REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1001

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

This rule neither imposes requirements nor confers benefits on anyone. Consider repealing it.

Line 7 (if you decide to keep this Rule) – replace "inspection/maintenance" with "inspection or maintenance" unless "inspection/maintenance" is a defined term.

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: Friday, May 25, 2018

15A NCAC 02D .1001 is readopted as published in 32:12 NCR 1205 as follows:

SECTION .1000 - MOTOR VEHICLE EMISSION CONTROL STANDARD

15A NCAC 02D .1001 PURPOSE

This Section sets forth motor vehicle emission control standards in areas where a motor vehicle inspection/maintenance program is implemented pursuant to State ~~law~~law.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7);*
Eff. December 1, 1982;
Amended Eff. August 1, ~~2002.~~2002;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1002

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

Lines 4-13 – is Paragraph (a) still needed?

Line 5 – add "vehicles from" after "excluding"

Line 6 – show the end of this line as follows: "odometers, ~~current model year,~~ and applies to"

Line 22 – add "vehicles from" after "excluding"

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: Friday, May 25, 2018

15A NCAC 02D .1002 is readopted as published in 32:12 NCR 1205-1206 as follows:

15A NCAC 02D .1002 APPLICABILITY

(a) Until the events described in Paragraph (b) of this Rule occur, 15A NCAC 02D ~~Rules~~ .1002 through .1006 ~~of this Section~~ are applicable to all light-duty gasoline vehicles for model years 1996 or more recent model years, excluding the three most recent model years with less than 70,000 miles on their odometers ~~current model year~~, and applies to all vehicles that are:

(1) required to be registered by the North Carolina Division of Motor Vehicles in the counties identified in Paragraph (d) of this Rule;

(2) part of a fleet primarily operated within the counties identified in Paragraph (d) of this Rule; or

~~(3) operated on a federal installation located in a county identified in Paragraph (d) of this Rule and that meet the requirements of 40 CFR 51.356(a)(4); or~~

~~(4)~~(3) otherwise required under G.S. 20-183.2(b)(5).

~~(b) The first day of a month that is 30 days after the U.S. Environmental Protection Agency approves the State Implementation Plan revision and the replacement of the Motor Vehicle Inspection and Law Enforcement System being certified by the Commissioner of Motor Vehicles, whichever occurs later,~~On the first day of the month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the United States Environmental Protection Agency has approved an amendment to the North Carolina State Implementation Plan, 15A NCAC 02D ~~Rules~~ .1002 through .1006 ~~of this Section~~ shall apply to ~~1996 or more recent model for motor vehicles under Paragraph (a) of this Rule, excluding the three most recent model years with less than 70,000 miles on their odometers.~~ all light-duty gasoline vehicles that are a model year within 20 years of the current year, excluding the three most recent model years with less than 70,000 miles on their odometers, and to all vehicles that are:

(1) required to be registered by the North Carolina Division of Motor Vehicles in the counties identified in Paragraph (d) of this Rule;

(2) part of a fleet primarily operated within the counties identified in Paragraph (d) of this Rule; or

(3) otherwise required under G.S. 20-183.2(b)(5).

(c) ~~Rules~~15A NCAC 02D .1002 through .1006 ~~of this Section~~ shall not apply to motorcycles, plug-in electric vehicles or fuel cell electric vehicles as specified in G.S. 20-183.2(b).

(d) The emission control standards of this Section shall become effective in the counties identified in G.S. 143-215.107A.

History Note: *Authority G.S. 20-128.2(a); 20-183.2; 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.107A;*
Eff. December 1, 1982;
Amended Eff. July 1, 1992; April 1, 1991;

Temporary Amendment Eff. January 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 2014; August 1, 2002; July 1, 1994; July 1, ~~1993.~~1993;

Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1003

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

Lines 24-26 - .1008 defines "model year." Please choose one definition and use it consistently.

Line 31 – do not capitalize "three"

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: Friday, May 25, 2018

15A NCAC 02D .1003 is readopted as published in 32:12 NCR 1206 as follows:

15A NCAC 02D .1003 DEFINITIONS

The following definitions of terms apply to ~~Rules~~ 15A NCAC 02D .1002 through .1006 ~~of this Section~~ regulating either gasoline-powered or hybrid-powered motor vehicles:

(1) "Fuel Cell Electric Vehicle" means as defined in G.S. 20-4.01.

(2) "Gasoline-powered Motor Vehicle" means a four-wheeled motor vehicle designed primarily to be propelled by the burning of gasoline in an internal combustion engine.

(3) "Heavy-duty Gasoline Vehicle" means either a gasoline-powered or hybrid-powered motor vehicle which is designed primarily for:

(a) transportation of property and has a Gross Vehicle Weight Rating (GVWR) of more than 8,500 pounds but less than 14,001 pounds;

(b) transportation of persons and has a capacity of more than 12 persons; or

(c) use as a recreational motor vehicle that is designed primarily to provide temporary or permanent living quarters for travel, camping, or other recreational use and has a GVWR of more than 8,500 pounds.

(4) "Hybrid-powered Motor Vehicle" means a four-wheeled motor vehicle designed to be propelled by a combination of one or more electric motors and the burning of gasoline in an internal combustion engine.

(5) "Light-duty Gasoline Vehicle" means either a gasoline-powered or hybrid-powered motor vehicle which is designed primarily for:

(a) transportation of property and has a GVWR of 8,500 pounds or less; or

(b) transportation of persons and has a capacity of 12 persons or less.

(6) "Model year" means the year used to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, provided that the production period does not exceed 24 months.

(7) "Motorcycle" means as defined in G.S. 20-4.01.

(8) "Motor Vehicle" means as defined in G.S. 20-4.01.

(9) "Plug-in Electric Vehicle" means as defined in G.S. 20-4.01.

(10) "Three most recent model years." For the purposes of ~~Rules~~ 15A NCAC 02D .1002 through .1006 ~~of this Section~~, the term "Three most recent model years" shall be calculated by adding three years to the vehicle's Vehicle Identification Number (VIN) or the registration card model year to determine the first calendar year an emissions inspection is required.

(11) "Vendor" means any person who sells or leases equipment to inspection stations that is used to perform on-board diagnostic tests to show compliance with ~~Rule~~ 15A NCAC 02D .1005. ~~of this Section.~~

History Note: *Authority G.S. 20-4.01; 143-215.3(a)(1);*
Eff. December 1, 1982;
Amended Eff. February 1, ~~2014.~~ 2014;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1005

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – delete "all"

Line 4 – add "as" after "vehicles"

Lines 12-15 – revise as follows:

> (d) Persons performing on-board diagnostic tests shall provide the Division of Air Quality the data required by 40 CFR 51.365, Data Collection; 40 CFR 51.366, Data Analysis and Reporting; and 40 CFR 51.358, Test Equipment.

Line 16 – are you incorporating all referenced federal regulations by reference? If so, revise as follows:

> (e) Federal regulations cited in this Rule are incorporated by reference, including subsequent amendments and editions. All federal regulations …

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: Friday, May 25, 2018

15A NCAC 02D .1005 is readopted as published in 32:12 NCR 1206 as follows:

15A NCAC 02D .1005 ON-BOARD DIAGNOSTIC STANDARDS

(a) This Rule shall apply to all vehicles set forth in ~~Rule~~ 15A NCAC 02D 1002. ~~.1002 of this Section.~~

(b) Vehicles covered under this Rule shall pass annually the on-board diagnostic test described in 40 CFR 85.2222. The vehicle shall fail the on-board diagnostic test if any of the conditions of 40 CFR 85.2207 are met. Equipment used to perform on-board diagnostic tests shall meet the requirements of 40 CFR 85.2231.

(c) The tester shall provide the owner of a vehicle that fails the on-board diagnostic test described in Paragraph (b) of this Rule a report of the test results. This report shall include the codes retrieved per 40 CFR 85.2223(a), the status of the malfunction indicator light illumination command, and the customer alert statement described in 40 CFR 85.2223(c).

(d) Persons performing on-board diagnostic tests shall provide the Division of Air Quality data necessary to determine the effectiveness of the on-board diagnostic testing program. The data submitted shall be what is necessary to satisfy the requirements of 40 CFR 51.365, Data Collection, and 40 CFR 51.366, Data Analysis and Reporting, and 40 CFR 51.358, Test Equipment.

(e) All references to federal regulations include subsequent amendments and editions. All federal regulations referenced in this Rule can be accessed free of charge at http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.

History Note: *Authority G.S. 20-128.2(a); 143-215.3(a)(1); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.107A(b);*
Eff. December 1, 1982;
Amended Eff. January 1, 2014; August 1, 2002; July 1, 1998; April 1, 1991; November 1, ~~1986.~~ 1986;
Readopted Eff. July1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1006

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 7 – replace "inspection/maintenance" with "inspection and maintenance" unless "inspection/maintenance" is a defined term.

Line 10 – replace "impacted" with "affected"

Lines 11, 14, 20, 25, and 29 – replace "Where" or "When" with "If"

Line 33 – replace "impacted" with "affected"

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: Friday, May 25, 2018

15A NCAC 02D .1006 is readopted as published in 32:12 NCR 1206 as follows:

15A NCAC 02D .1006 SALE AND SERVICE OF ANALYZERS

(a) Requirements. A vendor shall not sell or lease equipment unless it meets the requirements of 40 CFR 85.2231 Onboard Diagnostic Test Equipment Requirements, and has the software necessary to record and transmit the data required by the Division of Motor Vehicles and the Division of Air Quality to determine compliance with the inspection/maintenance program requirements of this Section.

(b) Hardware repair. When equipment hardware fails to meet the requirements of Paragraph (a) of this Rule for a particular analyzer, the vendor, after receiving a call from an inspection station to its respective service call center, shall communicate with the impacted station within 24 hours and:

(1) Where the hardware problem is stopping 20 percent or more inspections for a particular analyzer or is compromising the security of the inspection system, the vendor shall repair the problem within 48 hours after the initial call to its respective service call center.

(2) Where the hardware problem is stopping less than 20 percent of all inspections for a particular analyzer and is not compromising the security of the inspection system, the vendor shall repair the problem within 72 hours after the initial call to its respective service call center.

(3) Where the hardware problem is not stopping inspections and is not compromising the security of the inspection system, the vendor shall repair the problem within 96 hours after the initial call to its respective service call center.

(c) Software repair revisions. When analyzer software fails to meet the requirements of Paragraph (a) of this Rule, the vendor, after receiving a call from an inspection station to its respective service call center, shall communicate with the station within 24 hours. The vendor shall identify and characterize the software problem within ~~5~~ five days. The vendor shall, within that same ~~5-day~~ five-day period, inform the station owner and the Division as to the nature of the problem and the proposed corrective course of action; and:

(1) Where the software problem is stopping 20 percent or more inspections for a particular analyzer or is compromising the security of the inspection system, the vendor shall submit a new revision of the software to the Division for approval within 19 days after receiving the initial call to its service call center.

(2) Where the software problem is stopping less than 20 percent of all inspections for a particular analyzer and is not compromising the security of the inspection system, the vendor shall submit a new revision of the software to the Division for approval within 33 days after receiving the initial call to its service call center.

(3) The vendor shall distribute the new revision of the software to all impacted stations within 14 days after the vendor receives written notification from the Division that the software has been approved as meeting the requirements of Paragraph (a) of this Rule.

(d) Documentation of the initial service call. The vendor's service call center shall assign a unique service response number to every reported new hardware or software problem. The time and date of the initial call shall be recorded

and identified with the service response number. The service response number shall be communicated to the inspection station operator at the time of the initial contact.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(6),(14);*
Eff. January 1, 2007;
Amended Eff. January 1, ~~2014.~~ 2014;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1008

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 7 – .1003 defines "model year." Please choose one definition and use it consistently.

Line 10 – delete "(as amended)"

Lines 11014 – are you incorporating the California Code by reference, or simply requiring the certification? If the latter, delete Paragraph (c). If the former, add the following before "A copy...": "Title 13, Section 1956.8 of the California Code of Regulation is incorporated by reference, including subsequent amendments and editions."

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: Friday, May 25, 2018

15A NCAC 02D .1008 is readopted as published in 32:12 NCR 1206 as follows:

15A NCAC 02D .1008 HEAVY DUTY DIESEL ENGINE REQUIREMENTS

(a) Definitions. For the purposes of this Rule, the following definitions apply:

(1) "Heavy duty diesel engine," means any diesel engine used in a vehicle with a gross vehicle weight rating of 14,001 pounds and greater.

(2) "Model year" means model year as defined in 40 CFR Section 85.2302.

(b) Requirement. No model year 2005 or 2006 heavy duty diesel engine may be sold, leased, or registered within North Carolina unless it has been certified by the California Air Resources Board as meeting the requirements of Title 13 of the California Code of Regulations, Section 1956.8 (as amended).

(c) Referenced Regulation. A copy of Title 13 of the California Code of Regulations, Section 1956.8, may be obtained free of charge via the internet from the Office of Administrative Law California Code of Regulations website at http://ccr.oal.ca.gov/, or a hard copy may be obtained at a cost of five dollars ($5.00) from the Public Information Office, California Air Resources Board, P.O. Box 2815, Sacramento, CA, 95812.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(6)-(7);*
Eff. December 31, 2001 by Exec. Order No. 15;
Amended Eff. July 18, 2002;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1101

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

> *This rule neither imposes requirements nor confers benefits on anyone. Consider repealing it.*

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: Friday, May 25, 2018

15A NCAC 02D .1101 is readopted as published in 32:13 NCR 1271 as follows:

SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

15A NCAC 02D .1101 PURPOSE

This Section sets forth the rules for the control of toxic air pollutants to protect human health.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1),(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45;*
Eff. May 1, 1990;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1102

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 7 – replace "any" with "all" if that is what is meant.

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: Friday, May 25, 2018

15A NCAC 02D .1102 is readopted as published in 32:13 NCR 1271 as follows:

15A NCAC 02D .1102 APPLICABILITY

(a) ~~The toxic air pollutant rules in this Section~~15A NCAC 02D .1103 through .1108 apply to all facilities that emit a toxic air pollutant that are required to have a permit ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0700. All other rules in this Section apply as specified therein.

(b) Sources at facilities subject to this Section shall comply with the requirements of this Section as well as with any applicable requirements in ~~Sections~~15A NCAC 02D .0500, .0900, and .1200 ~~of this Subchapter.~~ with such exceptions as may be allowed pursuant to 15A NCAC 02Q .0700.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1),(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45;*
Eff. May 1, 1990;
Amended Eff. July 1, 1998; December 1, ~~1991.~~1991;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1103 is readopted as published in 32:13 NCR 1271 as follows:

15A NCAC 02D .1103 DEFINITION

For the purpose of this Section, the following definitions apply:

(1) "Asbestos" means asbestos fibers as defined in 40 CFR 61.141.

(2) "Bioavailable chromate pigments" means the group of chromium (VI) compounds consisting of calcium chromate (CAS No.13765-19-0), calcium dichromate (CAS No. 14307-33-6), strontium chromate (CAS No. 7789-06-2), strontium dichromate (CAS No. 7789-06-2), zinc chromate (CAS No. 13530-65-9), and zinc dichromate (CAS No. 7789-12-0).

(3) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.

(4) "Chromium (VI) equivalent" means the molecular weight ratio of the chromium (VI) portion of a compound to the total molecular weight of the compound multiplied by the associated compound emission rate or concentration at the facility.

(5) "Non-specific chromium (VI) compounds" means the group of compounds consisting of any chromium (VI) compounds not specified in this Section as a bioavailable chromate pigment or a soluble chromate compound.

(6) "Cresol" means o-cresol, p-cresol, m-cresol or any combination of these compounds.

(7) "GACT" means any generally available control technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.

(8) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.

(9) "MACT" means any maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 of the federal Clean Air Act.

(10) "Nickel, soluble compounds" means the soluble nickel salts of chloride ($NiCl_2$, CAS No. 7718-54-9), sulfate ($NiSO_4$, CAS No. 7786-81-4), and nitrate ($Ni(NO_3)_2$, CAS No. 13138-45-9).

(11) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.

(12) "Soluble chromate compounds" means the group of chromium (VI) compounds consisting of ammonium chromate (CAS No. 7788-98-9), ammonium dichromate (CAS No. 7789-09-5), chromic acid (CAS No. 7738-94-5), potassium chromate (CAS No. 7789-00-6), potassium dichromate (CAS No. 7778-50-9), sodium chromate (CAS No. 7775-11-3), and sodium dichromate (CAS No. 10588-01-9).

(13) "Toxic air pollutant" means any of those carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in ~~Rule .1104 of this Section.~~ 15A NCAC 02D .1104.

History Note: *Authority G.S. 143-213; 143-215.3(a)(1); 143B-282; S.L. 1989, c. 168, s. 45;*

Eff. May 1, 1990;

Amended Eff. April 1, 2001; July 1, ~~1998.~~1998;

Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1104

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 6 – replace "health with such exceptions as may be allowed" with "health, except as allowed"

Line 7 – what does "shall be guided by" mean, exactly?

Lines 8 and 9 – add a comma after "pressure and delete the parentheses.

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: Friday, May 25, 2018

15A NCAC 02D .1104 is readopted as published in 32:13 NCR 1271-1273 as follows:

15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the facility's premises ~~(adjacent property boundary)~~ to any significant ambient air concentration that may adversely affect human ~~health.~~ health with such exceptions as may be allowed pursuant to 15A NCAC 2Q .0700. In determining these significant ambient air concentrations, the Division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

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

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m^3) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
bioavailable chromate pigments, as chromium (VI) equivalent	8.3×10^{-8}			
bis-chloromethyl ether (542-88-1)	3.7×10^{-7}			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	4.4×10^{-4}			
cadmium (7440-43-9)	5.5×10^{-6}			
cadmium acetate (543-90-8)	5.5×10^{-6}			
cadmium bromide (7789-42-6)	5.5×10^{-6}			
carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7×10^{-3}			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3×10^{-3}			
chloroprene (126-99-8)		0.44	3.5	
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
~~dichlorodifluoromethane (75-71-8)~~		~~248~~		
~~dichlorofluoromethane (75-43-4)~~		~~0.5~~		
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		
epichlorohydrin (106-89-8)	8.3×10^{-2}			
ethyl acetate (141-78-6)			140	
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0×10^{-4}			
ethylene dichloride (107-06-2)	3.8×10^{-3}			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7×10^{-5}			
ethyl mercaptan (75-08-1)			0.1	

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m^3) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin (57653-85-7)	7.6×10^{-8}			
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25
hydrogen sulfide (7783-06-4)		0.12		
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4×10^{-2}		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		0.0006		
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1×10^{-6}			

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m^3) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
n-nitrosodimethylamine (62-75-9)	5.0×10^{-5}			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	8.3×10^{-8}			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9×10^{-1}			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3×10^{-5}			
soluble chromate compounds, as chromium (VI) equivalent		6.2×10^{-4}		
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0×10^{-9}			
~~1,1,1,2-tetrachloro-2,2,-difluoroethane (76-11-9)~~		~~52~~		
~~1,1,2,2-tetrachloro-1,2-difluoroethane (76-12-0)~~		~~52~~		
1,1,2,2-tetrachloroethane (79-34-5)	6.3×10^{-3}			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584-84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9×10^{-2}			
~~trichlorofluoromethane (75-69-4)~~			~~560~~	

Acceptable Ambient Levels (AAL) in Milligrams per Cubic Meter (mg/m^3) Except Where Noted				
Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
~~1,1,2-trichloro-1,2,2-trifluoroethane (76-13-1)~~				~~950~~
vinyl chloride (75-01-4)	3.8×10^{-4}			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282;*
Eff. May 1, 1990;
Amended Eff. September 1, 1992; March 1, 1992;
Temporary Amendment Eff. July 20, 1997;
Amended Eff. July 7, 2014; May 1, 2014; March 1, 2010; June 1, 2008; April 1, 2005; April 1, 2001;
July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1105

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – replace :"according" with "pursuant"

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: Friday, May 25, 2018

15A NCAC 02D .1105 is readopted as published in 32:13 NCR 1273 as follows:

15A NCAC 02D .1105 FACILITY REPORTING, RECORDKEEPING

The Director may require, according to ~~Section .0600 of this Subchapter,~~ 15A NCAC 02D .0600, the owner or operator of a source subject to this Section to monitor emissions of toxic air pollutants, to maintain records of these emissions, and to report these emissions. The owner or operator of any toxic air pollutant emission source subject to the requirements of this Section shall comply with the monitoring, recordkeeping, and reporting requirements in ~~Section .0600 of this Subchapter.~~15A NCAC 02D .0600.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4),(5); 143B-282;*
Eff. May 1, 1990;
Amended Eff. April 1, 1999; October 1, ~~1991.~~1991;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1106

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

Lines 7-9 – revise as follows:

> exceeded, except as allowed pursuant to 15A NCAC 2Q .0700. These permit parameters and rates shall be enforced to ensure that the requirements of 15A NCAC 02D .1104, except as allowed by 15A NCAC 2Q .0700, are met.

Line 15 – add a comma after Line 19 – replace "becomes" with "shall become""operational"

Line 22 – add "or her" after "his"

Line 26 – delete "single"

Line 27 – replace "compliance. These pollutants are:" with "compliance:"

Page 2, line 2 – replace "provided that" with "if"

Page 2, lines 3-4 – replace "provided that" with "if"

Page 2, line 4 – delete "the Director determines that"

Page 2, line 10 – replace "the Director may approve as providing" with "provides"

Page 2, line 17 – add a comma after "key"

Page 2, line 21 – replace "urban/rural" with "urban and rural" or "urban or rural"

Page 2, lines 25-26 – delete the parentheses, add a comma after "excluded," and replace "i.e." with "including"

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: Friday, May 25, 2018

15A NCAC 02D .1106 is readopted as published in 32:13 NCR 1273-1274 as follows:

15A NCAC 02D .1106 DETERMINATION OF AMBIENT AIR CONCENTRATION

(a) Modeling shall not be used for enforcement. Modeling shall be used to determine process operational and air pollution control parameters and emission rates for toxic air pollutants to place in the air quality permit for that facility that will prevent any of the acceptable ambient levels in ~~Rule .1104 of this Section~~ 15A NCAC 02D .1104 from being exceeded, with such exceptions as may be allowed ~~under~~ pursuant to 15A NCAC 2Q .0700. Enforcing these permit stipulations and conditions shall be the mechanism used to ensure that the requirements of ~~Rule .1104 of this Section,~~ 15A NCAC 02D .1104, with such exceptions as may be allowed by 15A NCAC 2Q .0700, are met.

(b) The owner or operator of the facility may provide a modeling analysis or may request the Division to perform a modeling analysis of the ~~facility or provide the analysis himself.~~facility. If the owner or operator of the facility requests the Division to perform the modeling analysis, ~~he~~ the owner or operator shall provide emissions rates, stack parameters, and other information that the Division needs to ~~do~~ conduct the modeling. The data that the owner or operator of the facility provides the Division to use in the model or in deriving the data used in the model shall be the process, operational and air pollution control equipment parameters and emission rates that will be contained in the ~~facility~~'s facility's permit. If the ~~Division~~'s Division's initial review of the modeling request indicates extensive or inappropriate use of state ~~resources~~resources, or if the ~~Division~~'s Division's modeling analysis fails to show compliance with the acceptable ambient levels in ~~Rule .1104 of this Section,~~ 15A NCAC 02D .1104, the modeling demonstration becomes the responsibility of the owner or operator of the facility.

(c) When the owner or operator of the facility is responsible for providing the modeling demonstration and the data used in the modeling, the owner or operator of the facility shall use in the model or in deriving data used in the model the process operational and air pollution control equipment parameters and emission rates that will be contained in his permit. Sources that are not required to be included in the model ~~will~~shall not be included in the permit to emit toxic air pollutants.

(d) For the following pollutants, modeled emission rates shall be based on the highest emissions occurring in any single 15 minute period. The resultant modeled 1-hour concentrations shall then be compared to the applicable 1-hour acceptable ambient levels to determine compliance. These pollutants are:

(1) acetaldehyde ~~(75-07-0)~~ (75-07-0);

(2) acetic acid ~~(64-19-7)~~ (64-19-7);

(3) acrolein ~~(107-02-8)~~ (107-02-8);

(4) ammonia ~~(7664-41-7)~~ (7664-41-7);

(5) bromine ~~(7726-95-6)~~ (7726-95-6);

(6) chlorine ~~(7782-50-5)~~ (7782-50-5);

(7) formaldehyde ~~(50-00-0)~~ (50-00-0);

(8) hydrogen chloride ~~(7647-01-0)~~ (7647-01-0);

(9) hydrogen fluoride ~~(7664-39-3)~~ (7664-39-3); and

(10) nitric acid ~~(7697-37-2)~~ (7697-37-2).

(e) The owner or operator of the facility and the Division may use any model allowed by ~~40 CFR 51.166(l)~~ 40 CFR Part 51, Appendix W, provided that the model is appropriate for the facility being modeled. The owner or operator or the Division may use a model other than one allowed by ~~40 CFR 51.166(l)~~ 40 CFR Part 51, Appendix W provided that the Director determines that the model is equivalent to the model allowed by ~~40 CFR 51.166(l)~~ 40 CFR Part 51, Appendix W. ~~Regardless of model used, the owner or operator and the Division shall model for cavity effects and shall comply with the modeling requirements for stack height set out in Rule .0533 of this Subchapter.~~

(f) Ambient air concentrations ~~are to~~ shall be evaluated for annual periods over a calendar year, for 24-hour periods from midnight to midnight, and for one-hour periods beginning on the hour.

(g) The owner or operator of the facility shall identify each toxic air pollutant emitted and its corresponding emission rate using mass balancing analysis, source testing, or other methods that the Director may approve as providing an equivalently accurate estimate of the emission rate.

(h) The owner or operator of the facility shall either submit a modeling plan prior to submitting modeling or submit a model protocol checklist with modeling to the ~~Director and shall have received approval of that plan from the before submitting a modeling demonstration to the~~ Director. The modeling plan or protocol checklist shall include:

(1) a diagram of the plant site, including locations of all stacks and associated buildings;

(2) on-site building dimensions;

(3) a diagram showing property boundaries, including a scale, key and north indicator;

(4) the location of the site on a United States Geological Survey (USGS) map;

(5) discussion of good engineering stack height and building wake effects for each stack;

(6) discussion of cavity calculations, impact on rolling and complex terrain, building wake effects, and urban/rural considerations;

(7) discussion of reasons for model selection;

(8) discussion of meteorological data to be used;

(9) discussion of sources emitting the pollutant that are not to be included in the model with an explanation of why they are being excluded (i.e. why the source will not affect the modeling analysis); and

(10) any other pertinent information.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282; S.L. 1989, c. 168, s. 45;*
Eff. May 1, 1990;
Amended Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1107

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 5 – delete "the Commission has evidence that"

Line 6 – delete "then"

Lines 7-8 – replace the last sentence with "In considering whether human health may be adversely affected, the Commission shall consider one or more of the following:"

Lines 9 and 12 – begin with "an"

Line 13 – Replace "of the additional reductions" with "to the facilities of additional controls or reductions"

Line 13 – replace "on the" with "on their"

Line 20 – replace "for" with "as"

Line 21 – delete the comma after "demonstration"

Line 21 – add a comma after "or"

Lines 22-23 – delete the commas

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: Friday, May 25, 2018

15A NCAC 02D .1107 is readopted as published in 32:13 NCR 1274 as follows:

15A NCAC 02D .1107 MULTIPLE FACILITIES

(a) If an acceptable ambient level in ~~Rule .1104 of this Section~~15A NCAC 02D .1104 is exceeded because of emissions of two or more facilities and if public exposure is such that the ~~commission~~ Commission has evidence that human health may be adversely affected, then the Commission shall require the subject facilities to apply ~~addition~~ additional controls or to otherwise reduce emissions. The type of evidence that the Commission shall consider shall include one or more of the following:

(1) emission ~~inventory,~~ inventory;

(2) ambient ~~monitoring,~~ monitoring;

(3) ~~modeling,~~ modeling; or

(4) epidemiological study.

(b) The allocation of the additional reductions shall be based on the relative contributions to the pollutant concentrations unless the owners or operators agree otherwise.

(c) The owner or operator of a facility shall not be required to conduct the multi-facility ambient impact analysis described in Paragraph (a) of this Rule. This type of analysis shall be done by the ~~Division of Air Quality.~~Division. In performing its analysis, the Division shall:

(1) develop a modeling plan that includes the elements set out in ~~Paragraph (f) of Rule .1106 of this Section;~~ 15A NCAC 02D .1106(h);

(2) use for the source modeling parameters, the modeling parameters used by the owner or operator of the source in his or her modeling demonstration, or if a modeling demonstration has not been done or if a needed parameter has not been used in the modeling demonstration, parameters contained in, or derived from data contained in, the source's permit;

(3) use a model allowed by ~~Paragraph (c) of Rule .1106 of this Section;~~ 15A NCAC 02D .1106(e);

~~(4) model for cavity effects and comply with the modeling requirements for stack height set out in Rule .0533 of this Section;~~

~~(5)~~(4) use the time periods required by ~~Paragraph (d) of Rule .1106 of this Section;~~ 15A NCAC 02D .1106(f); and

~~(6)~~(5) only consider impacts of a ~~facility's~~ facility's emissions beyond the premises of that facility.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282;*
Eff. May 1, 1990;
Amended Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1108

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 6 – replace "will" with "shall"

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: Friday, May 25, 2018

15A NCAC 02D .1108 is readopted as published in 32:13 NCR 1274 as follows:

15A NCAC 02D .1108 MULTIPLE POLLUTANTS

If the Commission has evidence that two or more toxic air pollutants being emitted from a facility or combination of facilities act in the same way to affect human health so that their effects may be additive or enhanced and that public exposure is such that human health may be adversely affected, then the Commission will consider developing acceptable ambient levels for the combination of toxic air pollutants or other appropriate control measures.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(5); 143B-282;*
Eff. May 1, 1990;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1109

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – replace "applies" with "shall apply"

Line 8 – delete "definitions"

Line 10 – replace "that" with "as to which" or "for which"

Line 13 – replace the semicolon with a period

Line 16 – delete the commas and add "the: before "emissions"

Lines 21-22 – replace the parentheses with commas

Lines 24-25 – replace "or the Administrator of U.S. Environmental Protection Agency" with "its Administrator"

Page 2, line 4 – what does "deemed achievable" mean? Is this term defined or explained elsewhere?

Page 2,line 10 – delete the parentheses and add a comma after "information"

Page 2, line 13 – replace "which" with "that"

Page 2, line 15 – replace the parentheses with commas

Page 2, lines 18-20 – delete the parentheses and the commas

Page 2, line 24 – delete the comma

Page 2, line 24 – add "was" before "constructed"

Page 2, line 25 – the punctuation makes the meaning of this sentence unclear. Replace the comma with "and" on line 25 if that is what is meant.

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 2, line 27 – delete the comma

Page 2, lines 29-34 and 36 – begin each line with "the" and do not capitalize the beginning of these lines.

Page 2, line 34 – replace "e.g." with "such as"

Page 2, lines 34-35 – delete the parentheses

Page 3, line 2 – delete the comma

Page 3, line 2 – add "the" before "proposal"

Page 3, line 5 – replace "products; where such" with "products if the"

Page 3, line 7 – replace "manner; and where" with "manner, and if"

Page 3, line 8 – delete the comma

Page 3, lines 11-15 – it is now 2018; are these exceptions still needed?

Page 3, line 17 – add a comma after "type of emissions"

Page 3, line 17 – what does "substantially equivalent" mean? Is this a term of art?

Page 3, line 19 – what does "practical for use" mean? Is this a term of art?

Page 3, line 25 – replace "from" with "after"

Page 3, line 31 – do you mean "and" or "or"?

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: Friday, May 25, 2018

15A NCAC 02D .1109 is readopted as published in 32:13 NCR 1273-1274 as follows:

15A NCAC 02D .1109 112(J) CASE-BY-CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) Applicability. This Rule applies only to sources of hazardous air pollutants required to have a permit ~~under~~ pursuant to 15A NCAC 02Q .0500 and as described in 40 CFR 63.50. This Rule does not apply to research or laboratory activities as defined in Paragraph (b) of this Rule.

(b) Definitions. For the purposes of this Rule, the definitions in 40 CFR 63.2, 63.51, 15A NCAC 02Q .0526, and the following definitions apply:

(1) "Affected source" means the collection of equipment, activities, or both within a single contiguous area and under common control that is in a Section 112(c) source category or subcategory that the Administrator has failed to promulgate an emission standard by the Section 112(j) deadline, and that is addressed by an applicable MACT emission limitation established pursuant to 40 CFR Part 63 Subpart B;

(2) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including measures that:

(A) reduce the quantity, or eliminate emissions, of such pollutants through process changes, substitution of materials, or other modifications;

(B) enclose systems or processes to eliminate emissions;

(C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emission point;

(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 USC 7412(h); or

(E) are a combination of Parts (A) through (D) of this definition.

(3) "EPA" means the United States Environmental Protection Agency or the Administrator of U.S. Environmental Protection Agency.

(4) "Hazardous air pollutant" means any pollutant listed ~~under~~ pursuant to Section 112(b) of the federal Clean Air Act.

(5) "MACT" means maximum achievable control technology.

(6) "Maximum achievable control technology" means:

(A) for existing sources,

(i) a MACT standard that EPA has proposed or promulgated for a particular category of facility or ~~source,~~ source;

(ii) the average emission limitation achieved by the best performing 12 percent of the existing facilities or sources for which EPA has emissions information if the particular category of source contains 30 or more ~~sources,~~ sources; or

(iii) the average emission limitation achieved by the best performing five facilities or sources for which EPA has emissions information if the particular category of source contains fewer than 30 ~~sources,~~ sources; or

(B) for new sources, the maximum degree of reduction in emissions that is deemed achievable but not less stringent than the emission control that is achieved in practice by the best controlled similar source.

(7) "MACT floor" means:

(A) for existing sources:

(i) the average emission limitation achieved by the best performing 12 percent of the existing sources (for which EPA has emissions information) excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined in Section 171 of the federal Clean Air Act) applicable to the source category or subcategory for categories and subcategories with 30 or more sources; or

(ii) the average emission limitation achieved by the best performing five sources (for which EPA has emissions or could reasonably obtain emissions information) , in the category or subcategory, for categories or subcategories with fewer than 30 sources;

(B) for new sources, the emission limitation achieved in practice by the best controlled similar source.

(8) "New affected source" means the collection of equipment, activities, or both, that constructed after the issuance of a Section 112(j) permit for the source pursuant to 40 CFR 63.52, is subject to the applicable MACT emission limitation for new sources. Each permit shall define the term "new affected source," that will be the same as the "affected source" unless a different collection is warranted based on consideration of factors including:

(A) Emission reduction impacts of controlling individual sources versus groups of sources;

(B) Cost effectiveness of controlling individual equipment;

(C) Flexibility to accommodate common control strategies;

(D) Cost/benefits of emissions averaging;

(E) Incentives for pollution prevention;

(F) Feasibility and cost of controlling processes that share common equipment (e.g., product recovery devices); and

(G) Feasibility and cost of ~~monitoring,.~~ monitoring.

(9) "New facility" means a facility for which construction is commenced after the Section 112(j) deadline, or after proposal of a relevant standard ~~under~~ pursuant to Section 112(d) or (h) of the Federal Clean Air Act, whichever comes first.

(10) "Research or laboratory activities" means activities whose primary purpose is to conduct research and development into new processes and products; where such activities are operated under the supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner; and where the source is not in a source category specifically addressing research or laboratory activities, that is listed pursuant to Section 112(c)(7) of the Clean Air Act.

(11) "Section 112(j) deadline" means the date 18 months after the date for which a relevant standard is scheduled to be promulgated ~~under~~ pursuant to 40 CFR Part 63, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the Section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the Section 112(j) deadline is December 15, 1999.

(12) "Similar source" means that equipment or collection of equipment that, by virtue of its structure, operability, type of emissions and volume and concentration of emissions, is substantially equivalent to the new affected source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected source.

(c) Missed promulgation dates: 112(j). If EPA fails to promulgate a standard for a category of source ~~under~~ pursuant to Section 112 of the Federal Clean Air Act by the date established pursuant to Sections 112(e)(1) or (3) of the federal Clean Air Act, the owner or operator of any source in such category shall submit, within 18 months after such date, a permit application, in accordance with the procedures in 15A NCAC 02Q .0526, to the Director and to EPA to apply MACT to such sources. Sources subject to this Paragraph shall be in compliance with this Rule within three years from the date that the permit is issued.

(d) New facilities. The owner or operator of any new facility that is a major source of hazardous air pollutants (HAP) that is subject to this Rule shall apply MACT in accordance with the provisions of ~~Rule .1112 of this Section,~~15A NCAC 02D .1112, 15A NCAC 02Q .0528, and ~~02Q~~ .0526(e)(2).

(e) Case-by-case MACT determination. The Director shall determine MACT according to 40 CFR 63.55(a).

(f) Monitoring and recordkeeping. The owner or operator of a source subject to this Rule shall install, operate, and maintain monitoring capable of detecting deviations from each applicable emission limitation or other standards with sufficient reliability and timeliness to determine continuous compliance over the applicable reporting period. Such monitoring data may be used as a basis for enforcing emissions limitations established ~~under~~ pursuant to this Rule.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10);*
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;

Eff. July 1, 1994;

Amended Eff. February 1, 2004; July 1, 1998; July 1, ~~1996.~~1996;

Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1110

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 7 – replace "any" with "all"

Line 12 – replace "under" with "in"

Line 12 – replace "shall" with "will"

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: Friday, May 25, 2018

15A NCAC 02D .1110 is readopted as published in 32:13 NCR 1274-1275 as follows:

15A NCAC 02D .1110 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

(a) With the exception of Paragraph (b) of this Rule, sources subject to national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and any other provisions, as required therein, rather than with any otherwise-applicable Rule in ~~Section .0500 of this Subchapter~~ 15A NCAC 02D .0500 that would be in conflict therewith.

(b) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standards for hazardous air pollutants promulgated under 40 CFR Part 61, or part thereof, shall be enforced. If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

~~(c) New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or an area identified in accordance with 15A NCAC 02D .0902 as in violation of the ambient air quality standard for ozone shall comply with the requirements of 40 CFR Part 61 that are not excluded by this Rule, as well as with any applicable requirements in Section .0900 of this Subchapter.~~

~~(d)~~(c) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality rather than to the Environmental Protection Agency; except that all such reports, applications, submittals, and other communications to the administrator required by 40 CFR 61.145 shall be submitted to the Director, Division of Epidemiology.

~~(e)~~(d) In the application of this Rule, definitions contained in 40 CFR Part 61 shall apply rather than those ~~of Section .0100 of this Subchapter.~~ in 15A NCAC 02D .0100.

~~(f)~~(e) 15A NCAC 02Q .0102 ~~and .0302 are~~ shall not be applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit ~~as~~ if required ~~in~~ pursuant to 15A NCAC 02Q .0300 or .0500.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107 (a)(5); 150B-21.6;*
Eff. July 1, 1996;
Amended Eff. June 1, 2008; July 1, ~~1997.~~1997;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1111

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 7 – delete "any"

Line 10 – revise this line as follows: "This Rule shall not apply to:"

Line 11 – add "the" before "approval"

Line 17 – replace "under" with "in"

Line 17 – replace "shall" with "will"

Line 32 – replace "is nor" with "shall not be"

Line 35 – replace "needing a permit and become" with "permit requirements and have become"

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: Friday, May 25, 2018

15A NCAC 02D .1111 is readopted as published in 32:13 NCR 1275 as follows:

15A NCAC 02D .1111 MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) With the exception of Paragraph (b) or (c) of this Rule, sources subject to national emission standards for hazardous air pollutants for source categories promulgated in 40 CFR Part 63 shall comply with emission standards, monitoring and reporting requirements, maintenance requirements, notification and record keeping requirements, performance test requirements, test method and procedural provisions, and any other provisions, as required therein, rather than with any otherwise-applicable rule in ~~Section .0500 of this Subchapter~~ 15A NCAC 02D .0500 which would be in conflict therewith.

(b) The following are not included under this Rule:

(1) approval of state programs and delegation of federal authorities (40 CFR 63.90 to 63.96, Subpart E); and

(2) requirements for control technology determined for major sources in accordance with Clean Air Act Sections 112(g) and 112(j) (40 CFR 63.50 to 63.57, Subpart B).

(c) Along with the notice appearing in the North Carolina Register for a public hearing to amend this Rule to exclude a standard from this Rule, the Director shall state whether or not the national emission standard for hazardous air pollutants for source categories promulgated under 40 CFR Part 63, or part thereof, shall be enforced. If the Commission does not adopt the amendment to this Rule to exclude or amend the standard within 12 months after the close of the comment period on the proposed amendment, the Director shall begin enforcing that standard when 12 months has elapsed after the end of the comment period on the proposed amendment.

~~(d) New sources of volatile organic compounds that are located in an area designated in 40 CFR 81.334 as nonattainment for ozone or an area identified in accordance with 15A NCAC 02D .0902 as being in violation of the ambient air quality standard for ozone shall comply with the requirements of 40 CFR Part 63 that are not excluded by this Rule as well as with any applicable requirements in Section .0900 of this Subchapter.~~

~~(e)~~(d) All requests, reports, applications, submittals, and other communications to the administrator required under Paragraph (a) of this Rule shall be submitted to the Director of the Division of Air Quality rather than to the Environmental Protection Agency; except that all such reports, applications, submittals, and other communications to the administrator required by 40 CFR Part 63, Subpart M for dry cleaners covered under Chapter 143, Article 21A, Part 6 of the General Statutes shall be submitted to the Director of the Division of Waste Management.

~~(f)~~(e) In the application of this Rule, definitions contained in 40 CFR Part 63 shall apply rather than those of Section .0100 of this Subchapter when conflict exists.

~~(g)~~(f) 15A NCAC 02Q .0102 ~~and .0302 are~~ is not applicable to any source to which this Rule applies if the source is required to be permitted under 15A NCAC 02Q .0500, Title V Procedures. The owner or operator of the source shall apply for and receive a permit ~~as~~ if required ~~in~~ pursuant to 15A NCAC 02Q .0300 or .0500. Sources that have heretofore been exempted from needing a permit and become subject to requirements promulgated under 40 CFR 63 shall apply for a permit in accordance to 15A NCAC 02Q .0109.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 150B-21.6;*
Eff. July 1, 1996;
Amended Eff. January 1, 2007; April 1, ~~1997.~~1997;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1112

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 6 – delete or define "specifically"

Line 10 – replace "such" with "the" twice

Lines 10-11 – do you still need this Subparagraph (a)(2)?

Line 14 – replace the period with a semicolon

Line 16 – replace the period with "; or"

Line 20 – delete the parentheses

Page 2, line 1 – delete "any"

Page 2, line 1 – define or delete "expeditiously"

Page 2, line 3 – delete "any"

Page 2, line 4 – delete the comma and delete "any"

Page 2, lines 4-5 – what does "considered available by the Division" mean? Consider deleting "and any additional information considered available by the Division"

Page 2, lines 8 (twice), 11, 17, and 26 – replace "which" with "that"

Page 2, lines 15, 19, and 34 – do not capitalize the beginning of these lines.

Page 2, line 16 – delete "controlled"

Page 3, lines 1, 6, and 10 – do not capitalize the beginning of these lines.

Page 3, line 10 – replace "and" with "or" if that is what is meant.

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 3, line 15 – add "a" before "permit"

Page 3, line 17 – add a comma after "pollutants"

Page 3, line 19 – add a comma after "materials"

Page 3, line 21 – add commas after "capture" and "storage"

Page 3, line 23-24 – replace the parentheses with commas

Page 3, line 26 – replace "fossil fuel fired" with "fossil-fuel-fired"

Page 4, line 2 – replace "which" with "that"

Page 4, lines 4-7 – consider revising as follows:

> permitting authority determines is achievable by the constructed or reconstructed major source, taking into consideration the cost of achieving such emission reduction, non-air quality health and environmental impacts, and energy requirements.

Page 4, line 7 – delete the comma after "equipment"

Page 4, line 11 – delete "in and of itself"

Page 4, line 11 – what does "emits or has the potential to emit" refer to – the "components" or the "production unit"?

Page 4, line 12 – replace "whenever" with "if"

Page 4, lines 13 and 15 – do not capitalize the first word of these lines

Page 4, line 17 – what does "Subpart" refer to – Subparagraph (14)?

Page 4, line 20 replace "where" with "if"

Page 4, line 22 – what does "in a de minimis manner" mean? Is this a term of art?

Page 4, line 24 – add a comma after "source"

Page 4, line 30 – delete "as determined by the division"

Page 4, lines 31 and 32 – replace the parentheses with commas

Page 4, line 34 – replace "utilizing" with "using"

Page 5, lines 2-3 – delete "the Division specifically determines that"

Page 5, line 7 – delete "then"

Page 5, lines 27-29 – delete "and shall subject the owner or operator to appropriate enforcement action under pursuant to the General Statutes and the federal Clean Air Act"

Page 5, line 30 – replace "subsequently promulgated" with "subsequently-promulgated"

Page 5, line 33 – replace "would be deemed to be" with "is"

Page 6, line 1 – replace "source(s)" with "sources"

Page 6, lines 5 and 6 – replace the parentheses with commas

Page 6, line 7 – delete the comma

Page 6, line 7 – delete "shall"

Page 6, lines 7 and 8 – replace the parentheses with commas

Page 6, line11 – add a space before "or"

Page 6, lines 11-17 – does the first sentence grant the EPA permission to include an emission standard or simply state the fact that they might include a standard? Does the second sentence require the EPA to set a date that assures expeditious compliance or merely explain the reason for the EPA's action? Paragraph (i) needs substantial revision to assure clarity.

Page 6, line 21 – delete "then"

Page 6, lines 21-22 – replace "shall comply" with "complies"

Page 6, line 23 – replace "such" with "the"

Page 6, lines 25-36 – Paragraph (j) purports to relieve the Division of any obligation to incorporate less stringent terms in a permit. Is this simply a legal conclusion? Why is it in the Rule? What standards, factors, or circumstances govern whether the Division will incorporate less stringent terms in a permit? What standards, factors, or circumstances govern whether the Division will deem more stringent provisions in the MACT determination to be applicable legal requirements?

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: Friday, May 25, 2018

15A NCAC 02D .1112 is readopted as published in 32:13 NCR 1275 as follows:

15A NCAC 02D .1112 112(G) CASE BY CASE MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

(a) Applicability. This Rule applies to the construction or reconstruction of major sources of hazardous air pollutants unless:

(1) the major source has been specifically regulated or exempted from regulation ~~under:~~ pursuant to:

(A) ~~Rule .1109 or .1111 of this Section;~~ 15A NCAC 02D .1109 or .1111; or

(B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act and incorporated in another Subpart of 40 CFR Part 63; or

(2) the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before July 1, 1998.

(b) Exclusions. The requirements of this Rule shall not apply to:

(1) electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to Section 112(c)(5) of the federal Clean Air Act.

(2) stationary sources that are within a source category that has been deleted from the source category list pursuant to Section 112(c)(9) of the federal Clean Air Act.

(3) research and development activities.

(c) Definitions. For the purposes of this Rule, the following definitions apply:

(1) "Affected source" means the stationary source or group of stationary sources that, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this Paragraph.

(2) "Affected States" means all States or local air pollution agencies whose areas of jurisdiction are:

(A) contiguous to North Carolina and located less than D=Q/12.5 from the facility, where:

(i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per ~~year,~~ year; and

(ii) D = distance from the facility to the contiguous state or local air pollution control agency in miles; or

(B) within 50 miles of the permitted facility.

(3) "Available information" means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the Division:

(A) a relevant proposed regulation, including all supporting information;

(B) background information documents for a draft or proposed regulation;

(C) data and information available from the Control Technology Center developed pursuant to Section 113 of the federal Clean Air Act;

(D) data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base;

(E) any additional information that can be expeditiously provided by the Division and EPA; and

(F) for the purpose of determinations by the Division, any additional information provided by the applicant or others, and any additional information considered available by the Division.

(4) "Construct a major source" means:

(A) To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAP's or 25 tons per year of any combination of ~~HAP,~~ HAP; or

(B) To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies Subparts (i) through (vi) of this Paragraph:

(i) All HAP emitted by the process or production unit that would otherwise be controlled ~~under~~ subject to the requirements of this Rule will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(ii) The Division:

(I) has determined within a period of five years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT) ~~under Rule .0530 of this Subchapter~~ pursuant to 15A NCAC 02D .0530 or lowest achievable emission rate (LAER) ~~under Rule .0531 of this Subchapter~~ pursuant to15A NCAC 02D .0531 for the category of pollutants which includes those HAP's to be emitted by the process or production unit; or

(II) determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, or MACT determination ~~under Rule .1109 of this Section);~~ pursuant to 15A NCAC 02D .1109);

(iii) The Division determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(iv) The Division has provided notice and an opportunity for public comment concerning its determination that criteria in Subparts (i), (ii), and (iii) of this Subparagraph apply and concerning the continued adequacy of any prior LAER, BACT, or MACT determination ~~under Rule .1109 of this Section;~~ pursuant to15A NCAC 02D .1109;

(v) If any commenter has asserted that a prior LAER, BACT, or MACT determination ~~under Rule .1109 of this Section~~ pursuant to 15A NCAC 02D .1109 ~~determination~~ is no longer adequate, the Division has determined that the level of control required by that prior determination remains adequate; and

(vi) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the Division are predicated will be construed by the Division as applicable requirements ~~under~~ pursuant to Section 504(a) of the federal Clean Air Act and either have been incorporated into an existing permit issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0500 for the affected facility or will be incorporated into such permit upon issuance.

(5) "Control technology" means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including measures that:

(A) reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

(B) enclose systems or processes to eliminate emissions;

(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(E) are a combination of Parts (A) through (D) of this definition.

(6) "Electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(7) "Greenfield site" means a contiguous area under common control that is an undeveloped site.

(8) "HAP" means hazardous air pollutants.

(9) "Hazardous air pollutant" means any pollutant listed ~~under~~ pursuant to Section 112(b) of the federal Clean Air Act.

(10) "List of source categories" means the source category list required by Section 112(c) of the federal Clean Air Act.

(11) "MACT" means maximum achievable control technology.

(12) "Maximum achievable control technology emission limitation for new sources" means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the permitting authority, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(13) "Process or production unit" means any collection of structures or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(14) "Reconstruct a major source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:

(A) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

(B) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established ~~under~~ pursuant to this Subpart.

(15) "Research and development activities" means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(16) "Similar source" means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

(d) Principles of MACT determinations. The following general principles shall be used to make a case-by-case MACT determination concerning construction or reconstruction of a major source ~~under~~ pursuant to this Rule:

(1) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the Division shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Division.

(2) Based upon available information, the MACT emission limitation and control technology (including any requirements ~~under~~ pursuant to Subparagraph (3) of this Paragraph) recommended by the applicant and approved by the Division shall achieve the maximum degree of reduction in emissions of HAP that can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

(3) The owner or operator may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the Director may approve such a standard if the Division specifically determines that it is not feasible to prescribe or enforce an emission limitation ~~under~~ pursuant to the criteria set forth in Section 112(h)(2) of the federal Clean Air Act.

(4) If the EPA has either proposed a relevant emission standard pursuant to Section 112(d) or 112(h) of the federal Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(e) Effective date of MACT determination. The effective date of a MACT determination shall be the date of issuance of a permit ~~under~~ pursuant to procedures of 15A NCAC ~~2Q~~02Q .0300 or .0500 incorporating a MACT determination.

(f) Compliance date. On and after the date of start-up, a constructed or reconstructed major source that is subject to the requirements of this Rule shall be in compliance with all applicable requirements specified in the MACT determination.

(g) Compliance with MACT determinations. The owner or operator of a constructed or reconstructed major source that:

(1) is subject to a MACT determination shall comply with all requirements set forth in the permit issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0300 or .0500, including any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements; or

(2) has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the federal Clean Air Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the permit issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0300 or .0500. Any violation of such requirements by the owner of operator shall be deemed by the Division and by EPA to be a violation of the prohibition on construction or reconstruction in Section 112(g)(2)(B) of the federal Clean Air Act for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action ~~under~~ pursuant to the General Statutes and the federal Clean Air Act.

(h) Requirements for constructed or reconstructed major sources subject to a subsequently promulgated MACT standard or MACT requirement. If EPA promulgates an emission standard ~~under~~ pursuant to Section 112(d) or 112(h) of the federal Clean Air Act or the Division issues a determination ~~under Rule .1109 of this Section~~ pursuant to 15A NCAC 02D .1109 that is applicable to a stationary source or group of sources that would be deemed to be a constructed or reconstructed major source ~~under~~ pursuant to this Rule:

(1) before the date that the owner or operator has obtained a final and legally effective MACT determination ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0300 or .0500, the owner or operator of the

source(s) shall comply with the promulgated standard or determination rather than any MACT determination ~~under~~ pursuant to this Rule by the compliance date in the promulgated standard; or

(2) after the source has been subject to a prior case-by-case MACT ~~under~~ pursuant to this Rule, and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, the Division shall (if the initial permit has not yet been issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0500) issue an initial permit that incorporates the emission standard or determination, or shall (if the initial permit has been issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0500) revise the permit according to the reopening procedures in 15A NCAC ~~2Q~~02Q .0517, Reopening for Cause, whichever is relevant, to incorporate the emission standard or determination.

(i) Compliance with subsequent 112(d), 112(h),or 112(j) standards. EPA may include in the emission standard established ~~under~~ pursuant to Section 112(d) or 112(h) of the federal Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination ~~under~~ pursuant to this Rule and that have submitted the information required by 40 CFR 63.43 to EPA before the close of the public comment period for the standard established ~~under~~ pursuant to section 112(d) of the federal Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than eight years after such standard is promulgated. In that event, the Division shall incorporate the applicable compliance date in the permit issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0500. If no compliance date has been established in the promulgated 112(d) or 112(h) standard or determination ~~under Rule .1109 of this Section,~~ pursuant to 15A NCAC 02D .1109, for those sources that have obtained a final and legally effective MACT determination ~~under~~ pursuant to this Rule, then the Director shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after such standard is promulgated or a determination is made ~~under Rule .1109 of this Section.~~ pursuant to 15A NCAC 02D .1109.

(j) Revision of permit to incorporate less stringent control. Notwithstanding the requirements of Paragraph (h) of this Rule, if the Administrator of EPA promulgates an emission standard ~~under~~ pursuant to Section 112(d) or Section 112(h) of the federal Clean Air Act or the Division issues a determination ~~under Rule .1109 of this Section~~ pursuant to 15A NCAC 02D .1109 that is applicable to a stationary source or group of sources that was deemed to be a constructed or reconstructed major source ~~under~~ pursuant to this Rule and that is the subject of a prior case-by-case MACT determination pursuant to 40 CFR 63.43, and the level of control required by the emission standard issued ~~under~~ pursuant to Section 112(d) or 112(h) or the determination issued ~~under Rule .1109 of this Section~~ pursuant to 15A NCAC 02D .1109 is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the Division is not required to incorporate any less stringent terms of the promulgated standard in the permit issued ~~under~~ pursuant to 15A NCAC ~~2Q~~02Q .0500 applicable to such source(s) and may consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5),(10);*
Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1201

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 8 – add "shall" before "apply"

Line 9 – replace "under" with "pursuant to"

Line 10 – replace "do" with "shall"

Line 11 – replace "and" with "or" if that is that is meant.

Line 12 – delete the comma

Line 13 – delete "any"

Line 17 – delete the comma

Line 17 – add "of" after "all"

Page 2, line 5 – delete "hereby"

Line 5 – add after "reference" either ", not including subsequent amendments or editions," or ", including subsequent amendments or editions,"

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: Friday, May 25, 2018

15A NCAC 02D .1201 is readopted with changes as published in 32:13 NCR 1275-1276 as follows:

SECTION .1200 - CONTROL OF EMISSIONS FROM INCINERATORS AND COMBUSTION UNITS

15A NCAC 02D .1201 PURPOSE AND SCOPE

~~(a) This Section sets forth rules for the control of the emissions of air pollutants from incinerators.~~

~~(b)~~(a) The rules in this Section ~~apply to all types of incinerators as defined by 15A NCAC 02D .0101(21), including incinerators with heat recovery and industrial incinerators.~~ apply to incinerators and combustor units as defined in 15A NCAC 02D .1202 or regulated under 15A NCAC 02D [~~.1208,~~] .1208.

~~(c)~~(b) The rules in this Section do not apply to:

(1) afterburners, flares, fume incinerators, and other similar devices used to reduce the emissions of air pollutants from processes, whose emissions shall be regulated as process emissions;

(2) any boilers or industrial furnaces that burn waste as a fuel, except ~~hazardous waste as defined in 40 CFR 260.10;~~ solid waste as defined in 40 CFR 241.2;

(3) air curtain burners, which shall comply with ~~Section .1900 of this Subchapter;~~15A NCAC 02D .1900; or

(4) incinerators used to dispose of dead animals or poultry, that meet all the following requirements:

(A) the incinerator is located on a farm and is operated by the farm owner or by the farm operator;

(B) the incinerator is used solely to dispose of animals or poultry originating on the farm where the incinerator is located;

(C) the incinerator is not charged at a rate that exceeds its design capacity; and

(D) the incinerator complies with ~~Rule~~15A NCAC 02D .0521 ~~(visible emissions) and .1806 (odorous emissions) of this Subchapter.~~ (visible emissions).

~~(d) If an incinerator is more than one type of incinerator, then the following order shall be used to determine the standards and requirements to apply:~~

~~(1) hazardous waste incinerators;~~

~~(2) sewage sludge incinerators;~~

~~(3) sludge incinerators;~~

~~(4) municipal waste combustors;~~

~~(5) commercial and industrial solid waste incinerators;~~

~~(6) hospital, medical, or infectious waste incinerators (HMIWIs);~~

~~(7) other solid waste incinerators;~~

~~(8) conical incinerators;~~

~~(9) crematory incinerators; and~~

~~(10) other incinerators.~~

~~(e) In addition to any permit that may be required under 15A NCAC 02Q, Air Quality Permits Procedures, a permit may be required by the Division of Waste Management as determined by the permitting rules enforced by the Division of Waste Management.~~

~~(f)~~(c) Referenced document SW-846 "Test Methods for Evaluating Solid Waste," Third Edition, cited by rules in this Section is hereby incorporated by reference and may be obtained free of charge online at https://www.epa.gov/hw-sw846. ~~does not include subsequent amendments or editions. A copy of this document is available for inspection at the North Carolina Department of Environment and Natural Resources Library located at 512 North Salisbury Street, Raleigh, NC 27603. Copies of this document may be obtained through the US Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, or by calling (202) 783-3238. The cost of this document is three hundred nineteen dollars ($319.00).~~

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5);*
Eff. October 1, 1991;
Amended Eff. July 1, 2000; July 1, 1999; July 1, 1998; April 1, 1995; December 1, 1993;
Temporary Amendment Eff. March 1, 2002;
Amended Eff. July 1, 2007; December 1, 2005; August 1, ~~2002.~~2002;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1202

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 11 – replace the parentheses with commas

Lines 14-27 – revise as follows:

> (2) "Commercial and industrial solid waste incinerator" (CISWI) or "commercial and industrial solid waste incineration unit" is defined in 40 CFR 60.2875.

Lines 33-37 – revise as follows:

> (3) "Co-fired combustor" is defined in 40 CFR 60.51c. For the purposes of this definition, pathological waste, chemotherapeutic….

Page 2, line 1 – replace "are considered" with "shall be deemed"

Page 2, line 3 – replace "under" with "pursuant to"

Page 2, lines 11 and 12 – add a comma after "medical" and use this punctuation wherever this defined term is used (see Rule .1206).

Page 3, line 10 – replace the "or" after "surgery" with a comma

Page 3, line 17 – add a comma after "blood"

Page 3, line 17 – delete "and"

Page 3, line 18 – replace "which" with "that"

Page 3, line 19 – add a comma after "analysis"

Page 3, line 28 – add a comma after "waste"

Page 3, line 30 – add a comma after "biologicals"

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 3, line 32 – add a comma after "wastes"

Page 3, line 36 – add a comma after "sharps"

Page 4, line 4 – replace "does" with "shall"

Page 4, line 5 – replace "under" with "in"

Page 4, line 7 – delete the comma

Page 4, line 7 – replace "once" with "after"

Page 5, lines 2-10 – revise as follows:

(12) "Sewage sludge" is defined in 40 CFR 60.5250.
(13) "Sewage sludge incineration (SSI) unit" is defined in 40 CFR 60.5250.

Page 5, lines 22 and 23 – replace "which" with "that"

Page 5, lines 29-30 – revise as follows:

Areas" dated July 30, 1993, incorporated by reference not including subsequent amendments or editions. A copy of this document may

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: Friday, May 25, 2018

15A NCAC 02D .1202 is readopted as published in 32:13 NCR 1276-1279 as follows:

15A NCAC 02D .1202 DEFINITIONS

(a) For the purposes of this Section, the definitions ~~at G.S. 143-212 and 143-213 and 15A NCAC 02D .0101~~ in 40 CFR 60.5250, 40 CFR 60.2875, and 40 CFR 60.51c shall ~~apply, and~~ apply in ~~addition,~~ addition to the following ~~definitions shall apply.~~ definitions: ~~If a term in this Rule is also defined at 15A NCAC 02D .0101, then the definition in this Rule controls.~~

~~(1) "Class I municipal waste combustor" means a small municipal waste combustor located at a municipal waste combustion plant with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste.~~

(1) "Air curtain incinerator" (also referred to as an "air curtain burner") means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs as defined in 40 CFR 60.2875.

(2) "Commercial and industrial solid waste incinerator" (CISWI) or "commercial and industrial solid waste incineration unit" means any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding 6 months, any solid waste as defined in 40 CFR 241. If the operating unit burns materials other than traditional fuels as defined in 40 CFR 241.2 that have been discarded, and the owner or operator does not keep and produce records as required by 40 CFR 60.2740(u), the operating unit is a CISWI unit. A CISWI unit includes, but is not limited to, the solid waste feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the solid waste hopper (if applicable) and extends through two areas: The combustion unit flue gas system, which ends immediately after the last combustion chamber or after the waste heat recovery equipment, if any; and the combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. The CISWI unit includes all ash handling systems connected to the bottom ash handling system as defined in 40 CFR 60.2875. ~~any combustion device, except air pollution control devices, that combusts commercial and industrial waste.~~

~~(3) "Commercial and industrial waste" means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom-built incineration units operating with starved or excess air).~~

~~(4)~~(3) "Co-fired combustor" means a unit combusting hospital, medical, or infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, 10 percent or less of the weight of which is comprised, in aggregate, of hospital, medical, or infectious waste as measured on a calendar quarter basis as defined in 40 CFR 60.51c. For the purposes of this definition, pathological waste, chemotherapeutic

waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital, medical, or infectious waste combusted.

~~(5)~~(4) "Crematory incinerator" means any incinerator located at a crematory regulated under 21 NCAC 34C that is used solely for the cremation of human remains.

~~(6) "Construction and demolition waste" means wood, paper, and other combustible waste, except for hazardous waste and asphaltic material, resulting from construction and demolition projects.~~

~~(7)~~(5) "Dioxin and Furan" (also referred to as "dioxins/furans") means tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans.

~~(8) "Hazardous waste incinerator" means an incinerator regulated under 15A NCAC 13A .0101 through .0119, 40 CFR 264.340 to 264.351, Subpart O, or 265.340 to 265.352, Subpart O.~~

~~(9)~~(6) "Hospital, medical and infectious waste incinerator (HMIWI)" means any device that combusts any amount of hospital, medical and infectious waste.

~~(10)~~(7) "Large HMIWI" means:

(A) a HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour;

(B) a continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

(C) a batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.

~~(11)~~(8) "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

~~(12) "Institutional facility" means a land based facility owned or operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment or facility.~~

~~(13) "Institutional waste" means solid waste that is combusted at any institutional facility using controlled flame combustion in an enclosed, distinct operating unit:~~

~~(A) whose design does not provide for energy recovery and~~

~~(B) which is operated without energy recovery or operated with only waste heat recovery.~~

~~Institutional waste also means solid waste combusted on site in an air curtain incinerator that is a distinct operating unit of any institutional facility.~~

~~(14) "Institutional waste incineration unit" means any combustion unit that combusts institutional waste and is a distinct operating unit of the institutional facility that generated the waste.~~

~~(15) "Large municipal waste combustor" means each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste.~~

~~(16)~~(9) "Medical and Infectious Waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in Part (A)(i) through (A)(vii) of this Subparagraph.

(A) The definition of medical and infectious waste includes:

(i) cultures and stocks of infectious agents and associated biologicals, including:

(I) cultures from medical and pathological laboratories;

(II) cultures and stocks of infectious agents from research and industrial laboratories;

(III) wastes from the production of biologicals;

(IV) discarded live and attenuated vaccines; and

(V) culture dishes and devices used to transfer, inoculate, and mix cultures;

(ii) human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers;

(iii) human blood and blood products including:

(I) liquid waste human blood;

(II) products of blood;

(III) items saturated or dripping with human blood; or

(IV) items that were saturated or dripping with human blood that are now caked with dried human blood including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category;

(iv) sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips;

(v) animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals;

(vi) isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from highly communicable diseases, or isolated animals known to be infected with highly communicable diseases; and

(vii) unused sharps including the following unused or discarded sharps;

(I) hypodermic needles;

(II) suture needles;

(III) syringes; and

(IV) scalpel blades.

(B) The definition of medical and infectious waste does not include:

(i) hazardous waste identified or listed under 40 CFR Part 261;

(ii) household waste, as defined in 40 CFR 261.4(b)(1);

(iii) ash from incineration of medical and infectious waste, once the incineration process has been completed;

(iv) human corpses, remains, and anatomical parts that are intended for interment or cremation; and

(v) domestic sewage materials identified in 40 CFR 261.4(a)(1).

~~(17)~~(10) "Medium HMIWI" means:

(A) a HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour;

(B) a continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

(C) a batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.

~~(18) "Municipal waste combustor (MWC) or municipal waste combustor unit" means a municipal waste combustor as defined in 40 CFR 60.51b.~~

~~(19) "Municipal waste combustor plant" means one or more designated units at the same location.~~

~~(20) "Municipal waste combustor unit capacity" means the maximum charging rate of a municipal waste combustor unit expressed in tons per day of municipal solid waste combusted, calculated according to the procedures under 40 CFR 60.58b(j). Section 60.58b(j) includes procedures for determining municipal waste combustor unit capacity for continuous and batch feed municipal waste combustors.~~

~~(21) "Municipal-type solid waste (MSW) or Municipal Solid Waste" means municipal-type solid waste defined in 40 CFR 60.51b.~~

~~(22)~~(11) "POTW" means a publicly owned treatment works as defined in 40 CFR 501.2.

~~(23) "Other solid waste incineration unit" or "OSWI unit" means either a very small municipal waste combustion unit or an institutional waste incineration unit, as defined in this Paragraph.~~

~~(24) "Same Location" means the same or contiguous property that is under common ownership or control including properties that are separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof including any municipality or other governmental unit, or any quasi-governmental authority (e.g., a public utility district or regional waste disposal authority).~~

~~(25) "Sewage sludge incinerator" means any incinerator regulated under 40 CFR Part 503, Subpart E.~~

(12) "Sewage sludge" means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in 40 CFR 60.5250. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incineration unit or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

(13) "Sewage sludge incineration (SSI) unit" means an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter as defined in 40 CFR 60.5250.

~~(26) "Sludge incinerator" means any incinerator regulated under Rule .1110 of this Subchapter but not under 40 CFR Part 503, Subpart E.~~

~~(27)~~(14) "Small HMIWI" means:

(A) a HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour;

(B) a continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

(C) a batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

~~(28) "Small municipal waste combustor" means each municipal waste combustor unit with a combustion capacity that is greater than 11 tons per day but not more than 250 tons per day of municipal solid waste.~~

~~(29)~~(15) "Small remote HMIWI" means any small HMIWI which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area (SMSA) and which burns less than 2,000 pounds per week of hospital, medical and infectious waste. The 2,000 pound per week limitation does not apply during performance tests.

(16) "Solid waste" means the term solid waste as defined in 40 CFR 241.2.

~~(30)~~(17) "Standard Metropolitan Statistical Area (SMSA)" means any area listed in Office of Management and Budget (OMB) Bulletin No. 93-17, entitled "Revised Statistical Definitions for Metropolitan Areas" dated July 30, 1993. The referenced document cited by this Item is hereby incorporated by reference and does not include subsequent amendments or editions. A copy of this document may be obtained ~~from the Division of Air Quality, P.O. Box 29580, Raleigh, North Carolina 27626-0580 at a cost of 10 cents ($0.10) per page or may be obtained~~ through the internet at http://www.census.gov/population/estimates/metro-city/93mfips.txt.

~~(31) "Very small municipal waste combustion unit" means any municipal waste combustion unit that has the capacity to combust less than 35 tons per day of municipal solid waste or refuse-derived fuel, as determined by the calculations in 40 CFR 60.3076.~~

(b) Whenever reference is made to the Code of Federal Regulations in this Section, the definition in the Code of Federal Regulations shall apply unless specifically stated otherwise in a particular rule. The Code of Federal Regulations is available in electronic form free of charge at https://www.gpo.gov/fdsys/search/home.action.

History Note: *Authority G.S. 143-213; 143-215.3(a)(1);*
Eff. October 1, 1991;
Amended Eff. July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996; April 1, 1995; December 1, 1993;
Temporary Amendment Eff. March 1, 2002;
Amended Eff. July 1, 2007; August 1, ~~2002.~~2002;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1203 is repealed through readoption as published in 32:13 NCR 1279-1281 as follows:

15A NCAC 02D .1203 HAZARDOUS WASTE INCINERATORS

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);*
Eff. October 1, 1991;
Amended Eff. June 1, 2008; August 1, 2002; July 1, 2000; July 1, 1999; July 1, 1998; April 1, ~~1995~~.1995;
Repealed Eff. July 1, 2018.

15A NCAC 02D .1205 is repealed through readoption as published in 32:13 NCR 1281-1286 as follows:

15A NCAC 02D .1205 LARGE MUNICIPAL WASTE COMBUSTORS

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 40 CFR 60.35b; 40 CFR 60.34e; 40 CFR 60.1515;*
Eff. October 1, 1991;
Amended Eff. July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996; April 1, 1995;
Temporary Amendment Eff. March 1, 2002;
Amended Eff. August 1, 2002;
Temporary Amendment Eff. March 1, 2003;
Temporary Amendment Expired December 12, 2003;
Amended Eff. July 1, 2010; April 1, ~~2004.~~2004;
Repealed Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1206

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – replace "applies" with "shall apply"

Lines 5, 7, 8, 9, 13, and 18 – replace "any" with "a"

Lines 10-11 – replace "are not considered" with "shall not be deemed"

Line 11 – replace "do" with "shall"

Line 16 – replace "calendar quarter" with "calendar-quarter"

Line 17 – replace "is" with "was"

Line 20 – add a comma after "medical"

Line 20 – delete the comma after "waste"

Line 22 – replace "calendar quarter" with "calendar-quarter"

Line 22 – add a comma after "medical"

Line 20 – delete the comma after "combusted"

Lines 28 and 29 – replace "where" with "if"

Line 33 – replace the semicolon with a period

Page 2, lines 3, 7, 13, 18, 24, and 34 – replace the semicolons with periods

Page 2, line 4 – add a comma after "1996"

Page 2, line 5 – add a comma after "1998"

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 3, line 7 – replace "do" with "shall"

Page 3, line 7 – replace "any" with "a"

Page 3, line 7 – replace "when" with "if"

Page 3, lines 12-13 – delete the parentheses

Page 3, line 16 – delete "Any"

Page 3, line 17 – replace "of" with "after"

Page 3, lines 18-24 – Part (D) is unclear. Can an owner of a HMIWI that is not "small and remote" get an extension? Is the below what is intended?

> (D) The Director shall grant the extension if the owner or operator submits a written request to the Director for an extension of the 10 operating-day period, the Director does not extend the time allowed for compliance by more than 30 days following the receipt of the written request, the Director concludes that the emission control standards would not be exceeded if the repairs were delayed, and, in the case of a small remote HMIWI, if the owner or operator demonstrates that achieving compliance by the time allowed under this Part is not feasible.

Page 3, lines 27 and 28 – replace the parentheses with commas

Page 3, line29 – replace "device(s)" with "devices"

Page 3, line 29 – add "to" before "ensure"

Page 3, line 30 – replace "any" with "all" if that is what is meant

Page 3, line 31 – replace "generally" with "to"

Page 3, line 31 – delete "Any"

Page 4, line 2 – replace the semicolon with a period

Page 4, lines 3-4 – do you still need the date-restricted exception?

Page 4, line 6 – delete "for"

Page 4, line 13 – add "the" before "more"

Page 4, line 15 – delete "however"

Page 4, line 32 – replace "Any" with "A"

Page 4, line 33 – replace "is" with "shall be"

Page 4, lines 34 - page 5, line 3 – consider listing, as follows, if this is what is meant:

> The owner or operator shall comply with:

(A) the compliance and performance testing requirements of 40 CFR 60.56c, excluding test methods listed in 40 CFR 60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14);
(B) the annual PM, CO, and HCl emissions testing requirements pursuant to 40 CFR 60.56c(c)(2);
(C) the annual fugitive emissions testing requirements pursuant to 40 CFR 60.56c(c)(3);
(D) the CO CEMS requirements pursuant to 40 CFR 60.56c(c)(4); and
(E) the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5) through (7), and (d) through (k).

Page 5, lines 3 and 26 – replace the semicolons with periods.

Page 5, line 4 – replace "Any" with "A"

Page 5, line 6 – add "that is" before "subject"

Page 5, line 6 – delete the comma

Page 5, lines 9, 13, and 19 – do not capitalize the first word in these lines.

Page 5, line 15 – replace the parentheses with commas

Page 5, line 18 – replace "parameter(s)" with "parameters"

Page 5, line 20 – replace the parentheses with commas

Page 5, line 25 – delete the first "conducted"

Page 5, line 27 – replace "Any" with "A"

Page 5, line 33 – add a comma after "1996"

Page 5, line 34 – add a comma after "1998"

Page 5, line 35 - page 6, line 4 – consider listing, as follows, if this is what is meant:

2010, shall comply with:
(A) the compliance and performance testing requirements of 40 CFR 60.56c, excluding the annual fugitive emissions testing requirements pursuant to 40 CFR 60.56c(c)(3);
(B) the CO CEMS requirements pursuant to 40 CFR 60.56c(c)(4); and
(C) the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10).
The owner or operator may elect to use CO CEMS as specified in 40 CFR 60.56c(c)(4) or bag leak detection systems as specified in 40 CFR 60.57c(h).

Page 6, line 4 – replace "; and" with a period.

Page 6, line 5 – replace "any" with "a"

Page 6, lines 7, 10, and 15 – do not capitalize the first word in these lines.

Page 6, line 8 – replace "site specific" with "site-specific"

Page 6, line 10 – delete the comma

Page 6, lines 12 and 13 – replace the parentheses with commas

Page 6, line 18 – add "a" before "violation"

Page 6, line 21 – what "paragraph" is referred to here? Consider deleting "conducted pursuant to this paragraph."

Page 6, line 25 – replace "and in" with a comma

Page 6, line 25 – add a comma after "Appendix A"

Page 6, line 27 – delete the comma

Page 6, line 28 – replace "; and" with a period.

Page 6, line 29 – what standards, factors, or circumstances determine whether the Director will require testing?

Page 6, line 37 – replace "where" with "if"

Page 7, line 2 – add "the" before "pH"

Page 7, line 3 – add "the" before "rate"

Page 7, line 5 – replace "or for" with a comma

Page 7, line 5 – add a comma after "monoxide"

Page 7, line 8 – replace "as" with "if"

Page 7, lines 9, 12, 23, 25, and 27 – replace the semicolons with periods

Page 7, line 11 – delete "listed"

Page 7, line 15 – replace "any" with "all" twice

Page 7, line 22 – replace "once" with "if"

Page 7, line 28 – replace "any" with "a"

Page 7, line 32 – replace "which" with "that"

Page 7, line 35 – delete "At a minimum"

Page 8, lines 2, 7, 22, and 35 – replace the semicolons with periods

Page 8, line 3 – replace "Any" with "A"

Page 8, line 4 – add "that is" before "subject"

Page 8, lines 5 and 6 – delete the commas

Page 8, line 4 – delete "at a minimum"

Page 8, line 19 – delete "At a minimum"

Page 8, line 23 – replace "Any" with "A"

Page 8, line 25 – delete the semicolon

Page 8, line 25 – add "for" before "which"

Page 8, line 26 – add a comma after "1996"

Page 8, line 27 – add a comma after "1998"

Page 8, line 27 – add "that is" before "subject"

Page 8, line 28 – delete the comma

Page 8, lines 30, 32, and 35 – do not capitalize the first word in these lines.

Page 8, line 33 – replace "not" with "has not been"

Page 8, line 36 – replace "Any" with "A"

Page 9, line 1 – add "that is" before "subject"

Page 9, line 2 – delete the comma

Page 9, line 4 – replace "; and" with a period

Page 9, line 5 – replace "Any" with "A"

Page 9, line 6 – add "that is" before "subject"

Page 9, line 8 – delete the comma

Page 9, line 16 – replace "accessible, either at the facility or available" with "available at the facility or is available"

Page 8, lines 18, 20, and 22 – replace the semicolons with periods

Page 8, line 25 – delete "The reviews of the information shall be conducted annually; and"

Page 8, line 27 – add a comma after "training"

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: Friday, May 25, 2018

15A NCAC 02D .1206 is readopted as published in 32:13 NCR 1286-1292 as follows:

15A NCAC 02D .1206 HOSPITAL, MEDICAL, AND INFECTIOUS WASTE INCINERATORS

(a) Applicability. This Rule applies to any hospital, medical, and infectious waste incinerator (HMIWI), except:

(1) any HMIWI required to have a permit ~~under~~ pursuant to Section 3005 of the Solid Waste Disposal Act;

(2) any pyrolysis unit;

(3) any cement kiln firing hospital waste or medical and infectious waste;

(4) any physical or operational change made to an existing HMIWI solely for the purpose of complying with the emission standards for HMIWIs in this Rule. These physical or operational changes are not considered a modification and do not result in an existing HMIWI becoming subject to the provisions of 40 CFR Part 60, Subpart Ec;

(5) any HMIWI during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, provided that the owner or operator of the HMIWI:

(A) notifies the Director of an exemption claim; and

(B) keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned; or

(6) any co-fired HMIWI, if the owner or operator of the co-fired HMIWI:

(A) notifies the Director of an exemption claim;

(B) provides an estimate of the relative weight of hospital, medical and infectious waste, and other fuels or wastes to be combusted; and

(C) keeps records on a calendar quarter basis of the weight of hospital, medical and infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired HMIWI.

(b) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.51c shall apply in addition to the definitions in ~~Rule .1202 of this Section.~~15A NCAC 02D .1202.

(c) Emission Standards.

(1) The emission standards in this Paragraph apply to all HMIWIs ~~subject to this Rule~~ except where ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ applies. However, when Subparagraphs ~~(7)~~(6) or ~~(8)~~(7) of this Paragraph and ~~Rules~~15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ to the contrary;

~~(2) Prior to July 1, 2013, each HMIWI for which construction was commenced on or before June 20, 1996, or for which modification is commenced on or before March 16, 1998, shall not exceed the requirements listed in Table 1A of Subpart Ce of 40 CFR Part 60;~~

~~(3)~~(2) ~~On or after July 1, 2013, each~~ Each HMIWI for which construction was commenced on or before June 20, 1996, or for which modification is commenced on or before March 16, 1998, shall not exceed the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60;

~~(4)~~(3) Each HMIWI for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010, shall not exceed the more stringent of the requirements listed in Table 1B of Subpart Ce and Table 1A of Subpart Ec of 40 CFR Part 60;

~~(5)~~(4) ~~Each small remote HMIWI for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and which burns less than 2,000 pounds per week of hospital waste and medical or infectious waste shall not exceed emission standards listed in Table 2A of Subpart Ce of 40 CFR Part 60 before July 1, 2013. On or after July 1, 2013, each~~ Each small remote HMIWI shall not exceed emission standards listed in Table 2B of Subpart Ce of 40 CFR Part 60;

~~(6)~~(5) Visible Emissions. ~~Prior to July 1, 2013, the owner or operator of any HMIWI shall not cause to be discharged into the atmosphere from the stack of the HMIWI any gases that exhibit greater than 10 percent opacity (6 minute block average). On or after July 1, 2013, the~~ The owner or operator of any HMIWI shall not cause to be discharged into the atmosphere from the stack of the HMIWI any gases that exhibit greater than six percent opacity ~~six minute~~ (six-minute block average);

~~(7)~~(6) Toxic ~~Emissions.~~Air Pollutants. The owner or operator of any HMIWI subject to this Rule shall demonstrate compliance with ~~Section~~ 15A NCAC 02D .1100 ~~of this Subchapter~~ according to 15A NCAC 02Q ~~.0700; and~~ .0700.

~~(7) Ambient Standards.~~

~~(A) In addition to the ambient air quality standards in Section .0400 of this Subchapter, the following ambient air quality standards, which are an annual average, in milligrams per cubic meter at 77 degrees F (25 degrees C) and 29.92 inches (760 mm) of mercury pressure, and which are increments above background concentrations, shall apply aggregately to all HMIWIs at a facility subject to this Rule:~~

~~(i) arsenic and its compounds $2.3x10^{-7}$~~

~~(ii) beryllium and its compounds $4.1x10^{-6}$~~

~~(iii) cadmium and its compounds $5.5x10^{-6}$~~

~~(iv) chromium (VI) and its compounds $8.3x10^{-8}$;~~

~~(B) The owner or operator of a facility with HMIWIs subject to this Rule shall demonstrate compliance with the ambient standards in Subparts (i) through (iv) of Part (A) of this Subparagraph by following the procedures set out in Rule .1106 of this Subchapter. Modeling demonstrations shall comply with the requirements of Rule .0533 of this Subchapter; and~~

~~(C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with HMIWIs subject to this Rule as their allowable emission limits unless Rules .0524, .1110, or .1111 of this Subchapter requires more restrictive rates.~~

(d) Operational Standards.

(1) The operational standards in this Rule do not apply to any HMIWI ~~subject to this Rule~~ when applicable operational standards in ~~Rule~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ apply;

(2) Annual Equipment Inspection.

(A) Each HMIWI shall undergo ~~an equipment inspection initially within 6 months upon this Rule's effective date and~~ an annual equipment inspection (no more than 12 months following the previous annual equipment inspection);

(B) The equipment inspection shall include all the elements listed in 40 CFR 60.36e(a)(1)(i) through (xvii);

(C) Any necessary repairs found during the inspection shall be completed within 10 operating days of the inspection unless the owner or operator submits a written request to the Director for an extension of the 10 operating day period; and

(D) The Director shall grant the extension if the owner or operator submits a written request to the Director for an extension of the 10 operating day period if the owner or operator of the small remote HMIWI demonstrates that achieving compliance by the time allowed under this Part is not feasible, the Director does not extend the time allowed for compliance by more than 30 days following the receipt of the written request, and the Director concludes that the emission control standards would not be exceeded if the repairs were delayed;

(3) Air Pollution Control Device Inspection.

(A) Each HMIWI shall undergo air pollution control device ~~inspections, as applicable, initially within six months upon this Rule's effective date and~~ inspections annually (no more than 12 months following the previous annual air pollution control device inspection) to inspect air pollution control device(s) for proper operation, if applicable: ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment; and generally observe that the equipment is maintained in good operating condition. Any necessary repairs found during the inspection shall be completed within 10 operating days of the inspection unless the owner or operator submits a written request to the Director for an extension of the 10 operating day period; and

(B) The Director shall grant the extension if the owner or operator of the HMIWI demonstrates that achieving compliance by the 10 operating day period is not feasible, the Director does not extend the time allowed for compliance by more than 30 days following the receipt of

the written request, and the Director concludes that the emission control standards would not be exceeded if the repairs were delayed;

(4) Any HMIWI, except for a small HMIWI for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and subject to the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60, shall comply with 40 CFR 60.56c except ~~for:~~for

~~(A) Before July 1, 2013, the test methods listed in Paragraphs 60.56c(b)(7) and (8), the fugitive emissions testing requirements under 40 CFR 60.56c(b)(14) and (c)(3), the CO CEMS requirements under 40 CFR 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (c)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h); and~~

~~(B) On or after July 1, 2013,~~ sources subject to the emissions limits ~~under~~ pursuant to Table 1B of Subject Ce of 40 CFR Part 60 or more stringent of the requirements listed in Table 1B of Subpart 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60 may, however, elect to use CO CEMS as specified ~~under~~in 40 CFR 60.56c(c)(4) or bag detection systems as specified ~~under~~in 40 CFR 60.57c(h);

~~(5) Prior to July 1, 2013, the owner or operator of any small remote HMIWI shall comply with the following compliance and performance testing requirements:~~

~~(A) conduct the performance testing requirements in 40 CFR 60.56c(a), (b)(1) through (b)(9), (b)(11)(mercury only), and (c)(1). The 2,000 pound per week limitation does not apply during performance tests;~~

~~(B) establish maximum charge rate and minimum secondary chamber temperature as site specific operating parameters during the initial performance test to determine compliance with applicable emission limits; and~~

~~(C) following the date on which the initial performance test is completed, ensure that the HMIWI does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three hour rolling averages, calculated each hour as the average of all previous three operating hours, at all times except during periods of start up, shut down and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters;~~

~~(6)~~(5) ~~On or after July 1, 2013, any~~ Any small remote HMIWI constructed on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, is subject to the requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60. The owner or operator shall comply with the compliance and performance testing requirements of 40 CFR 60.56c, excluding test methods listed in 40 CFR 60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14), the annual PM, CO, and HCl emissions testing requirements ~~under~~ pursuant to 40 CFR 60.56c(c)(2), the annual fugitive emissions testing

requirements ~~under~~ pursuant to 40 CFR 60.56c(c)(3), the CO CEMS requirements ~~under~~ pursuant to 40 CFR 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5) through (7), and (d) through (k);

~~(7)~~(6) ~~On or after July 1, 2013, any~~ Any small remote HMIWI ~~For~~for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, subject to the requirements listed in Table 2A or 2B of Subpart Ce of 40 CFR Part 60, and not equipped with an air pollution control device shall meet the following compliance and performance testing requirements:

(A) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits. The 2,000 pounds per week limitation ~~does~~ shall not apply during performance tests;

(B) The owner or operator shall not operate the HMIWI above the maximum charge rate or below the minimum secondary chamber temperature measured as ~~3-hour~~ three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times. Operating parameter limits shall not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s); and

(C) Operation of an HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emissions limits. The owner or operator of an HMIWI may conduct a repeat performance test within 30 days of violation of applicable operating ~~parameter(s)~~ parameters to demonstrate that the designated facility is not in violation of the applicable emissions ~~limit(s).~~limits. Repeat performance tests conducted shall be conducted under process and control device operating conditions duplicating as nearly as possible those that indicated during the violation;

~~(8)~~(7) ~~On or after July 1, 2013, any~~ Any small HMIWI ~~constructed commenced emissions guidelines as promulgated on September 15, 1997, meeting all requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60, which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital, medical and infectious waste and is subject to the requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60. The 2,000 pounds per week limitation does not apply during performance tests. The owner or operator~~for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010, shall comply with the compliance and performance testing requirements of 40 CFR 60.56c, excluding the annual fugitive emissions testing requirements ~~under~~ pursuant to 40 CFR 60.56c(c)(3), the CO CEMS requirements ~~under~~ pursuant to 40 CFR 60.56c(c)(4), and the

compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10). The owner or operator may elect to use CO CEMS as specified ~~under~~in 40 CFR 60.56c(c)(4) or bag leak detection systems as specified ~~under~~in 40 CFR 60.57c(h); and

~~(9)~~(8) ~~On or after July 1, 2013, the~~ The owner or operator of any HMIWI equipped with selective noncatalytic reduction technology shall:

(A) Establish the maximum charge rate, the minimum secondary chamber temperature, and the minimum reagent flow rate as site specific operating parameters during the initial performance test to determine compliance with the emissions limits;

(B) Ensure that the affected facility does not operate above the maximum charge rate, or below the minimum secondary chamber temperature or the minimum reagent flow rate measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times. Operating parameter limits shall not apply during performance tests; and

(C) Operation of any HMIWI above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum reagent flow rate simultaneously shall constitute a violation of the NO_X emissions limit. The owner or operator may conduct a repeat performance test within 30 days of violation of applicable operating ~~parameter(s)~~parameters to demonstrate that the affected facility is not in violation of the applicable emissions ~~limit(s).~~limits. Repeat performance tests conducted pursuant to this paragraph shall be conducted using the identical operating parameters that indicated a violation.

(e) Test Methods and Procedures.

(1) The test methods and procedures described in ~~Section .2600 of this Subchapter~~ 15A NCAC 02D .2600 and in 40 CFR Part 60 Appendix A and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates. Method 29 of 40 CFR Part 60 shall be used to determine emission rates for metals. However, Method 29 shall be used to sample for chromium (VI), and SW 846 Method 0060 shall be used for the analysis; and

(2) The Director may require the owner or operator to test the HMIWI to demonstrate compliance with the emission standards listed in Paragraph (c) of this Rule.

(f) Monitoring, Recordkeeping, and Reporting.

(1) The owner or operator of an HMIWI subject to the requirements of this Rule shall comply with the monitoring, recordkeeping, and reporting requirements in ~~Section .0600 of this Subchapter;~~15A NCAC 02D .0600.

(2) The owner or operator of an HMIWI subject to the requirements of this Rule shall maintain and operate a continuous temperature monitoring and recording device for the primary chamber and, where there is a secondary chamber, for the secondary chamber. The owner or operator of an

HMIWI that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure pH for wet scrubber systems and rate of alkaline injection for dry scrubber systems. The Director shall require the owner or operator of an HMIWI with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the HMIWI. The Director may require the owner or operator of an HMIWI with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the HMIWI;

(3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, the owner or operator of a HMIWI shall comply with the reporting and recordkeeping requirements listed in 40 CFR 60.58c~~(b), (c), (d), (e), and (f),~~(b) through (g), excluding 40 CFR 60.58c(b)(2)(ii) and (b)(7);

(4) In addition to the requirements of Subparagraphs (1), (2) and (3) of this Paragraph, the owner or operator of a small remote HMIWI shall:

(A) maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection;

(B) submit an annual report containing information recorded in Part (A) of this Subparagraph to the Director no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report. The report shall be signed by the HMIWI manager; and

(C) submit the reports required by Parts (A) and (B) of this Subparagraph to the Director semiannually once the HMIWI is subject to the permitting procedures of 15A NCAC 02Q .0500, Title V Procedures;

(5) Waste Management Guidelines. The owner or operator of a HMIWI shall comply with the requirements of 40 CFR 60.55c for the preparation and submittal of a waste management plan;

(6) Except as provided in Subparagraph (7) of this Paragraph, the owner or operator of any HMIWI shall comply with the monitoring requirements in 40 CFR 60.57c;

(7) The owner or operator of any small remote HMIWI shall:

(A) install, calibrate, maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;

(B) install, calibrate, maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and

(C) obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of

the operating hours per calendar quarter that the HMIWI is combusting hospital, medical, and infectious waste;

(8) ~~On or after July 1, 2013, any~~Any HMIWI, except for small remote HMIWI not equipped with an air pollution control device, subject to the emissions requirements in Table 1B or Table 2B of Subpart Ce of 40 CFR Part 60, or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60, shall perform the monitoring requirements listed in 40 CFR 60.57c;

(9) ~~On or after July 1, 2013, the~~ The owner or operator of a small remote HMIWI, not equipped with an air pollution control device and subject to the emissions requirements in Table 2B of Subpart Ce of 40 CFR Part 60 shall:

(A) install, calibrate ~~(to manufacturers' specifications),~~ to manufacturers' specifications, maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;

(B) install, calibrate ~~(to manufacturers' specifications),~~ to manufacturers' specifications, maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and

(C) obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital, medical and infectious waste;

(10) ~~On or after July 1, 2013, any~~Any HMIWI for which construction commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and is subject to requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60; or any HMIWI which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010, and subject to the requirements of Table 1B of this Subpart and Table 1A of Subpart Ec of 40 CFR Part 60, may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that:

(A) Previous emissions tests had been conducted using the applicable procedures and test methods listed in 40 CFR 60.56c(b);

(B) The HMIWI is currently operated in a manner that would be expected to result in the same or lower emissions than observed during the previous emissions test and not modified such that emissions would be expected to exceed; and

(C) The previous emissions ~~test(s)~~tests had been conducted in 1996 or later;

(11) ~~On or after July 1, 2013, any~~Any HMIWI, (with the exception of small remote HMIWI and HMIWIs for which construction was commenced no later than December 1, 2008, or for which modification

is commenced no later than April 6, 2010, and subject to the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec), shall include the reporting and recordkeeping requirements listed in 40 CFR 60.58c~~(b);~~(b) through (g) in Subpart Ec; and

(12) ~~On or after July 1, 2013, any~~Any HMIWI for which construction was commenced no later than December 1, 2008, or for which modification is commenced no later than April 6, 2010, and subject to the requirements listed in Table 1B or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60, ~~is~~ shall not be required to maintain records required in 40 CFR 60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

~~(g) Excess Emissions and Start-up and Shut-down. All HMIWIs subject to this Rule shall comply with Rule .0535, Excess Emissions Reporting and Malfunctions, of this Subchapter. Emissions from bypass conditions shall not be exempted as provided under Paragraphs (c) and (g) of Rule 0.535 of this Subchapter.~~

~~(h)~~(g) Operator Training and Certification.

(1) The owner or operator of a HMIWI shall not allow the HMIWI to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available within one hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators;

(2) Operator training and qualification shall be obtained by completing the requirements of 40 CFR 60.53c(c) through (g);

(3) The owner or operator of a HMIWI shall maintain, at the facility, all items required by 40 CFR 60.53c(h)(1) through (h)(10);

(4) The owner or operator of a HMIWI shall establish a program for reviewing the information required by Subparagraph (3) of this Paragraph annually with each HMIWI operator. The reviews of the information shall be conducted annually; and

(5) The information required by Subparagraph (3) of this Paragraph shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training shall be available for inspection by Division personnel upon request.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 40 CFR 60.34e;*
Eff. October 1, 1991;
Amended Eff. January 1, 2011; June 1, 2008; August 1, 2002; July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996; April 1, 1995; December 1, ~~1993.~~1993;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1207 is repealed through readoption as published in 32:13 NCR 1292 as follows:

15A NCAC 02D .1207 CONICAL INCINERATORS

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4),(5);*
Eff. October 1, 1991;
Amended Eff. July 1, 2000; July 1, ~~1998.~~1998;
Repealed Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1208

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 5 – replace "applies" with "shall apply"

Line 5 – replace "covered under" with "governed by" or "regulated by"

Lines 7-14 – revise as follows:

> (2) An incinerator shall be exempt from Subparagraphs (b)(6) through (b)(9) and Paragraph (c) of this Rule if:
> (A) the incinerator is used solely to cremate pets; or
> (B) the emissions of all toxic air pollutants from an incinerator subject to this Rule and associated waste handling and storage are less than the levels listed in 15A NCAC 02Q .0711.

Line 16 – add "shall" before "apply"

Line 16 – replace "any" with "an"

Line 16 – replace "where" with "if"

Line 17 – replace "when" with "if"

Line 19 – replace "applies" with "shall apply"

Line 21 – replace "Any" with "An"

Line 24 – replace "any" with "each"

Line 24 – replace "any" with "an"

Line 28 – replace "in" with "shall not exceed"

Line 29 – replace "be" with "not exceed"

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Line 31 – delete "block"

Line 33 – replace "any" with "an"

Page 2, line 2 – delete "block"

Page 2, lines 3, 5, 7, 9, 15, and 17 – replace "any" with "an"

Page 2, line 22 – replace "which are" with "measured by"

Page 2, line 22 – delete the comma after "average"

Page 2, line 24 – delete the comma

Page 2, line 22 – replace "which are" with "in"

Page 2, line 25 – add "shall" before "apply"

Page 3, line 4 – replace "do" with "shall"

Page 3, line 7 – add "in a crematory incinerator" after "combustion"

Page 3, line 9 – delete "All"

Page 3, lines 9-13 – does the requirement that the temperature be maintained for 55 minutes of each hour make unnecessary the requirement that gases be subject to the same temperature for at least one second?

Page 3, line 14 – revise as follows if the meaning is not changed: "Except during a start-up procedure that has been approved…"

Page 3, line 15 – replace the period with a comma

Page 3, line 17 – replace "according" with "pursuant"

Page 3, line 18 – replace "Any" with "An"

Page 3, lines 23-24 – incorporate these CFRs by reference.

Page 3, line 37 – replace "where" with "if"

Page 4, line 6 – add "the" before "pH" and "rate"

Page 4, line 14 – replace "Any" with "An"

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: Friday, May 25, 2018

15A NCAC 02D .1208 is readopted as published in 32:13 NCR 1292-1274 as follows:

15A NCAC 02D .1208 OTHER INCINERATORS

(a) Applicability.

(1) This Rule applies to any incinerator not covered under ~~Rules~~ 15A NCAC 02D ~~.1203~~.1204, ~~through .1207,~~.1206, or ~~.1210 through.1212 of this Section.~~1210.

(2) If any incinerator subject to this Rule:

(A) is used solely to cremate pets; or

(B) if the emissions of all toxic air pollutants from an incinerator subject to this Rule and associated waste handling and storage are less than the levels listed in 15A NCAC 02Q ~~.0711; ~~.0711.~~ the incinerator is exempt from Subparagraphs (b)(6) through (b)(9) and Paragraph (c) of this Rule.~~

The incinerator shall be exempt from Subparagraphs (b)(6) through (b)(9) and Paragraph (c) of this Rule.

(b) Emission Standards.

(1) The emission standards in this Rule apply to any incinerator subject to this Rule except where ~~Rules~~ 15A NCAC 02D .0524, 1110, or .1111 ~~of this Subchapter~~ apply. However, when Subparagraphs (8) or (9) of this Paragraph and ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111~~ of this Subchapter~~ regulate the same pollutant, the more restrictive provision for each pollutant applies notwithstanding provisions of ~~Rules~~15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ to the contrary.

(2) Particulate Matter. Any incinerator subject to this Rule shall comply with one of the following emission standards for particulate matter:

(A) For refuse charge rates between 100 and 2000 pounds per hour, the allowable emissions rate for particulate matter from any stack or chimney of any incinerator subject to this Rule shall not exceed the level calculated with the equation E=0.002P calculated to two significant figures, where "E" equals the allowable emission rate for particulate matter in pounds per hour and "P" equals the refuse charge rate in pounds per hour. For refuse charge rates of 0 to 100 pounds per hour the allowable emission rate in 0.2 pounds per hour. For refuse charge rates of 2000 pounds per hour or greater the allowable emission rate shall be 4.0 pounds per hour. Compliance with this Part shall be determined by averaging emissions over a three-hour block period.

(B) Instead of meeting the standards in Part (A) of this Subparagraph, the owner or operator of any incinerator subject to this Rule may choose to limit particulate emissions from the incinerator to 0.08 grains per dry standard cubic foot corrected to 12 percent carbon dioxide. In order to choose this option, the owner or operator of the incinerator shall demonstrate that the particulate ambient air quality standards will not be violated. To correct to 12 percent carbon dioxide, the measured concentration of particulate matter ~~is~~

shall be multiplied by 12 and divided by the measured percent carbon dioxide. Compliance with this Part shall be determined by averaging emissions over a three-hour block period.

(3) Visible Emissions. Any incinerator subject to this Rule shall comply with ~~Rule~~15A NCAC 02D .0521 ~~of this Subchapter~~ for the control of visible emissions.

(4) Sulfur Dioxide. Any incinerator subject to this Rule shall comply with ~~Rule~~15A NCAC 02D .0516 ~~of this Subchapter~~ for the control of sulfur dioxide emissions.

(5) Odorous Emissions. Any incinerator subject to this Rule shall comply with ~~Rule~~15A NCAC 02D .1806 ~~of this Subchapter~~ for the control of odorous emissions.

(6) Hydrogen Chloride. Any incinerator subject to this Rule shall control emissions of hydrogen chloride such that they do not exceed four pounds per hour unless they are reduced by at least 90 percent by weight or to no more than 50 parts per million by volume corrected to seven percent oxygen (dry basis). Compliance with this Subparagraph shall be determined by averaging emissions over a one-hour period.

(7) Mercury Emissions. Emissions of mercury and mercury compounds from the stack or chimney of any incinerator subject to this Rule shall not exceed 0.032 pounds per hour. Compliance with this Subparagraph shall be determined by averaging emissions over a one-hour period.

(8) Toxic Emissions. The owner or operator of any incinerator subject to this Rule shall demonstrate compliance with ~~Section~~15A NCAC 02D .1100 ~~of this Subchapter~~ according to 15A NCAC 02Q .0700.

(9) Ambient Standards.

(A) In addition to the ambient air quality standards in ~~Section~~15A NCAC 02D ~~.0400~~ .0400, ~~of this Subchapter,~~ the following ambient air quality standards, which are an annual average, in milligrams per cubic meter at 77 degrees ~~F~~ Fahrenheit (25 degrees ~~C)~~ Celsius) and 29.92 inches (760 mm) of mercury pressure, and which are increments above background concentrations, apply aggregately to all incinerators at a facility subject to this Rule:

(i)	arsenic and its compounds	~~2.3×10^{-7}~~ 2.1×10^{-6}
(ii)	beryllium and its compounds	4.1×10^{-6}
(iii)	cadmium and its compounds	5.5×10^{-6}
(iv)	chromium (VI) and its compounds	8.3×10^{-8}

(B) The owner or operator of a facility with incinerators subject to this Rule shall demonstrate compliance with the ambient standards in Subparts (i) through (iv) of Part (A) of this Subparagraph by following the procedures set out in ~~Rule .1106 of this Subchapter.~~15A NCAC 02D .1106. Modeling demonstrations shall comply with the requirements of ~~Rule~~15A NCAC 02D ~~.0533 of this Subchapter.~~ .0533.

(C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with incinerators subject to this Rule as their

allowable emission limits unless ~~Rule~~15A NCAC 02D .0524, .1110 or .1111 ~~of this Subchapter~~ requires more restrictive rates.

(c) Operational Standards.

(1) The operational standards in this Rule do not apply to any incinerator subject to this Rule when applicable operational standards in ~~Rule~~15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ apply.

(2) Crematory Incinerators. Gases generated by the combustion shall be subjected to a minimum temperature of 1600 degrees ~~F~~ Fahrenheit for a period of not less than one second.

(3) Other Incinerators. All incinerators not subject to any other rule in this Section shall meet the following requirement: Gases generated by the combustion shall be subjected to a minimum temperature of 1800 degrees ~~F~~ Fahrenheit for a period of not less than one second. The temperature of 1800 degrees ~~F~~ Fahrenheit shall be maintained at least 55 minutes out of each 60-minute period, but at no time shall the temperature go below 1600 degrees ~~F.~~ Fahrenheit.

(4) Except during start-up where the procedure has been approved according to ~~Rule~~15A NCAC 02D ~~.0535(g) of this Subchapter,~~ .0535(g). waste material shall not be loaded into any incinerator subject to this Rule when the temperature is below the minimum required temperature. Start-up procedures may be determined on a case-by-case basis according to ~~Rule~~15A NCAC 02D ~~.0535(g) of this Subchapter.~~.0535(g). Any incinerator subject to this Rule shall have automatic auxiliary burners that are capable of maintaining the required minimum temperature in the secondary chamber excluding the heat content of the wastes.

(d) Test Methods and Procedures.

(1) The test methods and procedures described in ~~Section~~15A NCAC 02D .2600 ~~of this Subchapter~~ and in 40 CFR Part 60 Appendix A and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates. Method 29 of 40 CFR Part 60 shall be used to determine emission rates for metals. However, Method 29 shall be used to sample for chromium (VI), and SW 846 Method 0060 shall be used for the analysis.

(2) The Director shall require the owner or operator to test his incinerator to demonstrate compliance with the emission standards listed in Paragraph (b) of this Rule if necessary to determine compliance with the emission standards of Paragraph (b) of this Rule.

(e) Monitoring, Recordkeeping, and Reporting.

(1) The owner or operator of an incinerator subject to the requirements of this Rule shall comply with the monitoring, recordkeeping, and reporting requirements in ~~Section~~15A NCAC 02D ~~.0600 of this Subchapter.~~.0600.

(2) The owner or operator of an incinerator, except an incinerator meeting the requirements of ~~Parts .1201(e)(4)(A) through (D) of this Section,~~ 15A NCAC 02D .1201(b)(4)(A) through (D), shall maintain and operate a continuous temperature monitoring and recording device for the primary chamber and, where there is a secondary chamber, for the secondary chamber. The Director shall

require a temperature monitoring device for incinerators meeting the requirements of ~~Parts .1201(e)(4)(A) through (D) of this Section~~ 15A NCAC 02D .1201(b)(4)(A) through (D) if the incinerator is in violation of the requirements of ~~Part~~ 15A NCAC 02D ~~.1201(e)(4)(D)~~ .1201(b)(4)(D). ~~of this Section.~~ The owner or operator of an incinerator that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure pH for wet scrubber systems and rate of alkaline injection for dry scrubber systems. The Director shall require the owner or operator of an incinerator with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the incinerator. The Director shall require the owner or operator of an incinerator with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both if necessary to determine proper operation of the incinerator.

(f) Excess Emissions and Start-up and Shut-down. Any incinerator subject to this Rule shall comply with ~~Rule~~15A NCAC 02D ~~.0535, Excess Emissions Reporting and Malfunctions, of this Subchapter.~~0535.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);*
Eff. July 1, 1998;
Amended Eff. August 1, 2008; June 1, 2008; July 1, 2007; January 1, 2005; August 1, 2002; July 1, 2000; July 1~~, 1999~~.1999;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1210

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

Throughout this Rule, incorporate federal regulations by reference, indicate whether the incorporation includes subsequent amendments and editions, and state where the incorporated regulations may be found.

Line 4 – replace "as described in" with "pursuant to"

Line 4 – replace "applies" with "shall apply"

Line 6 – add a comma after "incinerators"

Line 7 – replace "An existing CISWI unit is a unit" with "An 'existing CISWI unit' means a unit"

Line 8 – add a comma before "but"

Line 9 – replace "are" with "shall be"

Line 14 – add a comma before "as defined"

Line 18 – delete the comma after "burned"

Line 20 – replace the semicolon with a colon

Line 24 – replace the parentheses with commas

Line 25 – add a comma after "steam"

Page 2, lines 1-3 – revise as follows:

(7) chemical recovery units as defined in 40 CFR 60.2875;

Page 2, lines 6-8 – revise as follows:

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

(9) air curtain incinerators that meet the requirements specified in 15A NCAC 02D .1904 and that burn only the following materials:

Page 2, line 10 – do you mean "and" or "or?

Page 2, line 18 – delete "one of the following"

Page 2, line 28 – add "shall" before "apply"

Page 2, line 29 – replace "under" with "pursuant to"

Page 2, lines 31-32 – delete Paragraph (d) if it is not needed.

Page 2, line 33 – add "shall" before "apply"

Page 2, line 34 – replace "where" with "if"

Page 2, line 34 – replace "When" with "If"

Page 2, line 36 – replace "applies" with "shall apply"

Page 3, line 1 – replace "any bypass stack or vent" with "bypass stacks or vents"

Page 3, line 2 – add "shall" before "apply"

Page 3, line 3 – add a comma after "operating"

Page 3, line 4 – replace "must" with "shall"

Page 3, line 18 – replace "Any" with "An"

Page 3, line 31 – replace "any" with "an"

Page 4, line 17 – replace "do" with "shall"

Page 4, line 18 – replace "when" with "if"

Page 4, line 20 – replace "any" with "a"

Page 5, line 23 – add "be" after "and"

Page 6, line 13 – punctuate as follows: "Director."

Page 6, line 16 – add a comma before "and"

Page 6, line 16 – add "in" after "and"

Page 6, line 35 – add a comma after "60.2690"

Page 7, line 1 – replace "must" with "shall"

Page 7, line 1 – add a comma after “2018”

Page 7, line 6 – delete “any”

Page 7, line 14 – add a comma after “2018”

Page 7, line 21 – replace “operator;” with “operator shall:

Page 7, line 22 – replace “is” with “be”

Page 7, line 22 – replace “as of” with “on”

Page 7, line 23 – add a comma after “chamber”

Page 7, lines 25 and 28 – delete “shall”

Page 7, line 30 – replace “is” with “shall be”

Page 7, line 36 – delete “given”

Page 7, line 37 – replace “must” with “shall”

Page 8, line 1 – replace “are” with “shall”

Page 8, line 2 – add “be” after “not”

Page 8, line 4 – delete the comma

Page 8, line 4 – delete “in”

Page 8, line 7 – add a comma after “unit-specific

Page 8, line 11 – delete “any”

Page 8, line 11 – replace “device” with “devices”

Page 8, line 12 – add a comma after “Rule”

Page 8, line 14 – replace “according” with “pursuant”

Page 8, line 14 – replace “must” with “shall”

Page 8, line 15 – replace “any” with “a”

Page 8, line 20 – replace “any” with “a”

Page 9, line 8 – delete the second “40 CFR”

Page 9, line 15 – delete “value of the operating”

Page 9, lines 17 and 23 – add a comma after “Rule”

Page 9, line 30 – add a comma after “parameters”

Page 9, line 35 – replace the parentheses with commas

Page 9, line 35 – add a comma after “maintain”

Page 9, line 36 – add a comma after “time”

Page 10, line 2 – replace “for;” with “during:”

Page 10, line 3 – add a comma after “repairs”

Page 10, line 6 – add a comma after “activities”

Page 10, line 9 – delete “any”

Page 10, line 9 – replace “pursuant to” with “required by”

Page 10, lines 11 and 12 – replace “out of control” with “out-of-control”

Page 10, line 15 – replace “must” with “shall”

Page 10, line 16 – replace “above scale” with “above-scale”

Page 10, line 17 – add “the” before “associated”

Page 10, line 18 – replace “are required to” with “shall”

Page 10, line 19 – replace “to return” with “return”

Page 10, line 23 – add a comma after “activities”

Page 10, line 24 – replace “data is a deviation of the” with “data shall constitute a deviation from the”

Page 10, line 27 – replace “any” with “all”

Page 10, lines 28-29 – replace “including, but not limited to, the instances listed in Parts (A) through (D) of this Subparagraph.” with “including the following:”

Page 10, lines 30 and 35 – replace “Deviation” with “a deviation”

Page 10, line 32 – add commas after “(g)” and “60.2680”

Page 10, line 32 – delete “, but not limited to,”

Page 10, line 33 – add “that” before “is”

Page 10, line 36 – add “that is” before “detected”

Page 11, lines 1 and 3 – replace “Deviation” with “a deviation”

Page 11, line 4 – replace "any" with "all"

Page 11, line 9 – delete "as"

Page 11, line 10 – replace "any" with "all"

Page 11, line 11 – delete "as"

Page 11, line 12 – replace "any" with "all"

Page 11, line 13 – replace "any" with "a"

Page 11, line 13 – delete "as"

Page 11, lines 16-18 – revise as follows:

> (1) The owner or operator of a CISWI unit subject to this Rule shall maintain records required by this Rule on site for a period of five years in either paper copy, electronic format that can be printed upon request, or an alternate format that has been approved by the Director.

Page 11, line 19 – replace "are" with "shall be"

Page 11, line 22 – delete the second "40 CFR"

Page 11, line 24 – delete "as"

Page 11, lines 26-29 and 31-33 – begin each line "the" and delete "as"

Page 12, line 8 – delete "as"

Page 12, line 9 – replace the comma with "and"

Page 12, line 9 – delete the second "40 CFR"

Page 12, line 10 – delete the comma

Page 12, lines 11-12 – replace "are resumed once" with "have resumed after"

Page 12, line 14 – delete "as"

Page 12, line 14 – what standards, factors, or circumstances determine whether the Director would approve a request to change reporting dates?

Page 12, line 18 – add a comma after "annual"

Page 12, line 19 – delete "as"

Page 12, line 19 – delete the period

Page 12, line 20 – delete "Submit the reports to EPA"

Page 12, line 21 – add a comma after "(CEDRI)"

Page 12, line 22 – replace "under" with "pursuant to"

Page 12, line 23 – replace the comma with "and"

Page 12, line 29 – delete "as"

Page 12, line 31 – replace "must" with "shall"

Page 12, line 33 – delete "as"

Page 13, lines 8-9 – replace "accessible, either" with "present"

Page 13, line 9 – add "present" after "be"

Page 13, line 18 – replace "is" with "shall be"

Page 13, line 19 – replace "in" with "by"

Page 13, line 30 – replace the comma with a semicolon

Page 13, line 35 – replace "facility and" with "facility,"

Page 13, line 35 – replace "operators and are" with "operators, and"

Page 13, line 36 – add "and" after the semicolon

Page 14, line 2 – replace "operator such that the" with "operator. The"

Page 14, line 4 – add a comma after "2018"

Page 14, lines 6-8 – revise as follows:

> CISWI unit. Subsequent annual reviews of the documentation specified in Part (A) of this Subparagraph shall be conducted no later than twelve months following the previous review.

Page 14, line 19 – delete ", depending on the length of time,"

Page 14, line 24 – add "written" before "waste"

Page 14, line 25 – delete "in writing"

Page 14, line 30 – delete the semicolon after "metals"

Page 14, line 34 – delete the semicolon after "feasible"

Page 14, line 36 – replace "measures and" with "measures,"

Page 14, line 36 – add a comma after "achieved"

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: Friday, May 25, 2018

15A NCAC 02D .1210 is readopted with changes as published in 32:12 NCR 1206-1215 as follows:

15A NCAC 02D .1210 COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

(a) Applicability. ~~With the exceptions~~ Unless exempt as described in Paragraph (b) of this Rule, this Rule applies to ~~the~~ existing commercial and industrial solid waste ~~incinerators (CISWI).~~ incineration (CISWI) units, including energy recovery units, kilns, small remote incinerators and air curtain incinerators that burn solid waste, pursuant to 40 CFR 60.2550 and as defined in 40 CFR 60.2875. An existing CISWI unit is a unit that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.

(b) Exemptions. The following types of ~~incineration~~ combustion units are exempted from this Rule:

(1) incineration units subject to ~~covered under~~ Rules 15A NCAC 02D .1203 through 15A NCAC 02D .1206 ~~of this Section:~~ and 15A NCAC 02D .1212;

(2) pathological waste incineration units ~~units,~~ burning 90 percent or more by weight on a calendar-quarter basis, excluding the weight of auxiliary fuel and combustion air, of ~~agricultural waste,~~ pathological waste, low-level radioactive waste, or chemotherapeutic waste as defined in 40 CFR 60.2875, ~~waste,~~ if the owner or operator of the unit:

(A) notifies the Director that the unit qualifies for this exemption; and

(B) keeps records on a calendar-quarter basis of the weight of ~~agricultural waste,~~ pathological waste, ~~low-level~~ low-level radioactive waste, or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit;

(3) small power production or cogeneration units if;

(A) the unit qualifies as a small power-production facility ~~under~~ pursuant to Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) or as a cogeneration facility ~~under~~ pursuant to Section ~~section~~ 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B));

(B) the unit burns homogeneous waste (not including refuse-derived fuel) to produce ~~electricity; and~~ electricity, steam or other forms of energy used for industrial, commercial, heating, or cooling purposes;

(C) the owner or operator of the unit notifies the Director that the unit qualifies for this exemption; and

(D) the owner or operator of the unit maintains the records specified in 40 CFR 60.2740(v) for a small power-production facility or 40 CFR 60.2740(w) for a cogeneration facility;

(4) units that combust waste for the primary purpose of recovering metals;

(5) cyclonic barrel burners;

(6) rack, part, and drum reclamation units that burn the coatings off racks used to hold small items for application of a coating;

~~(7) cement kilns;~~

~~(8)~~(7) chemical recovery units burning materials to recover chemical constituents or to produce chemical compounds ~~as listed~~ pursuant to the definition of "chemical recovery unit" in 40 CFR ~~60.2555(n)(1) through (7);~~60.2875;

~~(9)~~(8) laboratory analysis units that burn samples of materials for the purpose of chemical or physical analysis;

~~(10)~~(9) air curtain ~~burners covered under Rule .1904 of this Subchapter.~~ incinerators that burn only the materials listed in Parts (A) through (C) of this Subparagraph shall meet the requirements specified in 15A NCAC 02D .1904:

(A) 100 percent wood waste;

(B) 100 percent clean lumber; and

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste;

(10) sewage treatment plants that are subject to 40 CFR 60 Subpart O Standards of Performance for Sewage Treatment Plants;

(11) space heaters that meet the requirements of 40 CFR 279.23;

(12) soil treatment units that thermally treat petroleum contaminated soils for the sole purpose of site remediation; and

(13) the owner or operator of a combustion unit that is subject to this Rule may petition for an exemption to this Rule by obtaining a determination that the material being combusted is one of the following:

(A) not a solid waste pursuant to the legitimacy criteria of 40 CFR 241.3(b)(1);

(B) a non-waste pursuant to the petition process submitted pursuant to 40 CFR 241.3(c); or

(C) a fuel that has been processed from a discarded non-hazardous secondary material pursuant to 40 CFR 241.3(b)(4).

~~(c) The owner or operator of a chemical recovery unit not listed under 40 CFR 60.2555(n) may petition the Director to be exempted. The petition shall include all the information specified under 40 CFR 60.2559(a). The Director shall approve the exemption if he finds that all the requirements of 40 CFR 60.2555(n) are satisfied and that the unit burns materials to recover chemical constituents or to produce chemical compounds where there is an existing market for such recovered chemical constituents or compounds.~~

~~(d)~~(c) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.2875 apply in addition to the definitions in ~~Rule .1202 of this Section.~~15A NCAC 02D .1202. Solid waste is defined under 40 CFR 60.2875 and 40 CFR Part 241 Standards for Combustion of Non-Hazardous Secondary Materials (NHSM).

(d) Compliance Schedule. All CISWI units subject to this Rule shall be in compliance with this Rule no later than February 7, 2018.

(e) Emission Standards. The emission standards in this Rule apply to all CISWI units~~incinerators~~ subject to this Rule except where ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ applies. When ~~Subparagraphs (12) or (13)~~ Subparagraph (4) of this Paragraph and ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ regulate the same pollutant, the more restrictive provision for each pollutant applies, notwithstanding provisions of ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ to the contrary.

(1) CISWI units subject to this [~~rule,~~]Rule, including any bypass stack or vent, must meet the emissions limits specified in Tables 6 through 9 of 40 CFR 60 Subpart DDDD. The emission limitations apply at all times the unit is operating including and not limited to startup, shutdown, or malfunction.

(2) Units that do not use wet scrubbers must maintain opacity to less than or equal to 10 percent opacity using an averaging time of three 1-hour blocks consisting of ten 6-minute average opacity values as measured by 40 CFR 60 Appendix A-4 Test Method 9 pursuant to Table 2 of 40 CFR 60 Subpart DDDD.

~~(1) Particulate Matter. Emissions of particulate matter from a CISWI unit shall not exceed 70 milligrams per dry standard cubic meter corrected to seven percent oxygen (dry basis).~~

~~(2) Opacity. Visible emissions from the stack of a CISWI unit shall not exceed 10 percent opacity (6-minute block average).~~

~~(3) Sulfur Dioxide. Emissions of sulfur dioxide from a CISWI unit shall not exceed 20 parts per million by volume corrected to seven percent oxygen (dry basis).~~

~~(4) Nitrogen Oxides. Emissions of nitrogen oxides from a CISWI unit shall not exceed 368 parts per million by volume corrected to seven percent oxygen (dry basis).~~

~~(5) Carbon Monoxide. Emissions of carbon monoxide from a CIWI unit shall not exceed 157 parts per million by volume, corrected to seven percent oxygen (dry basis).~~

~~(6)~~(3) Odorous Emissions. Any incinerator subject to this Rule shall comply with ~~Rule~~ 15A NCAC 02D .1806 ~~of this Subchapter~~ for the control of odorous emissions.

~~(7) Hydrogen Chloride. Emissions of hydrogen chloride from a CISWI unit shall not exceed 62 parts per million by volume, corrected to seven percent oxygen (dry basis).~~

~~(8) Mercury Emissions. Emissions of mercury from a CISWI unit shall not exceed 0.47 milligrams per dry standard cubic meter, corrected to seven percent oxygen.~~

~~(9) Lead Emissions. Emissions of lead from a CISWI unit shall not exceed 0.04 milligrams per dry standard cubic meter, corrected to seven percent oxygen.~~

~~(10) Cadmium Emissions. Emissions of cadmium from a CISWI unit shall not exceed 0.004 milligrams per dry standard cubic meter, corrected to seven percent oxygen.~~

~~(11) Dioxins and Furans. Emissions of dioxins and furans from a CISWI unit shall not exceed 0.41 nanograms per dry standard cubic meter (toxic equivalency basis), corrected to seven percent oxygen. Toxic equivalency is given in Table 4 of 40 CFR part 60, Subpart DDDD.~~

~~(12)~~(4) Toxic Emissions. The owner or operator of any CISWI unit ~~incinerator~~ subject to this Rule shall demonstrate compliance with ~~Section~~ 15A NCAC 02D .1100 ~~of this Subchapter~~ according to 15A NCAC 02Q .0700.

~~(13) Ambient Standards.~~

~~(A) In addition to the ambient air quality standards in Section .0400 of this Subchapter, the following ambient air quality standards, which are an annual average, in milligrams per cubic meter at 77 degrees F (25 degrees C) and 29.92 inches (760 mm) of mercury pressure,~~

~~and which are increments above background concentrations, apply aggregately to all incinerators at a facility subject to this Rule:~~

~~(i) arsenic and its compounds $2.3x10^{-7}$~~

~~(ii) beryllium and its compounds $4.1x10^{-6}$~~

~~(iii) cadmium and its compounds $5.5x10^{-6}$~~

~~(iv) chromium (VI) and its compounds $8.3x10^{-8}$~~

~~(B) The owner or operator of a facility with incinerators subject to this Rule shall demonstrate compliance with the ambient standards in Subparts (i) through (iv) of Part (A) of this Subparagraph by following the procedures set out in Rule .1106 of this Subchapter. Modeling demonstrations shall comply with the requirements of Rule .0533 of this Subchapter.~~

~~(C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with incinerators as their allowable emission limits unless Rules .0524, .1110, or .1111 of this Subchapter requires more restrictive rates.~~

(f) Operational Standards.

(1) The operational standards in this Rule do not apply to any ~~incinerator~~ CISWI unit subject to this Rule when applicable operational standards in ~~Rules~~ 15A NCAC 02D .0524, .1110, or .1111 ~~of this Subchapter~~ apply.

(2) The owner or operator of any CISWI unit subject to this Rule shall operate the CISWI unit according to the provisions in 40 CFR 60.2675. ~~If a wet scrubber is used to comply with emission limitations:~~

~~(A) operating limits for the following operating parameters shall be established:~~

~~(i) maximum charge rate, which shall be measured continuously, recorded every hour, and calculated using one of the following procedures:~~

~~(I) for continuous and intermittent units, the maximum charge rate is 110 percent of the average charge rate measured during the most recent compliance test demonstrating compliance with all applicable emission limitations; or~~

~~(II) for batch units, the maximum charge rate is 110 percent of the daily charge rate measured during the most recent compliance test demonstrating compliance with all applicable emission limitations;~~

~~(ii) minimum pressure drop across the wet scrubber, which shall be measured continuously, recorded every 15 minutes, and calculated as 90 percent of:~~

~~(I) the average pressure drop across the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations, or~~

~~(II) the average amperage to the wet scrubber measured during the most recent performance test demonstrating compliance with the particulate matter emission limitations;~~

~~(iii) minimum scrubber liquor flow rate, which shall be measured continuously, recorded every 15 minutes, and calculated as 90 percent of the average liquor flow rate at the inlet to the wet scrubber measured during the most recent compliance test demonstrating compliance with all applicable emission limitations; and~~

~~(iv) minimum scrubber liquor pH, which shall be measured continuously, recorded every 15 minutes, and calculated as 90 percent of the average liquor pH at the inlet to the wet scrubber measured during the most recent compliance test demonstrating compliance with all applicable emission limitations.~~

~~(B) A three hour rolling average shall be used to determine if operating parameters in Subparts (A)(i) through (A)(iv) of this Subparagraph have been met.~~

~~(C) The owner or operator of the CISWI unit shall meet the operating limits established during the initial performance test on the date the initial performance test is required or completed.~~

(3) If ~~a fabric filter is used to comply with the emission limitations, then it shall be operated as specified in 40 CFR 60.2675(c);~~ an air pollution control device other than a wet scrubber, activated carbon sorbent injection, selective noncatalytic reduction, fabric filter, electrostatic precipitator, or dry scrubber is used to comply with this Rule or if emissions are limited in some other manner, including mass balances, to comply with the emission standards of [~~Paragraph~~]Subparagraph (e)(1) of this Rule, the owner or operator shall petition the [~~Director~~]EPA Administrator in accordance with the requirements in 40 CFR 60.2680 for specific operating limits that shall be established during the initial performance test and continuously monitored thereafter.

[~~(A) The initial performance test shall not be conducted until after the Director approves the petition.~~]

[~~(B) All the provisions of 40 CFR 60.2680 shall apply to the petition.~~]

[~~(C) The Director shall approve the petition upon finding that the requirements of 40 CFR 60.2680 have been satisfied and that the proposed operating limits will ensure compliance with the emission standards in Paragraph (e)(1) of this Rule.~~]

~~(4) If an air pollution control device other than a wet scrubber is used or if emissions are limited in some other manner to comply with the emission standards of Paragraph (e) of this Rule, the owner or operator shall petition the Director for specific operating limits that shall be established during the initial performance test and continuously monitored thereafter. The initial performance test shall not be conducted until after the Director approves the petition. The petition shall include:~~

~~(A) identification of the specific parameters to be used as additional operating limits;~~

~~(B) explanation of the relationship between these parameters and emissions of regulated pollutants, identifying how emissions of regulated pollutants change with changes in these~~

parameters, and how limits on these parameters will serve to limit emissions of regulated pollutants;

(C) explanation of establishing the upper and lower limits for these parameters, which will establish the operating limits on these parameters;

(D) explanation of the methods and instruments used to measure and monitor these parameters, as well as the relative accuracy and precision of these methods and instruments;

(E) identification of the frequency and methods for recalibrating the instruments used for monitoring these parameters.

The Director shall approve the petition if he finds that the requirements of this Subparagraph have been satisfied and that the proposed operating limits will ensure compliance with the emission standards in Paragraph (e) of this Rule.

(g) Test Methods and Procedures.

(1) For the purposes of this Paragraph, "Administrator" in 40 CFR 60.8 means "Director".

(2) The test methods and procedures described in Section 15A NCAC 02D .2600, .2600 of this Subchapter, in Tables 6 through 9 of 40 CFR 60 Subpart DDDD, Part 60 Appendix A, 40 CFR Part 61 Appendix B, in 40 CFR 60.2670(b) and 40 CFR 60.2690 shall be used to determine compliance with emission standards in [Paragraph]Subparagraph (e)(1) of this Rule. Method 29 of 40 CFR Part 60 shall be used to determine emission standards for metals. However, Method 29 shall be used to sample for chromium (VI), and SW 846 Method 0060 shall be used for the analysis.

(3) Compliance with the opacity limit in [Paragraph]Subparagraph (e)(2) of this [rule]Rule shall be determined using 40 CFR 60 Appendix A-4 Test Method 9.All performance tests shall consist of a minimum of three test runs conducted under conditions representative of normal operations. Compliance with emissions standards under Subparagraph (e)(1), (3) through (5), and (7) through (11) of this Rule shall be determined by averaging three one-hour emission tests. These tests shall be conducted within 12 months following the initial performance test and within every twelve month following the previous annual performance test after that.

(h) Initial Compliance Requirements.

(1) The owner or operator of a CISWI unit subject to this Rule shall demonstrate initial compliance with the emission limits in [Paragraph]Subparagraph (e)(1) of this Rule and establish the operating standards in Paragraph (f) of this Rule according to the provisions in 40 CFR 60.2700 through 40 CFR 60.2706. If an owner or operator commences or recommences combusting a solid waste at an existing combustion unit at any commercial or industrial facility, the owner or operator shall comply with the requirements of this Paragraph.

(4)(2) The owner or operator of a CISWI unit subject to this Rule shall conduct an initial performance test as specified in 40 CFR 60.8 pursuant to 40 CFR 60.2670, 40 CFR 60.2690 and Paragraph (g) of this Rule. to determine compliance with the emission standards in Paragraph (e) of this Rule and to establish operating standards using the procedure in Paragraph (f) of this Rule. The initial

performance test must be conducted no later than 180 days after February 7, 2018 or according to 40 CFR 60.2705(b) or (c). The use of the bypass stack during a performance test shall invalidate the performance test. The initial performance test shall be used to:

(A) determine compliance with the emission standards in [~~Paragraph~~]Subparagraph (e)(1) of this Rule;

(B) establish compliance with any opacity operating limits in 40 CFR 60.2675(h);

(C) establish the kiln-specific emission limit in 40 CFR 60.2710(y), as applicable; and

(D) establish operating limits using the procedures in 40 CFR 60.2675 or 40 CFR 60.2680 and in Paragraph (f) of this Rule.

(3) The owner or operator of a CISWI unit subject to this Rule shall also conduct:

(A) a performance evaluation of each continuous emissions monitoring system (CEMS) or continuous monitoring system within 60 days of installation of the monitoring system; and

(B) an initial air pollution control device inspection no later than 180 days after February 7, 2018 pursuant to 40 CFR 60.2706.

(i) Continuous Compliance Requirements.

(1) The owner or operator of a CISWI unit subject to this Rule shall demonstrate continuous compliance with the emission limits in [~~Paragraph~~]Subparagraph (e)(1) of this Rule and the operating standards in Paragraph (f) of this Rule according to the provisions in 40 CFR 60.2710 through 40 CFR 60.2725.

(2) If an existing CISWI unit that combusted a fuel or non-waste material commences or recommences combustion of solid waste, the owner or operator;

(A) is subject to the provisions of 40 CFR 60 Subpart DDDD as of the first day solid waste is introduced or reintroduced into the combustion chamber and this date constitutes the effective date of the fuel-to-waste switch;

(B) shall complete all initial compliance demonstrations for any Section 112 standards that are applicable to the facility before commencing or recommencing combustion of solid waste; and

(C) shall provide 30 days prior notice of the effective date of the waste-to-fuel switch identifying the parameters listed in 40 CFR 60.2710(a)(4)(i) through (v).

(3) Pursuant to 40 CFR 60.2710(v), the use of a bypass stack at any time is an emissions standards deviation for particulate matter, hydrogen chloride, lead, cadmium, mercury, nitrogen oxides, sulfur dioxide, and dioxin/furans.

~~(5)~~(4) The owner or operator of ~~the~~ a CISWI unit subject to this Rule shall conduct an annual performance test for the pollutants listed in [~~Paragraph~~]Subparagraph (e)(1) of this Rule, including opacity and fugitive ash, ~~particulate matter, hydrogen chloride, and opacity as specified in 40 CFR 60.8~~ to determine compliance with the emission standards given in 40 CFR 60 Subpart DDDD Tables 6 through 9. ~~for the pollutants in Paragraph (e) of this Rule.~~ The annual performance test must be

conducted according to the provisions in Paragraph (g) of this Rule. Annual performance tests are not required if CEMS or continuous opacity monitoring systems are used to determine compliance.

(5) The owner or operator shall continuously monitor the operating parameters established in Paragraph (f) of this Rule, and as specified in 40 CFR 60.2710(c) and in 40 CFR 60.2735.

(6) The owner or operator of an energy recovery unit subject to this Rule shall only burn the same types of waste and fuels used to establish applicability to this Rule and to establish operating limits during the performance test.

(7) The owner or operator shall comply with the monitoring system-specific, unit-specific and pollutant-specific provisions pursuant to 40 CFR 60.2710(e) through (j), (m) through (u), and (w) through (y).

(8) The owner or operator shall conduct an annual inspection of any air pollution control device used to meet the emission limitations in this Rule as specified in 40 CFR 60.2710(k).

(9) The owner or operator shall develop and submit to the Director for approval a site-specific monitoring plan according to the requirements in 40 CFR 60.2710(l). This plan must be submitted at least 60 days before the initial performance evaluation of any continuous monitoring system. The owner or operator shall conduct a performance evaluation of each continuous monitoring system in accordance with the site-specific monitoring plan. The owner or operator shall operate and maintain the continuous monitoring system in continuous operation according to the site-specific monitoring plan.

(10) The owner or operator shall meet any applicable monitoring system requirements specified in 40 CFR 60.2710(m) through (u) and (w) through (y).

~~(6) If the owner or operator of CISWI unit has shown, using performance tests, compliance with particulate matter, hydrogen chloride, and opacity for three consecutive years, the Director shall allow the owner or operator of CISWI unit to conduct performance tests for these three pollutants every third year. However, each test shall be within 36 months of the previous performance test. If the CISWI unit continues to meet the emission standards for these three pollutants the Director shall allow the owner or operator of CISWI unit to continue to conduct performance tests for these three pollutants every three years.~~

~~(7) If a performance test shows a deviation from the emission standards for particulate matter, hydrogen chloride, or opacity, the owner or operator of the CISWI unit shall conduct annual performance tests for these three pollutants until all performance tests for three consecutive years show compliance for particulate matter, hydrogen chloride, or opacity.~~

~~(8) The owner or operator of CISWI unit may conduct a repeat performance test at any time to establish new values for the operating limits.~~

~~(9) The owner or operator of the CISWI unit shall repeat the performance test if the feed stream is different than the feed streams used during any performance test used to demonstrate compliance.~~

~~(10) If the Director has evidence that an incinerator is violating a standard in Paragraph (e) or (f) of this Rule or that the feed stream or other operating conditions have changed since the last performance test, the Director may require the owner or operator to test the incinerator to demonstrate compliance with the emission standards listed in Paragraph (e) of this Rule at any time.~~

~~(h)~~(j) Monitoring.

(1) The owner or operator of ~~an incinerator~~ a CISWI unit subject to ~~the requirements of~~ this Rule shall comply with the monitoring ~~monitoring, recordkeeping, and reporting~~ requirements in ~~Section~~ 15A NCAC 02D .0600 ~~of this Subchapter.~~and 40 CFR 60.2730 through 40 CFR 60.2735.

(2) For each continuous monitoring system required or optionally allowed pursuant to 40 CFR 60.2730, the owner or operator shall monitor and collect data according to 40 CFR 60.2735.

~~(2)~~(3) The owner or operator of ~~an incinerator~~ a CISWI unit subject to ~~the requirements of~~ this Rule shall establish, install, calibrate to manufacturers specifications, maintain, and operate:

~~(A) devices or methods for continuous temperature monitoring and recording for the primary chamber and, where there is a secondary chamber, for the secondary chamber;~~

~~(B)~~(A) devices or methods for monitoring the value of the operating parameters used to determine compliance with the operating parameters established under [~~Paragraph~~]Subparagraph (f)(2) of this ~~Rule;~~Rule as specified in 40 CFR 60.2730;

~~(C) a bag leak detection system that meets the requirements of 40 CFR 60.2730(b) if a fabric filter is used to comply with the requirements of the emission standards in Paragraph (e) of this Rule; and~~

~~(D)~~(B) ~~equipment~~ devices or methods necessary to monitor compliance with the ~~cite-specific~~ site-specific operating parameters established ~~under~~ pursuant to [~~Paragraph~~]Subparagraph ~~(f)(4)~~(f)(3) of this ~~Rule.~~Rule as specified by 40 CFR 60.2730(c).

~~(3) The Director shall require the owner or operator of a CISWI unit with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the CISWI unit.~~

(4) To demonstrate continuous compliance with an emissions limit, a facility may substitute use of a CEMS, a continuous automated sampling system, or other device specified by 40 CFR 60.2730 for conducting the annual emissions performance test and for monitoring compliance with operating parameters as specified by 40 CFR 60.2730.~~The Director shall require the owner or operator of a CISWI unit with a permitted charge rate of 750 pounds per hour or less to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both if necessary to determine proper operation of the CISWI unit.~~

(5) The owner or operator of a CISWI unit subject to this [~~rule~~]Rule with a bypass stack shall install, calibrate (to manufacturers' specifications), maintain and operate a device or method for measuring the use of the bypass stack. including date, time and duration.

~~(5)~~(6) The owner or operator of ~~the~~ a CISWI unit subject to this Rule shall conduct all monitoring at all times the CISWI unit is operating, ~~except;~~except for;

(A) monitoring system malfunctions and associated ~~repairs;~~repairs as specified in 40 CFR 60.2735;

(B) monitoring system out-of-control periods as specified in 40 CFR 60.2770(o);

~~(B)~~(C) required monitoring system quality assurance or quality control activities including calibrations checks and required zero and span adjustments of the monitoring ~~system.~~system; and

(D) any scheduled maintenance as defined in the site-specific monitoring plan pursuant to Subparagraph (i)(9) of this Rule.

~~(6)~~(7) The data recorded during monitoring malfunctions, out of control periods, ~~associated repairs, and~~repairs associated with malfunctions or out of control periods, required quality assurance or quality control activities, and site-specific scheduled maintenance shall not be used in assessing compliance with the operating standards in Paragraph (f) of this Rule. Owners and operators of a CISWI unit subject to this Rule must use all the data collected during all other periods, including data normalized for above scale readings, in assessing the operation of the control device and associated control system.

(8) Owners or operators of a CISWI unit subject to this Rule are required to effect monitoring system repairs in response to monitoring system malfunctions or out-of-control periods and to return the monitoring system to operation as expeditiously as practicable.

(9) Except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance or quality control activities including, as applicable, calibration checks and required zero and span adjustments, failure to collect required monitoring data is a deviation of the monitoring requirements.

(k) Deviations, Malfunctions, and Out of Control Periods.

(1) Owners and operators of a CISWI unit subject to this Rule shall report any deviations as defined in 40 CFR 60.2875, including, but not limited to, the instances listed in Parts (A) through (D) of this Subparagraph.

(A) Deviation from operating limits in Table 3 of 40 CFR 60 Subpart DDDD or a deviation from other operating limits established pursuant to Paragraph (f), 40 CFR 60.2675(c) through (g) or 40 CFR 60.2680 including, but not limited to, any recorded 3-hour average parameter level is above the established maximum operating limit or below the established minimum operating limit;

(B) Deviation from the emission limitations established pursuant to Tables 6 through 9 of 40 CFR 60 Subpart DDDD detected through monitoring or during a performance test;

(C) Deviation from the CISWI operator qualification and accessibility requirements established pursuant to 40 CFR 60.2635; or

(D) Deviation from any term or condition included in the operating permit of the CISWI unit.

(2) Owners and operators of a CISWI unit subject to this Rule shall submit any required deviation reports as specified by Paragraph (l) of this Rule. The deviation report shall be submitted by August 1 of the year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31). In addition, the owner and operator shall report the deviation in the annual report as specified by Paragraph (l) of this Rule.

(3) Owners and operators of a CISWI unit subject to this Rule shall report any malfunctions, as defined in 40 CFR 60.2875, in the annual report as specified by Paragraph (j) and Paragraph (l) of this Rule.

(4) Owners and operators of a CISWI unit subject to this Rule shall report any periods during which any continuous monitoring system, including a CEMS, was out of control in the annual report as specified by Paragraph (j) and Paragraph (l) of this Rule.

~~(i)~~(l) ~~Recordkeeping,~~ Recordkeeping and Reporting.

(1) The owner or operator of a CISWI unit subject to this Rule shall maintain records required by this Rule on site in either paper copy or electronic format that can be printed upon request for a period of five ~~years.~~years, unless an alternate format has been approved by the Director.

(2) Combustion units that are exempt units pursuant to Paragraph (b) of this Rule are subject to the recordkeeping and reporting requirements in 40 CFR 60.2740(u) through 40 CFR 60.2740(w).

~~(2)~~(3) The owner or operator of a CISWI unit subject to this [~~rule~~]Rule shall maintain all records required ~~under~~ by 40 CFR ~~60.2740.~~60.2740 through 40 CFR 60.2800.

~~(3)~~(4) The owner or operator of a CISWI unit subject to this Rule shall submit the following reports with the required information and by the required due dates as specified in Table 5 of 40 CFR 60, Subpart ~~DDDD the following reports:~~DDDD:

(A) ~~Waste Management Plan;~~ waste management plan as specified in 40 CFR 60.2755;

(B) initial test ~~report,~~ report as specified in 40 CFR 60.2760;

(C) annual report as specified in 40 CFR ~~60.2770;~~60.2765 and 40 CFR 60.2770;

(D) emission limitation or operating limit deviation report as specified in 40 CFR 60.2775 and 40 CFR 60.2780;

(E) qualified operator deviation notification as specified in 40 CFR 60.2785(a)(1);

(F) qualified operator deviation status report, as specified in 40 CFR 60.2785(a)(2);

(G) qualified operator deviation notification of resuming operation as specified in 40 CFR 60.2785(b).

~~(4) The owner or operator of the CISWI unit shall submit a deviation report if:~~

~~(A) any recorded three-hour average parameter level is above the maximum operating limit or below the minimum operating limit established under Paragraph (f) of this Rule;~~

~~(B) the bag leak detection system alarm sounds for more than five percent of the operating time for the six-month reporting period; or~~

~~(C) a performance test was conducted that deviated from any emission standards in Paragraph (e) of this Rule.~~

~~The deviation report shall be submitted by August 1 of the year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31).~~

(5) The owner or operator shall maintain CISWI unit operator records as specified by 40 CFR 60.2740(g) through (i), 40 CFR 60.2660 and 40 CFR 60.2665. If the CISWI unit has been shut down by the Director pursuant to 40 CFR 60.2665(b)(2), due to failure to provide an accessible qualified operator, the owner or operator shall notify the Director that the operations are resumed once a qualified operator is accessible.

~~(5)~~(6) The owner or operator of ~~the~~ a CISWI unit subject to this Rule may request changing semiannual or annual reporting dates as specified in this Paragraph, and the Director may approve the request change using the procedures specified in 40 CFR 60.19(c).

~~(6)~~(7) Reports ~~required under this Rule shall be submitted electronically or in paper format, postmarked on or before the submittal due dates.~~ shall be submitted to US EPA as specified in 40 CFR 60.2795.

(A) The owner or operator of the CISWI unit shall submit initial, annual and deviation reports electronically on or before the submittal due dates as specified in 40 CFR 60.2795(a). Submit the reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI) which can be accessed through the EPA's Central Data Exchange (CDX) [~~(https://cdx.epa.gov/).)Reports~~](https://cdx.epa.gov/). Reports required under this Rule shall be submitted electronically or in paper format, postmarked on or before the submittal due dates.

(B) The owner or operator shall submit results of each performance test and CEMS performance evaluation within 60 days of the test or evaluation following the procedure specified in 40 CFR 60.2795(b).

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (https://www3.epa.gov/ttn/chief/ert/ert_info.html) at the time of the test, the owner or operator must submit the results of the performance test to the EPA via the CEDRI.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit the results of the performance test to the Director.

(7) If the CISWI unit has been shut down by the Director under the provisions of 40 CFR 60.2665(b)(2), due to failure to provide an accessible qualified operator, the owner or operator shall notify the Director that the operations are resumed once a qualified operator is accessible.

(j) Excess Emissions and Start-up and Shut-down. All incinerators subject to this Rule shall comply with 15A NCAC 2D .0535, Excess Emissions Reporting and Malfunctions, of this Subchapter.

(k)(m) Operator Training and Certification.

(1) The owner or operator of the [CISWI]CISWI unit subject to this Rule shall not allow the CISWI unit to operate at any time unless a fully trained and qualified CISWI unit operator is accessible, either at the facility or available can be at the facility within one hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more CISWI unit operators. plant personnel who operate the unit.

(2) Operator training and qualification shall be obtained by completing the requirements of 40 CFR 60.2635(c) by the later of:

(A) six month after CISWI unit startup; or

(B) six month after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.unit; or

(C) February 7, 2018.

(3) Operator qualification is valid from the date on which the training course is completed and the operator passes the examination required in 40 CFR 60.2635(c)(2).

(4) Operator qualification shall be maintained by completing an annual review or refresher course covering:covering, at a minimum, the topics specified in 40 CFR 60.2650(a) through (e).

(A) update of regulations;

(B) incinerator operation, including startup and shutdown procedures, waste charging, and ash handling;

(C) inspection and maintenance;

(D) responses to malfunctions or conditions that may lead to malfunction;

(E) discussion of operating problems encountered by attendees.

(5) Lapsed operator qualification shall be renewed by:

(A) completing a standard annual refresher course as specified in Subparagraph (4) of this Paragraph for a lapse less than three years, and or

(B) repeating the initial qualification requirements as specified in Subparagraph (2) of this Paragraph for a lapse of three years or more.

(6) The owner or operator of the a CISWI CISWI unit subject to this Rule shall:

(A) have documentation specified in 40 CFR 60.2660(a)(1) through (10) and (c)(1) through (c)(3) available at the facility and accessible for all CISWI unit operators and are suitable for inspection upon request;

(B) establish a program for reviewing the documentation specified in Part (A) of this Subparagraph with each CISWI unit ~~operator:~~operator such that the initial review of the documentation specified in Part (A) of this Subparagraph shall be conducted no later than February 7, 2018 or no later than six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

(C) Subsequent annual reviews of the documentation specified in Part (A) of this Subparagraph shall be conducted no later than twelve month following the previous review.

~~(i) the initial review of the documentation specified in Part (A) of this Subparagraph shall be conducted by the later of the two dates:~~

~~(I) six month after CISWI unit startup; or~~

~~(II) six month after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit; and~~

~~(ii) subsequent annual reviews of the documentation specified in Part (A) of this Subparagraph shall be conducted no later than twelve month following the previous review.~~

(7) The owner or operator of ~~the~~ a [~~CISIWI~~]CISWI unit subject to this Rule shall meet one of the two criteria specified in 40 CFR 60.2665(a) and (b), depending on the length of time, if all qualified operators are temporarily not at the facility and not able to be at the facility within one hour.

~~(l)~~(n) Prohibited waste. The owner or operator of a [~~CISIW~~]CISWI subject to this Rule shall not incinerate any of the wastes listed in G.S. 130A-309.10(f1).

~~(m)~~(o) Waste Management Plan.

(1) The owner or operator of ~~the~~ a CISWI unit subject to this Rule shall submit a waste management plan to the Director that identifies in writing the feasibility and the methods used to reduce or separate components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.

(2) The waste management plan shall include:

(A) consideration of the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals; and the use of recyclable materials;

(B) a description of how the materials listed in G.S. 130A-309.10(f1) are to be segregated from the waste stream for recycling or proper disposal;

(C) identification of any additional waste management measures; and

(D) implementation of those measures considered practical and feasible, based on the effectiveness of waste management measures already in place, the costs of additional measures and the emissions reductions expected to be achieved and the environmental or energy impacts that the measures may have.

~~(n) The final control plan shall contain the information specified in 40 CFR 60.2600(a)(1) through (5), and a copy shall be maintained on site.~~

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4),(5); 40 CFR 60.215(a)(4);*
Eff. August 1, 2002;
Amended Eff. June 1, 2008; January 1, ~~2005.~~2005;
Readopted Eff. July 1, 2018.

15A NCAC 02D .1211 is repealed through readoption as published in 32:13 NCR 1292-1297 as follows:

15A NCAC 02D .1211 OTHER SOLID WASTE INCINERATION UNITS

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4), (5), (10); 40 CFR 60.3014 through 60.3020;*
Eff. August 1, ~~2007.~~2007;
Repealed Eff. July 1, 2018.

15A NCAC 02D .1212 is repealed through readoption as published in 32:13 NCR 1297-1302 as follows:

15A NCAC 02D .1212 SMALL MUNICIPAL WASTE COMBUSTORS

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 40 CFR 60.35b; 40 CFR 60.34e; 40 CFR 60.1515;*
Eff. July 1, ~~2010.~~2010;
Repealed Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0701

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 6 – replace "With the exceptions in" with "Except as set forth in"

Lines 10 and 11 – replace "according" with "pursuant"

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: Friday, May 25, 2018

15A NCAC 02Q .0701 is readopted as published in 32:13 NCR 1302 as follows:

SECTION .0700 – TOXIC AIR POLLUTANT PROCEDURES

15A NCAC 02Q .0701 APPLICABILITY

With the exceptions in ~~Rule .0702 of this Section,~~15A NCAC 02Q .0702, no person shall cause or allow any toxic air pollutant named in 15A NCAC 02D .1104 to be emitted from any facility into the atmosphere at a rate that exceeds the applicable rate(s) in ~~Rule .0711 of this Section~~15A NCAC 02Q .0711 without having received a permit to emit toxic air pollutants as follows:

(1) new facilities according to ~~Rule .0704 of this Section;~~15A NCAC 02Q .0704; or

(2) modifications according to ~~Rule .0706 of this Section.~~15A NCAC 02Q .0706.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2014; July 10, 2010; February 1, ~~2005.~~2005;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0702

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – replace "under" with "pursuant to"

Line 7 – replace "that" with "the"

Line 8 – delete the comma after "equipment"

Line 11 – add "cleaning with "before "portable"

Line 12 – replace "asbestos bearing" with "asbestos-bearing"

Lines 21 and 27 – replace "under" with "pursuant to"

Line 29 – replace "fire fighting" with "fire-fighting"

Line 35 – replace "under" with "pursuant to"

Page 2, lines 12 and 14 – add "or" before "training"

Page 2, line 16 – replace "under" with "pursuant to"

Page 2, line 17 – add a comma after ".0500"

Page 2, line 27 – add a comma after "lubricants"

Page 2, line 30 – replace the colon with a semicolon

Page 3, line 2 – replace "where" with "in which"

Page 3, line 15 – replace "under" with "pursuant to"

Page 3, lines 20, 24, and 26 – replace "the facility" with "a facility"

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 3, lines 28 and 29 – replace "under" with "pursuant to"

Page 3, line 32 – replace "gasoline dispensing" with "gasoline-dispensing"

Page 4, line 1 – replace "the facility" with "a facility"

Page 4, line 6 – delete the semicolon

Page 4, line 13 – delete "the Director finds that"

Page 4, lines 18 and 21 – replace "included" with "considered"

Page 4, line 19 – replace "in this" with "of this"

Page 4, line 19 – replace "included" with "addressed"

Page 4, line 22 – replace "provided that" with "if"

Page 4, line 22 – replace "shall" with "will"

Page 4, line 22 – replace "under" with "pursuant to"

Page 4, lines 28 and 29 – replace "exempted" with "exempt"

Page 4, line 29 – replace "under" with "pursuant to"

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: Friday, May 25, 2018

15A NCAC 02Q .0702 is readopted with changes as published in 32:13 NCR 1302-1304 as follows:

15A NCAC 02Q .0702 EXEMPTIONS

(a) A permit to emit toxic air pollutants shall not be required under this Section for:

(1) residential wood stoves, heaters, or fireplaces;

(2) ~~hot~~ water heaters that are used for domestic purposes only and are not used to heat process water;

(3) maintenance, structural changes, or repairs that do not change capacity of that process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of any regulated air pollutant or toxic air pollutant;

(4) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or non-asbestos bearing insulation removal;

(5) use of office supplies, supplies to maintain copying equipment, or blueprint machines;

(6) paving parking lots;

(7) replacement of existing equipment with equipment of the same size, type, and function if the new equipment:

(A) does not result in an increase to the actual or potential emissions of any regulated air pollutant or toxic air pollutant;

(B) does not affect compliance status; and

(C) fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes to the permit;

(8) comfort air conditioning or comfort ventilation systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;

(9) equipment used for the preparation of food for direct on-site human consumption;

(10) non-self-propelled non-road ~~engines, except generators,~~engines regulated by rules adopted by the Environmental Protection Agency under Title II of the federal Clean Air ~~Act;~~Act, except generators;

(11) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;

(12) use of fire fighting equipment;

(13) the use for agricultural operations by a farmer of fertilizers, pesticides, or other agricultural chemicals containing one or more of the compounds listed in 15A NCAC 02D .1104 if such compounds are applied according to agronomic practices for agricultural operations acceptable to the North Carolina Department of Agriculture;

(14) asbestos demolition and renovation projects that comply with 15A NCAC 02D .1110 and that are being done by persons accredited by the Department of Health and Human Services under the Asbestos Hazard Emergency Response Act;

(15) incinerators used only to dispose of dead animals or poultry as identified in 15A NCAC 02D ~~.1201(e)(4).~~1201(b)(4) or incinerators used only to dispose of dead pets as identified in 15A NCAC 02D .1208(a)(2)(A);

(16) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or with air pollution control equipment;

(17) laboratory activities:

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

(B) bench scale experimentation, chemical or physical analyses, training or instruction from nonprofit, non-production educational laboratories;

(C) bench scale experimentation, chemical or physical analyses, training or instruction from hospital or health laboratories pursuant to the determination or diagnoses of illnesses; and

(D) research and development laboratory activities that are not required to be permitted under ~~Section .0500 of this Subchapter~~15A NCAC 02Q .0500 provided the activity produces no commercial product or feedstock material;

(18) combustion sources as defined in ~~Rule .0703 of this Section~~15A NCAC 02Q .0703, except new or modified combustion sources permitted on or after July 10, 2010; [~~that are not exempt pursuant to Subparagraph (a)(27) of this Rule;~~]

(19) storage tanks used only to store:

(A) inorganic liquids with a true vapor pressure less than 1.5 pounds per square inch absolute;

(B) fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas, liquefied petroleum gas, or petroleum products with a true vapor pressure less than 1.5 pounds per square inch absolute;

(20) dispensing equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;

(21) portable solvent distillation systems that are ~~exempted under Rule .0102(e)(1)(I) of this Subchapter;~~ used for on-site solvent recycling if:

(A) the portable solvent distillation system is not owned by the facility:

(B) the portable solvent distillation system is not operated for more than seven consecutive days; and

(C) the material recycled is recycled at the site of origin;

(22) processes:

(A) electric motor burn-out ovens with secondary combustion chambers or afterburners;

(B) electric motor bake-on ovens;

(C) burn-off ovens for paint-line hangers with afterburners;

(D) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;

(E) blade wood planers planing only green wood; and

(F) saw mills that saw no more than 2,000,000 board feet per year, provided only green wood is sawed;

~~(G) perchloroethylene drycleaning processes with 12-month rolling total consumption of:~~

~~(i) less than 1366 gallons of perchloroethylene per year for facilities with dry-to-dry machines only;~~

~~(ii) less than 1171 gallons of perchloroethylene per year for facilities with transfer machines only; or~~

~~(iii) less than 1171 gallons of perchloroethylene per year for facilities with both transfer and dry-to-dry machines;~~

(23) wood furniture manufacturing operations as defined in 40 CFR 63.801(a) that comply with the emission limitations and other requirements of 40 CFR Part 63 Subpart JJ, provided that the terms of this exclusion shall not affect the authority of the Director under ~~Rule .0712 of this Section;~~15A NCAC 02Q .0712;

(24) wastewater treatment systems at pulp and paper mills for hydrogen sulfide and methyl mercaptan only;

(25) natural gas and propane fired external combustion sources with an aggregate allowable heat input value less than 450 million Btu per hour that are the only source of benzene at the facility;

(26) ~~emergency engines with an aggregate total horsepower less than 4843 horsepower that are the only source of formaldehyde at the facility;~~ internal combustion sources that are any of the following:

(A) emergency engines with an aggregate total horsepower less than 4843 horsepower that are the only source of formaldehyde at the facility; or

(B) stationary combustion turbines with an aggregate allowable heat input value less than 56 million Btu per hour that are the only source of formaldehyde at the facility;

(27) an air emission source that is any of the following:

(A) subject to an applicable requirement under 40 CFR Part 61, as amended;

(B) an affected source under 40 CFR Part 63, as amended; or

(C) subject to a case-by-case MACT permit requirement issued by the Division pursuant to Paragraph (j) of 42 U.S.C. Section 7412, as amended;

(28) gasoline dispensing facilities or gasoline service station operations that comply with 15A NCAC 02D .0928 and .0932 and that receive gasoline from bulk gasoline plants or bulk gasoline terminals that comply with 15A NCAC 02D .0524, .0925, .0926, .0927, .0932, and .0933 via tank trucks that comply with 15A NCAC 02D .0932;

(29) the use of ethylene oxide as a sterilant in the production and subsequent storage of medical devices or the packaging and subsequent storage of medical devices for sale if the emissions from all new

and existing sources at the facility described in 15A NCAC 02D .0538(d) are controlled to the degree described in 15A NCAC 02D .0538(d) and the facility complies with 15A NCAC 02D .0538(e) and (f);

(30) bulk gasoline plants, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 02D .0524, .0925, .0926, .0932, and .0933; unless the Director finds that a permit to emit toxic air pollutants is required under Paragraph (b) of this Rule or ~~Rule .0712 of this Section~~15A NCAC 02Q .0712 for a particular bulk gasoline plant; or

(31) bulk gasoline terminals, including the storage and handling of fuel oils, kerosenes, and jet fuels but excluding the storage and handling of other organic liquids, that comply with 15A NCAC 02D .0524, .0925, .0927, .0932, and .0933 if the bulk gasoline terminal existed before November 1, 1992, unless:

(A) the Director finds that a permit to emit toxic air pollutants is required under Paragraph (b) of this Rule or ~~Rule .0712 of this Section~~15A NCAC 02Q .0712 for a particular bulk gasoline terminal; or

(B) the owner or operator of the bulk gasoline terminal meets the requirements of 15A NCAC 02D .0927(i).

(b) Emissions from the activities identified in Subparagraphs (a)(28) through (a)(31) of this Rule shall be included in determining compliance with the toxic air pollutant requirements in this Section and shall be included in the permit if necessary to assure compliance. Emissions from the activities identified in Subparagraphs (a)(1) through (a)(27) of this Rule shall not be included in determining compliance with the toxic air pollutant requirements in this Section provided that the terms of this exclusion shall not affect the authority of the Director under ~~Rule .0712 of this Section.~~15A NCAC 02Q .0712.

(c) The addition or modification of an activity identified in Paragraph (a) of this Rule shall not cause the source or facility to be evaluated for emissions of toxic air pollutants.

(d) ~~An activity~~ A source that is exempt from being permitted under this Section ~~is~~ shall not be exempt from any applicable requirement other than those pursuant to 15A NCAC 02Q .0700 and 02D .1100. ~~or that the~~ Additionally, the owner or operator of the source ~~is~~ shall not be exempted from demonstrating compliance with any applicable ~~requirement.~~ requirement other than those exempted under 15A NCAC 02Q .0700 and 02D .1100.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 02H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2014; July 10, 2010; April 1, 2005; July 1, 2002; July 1, ~~2000.~~2000;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0703

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 8 – delete "actually"

Lines 9 and 14-15 – what does "the particular modification" mean?

Lines 9 and 10 – add "the" before "normal"

Line 13 – delete "actually"

Line 13 – add "the pollutant" before "for"

Line 19 – replace "period(s)" with "periods"

Line 19 – delete "actually"

Line 34 – delete the comma

Line 34 – replace "which" with "that"

Line 34 – replace "combusts" with "combust"

Page 2, line 1 – delete "actual"

Page 2, lines 2-3 – delete the second sentence in this Item. Perhaps it can be moved to another rule?

Page 2, line 9 – replace "under" with "pursuant to"

Page 2, lines 12, 16, 21, and 22 – replace "any" with "a"

Page 2, line 25 – revise as follows: ""Net increase in emissions" for a modification means the sum"

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 2, line 25 – replace any" with "all"

Page 2, line 29 – add "the" before "five"

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: Friday, May 25, 2018

15A NCAC 02Q .0703 is readopted as published in 32:13 NCR 1304-1305 as follows:

15A NCAC 02Q .0703 DEFINITIONS

For the purposes of this Section, the following definitions apply:

(1) "Actual rate of emissions" means:

(a) for existing sources:

(i) for toxic air pollutants with an annual averaging period, the average rate or rates at which the source actually emitted the pollutant during the two-year period preceding the date of the particular modification and that represents normal operation of the source. If this period does not represent normal operation, the Director may allow the use of a different, more representative, period.

(ii) for toxic air pollutants with a 24-hour or one-hour averaging period, the maximum actual emission rate at which the source actually emitted for the applicable averaging period during the two-year period preceding the date of the particular modification and that represents normal operation of the source. If this period does not represent normal operation, the Director may require or allow the use of a different, more representative, period.

(b) for new or modified sources, the average rate or rates, determined for the applicable averaging period(s), that the proposed source will actually emit the pollutant as determined by engineering evaluation.

(2) "Applicable averaging period" means the averaging period for which an acceptable ambient limit has been established by the Commission in ~~Rule~~ 15A NCAC 02D ~~.1104.~~ .1104, including the provisions in 15A NCAC 02D .1106(d).

(3) "Bioavailable chromate pigments" means the group of chromium (VI) compounds consisting of calcium chromate (CAS No.13765-19-0), calcium dichromate (CAS No. 14307-33-6), strontium chromate (CAS No. 7789-06-2), strontium dichromate (CAS No. 7789-06-2), zinc chromate (CAS No. 13530-65-9), and zinc dichromate (CAS No. 7789-12-0).

(4) "CAS Number" means the Chemical Abstract Service registry number identifying a particular substance.

(5) "Chromium (VI) equivalent" means the molecular weight ratio of the chromium (VI) portion of a compound to the total molecular weight of the compound multiplied by the associated compound emission rate or concentration at the facility.

(6) "Combustion sources" means boilers, space heaters, process heaters, internal combustion engines, and combustion turbines, which ~~burn only wood or unadulterated fossil fuel.~~ combusts wood, unadulterated fossil fuels, or non-hazardous secondary materials that are not solid wastes pursuant to 40 CFR Part 241. It does not include incinerators, waste combustors, kilns, dryers, or direct heat exchange industrial processes.

(7) "Creditable emissions" means actual ~~decreased emissions~~ emission decreases that have not been previously relied on to comply with Subchapter 15A NCAC 02D. All creditable emissions shall be enforceable by permit condition.

(8) "Cresol" means o-cresol, p-cresol, m-cresol, or any combination of these compounds.

(9) "Evaluation" means:

(a) a determination that the emissions from the facility, including emissions from sources exempted by ~~Rule~~15A NCAC 02Q .0702(a)(28) through ~~(31) of this Section,~~ (31), are less than the rate listed in ~~Rule .0711 of this Section;~~15A NCAC 02Q .0711; or

(b) a determination of ambient air concentrations as described under 15A NCAC 02D .1106, including emissions from sources exempted by ~~Rule~~15A NCAC 02Q .0702(a)(28) through ~~(31) of this Section.~~ (31).

(10) "GACT" means any generally available control technology emission standard applied to an area source or facility pursuant to Section 112 of the federal Clean Air Act.

(11) "Hexane isomers except n-hexane" means 2-methyl pentane, 3-methyl pentane, 2,2-dimethyl butane, 2,3-dimethyl butane, or any combination of these compounds.

(12) "MACT" means any maximum achievable control technology emission standard applied to a source or facility pursuant to Section 112 federal Clean Air Act.

(13) "Maximum feasible control" means the maximum degree of reduction for each pollutant subject to regulation under this Section using the best technology that is available taking into account, on a case-by-case basis, human health, energy, environmental, and economic impacts and other costs.

(14) "Modification" means any physical changes or changes in the methods of operation that result in a net increase in emissions or ambient concentration of any pollutant listed in ~~Rule .0711 of this Section~~ 15A NCAC 02Q .0711 or that result in the emission of any pollutant listed in ~~Rule .0711 of this Section~~ 15A NCAC 02Q .0711 not previously emitted.

(15) "Net increase in emissions" means for a modification the sum of any increases in permitted allowable and decreases in the actual rates of emissions from the proposed modification from the sources at the facility for which the air permit application is being filed. If the net increase in emissions from the proposed modification is greater than zero, all other increases in permitted allowable and decreases in the actual rates of emissions at the facility within five years immediately preceding the filing of the air permit application for the proposed modification that are otherwise creditable emissions may be included.

(16) "Nickel, soluble compounds" means the soluble nickel salts of chloride ($NiCl_2$, CAS No. 7718-54-9), sulfate ($NiSO_4$, CAS No. 7786-81-4), and nitrate ($Ni(NO_3)_2$, CAS No. 13138-45-9).

(17) "Non-specific chromium (VI) compounds" means the group of compounds consisting of any chromium (VI) compounds not specified in this Section as a bioavailable chromate pigment or a soluble chromate compound.

(18) "Polychlorinated biphenyls" means any chlorinated biphenyl compound or mixture of chlorinated biphenyl compounds.

(19) "Pollution prevention plan" means a written description of current and projected plans to reduce, prevent, or minimize the generation of pollutants by source reduction and recycling and includes a site-wide assessment of pollution prevention opportunities at a facility that addresses sources of air pollution, water pollution, and solid and hazardous waste generation.

~~(20) "SIC" means standard industrial classification code.~~

~~(21)~~(20) "Soluble chromate compounds" means the group of chromium (VI) compounds consisting of ammonium chromate (CAS No. 7788-98-9), ammonium dichromate (CAS No. 7789-09-5), chromic acid (CAS No. 7738-94-5), potassium chromate (CAS No. 7789-00-6), potassium dichromate (CAS No. 7778-50-9), sodium chromate (CAS No. 7775-11-3), and sodium dichromate (CAS No. 10588-01-9).

~~(22) "Toxic air pollutant" means any of those carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in 15A NCAC 02D .1104.~~

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 02H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2014; April 1, ~~2001.~~2001;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0704

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – replace "applies" with "shall apply"

Line 5 – add "that is" after "facility"

Lines 6-7 – replace "is required to" with "shall"

Line 7 – delete the comma

Line 8 – replace "does" with "shall"

Lines 9, 11, and 15 – replace "under" or "in" with "pursuant to"

Line 12 – replace "contained" with "set forth"

Line 12 – add "set forth" after "exemption"

Line 14 – replace "The" with "A"

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: Friday, May 25, 2018

15A NCAC 02Q .0704 is readopted as published in 32:13 NCR 1305-1306 as follows:

15A NCAC 02Q .0704 NEW FACILITIES

(a) This Rule applies only to new facilities.

(b) The owner or operator of a facility required to have a permit ~~because of applicability of~~ pursuant to 15A NCAC 02Q .0300 or .0500 and is subject to a Section in 15A NCAC 02D, other than 15A NCAC 02D .1100, ~~are~~ is required to receive a permit to emit toxic air pollutants before beginning construction, and shall comply with the permit when beginning operation. This ~~Paragraph~~ Rule does not apply to facilities whose emissions of toxic air pollutants result only from sources exempted under ~~Rule .0102 of this Subchapter.~~15A NCAC 02Q .0102.

(c) The owner or operator of the facility shall submit a permit application to comply with 15A NCAC 02D .1100 if emissions of any toxic air ~~pollutant~~ pollutant, excluding sources exempt from evaluation in 15A NCAC 02Q .0702, exceed the levels contained in ~~Rule .0711 of this Section.~~15A NCAC 02Q .0711. Sources meeting the exemption in 15A NCAC 02Q .0702(a)(27) shall be reviewed by the Division pursuant to G.S. 143-215.107(a)(5)b.

(d) The permit application filed pursuant to this Rule shall include an evaluation for all toxic air ~~pollutants listed in 15A NCAC 02D .1104.~~ pollutants. All sources at the facility, excluding sources exempt from evaluation in ~~Rule .0702 of this Section,~~15A NCAC 0702, emitting these toxic air pollutants shall be included in the evaluation.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, ~~2014.~~2014;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0706

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 5 – delete the comma

Line 11 – replace "does" with "shall"

Line 13 – replace "under" with "pursuant to"

Line 14 – replace "to comply" with "that complies"

Line 17 – replace "1106" with ".1106"

Line 20 – replace "contained" with "set forth"

Line 27 – replace "in" with "pursuant to"

Line 28 – add "set forth" after "exemption"

Line 30 – delete the comma

Line 32 – delete then"

Line 32 – delete "that"

Line 33 – replace "in this" with "of this"

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: Friday, May 25, 2018

15A NCAC 02Q .0706 is readopted as published in 32:13 NCR 1306 as follows:

15A NCAC 02Q .0706 MODIFICATIONS

(a) The owner or operator shall comply with Paragraphs (b) and (c) of this Rule for a modification ~~of any facility required to have a permit because of applicability of~~ that is subject to a Section in 15A NCAC 02D, other than 15A NCAC 02D ~~.1100.~~ .1100 and that:

(1) requires a permit pursuant to 15A NCAC 02Q .0300; or

(2) occurs at a facility with a permit pursuant to 15A NCAC 02Q .0500 and emits a pollutant that is part of the facility's previous modeling demonstration conducted pursuant to 02D .1104 and 02Q .0709, if that modification is not exempted pursuant to 15A NCAC 02Q .0702.

This ~~Paragraph~~ Rule does not apply to facilities whose emissions of toxic air pollutants result only from insignificant activities, as defined in ~~Rule .0103(20) of this Subchapter,~~15A NCAC 02Q .0103(20), or result only from sources exempted under ~~Rule .0102 of this Subchapter.~~ 15A NCAC 02Q .0102.

(b) The owner or operator of the facility shall submit a permit application to comply with 15A NCAC 02D .1100 if the modification results in:

(1) a net increase in emissions or ambient concentration as previously determined pursuant to 15A NCAC 02D 1106 and 02Q .0709 of any toxic air pollutant that the facility was emitting before the modification; or

(2) emissions of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed the levels contained in ~~Rule .0711 of this Section.~~15A NCAC 02Q .0711.

(c) The permit application filed pursuant to this Rule shall include an evaluation for all toxic air pollutants identified pursuant to Paragraph (b) of this Rule. ~~covered under 15A NCAC 02D .1104 for which there is:~~

~~(1) a net increase in emissions of any toxic air pollutant that the facility was emitting before the modification; and~~

~~(2) emission of any toxic air pollutant that the facility was not emitting before the modification if such emissions exceed the levels contained in Rule .0711 of this Section.~~

All sources at the facility, excluding sources exempt from evaluation in ~~Rule .0702 of this Section,~~15A NCAC 02Q .0702, emitting these toxic air pollutants shall be included in the evaluation. Sources meeting the exemption in 15A NCAC 02Q .0702(a)(27) shall be reviewed by the Division pursuant to G.S. 143-215.107(a)(5)b.

(d) If a source is included in an air toxic evaluation, but is not the source that is being added or modified at the facility, and if the emissions from this source must be reduced in order for the facility to comply with the rules in this Section and 15A NCAC 02D .1100, then the emissions from this source shall be reduced by the time that the new or modified source begins operating such that the facility shall be in compliance with the rules in this Section and 15A NCAC 02D .1100.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 2H .0610;

Eff. July 1, 1998;

Amended Eff. May 1, 2014; July 10, 2010; December 1, 2005; April 1, ~~2005.~~2005;

Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0707

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 – replace "Any" with "A"

Line 4 – replace "under" with "pursuant to"

Line 6 – delete "the Director determines that"

Line 9 – add "a" after "such"

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: Friday, May 25, 2018

15A NCAC 02Q .0707 is readopted as published in 32:13 NCR 1306 as follows:

15A NCAC 02Q .0707 PREVIOUSLY PERMITTED FACILITIES

Any facility with a permit that contains a restriction based on the evaluation of a source exempted under ~~Rule .0702 of this Section~~15A NCAC 02Q .0702 may request a permit modification to adjust the restriction by removing from consideration the portion of emissions resulting from the exempt source unless the Director determines that the removal of the exempt source will result in an acceptable ambient level in 15A NCAC 2D .1104 being exceeded. The Director shall modify the permit to remove the applicability of the air toxic rules to the exempt source. No fee shall be charged solely for such permit modification.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;*
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0708

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 11 – replace "according to" with "as required by"

Line 12 – add "set forth" after "level"

Line 13 – replace "under" with "by"

Line 14 – add a comma after "facility"

Line 14 – replace "comply" with "assure compliance" if that is what is meant

Line 15 – replace "according to" with "pursuant to"

Line 17 – add a comma after "progress"

Lines 18, 19, 21, 23, and 24 – replace "shall" with "will"

Lines 26, 27, 28, 29, and 31 – replace "is" with "was"

Line 32 – add a comma after "Director"

Line 33 – replace "under" with "in"

Line 33 – add a comma after "Rule"

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: Friday, May 25, 2018

15A NCAC 02Q .0708 is readopted as published in 32:13 NCR 1306-1307 as follows:

15A NCAC 02Q .0708 COMPLIANCE SCHEDULE FOR PREVIOUSLY UNKNOWN TOXIC AIR POLLUTANT EMISSIONS

(a) The owner or operator of a facility permitted to emit toxic air pollutants shall submit a permit application within six months after the owner or operator learns of an emission of a previously unknown toxic air pollutant from a ~~permitted~~ source at the facility that would have been included in the permit when it was issued. The application shall include the information required by Paragraph (b) of this Rule.

(b) When an application to revise a permit is submitted under this Rule, the owner or operator shall in addition to the application, submit to the Director:

(1) an evaluation for the pollutant according to this Section and 15 NCAC ~~2D~~02D .1100 that demonstrates compliance with the acceptable ambient level in 15A NCAC ~~2D~~02D .1104; or

(2) a compliance schedule containing the information required under Paragraph (c) of this Rule for the proposed modifications to the facility required to comply with the acceptable ambient level according to this Section and Section 15A NCAC ~~2Q~~02Q .1100.

(c) The compliance schedule required under Subparagraph (b)(2) of this Rule shall contain the following increments of progress as applicable:

(1) a date by which contracts for emission control and process equipment shall be awarded or orders shall be issued for the purchase of component parts;

(2) a date by which on-site construction or installation of the emission control and process equipment shall begin;

(3) a date by which on-site construction or installation of the emission control and process equipment shall be completed; and

(4) the date by which final compliance shall be achieved.

(d) Final compliance shall be achieved no later than:

(1) six months after the permit modification or renewal is issued if construction or installation of emission control or process equipment is not required;

(2) one year after the permit modification or renewal is issued if construction or installation of emission control or process equipment is required; or

(3) the time that is normally required to construct a stack or install other dispersion enhancement modifications but not more than one year after the permit modification or renewal is issued.

(e) The owner or operator shall certify to the Director within 10 days after each applicable deadline for each increment of progress required under Paragraph (c) of this Rule whether the required increment of progress has been met.

History Note: *Authority G.S. 143-215.3(a)(1); 43-215.107(a)(3),(5); 143B-282; S.L. 1989, c. 168, s. 45;*
Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0709

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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:

Lie 4 – replace "who" with "that"

Line 6 – delete "to the satisfaction of the Director"

Line 7 – replace "shall" with "will"

Line 9 – replace "under" with "pursuant to"

Line 12 – replace "shall" with "will"

Line 13 – add "with" before "a risk"

Line 20 – what does "too low" mean?

Lines 22-23 – replace "covered pursuant to" with "governed by"

Line 26 – replace "who" with "that"

Line 27 – delete "to the satisfaction of the Commission or its delegate"

Line 28 – replace ", as" with "because"

Line 31 – delete "to the satisfaction of the Commission or its delegate"

Line 34 – add a comma after "regional"

Line 36 – delete "to the satisfaction of the Commission or its delegate"

Page 2, lines 5-9 – begin each line with "a" or "an"

Page 2, line 9 – replace "goal" with "goals"

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, May 25, 2018

Page 2, line 11 – delete "pollution" and "pollution prevention"

Page 2, line 16 – replace "is not" with "shall not be"

Page 2, line 17 – what standards, factors, or circumstances affect whether the Commission "may" require more stringent emission levels?

Page 2, line 17 – replace "under" with "pursuant to"

Page 2, line 20 – replace "protect" with "ensure compliance with"

Page 2, line 26 – what does "negotiate" mean? What standards, factors, or circumstances affect whether a suggested schedule will be acceptable to the Director?

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: Friday, May 25, 2018

15A NCAC 02Q .0709 is readopted as published in 32:13 NCR 1307-1308 as follows:

15A NCAC 02Q .0709 DEMONSTRATIONS

(a) Demonstrations. The owner or operator of a source who is applying for a permit or permit modification to emit toxic air pollutants shall:

(1) demonstrate to the satisfaction of the Director through dispersion modeling conducted pursuant to 15A NCAC 02D .1106 that the emissions of toxic air pollutants from the facility ~~will~~ shall not cause any acceptable ambient level listed in 15A NCAC 02D .1104 to be exceeded beyond the facility's premises ~~(adjacent property boundary);~~ with such exceptions as may be allowed under 15A NCAC 2Q .0700; or

(2) demonstrate to the satisfaction of the Commission or its delegate that the ambient concentration beyond the premises (adjacent property boundary) for the subject toxic air pollutant shall not adversely affect human health (*e.g.,* a risk assessment specific to the facility) though the concentration is higher than the acceptable ambient level in 15A NCAC 02D .1104 by providing one of the following demonstrations:

(A) the area where the ambient concentrations are expected to exceed the acceptable ambient levels in 15A NCAC 02D .1104 is not inhabitable or occupied for the duration of the averaging time of the pollutant of concern; or

(B) new toxicological data that show that the acceptable ambient level in 15A NCAC 02D .1104 for the pollutant of concern is too low and the facility's ambient impact is below the level indicated by the new toxicological data.

(b) Technical Infeasibility and Economic Hardship. This Paragraph shall not apply to any incinerator covered ~~under~~ pursuant to 15A NCAC 02D .1200. The owner or operator of any source constructed before May 1, 1990, ~~or a perchloroethylene dry cleaning facility subject to a GACT standard under 40 CFR 63.320 through 63.325,~~ or a combustion source as defined in ~~Rule .0703 of this Section~~15A NCAC 02Q .0703 permitted before July 10, 2010, who cannot supply a demonstration described in Paragraph (a) of this Rule shall:

(1) demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 02D .1104 is technically infeasible, as the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 02D .1104 from being exceeded does not exist; or

(2) demonstrate to the satisfaction of the Commission or its delegate that complying with the guidelines in 15A NCAC 02D .1104 would result in serious economic hardship. In deciding if a serious economic hardship exists, the Commission or its delegate shall consider market impact; impacts on local, regional and state economy; risk of closure; capital cost of compliance; annual incremental compliance cost; and environmental and health impacts.

If the owner or operator makes a demonstration to the satisfaction of the Commission or its delegate pursuant to Subparagraphs (1) or (2) of this Paragraph, the Director shall require the owner or operator of the source to apply

maximum feasible control. Maximum feasible control shall be in place and operating within three years from the date that the permit is issued for the maximum feasible control.

(c) Pollution Prevention Plan. The owner or operator of any facility using the provisions of Part (a)(2)(A) or Paragraph (b) of this Rule shall develop and implement a pollution prevention plan consisting of the following elements:

(1) statement of corporate and facility commitment to pollution prevention;

(2) identification of current and past pollution prevention activities;

(3) timeline and strategy for implementation;

(4) description of ongoing and planned employee education efforts; and

(5) identification of internal pollution prevention goal selected by the facility and expressed in either qualitative or quantitative terms.

The facility shall submit the pollution plan along with the permit application. The pollution prevention plan shall be maintained on site. A progress report on implementation of the plan shall be prepared by the facility annually and be made available to Division personnel for review upon request.

(d) Modeling Demonstration. If the owner or operator of a facility demonstrates by modeling that no toxic air pollutant emitted from the facility exceeds the acceptable ambient level values set out in 15A NCAC 02D .1104 beyond the facility's premises, further modeling demonstration is not required with the permit application. However, the Commission may still require more stringent emission levels according to its analysis under 15A NCAC 02D .1107.

(e) Change in Acceptable Ambient Level. When an acceptable ambient level for a toxic air pollutant in 15A NCAC 02D .1104 is changed, any condition that has previously been put in a permit to protect the previous acceptable ambient level for that toxic air pollutant shall not be changed until:

(1) The permit is renewed, at which time the owner or operator of the facility shall submit an air toxic evaluation, excluding sources exempt from evaluation in ~~Rule .0702 of this Section,~~15A NCAC 02Q .0702, showing that the new acceptable ambient level will not be exceeded. If additional time is needed to bring the facility into compliance with the new acceptable ambient level, the owner or operator shall negotiate a compliance schedule with the Director. The compliance schedule shall be written into the facility's permit and final compliance shall not exceed two years from the effective date of the change in the acceptable ambient level; or

(2) The owner or operator of the facility requests that the condition be changed and submits along with that request an air toxic evaluation, excluding sources exempt from evaluation in ~~Rule .0702 of this Section,~~15A NCAC 02Q .0702, showing that the new acceptable ambient level shall not be exceeded.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2014; July 10, 2010; February 1, ~~2005.~~2005;

Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0710

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 18 – delete the first "any" and replace the second "any" with "the proposed"

Line 22 – replace "any" with "a"

Line 27 – add a comma after "inspection"

Line 30 – replace "a page" with "per page"

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: Friday, May 25, 2018

15A NCAC 02Q .0710 is readopted as published in 32:13 NCR 1308 as follows:

15A NCAC 02Q .0710 PUBLIC NOTICE AND OPPORTUNITY FOR PUBLIC HEARING

(a) If the owner or operator of a facility chooses to make a demonstration pursuant to ~~Rule .0709 (a)(2) or (b) of this Section,~~15A NCAC 02Q .0709(a)(2) or (b), the Commission or its delegate shall approve or disapprove the permit after a public notice with an opportunity for a public hearing.

(b) The public notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Division's mailing list for air quality permit notices.

(c) The public notice shall identify:

(1) the affected facility;

(2) the name and address of the permittee;

(3) the name and address of the person to whom to send comments and requests for public hearing;

(4) the name, address, and telephone number of a Divisional staff person from whom interested persons may obtain additional information, including copies of the draft permit, the application, compliance plan, pollution prevention plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to the Division that are relevant to the permit decision;

(5) the activity or activities involved in the permit action;

(6) any emissions change involved in any permit modification;

(7) a brief description of the public comment procedures;

(8) the procedures to follow to request a public hearing unless a public hearing has already been scheduled; and

(9) the time and place of any hearing that has already been scheduled.

(d) The notice shall allow at least 30 days for public comments.

(e) If the Director determines that significant public interest exists or that the public interest will be served, the Director shall require a ~~pubic~~ public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the public hearing.

(f) The Director shall make available for public inspection in at least one location in the region affected, the information submitted by the permit applicant and the ~~Division=s~~ Division's analysis of that application.

(g) Any persons requesting copies of material identified in Subparagraph ~~(b)~~(4)(c)(4) of this Rule shall pay ten cents ($0.10) a page for each page copied. Confidential material shall be handled in accordance with ~~Rule .0107 of this Subchapter.~~15A NCAC 02Q .0107.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;*
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0711

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 5 – replace "in" with "by"

Line 5 – replace "where" with "if"

Line 6 – replace "are" with "is"

Page 4, line 2 – replace "where" with "if"

Page 4, line 3 – replace "are" with "is"

Page 8, line 2 – replace "for" with "in"

Page 8, line 3 – add a comma after "(b)"

Page 8, line 3 – replace "applicable. These pollutants are:" with "applicable:"

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: Friday, May 25, 2018

15A NCAC 02Q .0711 is readopted as published in 32:13 NCR 1308-1312 as follows:

15A NCAC 02Q .0711 EMISSION RATES REQUIRING A PERMIT

(a) A permit to emit toxic air pollutants shall be required for any ~~facility~~ facility, excluding sources exempt from evaluation in 15A NCAC 02Q .0702, where one or more emission release points are obstructed or non-vertically oriented whose actual rate of emissions by pollutant from all sources are greater than any one of the following toxic air pollutant permitting emissions rates:

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetaldehyde (75-07-0)				6.8
acetic acid (64-19-7)				0.96
acrolein (107-02-8)				0.02
acrylonitrile (107-13-1)		0.4	0.22	
ammonia (7664-41-7)				0.68
aniline (62-53-3)			0.25	
arsenic and inorganic arsenic compounds	0.053			
asbestos (1332-21-4)	5.7×10^{-3}			
aziridine (151-56-4)		0.13		
benzene (71-43-2)	8.1			
benzidine and salts (92-87-5)	0.0010			
benzo(a)pyrene (50-32-8)	2.2			
benzyl chloride (100-44-7)			0.13	
beryllium (7440-41-7)	0.28			
beryllium chloride (7787-47-5)	0.28			
beryllium fluoride (7787-49-7)	0.28			
beryllium nitrate (13597-99-4)	0.28			
bioavailable chromate pigments, as chromium (VI) equivalent	0.0056			
bis-chloromethyl ether (542-88-1)	0.025			
bromine (7726-95-6)				0.052
1,3-butadiene (106-99-0)	11			
cadmium (7440-43-9)	0.37			

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
cadmium acetate (543-90-8)	0.37			
cadmium bromide (7789-42-6)	0.37			
carbon disulfide (75-15-0)		3.9		
carbon tetrachloride (56-23-5)	460			
chlorine (7782-50-5)		0.79		0.23
chlorobenzene (108-90-7)		46		
chloroform (67-66-3)	290			
chloroprene (126-99-8)		9.2	0.89	
cresol (1319-77-3)			0.56	
p-dichlorobenzene (106-46-7)				16.8
~~dichlorodifluoromethane (75-71-8)~~		~~5200~~		
~~dichlorofluoromethane (75-43-4)~~		~~10~~		
di(2-ethylhexyl)phthalate (117-81-7)		0.63		
dimethyl sulfate (77-78-1)		0.063		
1,4-dioxane (123-91-1)		12		
epichlorohydrin (106-89-8)	5600			
ethyl acetate (141-78-6)			36	
ethylenediamine (107-15-3)		6.3	0.64	
ethylene dibromide (106-93-4)	27			
ethylene dichloride (107-06-2)	260			
ethylene glycol monoethyl ether (110-80-5)		2.5	0.48	
ethylene oxide (75-21-8)	1.8			
ethyl mercaptan (75-08-1)			0.025	
fluorides		0.34	0.064	
formaldehyde (50-00-0)				0.04
hexachlorocyclopentadiene (77-47-4)		0.013	0.0025	
hexachlorodibenzo-p-dioxin (57653- 85-7)	0.0051			
n-hexane (110-54-3)		23		
hexane isomers except n-hexane				92
hydrazine (302-01-2)		0.013		
hydrogen chloride (7647-01-0)				0.18

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
hydrogen cyanide (74-90-8)		2.9	0.28	
hydrogen fluoride (7664-39-3)		0.63		0.064
hydrogen sulfide (7783-06-4)		1.7		
maleic anhydride (108-31-6)		0.25	0.025	
manganese and compounds		0.63		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.013		
manganese tetroxide (1317-35-7)		0.13		
mercury, alkyl		0.0013		
mercury, aryl and inorganic compounds		0.013		
mercury, vapor (7439-97-6)		0.013		
methyl chloroform (71-55-6)		250		64
methylene chloride (75-09-2)	1600		0.39	
methyl ethyl ketone (78-93-3)		78		22.4
methyl isobutyl ketone (108-10-1)		52		7.6
methyl mercaptan (74-93-1)			0.013	
nickel carbonyl (13463-39-3)		0.013		
nickel metal (7440-02-0)		0.13		
nickel, soluble compounds, as nickel		0.013		
nickel subsulfide (12035-72-2)	0.14			
nitric acid (7697-37-2)				0.256
nitrobenzene (98-95-3)		1.3	0.13	
n-nitrosodimethylamine (62-75-9)	3.4			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	0.0056			
pentachlorophenol (87-86-5)		0.063	0.0064	
perchloroethylene (127-18-4)	13000			
phenol (108-95-2)			0.24	
phosgene (75-44-5)		0.052		
phosphine (7803-51-2)				0.032
polychlorinated biphenyls (1336-36- 3)	5.6			

Obstructed or Non-Vertical Oriented Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
soluble chromate compounds, as chromium (VI) equivalent		0.013		
styrene (100-42-5)			2.7	
sulfuric acid (7664-93-9)		0.25	0.025	
tetrachlorodibenzo-p-dioxin (1746- 01-6)	0.00020			
~~1,1,1,2 tetrachloro 2,2, difluoroethane (76 11 9)~~		~~1100~~		
~~1,1,2,2 tetrachloro 1,2 difluoroethane (76 12 0)~~		~~1100~~		
1,1,2,2-tetrachloroethane (79-34-5)	430			
toluene (108-88-3)		98		14.4
toluene diisocyanate,2,4-(584-84-9) and 2,6-(91-08-7) isomers		0.003		
trichloroethylene (79-01-6)	4000			
~~trichlorofluoromethane (75 69 4)~~			~~140~~	
~~1,1,2 trichloro 1,2,2 trifluoroethane (76 13 1)~~				~~240~~
vinyl chloride (75-01-4)	26			
vinylidene chloride (75-35-4)		2.5		
xylene (1330-20-7)		57		16.4

(b) A permit to emit toxic air pollutants shall be required for any facility where all emission release points are unobstructed and vertically oriented whose actual rate of emissions from all sources are greater than any one of the following toxic air pollutant permitting emissions rates:

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetaldehyde (75-07-0)				28.43

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetic acid (64-19-7)				3.90
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)		1.3	1.05	
ammonia (7664-41-7)				2.84
aniline (62-53-3)			1.05	
arsenic and inorganic arsenic compounds	0.194			
asbestos (1332-21-4)	7.748×10^{-3}			
aziridine (151-56-4)		0.3		
benzene (71-43-2)	11.069			
benzidine and salts (92-87-5)	1.384×10^{-3}			
benzo(a)pyrene (50-32-8)	3.044			
benzyl chloride (100-44-7)			0.53	
beryllium (7440-41-7)	0.378			
beryllium chloride (7787-47-5)	0.378			
beryllium fluoride (7787-49-7)	0.378			
beryllium nitrate (13597-99-4)	0.378			
bioavailable chromate pigments, as chromium (VI) equivalent	0.008			
bis-chloromethyl ether (542-88-1)	0.034			
bromine (7726-95-6)				0.21
1,3-butadiene (106-99-0)	40.585			
cadmium (7440-43-9)	0.507			
cadmium acetate (543-90-8)	0.507			
cadmium bromide (7789-42-6)	0.507			
carbon disulfide (75-15-0)		7.8		
carbon tetrachloride (56-23-5)	618.006			
chlorine (7782-50-5)		1.6		0.95
chlorobenzene (108-90-7)		92.7		
chloroform (67-66-3)	396.631			
chloroprene (126-99-8)		18.5	3.69	
cresol (1319-77-3)			2.32	

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
p-dichlorobenzene (106-46-7)				69.50
~~dichlorodifluoromethane (75-71-8)~~		~~10445.4~~		
~~dichlorofluoromethane (75-43-4)~~		~~21.1~~		
di(2-ethylhexyl)phthalate (117-81-7)		1.3		
dimethyl sulfate (77-78-1)		0.1		
1,4-dioxane (123-91-1)		23.6		
epichlorohydrin (106-89-8)	7655.891			
ethyl acetate (141-78-6)			147.41	
ethylenediamine (107-15-3)		12.6	2.63	
ethylene dibromide (106-93-4)	36.896			
ethylene dichloride (107-06-2)	350.511			
ethylene glycol monoethyl ether (110-80-5)		5.1	2.00	
ethylene oxide (75-21-8)	2.490			
ethyl mercaptan (75-08-1)			0.11	
fluorides		0.7	0.26	
formaldehyde (50-00-0)				0.16
hexachlorocyclopentadiene (77-47-4)		2.5×10^{-2}	0.01	
hexachlorodibenzo-p-dioxin (57653- 85-7)	0.007			
n-hexane (110-54-3)		46.3		
hexane isomers except n-hexane				379.07
hydrazine (302-01-2)		2.5×10^{-2}		
hydrogen chloride (7647-01-0)				0.74
hydrogen cyanide (74-90-8)		5.9	1.16	
hydrogen fluoride (7664-39-3)		1.3		0.26
hydrogen sulfide (7783-06-4)		5.1		
maleic anhydride (108-31-6)		0.5	0.11	
manganese and compounds		1.3		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		2.5×10^{-2}		
manganese tetroxide (1317-35-7)		0.3		
mercury, alkyl		2.5×10^{-3}		

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
mercury, aryl and inorganic compounds		2.5×10^{-2}		
mercury, vapor (7439-97-6)		2.5×10^{-2}		
methyl chloroform (71-55-6)		505.4		257.98
methylene chloride (75-09-2)	2213.752		1.79	
methyl ethyl ketone (78-93-3)		155.8		93.19
methyl isobutyl ketone (108-10-1)		107.8		31.59
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		2.5×10^{-2}		
nickel metal (7440-02-0)		0.3		
nickel, soluble compounds, as nickel		2.5×10^{-2}		
nickel subsulfide (12035-72-2)	0.194			
nitric acid (7697-37-2)				1.05
nitrobenzene (98-95-3)		2.5	0.53	
n-nitrosodimethylamine (62-75-9)	4.612			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	0.008			
pentachlorophenol (87-86-5)		0.1	0.03	
perchloroethylene (127-18-4)	17525.534			
phenol (108-95-2)			1.00	
phosgene (75-44-5)		0.1		
phosphine (7803-51-2)				0.14
polychlorinated biphenyls (1336-36- 3)	7.656			
soluble chromate compounds, as chromium (VI) equivalent		2.6×10^{-2}		
styrene (100-42-5)			11.16	
sulfuric acid (7664-93-9)		0.5	0.11	
tetrachlorodibenzo-p-dioxin (1746- 01-6)	2.767×10^{-4}			
~~1,1,1,2 tetrachloro 2,2, difluoroethane (76 11 9)~~		~~2190.2~~		
~~1,1,2,2 tetrachloro 1,2 difluoroethane (76 12 0)~~		~~2190.2~~		

Unobstructed Toxic Air Pollutant Permitting Emission Rates (TPER)				
Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
1,1,2,2-tetrachloroethane (79-34-5)	581.110			
toluene (108-88-3)		197.96		58.97
toluene diisocyanate,2,4-(584-84-9) and 2,6-(91-08-7) isomers		8.4×10^{-3}		
trichloroethylene (79-01-6)	5442.140			
~~trichlorofluoromethane (75-69-4)~~			~~589.66~~	
~~1,1,2-trichloro-1,2,2-trifluoroethane (76-13-1)~~				~~1000.32~~
vinyl chloride (75-01-4)	35.051			
vinylidene chloride (75-35-4)		5.1		
xylene (1330-20-7)		113.7		68.44

(c) For the following pollutants, the highest emissions occurring for any 15-minute period shall be multiplied by four and the product shall be compared to the value in Paragraph (a) or (b) as applicable. These pollutants are:

(1) acetaldehyde (75-07-0);
(2) acetic acid (64-19-7);
(3) acrolein (107-02-8);
(4) ammonia (7664-41-7);
(5) bromine (7726-95-6);
(6) chlorine (7782-50-5);
(7) formaldehyde (50-00-0);
(8) hydrogen chloride (7647-01-0);
(9) hydrogen fluoride (7664-39-3); and
(10) nitric acid (7697-37-2).

History Note: *Authority G.S. 143-215.3(a)(1); 143-215-107; 143-215.108; 143B-282;*
Rule originally codified as part of 15A NCAC 02H .0610;
Eff. July 1, 1998;
Amended Eff. May 1, 2015; May 1, 2014; January 1, 2010; June 1, 2008; April 1, 2005; February 1, 2005; April 1, ~~2001.~~2001;
Readopted Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0712

DEADLINE FOR RECEIPT: Friday, June 8, 2018

***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 6 – what standards, factors, or circumstances determine whether the Director "may require" the submission of a permit application?*

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: Friday, May 25, 2018

15A NCAC 02Q .0712 is readopted as published in 32:13 NCR 1313 as follows:

15A NCAC 02Q .0712 CALLS BY THE DIRECTOR

Notwithstanding any other provision of this Section or 15A NCAC ~~2D .1104,~~ 02D .1100, upon a written finding that a source or facility emitting toxic air pollutants presents an unacceptable risk to human health based on the acceptable ambient levels in 15A NCAC ~~2D~~02D .1104 or epidemiology studies, the Director may require the owner or operator of the source or facility to submit a permit application to comply with 15A NCAC ~~2D~~02D .1100 for any or all of the toxic air pollutants emitted from the facility.

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;*
Rule originally codified as part of 15A NCAC 2H .0610;
Eff. July 1, ~~1998.~~1998;
Readopted Eff. July 1, 2018.

15A NCAC 02Q .0713 is repealed through readoption as published in 32:13 NCR 1313 as follows:

15A NCAC 02Q .0713 POLLUTANTS WITH OTHERWISE APPLICABLE FEDERAL STANDARDS OR REQUIREMENTS

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;*
Eff. July 1, ~~1998.~~1998;
Repealed Eff. July 1, 2018.