, 1995	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .1603	GENERAL CONFORMITY DETERMINATION	Amended Eff. July 1, 1998	Unnecessary	No		Yes	Unnecessary
SECTION .1700 - MUNICIPAL SOLID WASTE LANDFILLS	15A NCAC 02D .1701	DEFINITIONS	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1702	APPLICABILITY	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest

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	15A NCAC 02D .1703	EMISSION STANDARDS	Amended Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1704	TEST METHODS AND PROCEDURES	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1705	OPERATIONAL STANDARDS	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1706	COMPLIANCE PROVISIONS	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1707	MONITORING PROVISIONS	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1708	REPORTING REQUIREMENTS	Amended Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1709	RECORDKEEPING REQUIREMENTS	Amended Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
	15A NCAC 02D .1710	COMPLIANCE SCHEDULES	Eff. July 1, 1998	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 111(d)	No	Necessary with substantive public interest
SECTION .1800 - CONTROL OF ODORS	15A NCAC 02D .1801	DEFINITIONS	Eff. July 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1802	CONTROL OF ODORS FROM ANIMAL OPERATIONS USING LIQUID ANIMAL WASTE MANAGEMENT SYSTEMS	Eff. July 1, 2000	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest
	15A NCAC 02D .1803	BEST MANAGEMENT PLANS FOR ANIMAL OPERATIONS	Eff. July 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1804	REPORTING REQUIREMENTS FOR ANIMAL OPERATIONS	Eff. July 1, 2000	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1806	CONTROL AND PROHIBITION OF ODOROUS EMISSIONS	Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1807	DETERMINATION OF MAXIMUM FEASIBLE CONTROLS FOR ODOROUS EMISSIONS	Eff. April 1, 2001	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1808	EVALUATION OF NEW OR MODIFIED SWINE FARMS	Eff. January 1, 2009	Necessary with substantive public interest	No		No	Necessary with substantive public interest

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SECTION .1900 - OPEN BURNING	15A NCAC 02D .1901	OPEN BURNING: PURPOSE: SCOPE	Amended Eff. January 1, 2015	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1902	DEFINITIONS	Amended Eff. January 1, 2015	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1903	OPEN BURNING WITHOUT AN AIR QUALITY PERMIT	Eff. March 19, 2015	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1904	AIR CURTAIN BURNERS	Amended Eff. July 3, 2012	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .1905	REGIONAL OFFICE LOCATIONS	Amended Eff. December 1, 2005	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	15A NCAC 02D .1906	DELEGATION TO COUNTY GOVERNMENTS	Amended Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .1907	MULTIPLE VIOLATIONS ARISING FROM A SINGLE EPISODE	Eff. July 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest
SECTION .2000 - TRANSPORTATION CONFORMITY	15A NCAC 02D .2001	PURPOSE, SCOPE AND APPLICABILITY	Amended Eff. December 1, 2005	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 176(c)(4)(C )	No	Necessary with substantive public interest
	15A NCAC 02D .2002	DEFINITIONS	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 176(c)(4)(C )	No	Necessary with substantive public interest
	15A NCAC 02D .2003	TRANSPORTATION CONFORMITY DETERMINATION	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 176(c)(4)(C )	No	Necessary with substantive public interest
	15A NCAC 02D .2004	DETERMINING TRANSPORTATION-RELATED EMISSIONS	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 176(c)(4)(C )	No	Necessary with substantive public interest
	15A NCAC 02D .2005	MEMORANDUM OF AGREEMENT	Eff. April 1, 1999	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 176(c)(4)(C )	No	Necessary with substantive public interest
SECTION .2100 – RISK MANAGEMENT PROGRAM	15A NCAC 02D .2101	APPLICABILITY	Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112(r ), 40 CFR Part 68	No	Necessary with substantive public interest
	15A NCAC 02D .2102	DEFINITIONS	Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112(r ), 40 CFR Part 68	No	Necessary with substantive public interest
	15A NCAC 02D .2103	REQUIREMENTS	Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112(r ), 40 CFR Part 68	No	Necessary with substantive public interest

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Date Submitted to APO - Filled in by RRC staff								
Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
	15A NCAC 02D .2104	IMPLEMENTATION	Eff. July 1, 2000	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 112(r ), 40 CFR Part 68	No	Necessary with substantive public interest
SECTION .2200 – SPECIAL ORDERS	15A NCAC 02D .2201	PURPOSE	Eff. April 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2202	DEFINITIONS	Eff. April 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2203	PUBLIC NOTICE	Eff. April 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2204	FINAL ACTION ON CONSENT ORDERS	Eff. April 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2205	NOTIFICATION OF RIGHT TO CONTEST SPECIAL ORDERS ISSUED WITHOUT CONSENT	Eff. April 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest
SECTION .2300 – BANKING EMISSION REDUCTION CREDITS	15A NCAC 02D .2301	PURPOSE	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2302	DEFINITIONS	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2303	APPLICABILITY AND ELIGIBILITY	Amended Eff. July 1, 2007	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2304	QUALIFICATION OF EMISSION REDUCTION CREDITS	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2305	CREATING AND BANKING EMISSION REDUCTION CREDIT	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2306	DURATION OF EMISSION REDUCTION CREDITS	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2307	USE OF EMISSION REDUCTION CREDITS	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2308	CERTIFICATES AND REGISTRY	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2309	TRANSFERRING EMISSION REDUCTION CREDITS	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2310	REVOCATION AND CHANGES OF EMISSION REDUCTION CREDITS	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	15A NCAC 02D .2311	MONITORING	Eff. December 1, 2005	Necessary with substantive public interest	No		No	Necessary with substantive public interest
SECTION .2400 – CLEAN AIR INTERSTATE RULES	15A NCAC 02D .2401	PURPOSE AND APPLICABILITY	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary



G.S. 150B-21.3A Report for 15A NCAC Chapter 02D, AIR POLLUTION CONTROL REQUIREMENTS								
Agency - Environmental Management Commission								
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	15A NCAC 02D .2402	DEFINITIONS	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2403	NITROGEN OXIDE EMISSIONS	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2404	SULFUR DIOXIDE	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2405	NITROGEN OXIDE EMISSIONS DURING OZONE SEASON	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2406	PERMITTING	Eff. July 1, 2006	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2407	MONITORING, REPORTING, AND RECORDKEEPING	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2408	TRADING PROGRAM AND BANKING	Eff. July 1, 2006	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2409	DESIGNATED REPRESENTATIVE	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2410	COMPUTATION OF TIME	Eff. July 1, 2006	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2411	OPT-IN PROVISIONS	Eff. July 1, 2006	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2412	NEW UNIT GROWTH	Amended Eff. May 1, 2008	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2413	PERIODIC REVIEW AND REALLOCATIONS	Eff. July 1, 2006	Unnecessary	No		Yes	Unnecessary
SECTION .2500 – MERCURY RULES FOR ELECTRIC GENERATORS	15A NCAC 02D .2501	PURPOSE AND APPLICABILITY	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2502	DEFINITIONS	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2503	MERCURY EMISSION	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2504	PERMITTING	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2505	MONITORING, REPORTING, AND RECORDKEEPING	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2506	DESIGNATED REPRESENTATIVE	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2507	COMPUTATION OF TIME	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2508	NEW SOURCE GROWTH	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2509	PERIODIC REVIEW AND REALLOCATIONS	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2510	TRADING PROGRAM AND BANKING	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2511	MERCURY EMISSION LIMITS	Eff. January 1, 2007	Unnecessary	No		Yes	Unnecessary
	15A NCAC 02D .2601	PURPOSE AND SCOPE	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2602	GENERAL PROVISIONS ON TEST METHODS AND PROCEDURES	Eff. July 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

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	15A NCAC 02D .2603	TESTING PROTOCOL	Eff. July 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2604	NUMBER OF TEST POINTS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2605	VELOCITY AND VOLUME FLOW RATE	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2606	MOLECULAR WEIGHT	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2607	DETERMINATION OF MOISTURE CONTENT	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2608	NUMBER OF RUNS AND COMPLIANCE DETERMINATION	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2609	PARTICULATE TESTING METHODS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2610	OPACITY	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2611	SULFUR DIOXIDE TESTING METHODS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2612	NITROGEN OXIDE TESTING METHODS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2613	VOLATILE ORGANIC COMPOUND TESTING METHODS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2614	DETERMINATION OF VOC EMISSION CONTROL SYSTEM EFFICIENCY	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2615	DETERMINATION OF LEAK TIGHTNESS AND VAPOR LEAKS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2616	FLUORIDES	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

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	15A NCAC 02D .2617	TOTAL REDUCED SULFUR	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2618	MERCURY	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2619	ARSENIC, BERYLLIUM, CADMIUM, HEXAVALENT CHROMIUM	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2620	DIOXINS AND FURANS	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest
	15A NCAC 02D .2621	DETERMINATION OF FUEL HEAT CONTENT USING F-FACTOR	Eff. June 1, 2008	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	CAA Section 110	No	Necessary with substantive public interest

## 15A NCAC 02D Air Pollution Control Requirements

### 15A NCAC 02D .0402 SULFUR OXIDES

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Email: [terry@cleanaircarolina.org](mailto:terry@cleanaircarolina.org)

Zip: 28217

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Necessary without substantive public interest

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Submit a file

Comment Received in letter:

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

The Rules Implementing the Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary and should be updated to include more stringent federal requirements.

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as "unnecessary," without putting in place the more stringent federal requirements that are now in effect. Indicators and monitoring activities across the state, indicate levels of ozone, nitrogen oxides (Nitrogen oxide is a precursor to ozone, which causes asthma, emphysema, bronchitis, and other breathing problems. ), sulfur dioxides (exposure affects healthy adults as well as those who work or exercise outdoors and have greater effects on at-risk populations such as children, the elderly, and asthmatics.) and particulate matter emissions continually affect public health. Asthma diagnosis's and other health impacts continue to strain our workforce, educational and health care systems, DENR should revisit these rules and categorize them as necessary instead.

**Agency Response:**

The agency's selected determination is "necessary with substantive public interest." Comments will be considered during the readoption process.

## 15A NCAC 02D .0405 OZONE

### **Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Email: [terry@cleanaircarolina.org](mailto:terry@cleanaircarolina.org)

Zip: 28217

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Necessary without substantive public interest

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: An objection to the rule

Do I want to enter a comment, or submit a file? Submit a file

### **Comment Received in letter:**

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

The Rules Implementing the Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary and should be updated to include more stringent federal requirements.

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as "unnecessary," without putting in place the more stringent federal requirements that are now in effect. Indicators and monitoring activities across the state, indicate levels of ozone, nitrogen oxides (Nitrogen oxide is a precursor to ozone, which causes asthma, emphysema, bronchitis, and other breathing problems. ), sulfur dioxides (exposure affects healthy adults as well as those who work or exercise outdoors and have greater effects on at-risk populations such as children, the elderly, and asthmatics. ) and particulate matter emissions continually affect public health. Asthma diagnosis's and other health impacts continue to strain our workforce, educational and health care systems, DENR should revisit these rules and categorize them as necessary instead.

### **Agency Response:**

The agency's selected determination is "necessary with substantive public interest." Comments will be considered during the readoption process.

## 15A NCAC 02D .0536 PARTICULATE EMISSIONS FROM ELECTRIC UTILITY BOILERS

**Commenter Name: Mark McIntire**

Company/Organization: Duke Energy

Email: [mark.mcintire@duke-energy.com](mailto:mark.mcintire@duke-energy.com)

Zip: 27601

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Unnecessary

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: An objection to the rule

Do I want to enter a comment, or submit a file? Enter a comment

My Comment Text: Since the implementation of Clean Smokestacks, all of Duke Energy Progress and Duke Energy Carolinas coal fired boilers include advanced air pollution control equipment (SCRs/SNCRs, ESP, scrubbers). In addition, these units are equipped with PM CEMS for monitoring compliance with particulate standards. As such, it is our belief that 2D .0536 as it pertains to AAO is unnecessary, obsolete and imposes additional burden on operations. Duke Energy therefore requests that the NC DENR consider reclassifying this rule as unnecessary.

Thank you.NaNNaN

### **Agency Response:**

The agency's selected determination is "necessary with substantive public interest." Comments will be considered during the readoption process.



## 15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

Commenter Name: Joe Sgroi  
Company/Organization: Snyder's-Lance  
Email: [jsgroi@snyderslance.com](mailto:jsgroi@snyderslance.com)  
Zip: 28273

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Unnecessary

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: An objection to the rule

Do I want to enter a comment, or submit a file? Submit a file

Comment Received in letter:

Snyder's- Lance respectfully objects to the TAP Rule's ammonia emission limit of 2.7 mg/m<sup>3</sup> as a 1-hour acute standard. The objection is based, in part, on the following:

1) Regulation of ammonia emissions is not necessary. Ammonia is not among the federal Environmental Protection Agency's 187 "toxic air pollutants" regulated under Section 112(a) of the Clean Air Act. In addition, the majority of states do not regulate ammonia as a toxic air pollutant, including all of North Carolina's neighboring states.

2) Even if North Carolina continues to regulate ammonia, the current emissions limit of 2.7 mg/m<sup>3</sup> is far too low. By comparison, the OSHA Permissible Exposure Limit for Ammonia inside the workplace of a general industry is 35 mg/m<sup>3</sup>, more than ten times the North Carolina ammonia emission limit. Snyder's-Lance is a significant employer in Mecklenburg County and in North Carolina. The ammonia emissions limit has an impact on the company's ability to expand baking operations and increase production of food products that are in demand. This also could impact our ability to increase staffing at the facility.

The ammonia emissions limit in 15A NCAC 02D.1104 is not necessary and is substantively erroneous. This rule is a matter of significant public interest and substantive public interest. DENR should determine that this rule is unnecessary or, alternatively, a rule having substantive public interest.

### Agency Response:

The agency's selected determination is "necessary with substantive public interest." Comments will be considered during the readoption process.

## 15A NCAC 02D .1600 GENERAL CONFORMITY

**Commenter Name: USEPA, Region 4**

Company/Organization: USEPA, Region 4

Email: [R4-ARMS@epa.gov](mailto:R4-ARMS@epa.gov)

Zip: 30303

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Enter a comment

My Comment Text: Please note that any changes to the general conformity regulations at the state level, once state effective, will also need to be submitted to EPA for approval into the federally-approved SIP in the form of a final SIP revision.

This comment is applicable for General Conformity Rules 15A NCAC 02D .1601 - .1603.

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Comment received in letter:

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

North Carolina's rules to ensure that federal actions conform to air quality maintenance plans (15A NCAC 2D .1601, .1602, & .1603) should be retained.

DENR should retain rules that are currently in place to guarantee that federal actions do not conflict with plans to attain or maintain air quality standards in areas with a history of or ongoing air pollution problems. These rules prohibit federal governmental entities from permitting, providing financial assistance for, or otherwise supporting any activity that contravenes these plans. Not only are these requirements still important to protect against increases in dangerous air pollutants, they are also still required by federal law, even though the location of the requirements in the federal code has changed.

**Commenter Name: Myra Blake**

Company/Organization: Southern Environmental Law Center

Comment received in letter:

III. North Carolina's rules to ensure that federal actions conform to air quality maintenance plans (15A N.C. Admin. Code 02D .1601, .1602, and .1603) should be retained.

DENR should retain rules that are currently in place to guarantee that federal actions do not conflict with plans to attain or maintain air quality standards in areas with a history of or ongoing air pollution problems. These rules prohibit federal governmental entities from permitting , providing financial assistance for, or otherwise supporting any activity that contravenes these plans.<sup>32</sup> Not only are these requirements still important to prevent increases in dangerous air pollutants, they are also still required by federal law, even though the location of the requirements in the federal code has changed.<sup>33</sup>

**Agency Response:**

The agency's selected determination is "unnecessary." These rules are no longer necessary since on August 10, 2005, the establishment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) transportation act was signed into law and removed the requirement for states to maintain general conformity regulations. Among other things, it amended the Clean Air Act (CAA) to eliminate the requirement for states to adopt and submit general conformity state implementation plans (SIPs). On April 5, 2010 (75 FR 17254), EPA updated the general conformity SIP regulations to be consistent with the transportation act by eliminating the federal regulatory requirement for states to adopt and submit general conformity SIPs. See 40 CFR 51.851.

**15A NCAC 02D .1802 CONTROL OF ODORS FROM ANIMAL OPERATIONS USING LIQUID ANIMAL WASTE MANAGEMENT SYSTEMS**

**Commenter Name: David Brigman**

Company/Organization: WNC Regional Air Quality Agency

Email: [david.brigman@buncombecounty.org](mailto:david.brigman@buncombecounty.org)

Zip: 28806

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Unnecessary

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Enter a comment

My Comment Text: Comment on 2D .1802 CONTROL OF ODORS FROM ANIMAL OPERATIONS USING LIQUID ANIMAL WASTE MANAGEMENT SYSTEMS. Our agency is required to apply this rule to animal operations that use liquid animal waste management systems. We have required a local farmer to submit a best management plan to reduce odors from his farm. There is very little that can be done to control the odors from the feedlot and the lagoon that is economically and technologically feasible. As the area becomes more populated, this is more of an issue, and we receive a large number of complaints from neighbors. Taking staff time and resources to ensure the BMP is being followed is a burden. We think that small operations, such as this, with approximately 300 cattle, should be exempt from this rule, even though they do have a liquid animal waste management system and are required to have a water quality permit. Addressing the odors through Division of Water Quality, the permitting authority, would be more appropriate, since that agency is more familiar with the operation and is already required to inspect and regulate this operation.

**Agency Response:**

The agency's selected determination is "necessary with substantive public interest." Comments will be considered during the readoption process.

## 15A NCAC 02D .2400 Clean Air Interstate Rules

### Commenter Name: USEPA, Region 4

Company/Organization: USEPA, Region 4

Email: [R4-ARMS@epa.gov](mailto:R4-ARMS@epa.gov)

Zip: 30303

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Necessary with substantive public interest

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Enter a comment

My Comment Text: There is ongoing CSAPR litigation involving multiple issues challenging EPA's legal authority and technical analysis. Repeal of CAIR regulations at this time is not recommended until such time as the remaining challenges to the CSAPR in the D.C. Circuit are resolved. Please note that any changes to the CAIR regulations at the state level, once state effective, will also need to be submitted to EPA for approval into the federally-approved SIP in the form of a final SIP revision.

This comment is applicable for Clean Air Interstate Rules 15A NCAC 02D .2401 - 2413.

### Commenter Name: Myra Blake

Company/Organization: Southern Environmental Law Center

Comment received in letter:

The Southern Environmental Law Center submits these comments in response to the initial determination by the North Carolina Department of Environment and Natural Resources (DENR) that numerous rules in Subchapter 02D of Title 15A of the North Carolina Administrative Code are "unnecessary." We disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough.<sup>1</sup>

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 02D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A N.C. Admin. Code 02D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A N.C. Admin. Code 02D .1601, .1602, and .1603) must be retained.

II. The rules implementing the Clean Air Interstate Rule (15A N.C. Admin. Code 02D

.2401 to .2413) are necessary and should be updated to include more stringent federal requirements.

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as "unnecessary," without putting in place the more stringent federal requirements that are now in effect. DENR should revisit these rules and categorize them as necessary instead.

A. The pollutants covered by these rules cause widespread health problems.

B. Federal and state regulations were put in place to combat these dangers.

In 2005, EPA issued the Clean Air Interstate Rule ("CAIR") to curb unhealthy levels of fine particles and ozone by reducing sulfur dioxide and nitrogen oxide emissions. In 2008, the D.C. Circuit vacated CAIR, but ordered EPA to continue implementing CAIR until it re-promulgated a lawful replacement. In 2011, EPA promulgated a replacement program known as the Cross State Air Pollution Rule ("CSAPR"), and in 2014 the Supreme Court upheld EPA's reliance on costs in CSAPR and overturned the D.C. Circuit's decision on this issue.<sup>29</sup>

On January 1, 2015, CSAPR went into effect and replaced CAIR. The D.C. Circuit is currently considering other issues related to CSAPR on remand, and a decision on these issues is pending.

C. DENR should update its rules to include CSAPR requirements, rather than simply striking the CAIR requirements.

In order to avoid any implementation gap, DENR should promptly issue rules that implement the CSAPR requirements, rather than eliminating the rules designed to implement CAIR without any replacement. As explained above, the Environmental Management Commission has a duty to adopt rules implementing CSAPR "as rapidly as possible."<sup>30</sup> North Carolina's rules need to be revised to reflect all CSAPR requirements. The North Carolina rules implementing CAIR should remain in place until the current federal CSAPR litigation is resolved and the State issues rules implementing CSAPR.

In addition, the North Carolina rules were adopted to conform to the federal CAIR regulations, and therefore cannot automatically expire. Under North Carolina's rules review process, even rules that are classified as "unnecessary" "shall not expire" if they were "adopted to conform to or implement federal law."<sup>31</sup> Therefore, regardless of the classification assigned to these rules, they cannot expire under the rules review process.

**Agency Response:**

The agency's selected determination is "unnecessary." The Clean Air Interstate Rules were struck down and the Cross State Air Pollution Rules are currently being implemented. The Division does not anticipate that resolution of pending CSAPR related litigation would result in the CAIR rules being reinstated.

## 15A NCAC 02D .2403 NITROGEN OXIDE EMISSIONS

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Email: [terry@cleanaircarolina.org](mailto:terry@cleanaircarolina.org)

Zip: 28217

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Necessary with substantive public interest

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Submit a file

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Comment received in letter:

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

The Rules Implementing the Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary and should be updated to include more stringent federal requirements.

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as "unnecessary," without putting in place the more stringent federal requirements that are now in effect. Indicators and monitoring activities across the state, indicate levels of ozone, nitrogen oxides (Nitrogen oxide is a precursor to ozone, which causes asthma, emphysema, bronchitis, and other breathing problems. ), sulfur dioxides (exposure affects healthy adults as well as those who work or exercise outdoors and have greater effects on at-risk populations such as children, the elderly, and asthmatics. ) and particulate matter emissions continually affect public health. Asthma diagnosis's and other health impacts continue to strain our workforce, educational and health care systems, DENR should revisit these rules and categorize them as necessary instead.



**Agency Response:**

The agency's selected determination is "unnecessary." The Clean Air Interstate Rules were struck down and the replacement Cross State Air Pollution Rules are currently being implemented. The Division does not anticipate that resolution of pending CSAPR related litigation would result in the CAIR rules being reinstated.

## 15A NCAC 02D .2404 SULFUR DIOXIDE

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Email: [terry@cleanaircarolina.org](mailto:terry@cleanaircarolina.org)

Zip: 28217

Do I agree with the Agency's determination? No

I would determine this rule's classification as: Necessary with substantive public interest

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Submit a file

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Comment received in letter:

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

The Rules Implementing the Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary and should be updated to include more stringent federal requirements.

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as "unnecessary," without putting in place the more stringent federal requirements that are now in effect. Indicators and monitoring activities across the state, indicate levels of ozone, nitrogen oxides (Nitrogen oxide is a precursor to ozone, which causes asthma, emphysema, bronchitis, and other breathing problems. ), sulfur dioxides (exposure affects healthy adults as well as those who work or exercise outdoors and have greater effects on at-risk populations such as children, the elderly, and asthmatics. ) and particulate matter emissions continually affect public health. Asthma diagnosis's and other health impacts continue to strain our workforce, educational and health care systems, DENR should revisit these rules and categorize them as necessary instead.

**Agency Response:**

The agency's selected determination is "unnecessary." The Clean Air Interstate Rules were struck down and the Cross State Air Pollution Rules are currently being implemented. The Division does not anticipate that resolution of pending CSAPR related litigation would result in the CAIR rules being reinstated.

## 15A NCAC 02D .2500 Mercury Rules for Electric Generators

**Commenter Name: Terry Lansdell**

Company/Organization: Clean Air Carolina

Comment Received in letter:

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

The Rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated. Mercury emissions from power plants pose grave health threats and state rules must reflect increasingly stringent federal rules. DENR needs to strengthen, rather than eliminate, North Carolina's mercury protections.

DENR proposes to classify as "unnecessary" rules put in place to protect people from harmful mercury emissions from coal-fired power plants, 15A N.C. Admin. Code 2D .2501 to .2511 (the "North Carolina Mercury Rules"). Until all coal plants are decommissioned or repurposed, these rules are critical to protect the health of North Carolinians from mercury emissions.

**Commenter Name: Myra Blake**

Company/Organization: Southern Environmental Law Center

Comment received in letter:

The Southern Environmental Law Center submits these comments in response to the initial determination by the North Carolina Department of Environment and Natural Resources (DENR) that numerous rules in Subchapter 02D of Title 15A of the North Carolina Administrative Code are "unnecessary." We disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough.<sup>1</sup>

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 02D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A N.C. Admin. Code 02D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A N.C. Admin. Code 02D .1601, .1602, and .1603) must be retained.

We therefore encourage the agency to reconsider its decision to label these rules "unnecessary," and, in recognition of the importance of these rules, classify them as "necessary with substantive public interest."<sup>3</sup>

I. The Rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 02D .2501 to .2511) are necessary, and should be strengthened rather than eliminated.

DENR proposes to classify as "unnecessary" rules put in place to protect people from harmful mercury emissions from coal-fired power plants, 15A N.C. Admin. Code 2D .2501 to .2511 (the "North Carolina Mercury Rules"). As explained below, this classification is incorrect and a disservice to the people of North Carolina. The North Carolina Mercury Rules are necessary and important, given the dangers posed by mercury and by DENR's ongoing delay in adopting more stringent mercury protections required to implement the federal Mercury and Air Toxics Standards.

A. Mercury emissions from power plants pose grave health threats.

Mercury is a neurotoxin that can cause lowered intelligence and learning disabilities in unborn children, breast-fed infants, and young children.<sup>4</sup> Adults exposed to even low amounts of mercury may also be at higher risk for heart disease and heart attacks, altered sensation, impaired hearing and vision, and motor disturbances linked directly to exposure from eating contaminated fish.<sup>5</sup>

Coal-fired power plants are the leading source of mercury pollution,<sup>6</sup> which is emitted into the air and deposited in water bodies where it is consumed by fish before it works its way up the food chain. All river basins in North Carolina are currently listed as impaired due to mercury contamination.<sup>7</sup> As a result, a state-wide fish consumption advisory is in place, which warns people to limit consumption of or to avoid eating fish caught in North Carolina waters.<sup>8</sup>

B. To protect against these threats, a series of increasingly stringent federal and state rules has been adopted.

In 2005, EPA issued the Clean Air Mercury Rule ("CAMR"), which created a cap-and-trade system to reduce nation-wide mercury emissions from power plants.

In 2006, the North Carolina Environmental Management Commission established the North Carolina Mercury Rules, which contain requirements that are more protective than CAMR's.<sup>9</sup> In addition to implementing the cap-and-trade system of CAMR, the North Carolina Mercury Rules require a unit-by-unit analysis of the "maximum mercury reductions that are technically and economically feasible at each unit," with a 2017 deadline for implementing controls to achieve those reductions.<sup>10</sup>

In 2008, the U.S. Court of Appeals for the D.C. Circuit vacated CAMR (along with EPA's prior decision to remove power plants from the list of sources of hazardous air pollutants).<sup>11</sup>

In 2012, EPA established federal Mercury and Air Toxics Standards ("MATS"), which protect against emissions of toxic air pollutants from coal and oil-fired power plants.<sup>12</sup> The new standards are expected to cut 90% of the mercury emitted by uncontrolled coal-fired power plants.<sup>13</sup> In North Carolina, implementation of MATS will prevent up to 480 premature deaths, while creating up to \$3.9 billion in health benefits in 2016 alone. The MATS rules became effective on April 16, 2012, with a compliance deadline for existing sources of April 16, 2015, and the possibility of a one-year extension under certain circumstances.

On April 15, 2014, the U.S. Court of Appeals for the D.C. Circuit Court upheld the EPA EGU MATS rule against legal challenges. The U.S. Supreme Court granted certiorari on the limited issue of whether the Environmental Protection Agency properly refused to consider costs when determining that it was appropriate to regulate hazardous air pollution from power plants.<sup>14</sup>

A decision from the Court is pending.

C. DENR needs to strengthen, rather than eliminate, North Carolina's mercury protections. Right now, DENR should be strengthening the mercury rules to conform to the MATS requirements, rather than repealing the existing mercury protections. Under North Carolina law, the Environmental Management Commission has a duty to adopt rules implementing MATS "as rapidly as possible."<sup>15</sup> More than three years after the MATS rules took effect, North Carolina has yet to incorporate these requirements into its regulations. North Carolina's rules need to be strengthened immediately to include all MATS components, including emission and operating limits and testing, monitoring, recording, and reporting requirements.<sup>6</sup> With the new MATS rules already in effect and yet to be adopted in North Carolina, it is particularly troubling that DENR would choose to eliminate (rather than revise and improve) current state protections against mercury. The North Carolina Mercury Rules should remain in place until the current federal MATS litigation is resolved and the State promulgates rules implementing MATS.

Importantly, any provisions of the North Carolina Mercury Rules that provide protections that are additional to MATS should be retained. For example, the Rules provide that "[t]he Commission shall require additional reductions in mercury emissions when needed to reduce mercury concentrations to levels that do not cause or contribute to mercury-related health problems."<sup>17</sup> With all of North Carolina's waters still impaired due to mercury contamination, and with a state-wide caution in effect against eating fish caught in any of the state's waters, this duty to eliminate emissions that cause health problems is not "obsolete, redundant, or otherwise not needed," and must be retained. In addition, while the initial deadline for MATS compliance has passed, some facilities have obtained a one-year extension until April 16, 2016, to come into compliance.<sup>18</sup> These facilities must continue to comply with the emission limits in North Carolina Mercury Rules in the interim.

Finally, the North Carolina Mercury Rules were adopted to conform to federal regulations (CAMR), and therefore cannot automatically expire. Under North Carolina's rules review process, even rules that are classified as "unnecessary" "shall not expire" if they were "adopted to conform to or implement federal law."<sup>19</sup> The North Carolina Mercury Rules were adopted to implement the CAMR requirements and any additional requirements deemed necessary by the Environmental Management Commission.<sup>20</sup> Therefore, regardless of the classification assigned to these rules, they will remain in place.

#### **Agency Response:**

The agency's selected determination is "unnecessary." The Clean Air Mercury Rules upon which the state rules in 15A NCAC 02D .2500 were based were vacated by the U.S. Court of Appeals for the D.C. Circuit February 8, 2008. Those federal rules were later replaced by the Mercury and Air Toxics Standards (MATS) in 40 CFR 63 Subpart UUUU which the state automatically adopts via 15A NCAC 02D .1111 and implements.

As described in the Division's 2012 Mercury Report to the EMC, North Carolina electric generating units' emissions have decreased 89% from 2002 through 2013. Atmospheric deposition modeling estimated that by 2016 mercury from all sources in North Carolina contribute 3.6% of the mercury deposited in North Carolina.

The commenter referenced that the rules require a unit-by-unit analysis of the "maximum mercury reductions that are technically and economically feasible at each unit," with a 2017 deadline for implementing controls to achieve those reductions. The Division agrees that those requirements of .2511 (b) through (d) haven't all been addressed. The compliance plans required by the rule were submitted and the agency is completing its review to take to the Air Quality Committee in September and the Environmental

Management Commission in November. All of the units subject to the requirements have either installed mercury controls suitable to meet the Mercury and Air Toxics Standards or shut down as of December 2013.



## **General Comments on 15A NCAC Chapter 02D**

Comment received in email:

**Commenter Name: Allen Hardison**

Company/Organization: Joyce Engineering, Inc./North Carolina Chapter of the National Waste and Recycling Association

I hope you are doing well. I was pleased to meet you at the EMC committee meetings a few weeks back. As I indicated at the time and in emails, I am working with Joyce Engineering, Inc. on a project for the North Carolina chapter of the National Waste and Recycling Association to monitor and provide assistance in the Periodic Review of Existing Rules.

The legislative committee of the chapter, that also deals with administrative rules and other regulatory issues, has reviewed the categories of the 15 NCAC 02D and 15 NCAC 02Q rules as published on the Office of Administrative Hearings' website. We concur with the categorizations of the rules as presented.

We look forward to a continued engagement with the Division as the rules move forward to the re-adoption stage.

### **Agency Response:**

The agency has no selected determination for general comments. Comments will be considered during Commission discussion related to the rule readoption process.

## **Commenter Name: Members of Medical Advocates for Healthy Air**

Company/Organization: Members of Medical Advocates for Healthy Air

Comment received in letter:

As medical and health professionals who work and live in North Carolina, we are writing to express our strong opposition to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary, obsolete, redundant, or otherwise not needed." In fact, the 27 rules targeted by the agency for elimination would ultimately deprive both the public and DENR's Division of Air Quality of useful regulatory guidance regarding the control of air pollution in North Carolina. These protective rules are critical and should not only be deemed "necessary with substantive public interest" but updated and strengthened to adequately protect public health under stringent federal requirements.

We urge DENR to reconsider its initial determination to the contrary, and, in recognition of the importance of these rules, classify them as "necessary with public interest." Thank you for your consideration.

### **Agency Response:**

The agency has no selected determination for general comments. Comments will be considered during Commission discussion related to the rule readoption process.

May 20, 2015

DENR Rule Comments  
1601 Mail Service Center  
Raleigh, NC 27699



Re: Initial Determination of the Necessity of Rules in 15A NCAC 2D

Dear Sir or Madam:

Clean Air Carolina submits these comments, with thanks and acknowledgments of Southern Environmental Law Center's language and source material, in response to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are "unnecessary." We also disagree with the agency's underlying conclusion that these rules are "obsolete, redundant, or otherwise not needed," and object to these rules as not protective enough to protect public health.<sup>1</sup>

In particular, the comments below explain that (1) North Carolina's rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A NCAC 2D .1601, .1602, & .1603) must be retained.

Our comments are motivated by the fact that rules designed to protect public health are deemed "unnecessary" will expire unless they were "adopted to conform to or implement federal law."<sup>2</sup> Elimination of the 27 rules in Subchapter 2D targeted by the agency for automatic expiration would deprive both the public and DENR's Division of Air Quality (DAQ) of useful regulatory guidance regarding the control of air pollution in North Carolina. We submit these comments in the hope that DENR will reconsider its decision to label these rules "unnecessary."

We encourage DENR to reconsider its initial determination to the contrary, and, in recognition of the importance of these rules, classify them as "necessary with substantive public interest."<sup>3</sup>

**The Rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 2D .2501 to .2511) are necessary, and should be strengthened rather than eliminated. Mercury emissions from power plants pose grave health threats and state rules must reflect increasingly stringent federal rules. DENR needs to strengthen, rather than eliminate, North Carolina's mercury protections.**

DENR proposes to classify as "unnecessary" rules put in place to protect people from harmful mercury emissions from coal-fired power plants, 15A N.C. Admin. Code 2D .2501 to .2511 (the "North Carolina Mercury Rules"). Until all coal plants are decommissioned or repurposed, these rules are critical to protect the health of North Carolinians from mercury emissions.

<sup>1</sup> N.C. Gen. Stat. § 150B-21.3A(a)(6) (defining "unnecessary").

<sup>2</sup> See N.C. Gen. Stat. § 150B-21.3A. With the exception of rules in Subchapter 12J, the rules addressed herein were adopted exclusively to implement state law.

<sup>3</sup> See N.C. Gen. Stat. § 150B-21.3A(a)(4) (defining "necessary without substantive public interest").

**The Rules Implementing the Clean Air Interstate Rule (15A NCAC 2D .2401 to .2413) are necessary and should be updated to include more stringent federal requirements.**

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as “unnecessary,” without putting in place the more stringent federal requirements that are now in effect. Indicators and monitoring activities across the state, indicate levels of ozone, nitrogen oxides (Nitrogen oxide is a precursor to ozone, which causes asthma, emphysema, bronchitis, and other breathing problems.<sup>4</sup>), sulfur dioxides (exposure affects healthy adults as well as those who work or exercise outdoors and have greater effects on at-risk populations such as children, the elderly, and asthmatics.<sup>5</sup>) and particulate matter emissions continually affect public health. Asthma diagnosis’s and other health impacts continue to strain our workforce, educational and health care systems, DENR should revisit these rules and categorize them as necessary instead.

**North Carolina’s rules to ensure that federal actions conform to air quality maintenance plans (15A NCAC 2D .1601, .1602, & .1603) should be retained.**

DENR should retain rules that are currently in place to guarantee that federal actions do not conflict with plans to attain or maintain air quality standards in areas with a history of or ongoing air pollution problems. These rules prohibit federal governmental entities from permitting, providing financial assistance for, or otherwise supporting any activity that contravenes these plans.<sup>6</sup> Not only are these requirements still important to protect against increases in dangerous air pollutants, they are also still required by federal law, even though the location of the requirements in the federal code has changed.<sup>7</sup>

## **Conclusion**

In the name of public health protections from exposure to pollutants, Title 15A of the North Carolina Administrative Code is important in guiding air quality programs of the Division of Air Quality. Clean Air Carolina disagrees with the agency’s underlying conclusion that these rules are “obsolete, redundant, or otherwise not needed,” and object to these rules as not protective enough to protect public health.<sup>8</sup> Deactivating or classifying these rules as obsolete or redundant is not acceptable to protect public health. With over 200,000 cases of Asthma in North Carolina, it is clear that the existing rules presently do not do enough to protect the public health of North Carolina’s residents and most vulnerable populations and we encourage DENR to reconsider its initial determination to the contrary, and, in recognition of the importance of these rules, classify them as “necessary.”<sup>9</sup>

Terry Lansdell  
Program Director  
Clean Air Carolina  
421 Minuet Lane  
Charlotte, NC 28217  
980-213-6446

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<sup>4</sup> <http://www.epa.gov/groundlevelozone/health.html>

<sup>5</sup> EPA, Sulfur Dioxide - Health, available at <http://www.epa.gov/airquality/sulfurdioxide/health.html>; 75 Fed. Reg. at 35,525

<sup>6</sup> 15A NCAC 2D .1601(a).

<sup>7</sup> While the NC rule references provisions of the federal code which have been repealed (40 C.F.R. 51.852 to 860), the substance of these federal rules was reproduced in the EPA’s General Conformity Regulations (40 C.F.R. 93.150 et seq.).

<sup>8</sup> N.C. Gen. Stat. § 150B-21.3A(a)(6) (defining “unnecessary”).

<sup>9</sup> See N.C. Gen. Stat. § 150B-21.3A(a)(4) (defining “necessary without substantive public interest”).

**Comment Regarding Rule:  
15A NCAC 02D.1104 Toxic Air Pollutant Guidelines**

Snyder's-Lance is a food manufacturing facility located at 8600 South Blvd., Charlotte, NC. As part of the food manufacturing process, Snyder's-Lance uses Ammonium Bicarbonate (ABC) as a leavening agent in the baking process. As a result, Snyder's-Lance emits ammonia into the atmosphere. These emissions are regulated through Mecklenburg County Air Quality Permit 13-038-682, pursuant to Rule 15A NCAC 02D.1104 (Toxic Air Pollutant Guidelines) (the "TAP Rule").

Snyder's-Lance respectfully objects to the TAP Rule's ammonia emission limit of 2.7 mg/m<sup>3</sup> as a 1-hour acute standard. The objection is based, in part, on the following:

- 1) Regulation of ammonia emissions is not necessary. Ammonia is not among the federal Environmental Protection Agency's 187 "toxic air pollutants" regulated under Section 112(a) of the Clean Air Act. In addition, the majority of states do not regulate ammonia as a toxic air pollutant, including all of North Carolina's neighboring states.
- 2) Even if North Carolina continues to regulate ammonia, the current emissions limit of 2.7 mg/m<sup>3</sup> is far too low. By comparison, the OSHA Permissible Exposure Limit for Ammonia inside the workplace of a general industry is 35 mg/m<sup>3</sup>, more than ten times the North Carolina ammonia emission limit.

Snyder's-Lance is a significant employer in Mecklenburg County and in North Carolina. The ammonia emissions limit has an impact on the company's ability to expand baking operations and increase production of food products that are in demand. This also could impact our ability to increase staffing at the facility.

---

The ammonia emissions limit in 15A NCAC 02D.1104 is not necessary and is substantively erroneous. This rule is a matter of significant public interest and substantive public interest. DENR should determine that this rule is unnecessary or, alternatively, a rule having substantive public interest.

**From:** [Ward, Nacosta](#)  
**To:** [Burleson, Joelle](#)  
**Cc:** [Benjamin, Lynorae](#); [Davis, Scott](#); [Bradley, Twunjala](#); [Farnagalo, Zuri](#); [Masemore, Sushma](#); [Lakeman, Sean](#)  
**Subject:** Comment Responses posted on the NCDENR website RE: Periodic Review and Expiration of Rules Report - Air Quality Rules in 15A NCAC 02D  
**Date:** Friday, June 19, 2015 2:53:55 PM  
**Attachments:** [image001.png](#)

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Good Day Joelle,

USEPA, Region 4 submitted comments on the NC DENR website regarding the Periodic Review and Expiration of Rules Report. I have summarized our comments below and noted what sections of the existing North Carolina federally approved SIP these comments are applicable to (Rules 15A NCAC 02D .1601 - .1603 and .2401 - .2413). Let us know if you have any questions. Thank you for the opportunity to provide comments.

#### *General Conformity*

*Please note that any changes to the general conformity regulations at the state level, once state effective, will also need to be submitted to EPA for approval into the federally-approved SIP in the form of a final SIP revision.*

*This comment is applicable for General Conformity Rules 15A NCAC 02D .1601 - .1603.*

#### *Clean Air Interstate Rules*

*There is ongoing CSAPR litigation involving multiple issues challenging EPA's legal authority and technical analysis. Repeal of CAIR regulations at this time is not recommended until such time as the remaining challenges to the CSAPR in the D.C. Circuit are resolved.*

*Please note that any changes to the CAIR regulations at the state level, once state effective, will also need to be submitted to EPA for approval into the federally-approved SIP in the form of a final SIP revision.*

*This comment is applicable for Clean Air Interstate Rules 15A NCAC 02D .2401 - .2413.*

Have a wonderful day!

Nacosta C. Ward, Environmental Scientist

U. S. Environmental Protection Agency, Region 4 | Air, Pesticides & Toxics Management Division

Air Planning and Implementation Branch/Air Regulatory Management Section

61 Forsyth Street, SW, Atlanta, GA 30303-8960

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**From:** [Burleson, Joelle](#)  
**To:** [Everett, Jennifer](#)  
**Subject:** FW: Comments on 02D and 02Q rules categorization  
**Date:** Thursday, June 18, 2015 10:42:17 AM

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fyi

Joelle Burleson, EIT, CPM, Supervisor  
Planning Section, Rules Development Branch  
NC DENR, Division of Air Quality  
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\*\*\*\*\*

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**From:** Allen Hardison [mailto:[allenhardison1@gmail.com](mailto:allenhardison1@gmail.com)]  
**Sent:** Thursday, June 18, 2015 10:41 AM  
**To:** Burleson, Joelle  
**Cc:** 'Leonard E. "Butch" Joyce'  
**Subject:** Comments on 02D and 02Q rules categorization

Ms. Burleson:

I hope you are doing well. I was pleased to meet you at the EMC committee meetings a few weeks back. As I indicated at the time and in emails, I am working with Joyce Engineering , Inc. on a project for the North Carolina chapter of the National Waste and Recycling Association to monitor and provide assistance in the Periodic Review of Existing Rules.

The legislative committee of the chapter, that also deals with administrative rules and other regulatory issues, has reviewed the categories of the 15 NCAC 02D and 15 NCAC 02Q rules as published on the Office of Administrative Hearings' website. We concur with the categorizations of the rules as presented.

We look forward to a continued engagement with the Division as the rules move forward to the re-adoption stage.

Regards,

Allen Hardison  
Regulatory Consultant  
Joyce Engineering, Inc.





DENR Rule Comments  
1601 Mail Service Center  
Raleigh, NC 27699

June 18, 2015

RE: 15A NCAC 02D – AIR POLLUTION CONTROL REQUIREMENTS; 15A NCAC  
02Q – AIR QUALITY PERMITS PROCEDURES

Dear Ladies and Gentlemen of the North Carolina Department of  
Environment and Natural Resources:

As medical and health professionals who work and live in North Carolina, we are writing to express our strong opposition to the initial determination by the North Carolina Department of Environmental and Natural Resources (DENR) that numerous rules in Subchapter 2D of Title 15A of the North Carolina Administrative Code are “unnecessary, obsolete, redundant, or otherwise not needed.” In fact, the 27 rules targeted by the agency for elimination would ultimately deprive both the public and DENR’s Division of Air Quality of useful regulatory guidance regarding the control of air pollution in North Carolina. These protective rules are critical and should not only be deemed “necessary with substantive public interest” but updated and strengthened to adequately protect public health under stringent federal requirements.

Members of Medical Advocates for Healthy Air are especially concerned about the health of North Carolina’s children. State data currently indicates there are nearly 200,000 cases of pediatric asthma, a disease known to be exacerbated by poor air quality. Effects of air pollution have already taken a significant toll on children, older adults, people who are active outdoors, and people suffering from lung and heart disease, chronic obstructive pulmonary disease and diabetes. As one the fastest growing states in the country, the number of people experiencing these health effects is predicted to increase dramatically if protective policies are not kept in place and strengthened as necessary.

We urge DENR to reconsider its initial determination to the contrary, and, in recognition of the importance of these rules, classify them as “necessary with public interest.” Thank you for your consideration.

PO Box 5311 • Charlotte NC 28299 • [www.medicaladvocatesforhealthyair.org](http://www.medicaladvocatesforhealthyair.org) • 704.307.9528



Sincerely,  
*Members of Medical Advocates for Healthy Air*

*Laura Wenzel, MSW  
Manager, Medical Advocates for Healthy Air  
Clean Air Carolina  
Chapel Hill, NC*

*Aaron Levy, MD  
Carolinas Medical Center  
Charlotte, NC*

*Jean Sykes, PhD, RD, LDN, CEDRD  
Moses Cone Family Practice Center  
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*James Kenny, MD  
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*Janis Hammett, BSPH, PharmD  
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*Lisa Johnson, RRT, RCP, BAS, AE-C  
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June 19, 2015

*Via First-Class Mail*

DENR Rule Comments  
1601 Mail Service Center  
Raleigh, NC 27699-1601

Re: Initial Determination of the Necessity of Rules in 15A N.C. Admin. Code 02D

Dear Sir or Madam:

The Southern Environmental Law Center submits these comments in response to the initial determination by the North Carolina Department of Environment and Natural Resources (DENR) that numerous rules in Subchapter 02D of Title 15A of the North Carolina Administrative Code are “unnecessary.” We disagree with the agency’s underlying conclusion that these rules are “obsolete, redundant, or otherwise not needed,” and object to these rules as not protective enough.<sup>1</sup>

In particular, the comments below explain that (1) North Carolina’s rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 02D .2501 to .2511) are necessary, and should be strengthened rather than eliminated; (2) rules implementing the federal Clean Air Interstate Rule (15A N.C. Admin. Code 02D .2401 to .2413) are necessary, and should be updated to include the more protective Cross-State Air Pollution Rule; and (3) rules codifying federal conformity requirements (15A N.C. Admin. Code 02D .1601, .1602, and .1603) must be retained.

Our comments are motivated by the fact that rules deemed “unnecessary” will expire unless they were “adopted to conform to or implement federal law.”<sup>2</sup> Elimination of the 27 rules in Subchapter 02D targeted by the agency for automatic expiration would deprive both the public and DENR’s Division of Air Quality (DAQ) of useful regulatory guidance and authority to control air pollution in North Carolina.

Given the structure of the rules review process outlined in N.C. Gen. Stat. § 150B-21.3A, we emphasize at the outset that our objection to the rules at issue here is premised on our concern that they are not stringent enough and do not conform to federal requirements. The rules review process provides the opportunity for the agency to revise its “initial determination” in response to supportive public comment, even if that revision is not automatic. Accordingly, we submit these comments in the hope that DENR will reconsider its decision to label these rules “unnecessary.”

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<sup>1</sup> N.C. Gen. Stat. § 150B-21.3A(a)(6) (defining “unnecessary”).

<sup>2</sup> See N.C. Gen. Stat. § 150B-21.3A. With the exception of rules in Subchapter 12J, the rules addressed herein were adopted exclusively to implement state law.

Contrary to the agency's initial determination, we believe that these rules are necessary to implement state or federal law. Many of the rules on the agency's chopping block reflect decades of agency expertise and are critical to achieving the legislature's vision of environmental protection. We therefore encourage the agency to reconsider its decision to label these rules "unnecessary," and, in recognition of the importance of these rules, classify them as "necessary with substantive public interest."<sup>3</sup>

**I. The Rules protecting North Carolinians from mercury emissions (15A N.C. Admin. Code 02D .2501 to .2511) are necessary, and should be strengthened rather than eliminated.**

DENR proposes to classify as "unnecessary" rules put in place to protect people from harmful mercury emissions from coal-fired power plants, 15A N.C. Admin. Code 2D .2501 to .2511 (the "North Carolina Mercury Rules"). As explained below, this classification is incorrect and a disservice to the people of North Carolina. The North Carolina Mercury Rules are necessary and important, given the dangers posed by mercury and by DENR's ongoing delay in adopting more stringent mercury protections required to implement the federal Mercury and Air Toxics Standards.

**A. Mercury emissions from power plants pose grave health threats.**

Mercury is a neurotoxin that can cause lowered intelligence and learning disabilities in unborn children, breast-fed infants, and young children.<sup>4</sup> Adults exposed to even low amounts of mercury may also be at higher risk for heart disease and heart attacks, altered sensation, impaired hearing and vision, and motor disturbances linked directly to exposure from eating contaminated fish.<sup>5</sup>

Coal-fired power plants are the leading source of mercury pollution,<sup>6</sup> which is emitted into the air and deposited in water bodies where it is consumed by fish before it works its way up the food chain. All river basins in North Carolina are currently listed as impaired due to mercury

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<sup>3</sup> See N.C. Gen. Stat. § 150B-21.3A(a)(4) (defining "necessary without substantive public interest").

<sup>4</sup> National Research Council, *Toxicological Effects of Methylmercury* at 4 (2000); Grandjean et al., *Cognitive Deficit in 7-Year-Old Children with Prenatal Exposure to Methylmercury*, *Neurotoxicology and Teratology*, 1997 at 417-428); Steuerwald et al., *Maternal Seafood Diet, Methylmercury Exposure, and Neonatal Neurologic Function*, *Journal of Pediatrics*, May 2000, at 599-605).

<sup>5</sup> EPA, *Regulatory Impact Analysis of the Clean Air Mercury Rule: Final Report*, Appendix C (March 2005), OAR-2002-0056-6201; U.S. Environmental Protection Agency, *Mercury Study Report to Congress*, EPA-452/R-97-005, Vol. I, 3-24 (Dec. 1997); U.S. Environmental Protection Agency, *Study of Hazardous Air Pollutant Emissions from Electric Utility Steam Generating Units-Final Report to Congress*, Vol. 1 at 7-18 (Feb. 1998).

<sup>6</sup> National Emissions Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units, 77 Fed. Reg. 9304, 9304 (Feb. 16, 2012); see also EPA, *Mercury: Basic Information* (Dec. 2014) ("Coal-burning power plants are the largest human-caused source of mercury emissions to the air in the United States, accounting for over 50 percent of all domestic human-caused mercury emissions."), available at <http://www.epa.gov/mercury/about.htm>.

contamination.<sup>7</sup> As a result, a state-wide fish consumption advisory is in place, which warns people to limit consumption of or to avoid eating fish caught in North Carolina waters.<sup>8</sup>

**B. To protect against these threats, a series of increasingly stringent federal and state rules has been adopted.**

In 2005, EPA issued the Clean Air Mercury Rule (“CAMR”), which created a cap-and-trade system to reduce nation-wide mercury emissions from power plants.

In 2006, the North Carolina Environmental Management Commission established the North Carolina Mercury Rules, which contain requirements that are more protective than CAMR’s.<sup>9</sup> In addition to implementing the cap-and-trade system of CAMR, the North Carolina Mercury Rules require a unit-by-unit analysis of the “maximum mercury reductions that are technically and economically feasible at each unit,” with a 2017 deadline for implementing controls to achieve those reductions.<sup>10</sup>

In 2008, the U.S. Court of Appeals for the D.C. Circuit vacated CAMR (along with EPA’s prior decision to remove power plants from the list of sources of hazardous air pollutants).<sup>11</sup>

In 2012, EPA established federal Mercury and Air Toxics Standards (“MATS”), which protect against emissions of toxic air pollutants from coal and oil-fired power plants.<sup>12</sup> The new standards are expected to cut 90% of the mercury emitted by uncontrolled coal-fired power plants.<sup>13</sup> In North Carolina, implementation of MATS will prevent up to 480 premature deaths, while creating up to \$3.9 billion in health benefits in 2016 alone. The MATS rules became effective on April 16, 2012, with a compliance deadline for existing sources of April 16, 2015, and the possibility of a one-year extension under certain circumstances.

On April 15, 2014, the U.S. Court of Appeals for the D.C. Circuit Court upheld the EPA EGU MATS rule against legal challenges. The U.S. Supreme Court granted certiorari on the limited issue of whether the Environmental Protection Agency properly refused to consider costs

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<sup>7</sup> North Carolina Mercury Total Maximum Daily Load (“TMDL”) 4 (Sept. 13, 2012), *available at* [http://portal.ncdenr.org/c/document\\_library/get\\_file?uuid=aecb3619-c246-4b49-bfd8-fd5541775110&groupId=38364](http://portal.ncdenr.org/c/document_library/get_file?uuid=aecb3619-c246-4b49-bfd8-fd5541775110&groupId=38364).

<sup>8</sup> North Carolina Mercury Total Maximum Daily Load (“TMDL”) 8 (Sept. 13, 2012), *available at* [http://portal.ncdenr.org/c/document\\_library/get\\_file?uuid=aecb3619-c246-4b49-bfd8-fd5541775110&groupId=38364](http://portal.ncdenr.org/c/document_library/get_file?uuid=aecb3619-c246-4b49-bfd8-fd5541775110&groupId=38364).

<sup>9</sup> DENR, Commission Adopts Rules for Curbing Mercury Emissions (Nov. 9, 2006), *available at* [http://daq.state.nc.us/news/pr/2006/hg\\_rule\\_11092006.shtml](http://daq.state.nc.us/news/pr/2006/hg_rule_11092006.shtml).

<sup>10</sup> 15A N.C. Admin. Code 02D .2511 (2015).

<sup>11</sup> *New Jersey v. E.P.A.*, 517 F.3d 574 (D.C. Cir. 2008).

<sup>12</sup> National Emissions Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units, 77 Fed. Reg. 9304, 9304 (Feb. 16, 2012).

<sup>13</sup> EPA, *Fact Sheet: Mercury and Air Toxics Standards for Power Plants* 3 (Dec. 2012) (observing that the final standards will prevent “90 percent of the mercury in coal burned at power plants from being emitted into the air”), *available at* <http://www.epa.gov/mats/pdfs/20111221MATSummaryfs.pdf>.

when determining that it was appropriate to regulate hazardous air pollution from power plants.<sup>14</sup> A decision from the Court is pending.

**C. DENR needs to strengthen, rather than eliminate, North Carolina's mercury protections.**

Right now, DENR should be strengthening the mercury rules to conform to the MATS requirements, rather than repealing the existing mercury protections. Under North Carolina law, the Environmental Management Commission has a duty to adopt rules implementing MATS "as rapidly as possible."<sup>15</sup> More than three years after the MATS rules took effect, North Carolina has yet to incorporate these requirements into its regulations. North Carolina's rules need to be strengthened immediately to include all MATS components, including emission and operating limits and testing, monitoring, recording, and reporting requirements.<sup>16</sup> With the new MATS rules already in effect and yet to be adopted in North Carolina, it is particularly troubling that DENR would choose to eliminate (rather than revise and improve) current state protections against mercury. The North Carolina Mercury Rules should remain in place until the current federal MATS litigation is resolved and the State promulgates rules implementing MATS.

Importantly, any provisions of the North Carolina Mercury Rules that provide protections that are additional to MATS should be retained. For example, the Rules provide that "[t]he Commission *shall require* additional reductions in mercury emissions when needed to reduce mercury concentrations to levels that do not cause or contribute to mercury-related health problems."<sup>17</sup> With all of North Carolina's waters still impaired due to mercury contamination, and with a state-wide caution in effect against eating fish caught in any of the state's waters, this duty to eliminate emissions that cause health problems is not "obsolete, redundant, or otherwise not needed," and must be retained. In addition, while the initial deadline for MATS compliance has passed, some facilities have obtained a one-year extension until April 16, 2016, to come into compliance.<sup>18</sup> These facilities must continue to comply with the emission limits in North Carolina Mercury Rules in the interim.

Finally, the North Carolina Mercury Rules were adopted to conform to federal regulations (CAMR), and therefore cannot automatically expire. Under North Carolina's rules review process, even rules that are classified as "unnecessary" "shall not expire" if they were "adopted to conform to or implement federal law."<sup>19</sup> The North Carolina Mercury Rules were adopted to implement the CAMR requirements and any additional requirements deemed

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<sup>14</sup> *Michigan v. EPA*, 748 F.3d 1222 (D.C. Cir. 2014), *cert. granted*, 83 U.S.L.W. 3089 (U.S. Nov. 25, 2014) (No. 14-46).

<sup>15</sup> N.C. Gen. Stat. § 143-215.107(a), (a)(10) (The Commission must "adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency").

<sup>16</sup> See 40 C.F.R. Part 63, Subpart UUUUU, §§ 63.9980 to .10042, tbls. 1-9, and app. A-B.

<sup>17</sup> 15A N.C. Admin. Code 02D .2501(e).

<sup>18</sup> Nat'l Ass'n of Clean Air Agencies, *Survey on MATS Compliance Extension Requests* (Mar. 17, 2015), available at [http://www.4cleanair.org/sites/default/files/Documents/MATS\\_extension\\_requests\\_table\\_March\\_2015.pdf](http://www.4cleanair.org/sites/default/files/Documents/MATS_extension_requests_table_March_2015.pdf).

<sup>19</sup> See N.C. Gen. Stat. § 150B-21.3A.

necessary by the Environmental Management Commission.<sup>20</sup> Therefore, regardless of the classification assigned to these rules, they will remain in place.

**II. The rules implementing the Clean Air Interstate Rule (15A N.C. Admin. Code 02D .2401 to .2413) are necessary and should be updated to include more stringent federal requirements.**

DENR also proposes to designate protections against nitrogen oxides, sulfur dioxide, ozone, and fine particle pollution as “unnecessary,” without putting in place the more stringent federal requirements that are now in effect. DENR should revisit these rules and categorize them as necessary instead.

**A. The pollutants covered by these rules cause widespread health problems.**

Short-term exposure to sulfur dioxide, ranging from five minutes to 24 hours, causes an array of health problems, including premature death, worsening of respiratory diseases such as emphysema and bronchitis, aggravation of asthma, exacerbation of heart disease, chest tightness, and decrements in lung function.<sup>21</sup> These adverse health effects are more pronounced in people who exercise and play outdoors, especially those with asthma. Studies also show a connection between short-term sulfur dioxide exposure and increased hospitalizations, particularly in at-risk populations such as children, the elderly, and asthmatics.<sup>22</sup>

Nitrogen oxide is a precursor to ozone, which causes asthma, emphysema, bronchitis, and other breathing problems.<sup>23</sup> There are currently nearly 200,000 pediatric cases of asthma in North Carolina.<sup>24</sup>

Fine particles cause a significant number of premature deaths from heart disease and lung disease each year, as well as serious health problems such as heart attacks, asthma attacks, decreased lung function, bronchitis, and other respiratory problems.<sup>25</sup> Studies have shown there is no evidence of a safe level of exposure for PM2.5; therefore, any increase in PM2.5 concentrations is likely to harm human health.<sup>26</sup> Reducing particulate pollution in the ambient air yields enormous public health and welfare benefits. Studies show that in cities such as Raleigh and Charlotte, approximately 15 percent of increased life expectancy in recent decades is

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<sup>20</sup> DENR, Mercury Emissions and Mercury Controls for Coal-Fired Electrical Utility Boilers, Final Report at V-1 (Sept. 1, 2005).

<sup>21</sup> EPA, Sulfur Dioxide -Health, available at <http://www.epa.gov/airquality/sulfurdioxide/health.html>; EPA, EP A/600/R-08/04 7F, Integrated Science Assessment for Sulfur Oxides-Health Criteria ch. 5 tbls. 5-1, 5-2 (2008); EPA, Primary National Ambient Air Quality Standard for Sulfur Dioxide Final Rule, 75 Fed. Reg. 35,520, 35,525 (June 22, 2010); EPA, Our Nation's Air: Status and Trends Through 2008 at 4 (2010), available at <http://www.epa.gov/airtrends/2010/report/fullrepmi.pdf>

<sup>22</sup> EPA, Sulfur Dioxide - Health, available at <http://www.epa.gov/airquality/sulfurdioxide/health.html>; 75 Fed. Reg. at 35,525.

<sup>23</sup> <http://www.epa.gov/groundlevelozone/health.html>.

<sup>24</sup> N.C. DHHS, Div. of Pub. Health, N.C. Asthma Program, *Asthma Coalition Update*, Summer 2010 at 2.

<sup>25</sup> EPA, National Ambient Air Quality Standards for PM2.5, 77 Fed. Reg. 38,890, 38,906–07 (proposed June 29, 2012); EPA, National Ambient Air Quality Standards for PM2.5, 78 Fed. Reg. 3086, 3108 (Jan. 15, 2013).

<sup>26</sup> 78 Fed. Reg. at 3098.



due to reductions in PM<sub>2.5</sub>.<sup>27</sup> EPA estimated that air quality standards for particulate matter would result in monetized health and welfare benefits ranging between \$20 billion and \$160 billion a year for the 1997 standards; an additional \$9 to \$76 billion a year due to the lower 2006 particulate-matter standards; and an additional \$3.6 to \$9.1 billion due to the updated 2012 PM<sub>2.5</sub> standard.<sup>28</sup>

**B. Federal and state regulations were put in place to combat these dangers.**

In 2005, EPA issued the Clean Air Interstate Rule (“CAIR”) to curb unhealthy levels of fine particles and ozone by reducing sulfur dioxide and nitrogen oxide emissions. In 2008, the D.C. Circuit vacated CAIR, but ordered EPA to continue implementing CAIR until it re-promulgated a lawful replacement. In 2011, EPA promulgated a replacement program known as the Cross State Air Pollution Rule (“CSAPR”), and in 2014 the Supreme Court upheld EPA’s reliance on costs in CSAPR and overturned the D.C. Circuit’s decision on this issue.<sup>29</sup>

On January 1, 2015, CSAPR went into effect and replaced CAIR. The D.C. Circuit is currently considering other issues related to CSAPR on remand, and a decision on these issues is pending.

**C. DENR should update its rules to include CSAPR requirements, rather than simply striking the CAIR requirements.**

In order to avoid any implementation gap, DENR should promptly issue rules that implement the CSAPR requirements, rather than eliminating the rules designed to implement CAIR without any replacement. As explained above, the Environmental Management Commission has a duty to adopt rules implementing CSAPR “as rapidly as possible.”<sup>30</sup> North Carolina’s rules need to be revised to reflect all CSAPR requirements. The North Carolina rules implementing CAIR should remain in place until the current federal CSAPR litigation is resolved and the State issues rules implementing CSAPR.

In addition, the North Carolina rules were adopted to conform to the federal CAIR regulations, and therefore cannot automatically expire. Under North Carolina’s rules review process, even rules that are classified as “unnecessary” “shall not expire” if they were “adopted to conform to or implement federal law.”<sup>31</sup> Therefore, regardless of the classification assigned to these rules, they cannot expire under the rules review process.

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<sup>27</sup> Pope, C.A. III et al., Fine-Particulate Air Pollution and Life Expectancy in the United States at 360(4) *New Eng. J. Med.* 2009 376, 382–84 (2009).

<sup>28</sup> See EPA Fact Sheet Regulatory Impact Analysis of EPA’s Final Revisions to the National Ambient Air Quality Standards for Particle Pollution (Particulate Matter) (2006), *available at* <http://www.epa.gov/air/particlepollution/fs20061006.html>; 78 Fed. Reg. at 3089.

<sup>29</sup> *EPA v. EME Homer City Generation*, 134 S.Ct. 1584 (2014).

<sup>30</sup> N.C. Gen. Stat. § 143-215.107(a), (a)(10) (The Commission must “adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency”).

<sup>31</sup> See N.C. Gen. Stat. § 150B-21.3A.



**III. North Carolina's rules to ensure that federal actions conform to air quality maintenance plans (15A N.C. Admin. Code 02D .1601, .1602, and .1603) should be retained.**

DENR should retain rules that are currently in place to guarantee that federal actions do not conflict with plans to attain or maintain air quality standards in areas with a history of or ongoing air pollution problems. These rules prohibit federal governmental entities from permitting, providing financial assistance for, or otherwise supporting any activity that contravenes these plans.<sup>32</sup> Not only are these requirements still important to prevent increases in dangerous air pollutants, they are also still required by federal law, even though the location of the requirements in the federal code has changed.<sup>33</sup>

**Conclusion**

As demonstrated above, Title 15A of the North Carolina Administrative Code is replete with important guidance regarding the administration of various air quality programs under the purview of the Division of Air Quality. Therefore, we urge the agency to reconsider its initial determination that the rules discussed above are "unnecessary," and deem them instead "necessary without substantive public interest." The agency should retain these rules, as they necessary to implement important federal air pollution control requirements, and for DAQ to fulfill its mandate to "administer the air quality program of the State."<sup>34</sup>

We appreciate the opportunity to comment on this important rule review process. Thank you in advance for your thoughtful consideration of our concerns.

Respectfully,



Gudrun Thompson, Senior Attorney  
Myra Blake, Staff Attorney  
Will Hendrick, Associate Attorney  
SOUTHERN ENVIRONMENTAL LAW CENTER

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<sup>32</sup> 15A N.C. Admin. Code 02D .1601(a).

<sup>33</sup> While the North Carolina rule references provisions of the federal code which have been repealed (40 C.F.R. §§ 51.852 to 860), the substance of these federal rules was reproduced in the EPA's General Conformity Regulations (40 C.F.R. §§ 93.150 *et seq.*)).

<sup>34</sup> N.C. Gen. Stat. § 143-215.106.