

1 15A NCAC 02D .2203 is readopted with changes as published in 31:24 NCR 2477-2478 as follows:

2
3 **15A NCAC 02D .2203 PUBLIC NOTICE**

4 (a) The requirements of this Rule for public notice and public hearing shall apply to Consent Orders. The Commission
5 may specify other conditions for Special Orders issued without consent if it finds such conditions are necessary to
6 achieve or demonstrate compliance with a requirement under this Subchapter or 15A NCAC 02Q.

7 (b) Notice of proposed Consent Order:

8 (1) The Director shall give notice pursuant to G.S. 143-215.110(a1).

9 ~~(2) The Director shall give notice of a proposed Consent Order [at least] 30 days prior to any final action~~
10 ~~regarding the Consent Order.~~

11 ~~(3) The notice shall be posted on the North Carolina Division of Air Quality web site at~~
12 ~~<http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent>~~
13 ~~and provided to those persons specified in G.S. 143-215.110(a1)(1) for air quality special orders.~~

14 ~~(2)(4)~~ The notice shall include at least the following:

15 (A) name, address, and telephone number of the Division;

16 (B) name and address of the person to whom the proposed order is directed;

17 (C) a brief summary of the conditions of the proposed ~~order-order~~, including the period of time
18 ~~in-during~~ which action ~~shall-must~~ be taken to achieve compliance and the major permit
19 conditions or emission standards that the source will be allowed to exceed during the
20 pendency of the order;

21 (D) a brief description of the procedures to be followed by the Commission or Director in
22 reaching a final decision on the proposed order, which shall include descriptions of the
23 process for submitting comments and requesting a public hearing. The description shall
24 specify that comments and requests for a public hearing are to be received by the Division
25 within 30 days following the date of public notice; and

26 (E) a description of the information available for public review, where it can be found, and
27 procedures for obtaining copies of pertinent documents.

28 (c) Notice of public hearing for proposed Consent Order:

29 (1) The Director shall consider all requests for a public hearing, and if he determines significant public
30 interest for a public hearing exists, then he or she shall hold a public hearing.

31 (2) The Director shall give notice of the public hearing at least 30 days before the hearing.

32 (3) The notice shall be ~~advertised in a local newspaper~~ posted on the North Carolina Division of Air
33 Quality web site at [http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-](http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent)
34 orders-by-consent and provided to those persons specified in G.S. 143-215.110(a1)(2) for air quality
35 special orders.

36 (4) The notice shall include the information specified in Subparagraph ~~(b)(2)(b)(4)~~ of this Rule. It shall
37 also state the time and location for the hearing along with and the procedures for providing comment.

1 (5) The Chairman of the Commission or the Director shall appoint one or more hearing officers to
2 preside over the public hearing and to receive written and oral comments. The hearing officer shall
3 provide the Commission a written report of the hearing, which shall include:

4 (A) a copy of the public ~~notice published in the newspaper;~~ notice;

5 (B) a copy of all the written comments and supporting documentation received;

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7 (D) recommendations of the hearing officer to the Commission; and

8 (E) a proposed Consent Order for the Commission's consideration.

9 (d) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies
10 of notices to those who have submitted a request.

11 ~~(e) The Director may satisfy the requirements in Paragraphs (b) and (c) of this Rule by issuing a notice that complies~~
12 ~~with both Paragraphs.~~

13 ~~(f)(c)~~ Any Consent Order may be ~~amended—modified~~ by the Director to incorporate minor modifications, such as
14 modification of standard conditions to reflect updated ~~versions,~~ versions of federal or state regulations, correction of
15 typographical errors, or interim date extensions, ~~in a consent order~~ without public notice provided that the
16 modifications do not extend the final compliance date by more than four months.

17
18 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110;*

19 *Eff. April 1, 2004. 2004;*

20 *Readopted Eff. February 1, 2018.*



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

December 14, 2017

Jennifer Everett, Rulemaking Coordinator
Environmental Management Commission
Sent via email only: Jennifer.everett@ncdenr.gov

Re: Extension of the Period of Review for Rule15A NCAC 02D .2203

Dear Ms. Everett:

At their December 14, 2017 meeting, the Rules Review Commission extended the period of review for the above-captioned rule in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to complete requested technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

Should you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Jason Thomas
Commission Counsel

cc: Joelle Burleson (via email at joelle.burleson@ncdenr.gov)

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .2203

DEADLINE FOR RECEIPT: Friday, December 8, 2017

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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

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

Line 4 – add “shall” before “apply”

Line 5 – what does “other conditions” mean?

Line 5 – delete “it finds”

Line 9 – delete “at least”

Lines 9, 11, and 14 – correct the formatting and spacing of the beginning of these lines

Line 17 – add a comma after “order”

Line 17 – replace “in” with “during” if that is what you mean

Line 18 – replace “shall” with “must”

Line 29 – delete “he determines”

Lines 29-30 – on what basis will the Director determine whether “significant public interest” exists?

Line 30 - add “or she” after “he”

Line 37 – replace “along with” with “and the”

Page 2, lines 11-12 – delete Paragraph (e) because it is unnecessary.

Page 2, lines 14-15 – delete “in a consent order”

Page 2, lines 13-16 – what statute authorizes the Director to modify a Consent Order without the agreement of the parties to the order? What statute authorizes the Director to modify a Consent Order without public notice?

Jason Thomas
Commission Counsel

Date submitted to agency: November 22, 2017

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 22, 2017

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