

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0535

**DEADLINE FOR RECEIPT: Friday, October 7, 2016**

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 18 thru 31, consider providing these definition as if they are a list, by beginning the term with a lowercase letter; replacing the periods at the end of the definitions with semicolons; and adding an "and" after "emission" on line 30*

*Line 22, is the phrase "unavoidable failure" an industry known term? If not, please define or delete.*

*Lines 23 thru 25, the language "that results in excess....shall not be considered a malfunction" is not is Rule .0545. Is that intentional?*

*Line 26, replace "are not" with "shall not be"*

*Line 35, replace "are" with "shall be"*

*Line 36, delete the comma after "Director"*

*Page 2, line 2, what is meant by "with any other pertinent information"? Is this left to the discretion of the Director? Please clarify*

*Page 2, lines 4, and 7, is the term "maximum extent possible" an industry known term? If not, please define or delete.*

*Page 2, line 4, define or delete the phrase "with good practice"*

*Page 2, line 5, define or delete the term "expeditiously"*

*Page 2, line 8, what is meant by "all practical steps"? Please clarify.*

*Page 2, line 13, who is the "it" that "has followed that plan"? Please clarify*

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, September 21, 2016

*Page 2, line 19, define or delete the phrase “as expeditiously as practicable”*

*Page 2, line 21, how is this requirement “to maintain records” determined and communicated? Please clarify how that determination is reached permissively by the Director and how notice is provided. In Rule .0545€ , the requirement for record keeping seems mandatory and not subject to the discretion of the Direction. Please clarify.*

*Page 2, line 25, when is “any other source” required to have an abatement plan? Please clarify how that determination is reached permissively by the Director and how notice is provided.*

*Page 2, line 29, delete the phrase “at all times.”*

*Page 2, lines 30 thru 31, what is the purpose of this sentence? This appears to be an aspirational statement and not proper rule language. Please consider deleting.*

*Page 3, line 12, what is meant by “case-by-case repair schedule”? Is this a permissive determination by the Director? What is the basis to make the determination and how is notice provided?*

*Page 3, lines 19 and 20 reference “objectives” in Paragraph (d). Is that the aspirational language on page 2, lines 30 thru 31? Please clarify.*

*Page 3, line 23, who is the “Any person” referenced? Is it the “owner or operator”? Please clarify.*

*Page 3, lines 24 thru 25, when are the amendments “requested by the Director”? Is this a permissive determination by the Director? What is the basis to make the determination and how is notice provided?*

*Page 4, lines 12 and 21 thru 22, what is meant by “with any other pertinent information”? Is this left to the discretion of the Director? Please clarify*

*Page 4, line 18, replace “are” with “shall be”*

*Page 4, line 19, replace “appropriate” with “applicable”*

*Page 4, line 22, is this a permissive determination by the Director? What is the basis to make the determination and how is notice provided?*

*Page 4, line 23, define or delete the phrase “extent practicable” Consider deleting the clause contained within the set of commas*

*Page 4, line 24, is the term “best practicable air pollution control practices” an industry known term? If not, please define or delete.*

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

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, September 21, 2016

1 15A NCAC 02D .0535 is amended as published in 30:23 NCR 2442-2448 follows:

2  
3 **15A NCAC 02D .0535 EXCESS EMISSIONS REPORTING AND MALFUNCTIONS**

4 (a) Applicability: 15A NCAC 02D .0535 shall not be in effect if 15A NCAC 02D .0545 is valid. This Rule shall not  
5 apply to sources to which Rule .0524, .1110, or .1111 of this Subchapter applies. In the event that United States  
6 Environmental Protection Agency's regulation, State Implementation Plans: Response to Petition for Rulemaking;  
7 Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to  
8 Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, published in the  
9 Code of Federal Regulations (CFR) at 40 CFR 52 on June 12, 2015, is:

10 (1) \_\_\_\_\_ declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals  
11 for the Fourth Circuit, by the District of Columbia Circuit, or by the United States Supreme Court; or

12 (2) \_\_\_\_\_ withdrawn, repealed, revoked, or otherwise rendered of no force and effect by the United States  
13 Environmental Protection Agency, Congress, or Presidential Executive Order;

14 such action shall render Rule .0545 of this Subchapter as invalid, void, stayed, or otherwise without force and effect upon  
15 the date such action becomes final and effective. At the time of such action, sources that were subject to Rule .0545 of  
16 this Subchapter shall be subject to this Rule.

17 ~~(a)~~(b) For the purposes of this Rule Rule, the following definitions apply:

18 (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or  
19 standard allowed by any rule in Sections .0500, .0900, .1200, or .1400 of this Subchapter; ~~or~~ by a  
20 permit condition; or that exceeds an emission limit established in a permit issued under 15A NCAC  
21 02Q .0700.

22 (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process equipment,  
23 or process to operate in a normal and usual manner that results in excess emissions. Excess emissions  
24 during periods of routine start-up and shut-down of process equipment ~~are~~ shall not be considered a  
25 malfunction. Failures caused entirely or in part by poor maintenance, careless ~~operations~~ operations, or  
26 any other upset condition within the control of the emission source are not considered a malfunction.

27 (3) "Start-up" means the initial commencement of operation or subsequent commencement of operation of  
28 any source that has shut-down or ceased operation for a period sufficient to cause temperature,  
29 pressure, process, chemical, or a pollution control device imbalance that would result in excess  
30 emission.

31 (4) "Shut-down" means the cessation of the operation of any source for any purpose.

32 ~~(b) This Rule does not apply to sources to which Rules .0524, .1110, or .1111 of this Subchapter applies unless excess~~  
33 ~~emissions exceed an emission limit established in a permit issued under 15A NCAC 02Q .0700 that is more stringent~~  
34 ~~than the emission limit set by Rules .0524, .1110 or .1111 of this Subchapter.~~

35 (c) Any excess emissions that do not occur during start-up or shut-down are considered a violation of the ~~appropriate~~  
36 applicable rule unless the owner or operator of the source of excess emissions demonstrates to the Director, that the

1 excess emissions are the result of a malfunction. To determine if the excess emissions are the result of a malfunction, the  
2 Director shall consider, along with any other pertinent information, the following:

- 3 (1) ~~The~~the air cleaning device, process equipment, or process has been maintained and operated, to the  
4 maximum extent practicable, consistent with good practice for minimizing emissions;
- 5 (2) ~~Repairs~~repairs have been made expeditiously when the emission limits have been exceeded;
- 6 (3) ~~The~~the amount and duration of the excess emissions, including any bypass, have been minimized to  
7 the maximum extent practicable;
- 8 (4) ~~All~~all practical steps have been taken to minimize the impact of the excess emissions on ambient air  
9 quality;
- 10 (5) ~~The~~the excess emissions are not part of a recurring pattern indicative of inadequate design, operation,  
11 or maintenance;
- 12 (6) ~~The~~the requirements of Paragraph (f) of this Rule have been met; and
- 13 (7) ~~If~~if the source is required to have a malfunction abatement plan, it has followed that plan. ~~All~~  
14 ~~malfunctions shall be repaired as expeditiously as practicable. However, the Director shall not excuse~~  
15 ~~excess emissions caused by malfunctions from a source for more than 15 percent of the operating time~~  
16 ~~during each calendar year. The Director may require the owner or operator of a facility to maintain~~  
17 ~~records of the time that a source operates when it or its air pollution control equipment is~~  
18 ~~malfunctioning or otherwise has excess emissions.~~

19 All malfunctions shall be repaired as expeditiously as practicable. The Director shall not excuse excess emissions caused  
20 by malfunctions from a source for more than 15 percent of the operating time during each calendar year. The Director  
21 may require the owner or operator of a facility to maintain records of the time that a source operates when it or its air  
22 pollution control equipment is malfunctioning or otherwise has excess emissions.

23 (d) All electric utility boiler units shall have a malfunction abatement plan approved by the Director as satisfying the  
24 requirements of Subparagraphs ~~(4)~~(d)(1) through ~~(3)~~(d)(3) of this ~~Paragraph~~Rule. In addition, the Director may require  
25 any other source to have a malfunction abatement plan approved by the Director as satisfying the requirements of  
26 Subparagraphs ~~(4)~~(d)(1) through ~~(3)~~(d)(3) of this ~~Paragraph~~Rule. If the Director requires a malfunction abatement plan  
27 for a source other than an electric utility boiler, the owner or operator of that source shall submit a malfunction abatement  
28 plan within 60 days after receipt of the Director's request. The malfunction plans of electric utility boiler units and of  
29 other sources required to have them shall be implemented ~~when a malfunction or other breakdown occurs. at all times.~~  
30 The purpose of the malfunction abatement plan is to prevent, detect, and correct malfunctions or equipment failures that  
31 could result in excess emissions. A malfunction abatement plan shall contain:

- 32 (1) a ~~complete~~ preventive maintenance program including:
  - 33 (A) the identification of individuals or positions responsible for inspecting,  
34 ~~maintaining~~maintaining, and repairing air cleaning devices;
  - 35 (B) a description of the items or conditions that will be inspected and maintained;
  - 36 (C) the frequency of the inspection, maintenance services, and repairs; and

1 (D) an identification and quantities of the replacement parts that shall be maintained in inventory  
2 for quick replacement;

3 (2) an identification of the source and air cleaning operating variables and outlet variables, such as  
4 opacity, grain loading, and pollutant concentration, that may be monitored to detect a malfunction or  
5 failure; the normal operating range of these variables and a description of the method of monitoring or  
6 surveillance procedures and of informing operating personnel of any malfunctions, including alarm  
7 systems, ~~lights~~lights, or other indicators; and

8 (3) a description of the corrective procedures that the owner or operator will take in case of a malfunction  
9 or failure to achieve compliance with the applicable rule as expeditiously as ~~practicable~~practicable, but  
10 no longer than the next boiler or process outage that would provide for an orderly repair or correction  
11 of the malfunction or 15 days, whichever is shorter. If the owner or operator anticipates that the  
12 malfunction would continue for more than 15 days, a case-by-case repair schedule shall be established  
13 by the Director with the source. The owner or operator shall maintain logs to show that the operation  
14 and maintenance parts of the malfunction abatement plan are implemented. These logs are subject to  
15 inspection by the Director ~~or his designee~~ upon request during business hours.

16 (e) The owner or operator of any source required by the Director to have a malfunction abatement plan shall submit a  
17 malfunction abatement plan to the Director within ~~six months~~60 days after it has been required by the Director. The  
18 malfunction abatement plan and any amendment to it shall be reviewed by the ~~Director or his designee~~Director. If the  
19 plan carries out the objectives described by Paragraph (d) of this Rule, the Director shall approve it. If the plan does not  
20 carry out the objectives described by Paragraph (d) of this Rule, the Director shall disapprove the plan. The Director  
21 shall state ~~his~~the reasons for ~~his~~the disapproval. The person who submits the plan shall submit an amendment to the plan  
22 to satisfy the reasons for the Director's disapproval within 30 days of receipt of the Director's notification of disapproval.

23 Any person having an approved malfunction abatement plan shall submit to the Director for ~~his~~the approval amendments  
24 reflecting changes in any element of the plan required by Paragraph (d) of this Rule or amendments when requested by  
25 the Director. The malfunction abatement plan and amendments to it shall be implemented within 90 days upon receipt of  
26 written notice of approval.

27 (f) The owner or operator of a source of excess emissions that last for more than four hours and that results from a  
28 malfunction, a breakdown of process or control ~~equipment~~equipment, or any other abnormal conditions, shall:

29 (1) notify the Director ~~or his designee~~ of any such occurrence by 9:00 a.m. Eastern time of the Division's  
30 next business day of becoming aware of the occurrence and describe:

31 (A) name and location of the ~~facility~~facility;

32 (B) the nature and cause of the malfunction or ~~breakdown~~breakdown;

33 (C) the time when the malfunction or breakdown is first ~~observed~~observed;

34 (D) the expected ~~duration~~duration; and

35 (E) an estimated rate of emissions;

36 (2) notify the Director ~~or his designee~~ immediately by 9:00 a.m. Eastern time of the Division's next  
37 business day when the corrective measures have been accomplished;

- 1 (3) submit to the Director within 15 days after the ~~request~~notification in Subparagraph (f)(1) of this Rule,  
2 a written report that includes:  
3 (A) name and location of the ~~facility,~~facility;  
4 (B) identification or description of the processes and control devices involved in the malfunction  
5 or ~~breakdown,~~breakdown;  
6 (C) the cause and nature of the ~~event,~~event;  
7 (D) time and duration of the violation or the expected duration of the excess emission if the  
8 malfunction or breakdown has not been ~~fixed,~~fixed;  
9 (E) estimated quantity of pollutant ~~emitted,~~emitted;  
10 (F) steps taken to control the emissions and to prevent recurrences and if the malfunction or  
11 breakdown has not been fixed, steps planned to be ~~taken,~~taken; and  
12 (G) any other pertinent information requested by the Director. ~~After the malfunction or~~  
13 ~~breakdown has been corrected, the Director may require the owner or operator of the source~~  
14 ~~to test the source in accordance with Section .2600 of this Subchapter to demonstrate~~  
15 ~~compliance.~~

16 After the malfunction or breakdown has been corrected, the Director may require the owner or operator of the source to  
17 test the source in accordance with Section .2600 of this Subchapter to demonstrate compliance.

18 (g) Start-up and shut-down. Excess emissions during start-up and shut-down are considered a violation of the  
19 appropriate rule if the owner or operator cannot demonstrate that the excess emissions are unavoidable. To determine if  
20 excess emissions are unavoidable during ~~startup~~start-up or ~~shutdown~~shut-down, the Director shall consider the items  
21 listed in ~~Paragraphs~~ Subparagraphs (c)(1), (c)(3), (c)(4), (c)(5), and (c)(7) of this Rule along with any other pertinent  
22 information. The Director may specify for a particular source the amount, time, and duration of emissions allowed  
23 during start-up or shut-down. The owner or operator shall, to the extent practicable, operate the source and any  
24 associated air pollution control equipment or monitoring equipment in a manner consistent with best practicable air  
25 pollution control practices to minimize emissions during start-up and shut-down.

26  
27 *History Note: Authority G.S. 143-215.3(a)(1);143-215.107(a)(4); 143-215.107(a)(5);*

28 *Eff. March 1, 1983;*

29 *Amended Eff. May 22, 2018; June 1, 2008; April 1, 2001; July 1, 1998; July 1, 1996; October 1,*  
30 *1991; May 1, 1990; April 1, 1986; July 1, 1984.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0545

**DEADLINE FOR RECEIPT: Friday, October 7, 2016**

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 17 thru 18, as this Rule closely tracks Rule .0535, why is the language on non-applicability in this Rule towards the end of the Paragraph, when it is the second sentence in Rule .0535? Please clarify if there is a distinction.*

*Lines 20 thru 32, consider providing these definition as if they are a list, by beginning the term with a lowercase letter; replacing the periods at the end of the definitions with semicolons; and adding an "and" after "emission" on line 31*

*Line 24, define or delete "unavoidable failure"*

*Rule .0535 has language in lines 23 thru 25 that is not contained within this Rule. Is that intentional?*

*Line 33, capitalize "rule"*

*Lines 34 and 35, since these clauses are part of a list, begin the clauses with a lowercase letter*

*Line 34, what are the "applicable emission limits"? Are these known?*

*Page 2, line 17, define or delete "properly"*

*Page 2, line 17, what is considered "other relevant evidence"? Please clarify.*

*Page 2, line 19, delete "Paragraph (d)"*

*Page 2, line 24, what is meant by "with any other pertinent information"? Is this left to the discretion of the Director? Please clarify*

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, September 21, 2016

*Page 2, lines 26, and 29, is the term “maximum extent possible” an industry known term? If not, please define or delete.*

*Page 2, line 27, define or delete “expeditiously”*

*Page 2, line 36, define or delete the phrase “as expeditiously as practicable”*

*Page 2, line 36 thru page 3, line 3, should this text be tabbed back towards the left? Please review to be consistent with page 2, lines 19 thru 22 of Rule .0535.*

*Page 3, line 9, delete the phrase “at all times.”*

*Page 3, lines 9 thru 11, what is the purpose of this sentence? This appears to be an aspirational statement and not proper rule language. Please consider deleting.*

*Page 3, lines 23 thru 24, define or delete the phrase “as expeditiously as practicable” This phrase was defined in Rule .0535.*

*Page 3, line 32, “notification” of what? Rule .0535 specifies “of disapproval” Please consider adding.*

*Page 3, line 32, who is the “Any person” referenced? Is it the “owner or operator”? Please clarify.*

*Page 4, line 21, what is meant by “other pertinent information”? Is this left to the discretion of the Director? Please clarify*

*Page 5, line 11 thru page 5, line 5, consider providing this information as if it is a list, by beginning the term with a lowercase letter; replacing the periods at the end of the definitions with semicolons; and adding an “and” or “or” before the last element of the list*

*Page 5, line 11, what is meant by “permanent form suitable for inspection”? Please clarify*

*Page 5, line 15, define or delete the phrase “as expeditiously as practicable”*

*Page 5, line 26, what is meant by “whichever occurs later, or as specified by manufacturer”? Please clarify*

*Page 6, line 18, define or delete the phrase “to the greatest extent practicable”*

*Page 6, line 19, define or delete the phrase “with good practice”*

*Page 6, line 20, is the term “best efforts” an industry known term? If not, please define or delete.*

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

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, September 21, 2016



1 15A NCAC 02D .0545 is adopted with changes as published in 30:23 NCR 2442-2448 as follows:

2  
3 **15A NCAC 02D .0545 TREATMENT OF MALFUNCTION EVENTS AND WORK PRACTICES FOR**  
4 **START-UP AND SHUT-DOWN OPERATIONS**

5 (a) Applicability. In the event that United States Environmental Protection Agency's regulation, State  
6 Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy  
7 Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess  
8 Emissions During Periods of Startup, Shutdown and Malfunction, published in the Code of Federal Regulations  
9 (CFR) at 40 CFR 52 on June 12, 2015, is:

10 (1) declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of  
11 Appeals for the Fourth Circuit, by the District of Columbia Circuit, or by the United States  
12 Supreme Court; or

13 (2) withdrawn, repealed, revoked, or otherwise rendered of no force and effect by the United States  
14 Environmental Protection Agency, Congress, or Presidential Executive Order;

15 such action shall render this Rule as invalid, void, stayed, or otherwise without force and effect upon the date such  
16 action becomes final and effective. At the time of such action, sources that were subject to this Rule shall be subject  
17 to Rule .0535 of this Subchapter. This Rule shall not apply to sources to which Rule .0524, .1110, or .1111 of this  
18 Subchapter applies.

19 (b) For the purposes of this Rule, the following definitions apply:

20 (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or  
21 standard allowed by any rule in Sections .0500, .0900, .1200, or .1400 of this Subchapter; by a  
22 permit condition; or that exceeds an emission limit established in a permit issued pursuant to 15A  
23 NCAC 02Q .0700.

24 (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process  
25 equipment, or process to operate in a normal and usual manner. Failures caused entirely or in part  
26 by poor maintenance, careless operations or any other upset condition within the control of the  
27 emission source shall not be considered a malfunction.

28 (3) "Start-up" means the initial commencement of operation or subsequent commencement of  
29 operation of any source that has shut-down or ceased operation for a period sufficient to cause  
30 temperature, pressure, process, chemical, or a pollution control device imbalance that would result  
31 in excess emissions.

32 (4) "Shut-down" means the cessation of the operation of any source for any purpose.

33 (c) Malfunctions. All facilities subject to this rule shall:

34 (1) Comply with the otherwise applicable emissions limits; or

35 (2) Comply with the source specific malfunction work practice standard permit condition described in  
36 Paragraph (d) of this Rule.

37 (d) Source Specific Malfunction Work Practice Standard Permit Condition.

- 1 (1) A facility may request a source specific malfunction work practice standard to be included in the  
2 state and federal enforceable section of its air permit, after review by EPA and the public.
  - 3 (2) The source specific malfunction work practice standard shall minimize emissions during the  
4 malfunction event and require the malfunction duration to be minimized.
  - 5 (3) Subparagraphs (e)(1) and (e)(5) of this Rule shall be addressed in the source specific malfunction  
6 work practice standard. Any facility requesting a source specific malfunction work practice  
7 standard shall meet the requirements of Subparagraphs (f)(1) through (f)(3) of this Rule.
  - 8 (4) Requests shall be made through the application for a permit, permit modification, or permit  
9 renewal pursuant to the permit application requirements in 15A NCAC 02Q .0300 or .0500. The  
10 public notice requirements specified in 15A NCAC 02Q .0306 and .0307 shall be followed for all  
11 proposed work practice standards in non-Title V permits. Public notice requirements specified in  
12 15A NCAC 02Q .0521 shall be followed for all proposed work practice standards in Title V  
13 permits.
  - 14 (5) At all times, the source shall be operated in a manner consistent with good practice for minimizing  
15 emissions and the owner or operator shall use their best efforts regarding planning, design, and  
16 operating procedures. The owner or operator's actions during malfunction periods shall be  
17 documented by properly signed, contemporaneous operating logs or other relevant evidence.
  - 18 (6) Failure to implement or follow the Source Specific Malfunction Work Practice Standard Permit  
19 Condition shall be a violation of Paragraph (d) of this Paragraph.
  - 20 (7) Facilities that follow a Source Specific Malfunction Work Practice Standard Permit Condition  
21 during a malfunction that has been addressed in the Source Specific Malfunction Work Practice  
22 Standard Permit Condition shall be deemed in compliance.
- 23 (e) The Director shall determine the appropriate enforcement response for excess emissions due to a malfunction.  
24 The Director shall consider, along with any other pertinent information, the following:
- 25 (1) The air cleaning device, process equipment, or process has been maintained and operated, to the  
26 maximum extent practicable, consistent with good practice for minimizing emissions;
  - 27 (2) Repairs have been made expeditiously when the emission limits have been exceeded;
  - 28 (3) The amount and duration of the excess emissions, including any bypass, have been minimized to  
29 the maximum extent practicable;
  - 30 (4) All practical steps have been taken to minimize the impact of the excess emissions on ambient air  
31 quality;
  - 32 (5) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation,  
33 or maintenance;
  - 34 (6) The requirements of Paragraph (h) of this Rule have been met; and
  - 35 (7) If the source is required to have a malfunction abatement plan, the source has followed that plan.  
36 All malfunctions shall be repaired as expeditiously as practicable. The facility shall maintain

1 records of the time that a source operates when it or its air pollution control equipment is  
2 malfunctioning or otherwise has excess emissions.

3 (f) All electric utility boiler units shall have a malfunction abatement plan approved by the Director as satisfying the  
4 requirements of Subparagraphs (f)(1) through (f)(3) of this Rule. In addition, the Director may require any other  
5 source to have a malfunction abatement plan approved by the Director as satisfying the requirements of  
6 Subparagraphs (f)(1) through (f)(3) of this Rule. If the Director requires a malfunction abatement plan for a source  
7 other than an electric utility boiler, the owner or operator of that source shall submit a malfunction abatement plan  
8 within 60 days after receipt of the Director's request. The malfunction abatement plans of electric utility boiler units  
9 and of other sources required to have malfunction abatement plans shall be implemented at all times. The purpose of  
10 the malfunction abatement plan is to prevent, detect, and correct malfunctions that may result in excess emissions. A  
11 malfunction abatement plan shall contain:

12 (1) a preventive maintenance program including:

13 (A) the identification of individuals or positions responsible for inspecting, maintaining, and  
14 repairing air cleaning devices;

15 (B) a description of the items or conditions that will be inspected and maintained;

16 (C) the frequency of the inspection, maintenance services, and repairs; and

17 (D) an identification and quantities of the replacement parts that shall be maintained in  
18 inventory for quick replacement;

19 (2) an identification of the source and air cleaning operating variables and outlet variables that may be  
20 monitored to detect a malfunction; the normal operating range of these variables and a description  
21 of the method of monitoring and of informing operating personnel of any malfunctions; and

22 (3) a description of the corrective procedures that the owner or operator will take in case of a  
23 malfunction or failure to achieve compliance with the applicable rule as expeditiously as  
24 practicable. The owner or operator shall maintain logs to show that the operation and maintenance  
25 parts of the malfunction abatement plan are implemented.

26 (g) The owner or operator of any source required by the Director to have a malfunction abatement plan shall submit  
27 a malfunction abatement plan to the Director within 60 days after it has been required by the Director. The  
28 malfunction abatement plan and any amendment to it shall be reviewed by the Director. If the plan carries out the  
29 objectives described by Paragraph (f) of this Rule, the Director shall approve it. If the plan does not carry out the  
30 objectives described by Paragraph (f) of this Rule, the Director shall disapprove the plan. The owner or operator  
31 shall submit an amendment to the plan to satisfy the plan requirements within 30 days of receipt of the Director's  
32 notification. Any person having an approved malfunction abatement plan shall submit to the Director for approval  
33 amendments reflecting changes in any element of the malfunction abatement plan required by Paragraph (f) of this  
34 Rule or amendments when requested by the Director. The malfunction abatement plan and amendments to it shall be  
35 implemented within 90 days upon receipt of written notice of approval.

36 (h) The owner or operator of a source of excess emissions that last for more than four hours and that results from a  
37 malfunction shall:

- 1 (1) notify the Director of any such occurrence by 9:00 a.m. Eastern time of the Division's next  
2 business day of becoming aware of the occurrence and describe:
  - 3 (A) name and location of the facility;
  - 4 (B) the nature and cause of the malfunction;
  - 5 (C) the time when the malfunction is first observed;
  - 6 (D) the expected duration; and
  - 7 (E) an estimated rate of emissions;
- 8 (2) notify the Director by 9:00 a.m. Eastern time of the Division's next business day when the  
9 corrective measures have been accomplished;
- 10 (3) submit to the Director, within 15 days after the notification in Subparagraph (h)(1) of this  
11 Paragraph, a written report that includes:
  - 12 (A) name and location of the facility;
  - 13 (B) identification or description of the processes and control devices involved in the  
14 malfunction;
  - 15 (C) the cause and nature of the event;
  - 16 (D) time and duration of the violation or the expected duration of the excess emission if the  
17 malfunction has not been fixed;
  - 18 (E) estimated quantity of pollutant emitted;
  - 19 (F) steps taken to control the emissions and to prevent recurrences and if the malfunction has  
20 not been fixed, steps planned to be taken; and
  - 21 (G) any other pertinent information requested by the Director.

22 After the malfunction has been corrected, the Director may require the owner or operator of the source to test the  
23 source in accordance with Section .2600 of this Subchapter to demonstrate compliance.

24 (i) Start-up and Shut-down: During periods of start-up and shut-down, sources at facilities subject to this Rule shall  
25 comply with any one of the following:

- 26 (1) the applicable SIP emission limit in the 15A NCAC 02D rules, or a permit limit established in a  
27 permit issued pursuant to 15A NCAC 2Q .0700;
- 28 (2) the applicable work practice standards in Subparagraphs (j)(1) though (j)(13) of this Rule;
- 29 (3) work practice standards currently in effect for federal rules promulgated since 2009 that address  
30 compliance during start-up and shut-down operations for equipment that would be subject to the  
31 federal rule except for rule applicability exemptions; or
- 32 (4) source specific start-up and shut-down work practice standard permit conditions described in  
33 Paragraph (k) of this Rule.

34 Excess emissions during start-up and shut-down shall be considered a violation of the applicable rule if the owner or  
35 operator cannot demonstrate that the work practice standards in Subparagraphs (i)(2), (i)(3), or (i)(4) of this Rule  
36 were followed. Facilities may comply with Subparagraphs (i)(1) or (i)(2) of this Rule during start-up and shut-down  
37 without a specific permit condition. Facilities that choose to comply with Subparagraph (i)(3) of this Rule during

1 start-up and shut-down shall apply for and receive a permit condition that indicates the specific federal work practice  
2 standard that shall be followed. ~~Failure to implement or follow the work practice standard shall be considered a~~  
3 ~~violation of Subparagraph (i)(3) of this Rule.~~ Facilities that choose to comply with Subparagraph (i)(4) of this Rule  
4 during start-up and shut-down shall apply for and receive a permit condition described in Paragraph (k) of this Rule.  
5 ~~Failure to implement or follow the work practice standard shall be considered a violation of Subparagraph (i)(4) of~~  
6 ~~this Rule.~~

7 (j) Generally Available Work Practices for Start-Up and Shut-Down Operations. The owner or operator shall, to  
8 the extent practicable, operate the source and any associated air pollution control equipment or monitoring  
9 equipment in a manner consistent with best practicable air pollution control practices to minimize emissions during  
10 start-up and shut-down. The following generally available work practice standards shall be followed:

- 11 (1) Periods of start-up and shut-down shall be documented in a permanent form suitable for inspection  
12 and submission to the Division. Documentation of start-ups and shut-downs shall include specific  
13 identification of each period of start-up or shut-down where a work practice standard is used and  
14 information required to demonstrate compliance with the applicable work practices. Start-up and  
15 shut-down operations shall occur as expeditiously as possible while minimizing emissions.
- 16 (2) Boilers and other combustion sources. All combustion sources shall commence operations while  
17 firing on the cleanest permitted fuel, to the extent practicable. The source shall minimize the start-  
18 up and shut-down periods to the extent practicable.
  - 19 (A) For sources for which the manufacturer has established recommended procedures for  
20 start-ups and shut-downs, the source shall follow the manufacturer's recommended  
21 procedures.
  - 22 (B) For sources for which there is no manufacturer-recommended procedures for start-ups  
23 and shut-downs, the source shall follow recommended procedures for a unit of similar  
24 design for which manufacturer's recommended procedures are available.
- 25 (3) Baghouses shall be operated upon start-up of emission unit, or when baghouse temperature  
26 exceeds the dew point, whichever occurs later, or as specified by manufacturer.
- 27 (4) Cyclones shall be operated at all times, including start-up and shut-down of the emission unit.
- 28 (5) Electrostatic precipitators (ESP) shall be operated upon start-up of emission unit, or when effluent  
29 temperature exceeds the dew point, whichever occurs later, or as specified by manufacturer.
- 30 (6) Selective catalytic reduction (SCR) units shall be operated if catalyst bed temperature is greater  
31 than 400°F, or as specified by manufacturer.
- 32 (7) Non-selective catalytic reduction (NSCR) units shall be operated when the effluent temperature is  
33 between 700°F and 1500°F, or as specified by manufacturer.
- 34 (8) Scrubbers shall be operated at all times from initialization of start-up to completion of shut-down.
- 35 (9) Carbon adsorption shall be operated at all times from initialization of start-up to completion of  
36 shut-down.
- 37 (10) Biofilters shall be operated at all times from initialization of start-up to completion of shut-down.

1 (11) Sorbent injection shall be operated at all times the gas stream temperature is greater than 300°F, or  
2 as specified by manufacturer.

3 (12) Regenerative Thermal Oxidizers (RTO), thermal, and catalytic oxidizers shall be operated at all  
4 times from initialization of start-up to completion of shut-down.

5 (13) Safety and fire protection protocols shall be followed during start-up and shut-down of all sources.

6 (k) Source Specific Start-Up and Shut-Down Work Practice Standard Permit Condition. A facility may request a  
7 source specific start-up and shut-down work practice standard be included in the state and federal enforceable  
8 section of their air permit, after review by EPA and the public. Such requests shall be made through the application  
9 for a permit, permit modification, or permit renewal pursuant to the permit application requirements in 15A NCAC  
10 02Q .0300 or .0500. The public notice requirements specified in 15A NCAC 02Q .0306 and .0307 shall be followed  
11 for all proposed work practice standards in non-Title V permits. Public notice requirements specified in 15A NCAC  
12 02Q .0521 shall be followed for all proposed work practice standards in Title V permits. Requests for work practice  
13 standards for periods of start-up and shut-down shall include the following considerations:

14 (1) the work practice standard is specific to a source and the associated control strategy;

15 (2) demonstration that the use of the control strategy for the source is technically infeasible during  
16 start-up or shut-down periods;

17 (3) the work practice standard requires that the frequency and duration of operation in start-up or shut-  
18 down mode are minimized to the greatest extent practicable;

19 (4) at all times, the source shall be operated in a manner consistent with good practice for minimizing  
20 emissions and the source uses best efforts regarding planning, design, and operating procedures;  
21 and

22 (5) the owner or operator's actions during start-up and shut-down periods shall be documented by  
23 properly signed, contemporaneous operating logs or other relevant evidence.

24 Any source without a start-up and shut-down work practice standard permit condition shall be required to comply  
25 with any applicable emission limit. Facilities that follow a source specific start-up and shut-down work practice  
26 standard permit condition during start-up and shut-down shall be deemed in compliance.

27  
28 *History Note: Authority G.S. 143-215.3(a)(1);143-215.107(a)(4); 143-215.107(a)(5);*  
29 *Eff. May 22, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0902

**DEADLINE FOR RECEIPT: Friday, October 7, 2016**

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

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4, replace "do" with "shall"*

*Line 20, replace "which" with "that"*

*Page 2, line 18, replace "which" with "that"*

*Page 2, line 24, is the phrase "control strategy" an industry known term? If not, please define or delete.*

*Page 2, line 34, add "that" between "compounds are"*

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

Abigail M. Hammond  
Commission Counsel  
Date submitted to agency: Wednesday, September 21, 2016

1 15A NCAC 02D .0902 is amended as published in 30:20 NCR 2137-2138 as follows:  
2

3 **15A NCAC 02D .0902 APPLICABILITY**

4 (a) The rules in this Section do not apply except as specifically set out in this Rule.

5 (b) This Section applies to sources that emit greater than or equal to 15 pounds of volatile organic compounds per day  
6 unless specified otherwise in this Section.

7 (c) Rules .0925, .0926, .0927, .0928, .0931, .0932, .0933, and .0958 of this Section apply regardless of the level of  
8 emissions of volatile organic compounds unless provisions specified in Paragraph (d)(1) of this Rule are applied.

9 (d) This Section does not apply to:

10 (1) sources that emit less than 800 pounds of volatile organic compounds per calendar month and that are:

11 (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality  
12 control purposes, staff instruction, water or wastewater analyses, or non-production  
13 environmental compliance assessments;

14 (B) bench-scale experimentation, chemical or physical analyses, training or instruction from not-  
15 for-profit, non-production educational laboratories;

16 (C) bench-scale experimentation, chemical or physical analyses, training or instruction from  
17 hospitals or health laboratories pursuant to the determination or diagnoses of illness; or

18 (D) research and development laboratory activities, provided the activity produces no commercial  
19 product or feedstock material; or

20 (2) emissions of volatile organic compounds during startup or shutdown operations from sources which  
21 use incineration or other types of combustion to control emissions of volatile organic compounds  
22 whenever the off-gas contains an explosive mixture during the startup or shutdown operation if the  
23 exemption is approved by the Director as meeting the requirements of this Subparagraph.

24 (e) The following rules of this Section apply to facilities located statewide:

25 (1) .0925, Petroleum Liquid Storage in Fixed Roof Tanks, for fixed roof tanks at gasoline bulk plants and  
26 gasoline bulk terminals;

27 (2) .0926, Bulk Gasoline Plants;

28 (3) .0927, Bulk Gasoline Terminals;

29 (4) .0928, Gasoline Service Stations Stage I;

30 (5) .0932, Gasoline Truck Tanks and Vapor Collection Systems;

31 (6) .0933, Petroleum Liquid Storage in External Floating Roof Tanks, for external floating roof tanks at  
32 bulk gasoline plants and bulk gasoline terminals;

33 (7) .0948, VOC Emissions from Transfer Operations;

34 (8) .0949, Storage of Miscellaneous Volatile Organic Compounds; and

35 ~~(9) .0958, Work Practices for Sources of Volatile Organic Compounds.~~

36 (f) Except as provided in Paragraph (e) of this Rule, the rules in this Section apply to facilities subject to Section  
37 182(b)(2) of the Clean Air Act with potential to emit 100 or more tons per year of VOC and to facilities with potential to



1 emit less than 100 tons per year of volatile organic compounds in categories for which the United States Environmental  
2 Protection Agency has issued Control Technique Guidelines that are located in the following moderate nonattainment  
3 areas for the 1997 8-hour ozone standard as designated in 40 CFR ~~81.334~~:81.334 prior to January 2, 2014:

- 4 (1) Cabarrus County;
- 5 (2) Gaston County;
- 6 (3) Lincoln County;
- 7 (4) Mecklenburg County;
- 8 (5) Rowan County;
- 9 (6) Union County; and
- 10 (7) Davidson Township and Coddle Creek Township in Iredell County.

11 These facilities are subject to reasonably available control technology requirements under this Section and shall comply  
12 with these requirements in accordance with Rule .0909 of this Section through use of Rule .0951 of this ~~Section~~Section  
13 and with Rule .0958 of this Section.

14 (g) If any county or part of a county to which this Section applies is later designated in 40 CFR 81.334 as attainment and  
15 becomes a maintenance area for the 1997 8-hour ozone standard, all sources in that county or part of county subject to  
16 Paragraph (f) of this Rule that achieved compliance in accordance with Rule .0909 of this Section shall continue to  
17 comply with this Section. Facilities with potential to emit less than 100 tons of volatile organic compounds per year for  
18 which the compliance date in Rule .0909 of this Section has not passed before redesignation of the area to attainment for  
19 the 1997 ozone standard shall comply in accordance with Paragraph (h) of this Rule.

20 (h) If a violation of the 1997 ambient air quality standard for ozone occurs when the areas listed in Paragraph (f) become  
21 ozone maintenance area, no later than 10 days after the violation occurs, the Director shall initiate technical analysis to  
22 determine the control measures needed to attain and maintain the 1997 8-hour ambient air quality standard for ozone. By  
23 the following May 1, the Director shall implement the specific stationary source control measures contained in this  
24 Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain  
25 compliance with the 1997 8-hour ambient air quality standard for ozone. The Director shall implement the rules in this  
26 Section identified as being necessary by the analysis by notice in the North Carolina Register. The notice shall identify  
27 the rules that are to be implemented and shall identify whether the Rules implemented are to apply in the areas listed in  
28 Paragraph (f) of this Rule. At least one week before the scheduled publication date of the North Carolina Register  
29 containing the Director's notice implementing rules in this Section, the Director shall send written notification to all  
30 permitted facilities within the counties in which the Rules of this Section are being implemented notifying them that they  
31 are or may be subject to the requirements defined in Rule .0909 of this Section.

32 For Mecklenburg County, "Director" means, for the purpose of notifying permitted facilities in Mecklenburg County, the  
33 Director of the Mecklenburg County local air pollution control program.

34 (i) Sources whose emissions of volatile organic compounds are not subject to limitation under this Section may still be  
35 subject to emission limits on volatile organic compounds in Rules .0524, .1110, or .1111 of this Subchapter.

36  
37 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);

1  
2  
3  
4  
5

*Eff. July 1, 1979;*  
*Amended Eff. November 1, 2016; May 1, 2013; September 1, 2010; January 1, 2009; July 1, 2007;*  
*March 1, 2007; August 1, 2004; July 1, 2000; April 1, 1997; July 1, 1996; July 1, 1995; May 1, 1995;*  
*July 1, 1994.*

1 15A NCAC 02D .1010 is repealed as published in 30:20 NCR 2138-2139 as follows:

2

3 **15A NCAC 02D .1010 HEAVY-DUTY VEHICLE IDLING RESTRICTIONS**

4

5 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.107(b);

6 *Eff. July 10, ~~2010~~2010;*

7 *Repealed Eff. November 1, 2016.*

8

## RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

**AGENCY:** Environmental Management Commission

**RULE CITATIONS:** 15A NCAC 02I .0501

**RECOMMENDED ACTION:**

- Approve, but note staff's comment
- Object, based on:
  - Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

**COMMENT:**

The Environmental Management Commission (EMC) has amended a rule under G.S. 150B-21.5(a) to correct a mailing address and Division name in 15A NCAC 02I .0501. This rule addresses the petition for rulemaking, as authorized by G.S. 150B-20, which states the following:

§ 150B-20. Petitioning an agency to adopt a rule.

(a) Petition. – A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption. A person may submit written comments with a rule-making petition. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule-making petition to it and the procedure the agency follows in considering a rule-making petition.

....

15A NCAC 02I .0501(b) requires the following information for a petition for rulemaking:

- (1) the text of the proposed rule(s) conforming to the Codifier of Rules' requirements for publication of proposed rules in the North Carolina Register;
- (2) the statutory authority for the agency to promulgate the rule(s);

Abigail M. Hammond  
Commission Counsel

- (3) a statement of the reasons for adoption of the proposed rule(s);
- (4) a statement of the effect on existing rules or orders;
- (5) copies of any documents and data supporting the proposed rule(s);
- (6) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
- (7) a statement explaining the computation of the cost factors;
- (8) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s); and
- (9) the name(s) and address(es) of the petitioner(s).

Paragraph (c) of Rule 15A NCAC 02I .0501 states that “[p]etitions failing to contain the required information shall be returned by the Director on behalf of the Chairman.” The requirements set forth in Paragraph (b) and that an incomplete petition will be returned, as set forth in Paragraph (c) of the Rule, exceeds the simple requirements of G.S. 150B-20. The requirements of G.S. 150B-20 are the following:

- A. A person may petition an agency to adopt a rule by submitting to the agency a written rule-making petition requesting the adoption.
- B. A person may submit written comments with a rule-making petition.
- C. If a rule-making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change.

The following highlighted items set forth in Rule 15A NCAC 02I .0501 exceed the requirements of G.S. 150B-20:

- (1) the text of the proposed rule(s) conforming to the Codifier of Rules' requirements for publication of proposed rules in the North Carolina Register;
  - (2) the statutory authority for the agency to promulgate the rule(s);
  - (3) a statement of the reasons for adoption of the proposed rule(s);
  - (4) a statement of the effect on existing rules or orders;
  - (5) copies of any documents and data supporting the proposed rule(s);
  - (6) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
  - (7) a statement explaining the computation of the cost factors;
  - (8) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s); and
  - (9) the name(s) and address(es) of the petitioner(s).
- ....

The requirement of the highlighted language, coupled with the requirement in Paragraph (d) that an incomplete petition shall be returned, exceeds the statutory requirements for a petition for rulemaking as set forth in G.S. 150B-20. Staff counsel notes that it may be appropriate for the un-highlighted language to be required information and the highlighted language to be permissive information submitted in a petition for rulemaking.

**SUMMARY:**

The Environmental Management Commission (EMC) has amended an existing rule to correct an address and Division name. However, the existing language of the rule exceeds the statutory language of G.S. 150B-20 and creates a higher burden for the general public than required in the specific legislative directive of the General Assembly. Staff counsel recommends objection to Rule 15A NCAC 02I .0501 for lack of statutory authority.

1 **15A NCAC 02I .0501 IS ADOPTED PURSUANT TO G.S. 150B-21.5 AS FOLLOWS:**

2  
3 **15A NCAC 02I .0501 FORM AND CONTENTS OF PETITION**

4 (a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Environmental Management  
5 Commission (hereinafter referred to as the Commission) shall make ~~his~~ the request in a petition addressed to the Director  
6 of the appropriate division of the Department of ~~Environment and Natural Resources~~, Environmental Quality, and a copy  
7 in electronic or digital form shall also be sent to the Recording Clerk of the Commission:

8  
9 Director  
10 Division of Air Quality  
11 1641 Mail Service Center  
12 Raleigh, North Carolina 27699-1641

13  
14 Director  
15 Division of Waste Management  
16 1646 Mail Service Center  
17 Raleigh, North Carolina 27699-1646

18  
19 ~~Director~~  
20 ~~Division of Water Quality~~  
21 ~~1617 Mail Service Center~~  
22 ~~Raleigh, North Carolina 27699-1617~~

23  
24 Director  
25 Division of Water Resources  
26 1611 Mail Service Center  
27 Raleigh, North Carolina 27699-1611

28  
29 Recording Clerk of the Commission  
30 Directors Office  
31 Division of Water ~~Quality~~ Resources  
32 ~~1617~~ 1611 Mail Service Center  
33 Raleigh, NC ~~27699-1617~~ 27699-1611  
34 EMCclerk@ncdenr.gov

35  
36 (b) The petition shall contain the following information:

- 1 (1) the text of the proposed rule(s) conforming to the Codifier of Rules' requirements for publication of
- 2 proposed rules in the North Carolina Register;
- 3 (2) the statutory authority for the agency to promulgate the rule(s);
- 4 (3) a statement of the reasons for adoption of the proposed rule(s);
- 5 (4) a statement of the effect on existing rules or orders;
- 6 (5) copies of any documents and data supporting the proposed rule(s);
- 7 (6) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including
- 8 cost factors for persons affected by the proposed rule(s);
- 9 (7) a statement explaining the computation of the cost factors;
- 10 (8) a description, including the names and addresses, if known, of those most likely to be affected by the
- 11 proposed rule(s); and
- 12 (9) the name(s) and address(es) of the petitioner(s).

13 (c) Petitions failing to contain the required information shall be returned by the Director on behalf of the Chairman.

14

15 *History Note:* Authority G.S. 143B-282; 150B-20;  
16 Eff. April 1, 2003;  
17 Amended Eff. November 1, 2016; November 1, 2012.

18