

Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Sent: Thursday, April 17, 2025 3:07 PM

To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>; Young, Elizabeth S <esyong@ncdoj.gov>

Subject: Re: April 2025 RRC Meeting

Awesome, thanks for letting us know.

Have a nice weekend too!

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

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<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Thursday, April 17, 2025 3:01 PM

To: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>

Subject: RE: April 2025 RRC Meeting

Thank you. These final rules will be placed on the agenda for a vote by the RRC next Thursday.

Have a great weekend!

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting
Attachments: 15A NCAC 02Q .0303.docx; 15A NCAC 02Q .0304.docx; 15A NCAC 02Q .0305.docx; 15A NCAC 02Q .0312.docx; 15A NCAC 02Q .0503.docx; 15A NCAC 02Q .0505.docx; 15A NCAC 02Q .0507.docx; 15A NCAC 02Q .0515.docx; 15A NCAC 02Q .0525.docx

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Thursday, April 17, 2025 2:04 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>
Subject: Re: April 2025 RRC Meeting

Hi Mr. Wiggs,

Attached are all final rules from the EMC which includes technical changes per your requests.

Thank you!

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

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1 15A NCAC 02Q .0303 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0303 DEFINITIONS**

4 For the purposes of this Section, the following definitions apply:

5 ~~(1)~~ "Complete application" means an application that contains all information required by statute,
6 regulation, and application form, consistent with ~~[is administratively complete, as defined in]~~ G.S.
7 143-213, and provides all information necessary to determine compliance with all applicable federal
8 and State requirements.

9 ~~(1)(2)~~ "Modified facility" means a modification of an existing facility or source and:

- 10 (a) the permitted facility or source is being modified in such a manner as to require a new or
11 reissued permit pursuant to this Section; or
12 (b) a new source is being added in such a manner as to require a new or reissued permit
13 pursuant to this Section.

14 A modified facility does not include a facility or source that requests to change name or ownership,
15 construction or test dates, or reporting procedures.

16 ~~(2)(3)~~ "New facility" means a facility that is receiving a permit from the Division for construction and
17 operation of an emission source that it is not currently permitted.

18 ~~(3)(4)~~ "Plans and Specifications" means the completed application and any other documents required to
19 define the operating conditions of the air pollution source.

20 ~~(4)(5)~~ "Responsible official" means one of the following:

- 21 (a) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who
22 is in charge of a principal business function; any other person who performs similar policy
23 or decision-making functions for the corporation; or a duly-authorized representative of
24 such a person if the representative is responsible for the overall operation of one or more
25 manufacturing, production, or operating facilities applying for or subject to a permit and
26 either;
27 (i) the facilities employ more than 250 persons or have gross annual sales or
28 expenditures exceeding twenty-five million dollars (\$25,000,000) (in second
29 quarter 1980 dollars); or
30 (ii) the delegation of authority to such representatives is approved in advance by the
31 permitting authority;
32 (b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
33 (c) for a municipality, State, federal, or other public agency: either a principal executive officer
34 or ranking elected official. A principal executive officer of a federal agency includes the
35 chief executive officer having responsibility for the overall operations of a principal
36 geographic unit of the agency (e.g., a Regional Administrator of EPA).

1 ~~(5)~~(6) "Title IV source" means a source that is required to be permitted pursuant to ~~15A NCAC 02Q .0400.~~
2 the rules of Section .0400 of this Subchapter.

3 ~~(6)~~(7) "Title V source" means a source that is required to be permitted pursuant to ~~15A NCAC 02Q .0500.~~
4 the rules of Section .0500 of this Subchapter.

5
6 *History Note: Authority G.S. 143-213; 143-215.3(a)(1);*
7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
8 *becomes effective, whichever is sooner;*
9 *Eff. July 1, 1994;*
10 *Readopted Eff. April 1, ~~2018~~, 2018;*
11 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
12 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
13 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
14 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

15

1 15A NCAC 02Q .0304 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0304 APPLICATIONS**

4 (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and
5 shall be filed according to 15A NCAC 02Q .0104.

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

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

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

11 (B) consists of a letter from the local government indicating that zoning or subdivision
12 ordinances are met by the facility;

13 (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and
14 proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113;

15 (3) for permit renewal, an emissions inventory that contains the information specified pursuant to 15A
16 NCAC 02D .0202 using emission inventory forms or electronic data systems provided by the
17 Division; and

18 (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if this
19 information is necessary to evaluate the source, its air pollution abatement equipment, or the facility:

20 (A) the applicant is financially qualified to carry out the permitted activities; or

21 (B) the applicant has substantially complied with the air quality and emissions standards
22 applicable to any activity in which the applicant has previously been engaged, and has been
23 in substantial compliance with federal and State environmental laws and rules.

24 (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 or .0531, applicants
25 shall file air permit applications no less than 180 days before the projected construction date. For other sources,
26 applicants shall file air permit applications no less than 90 days before the projected date of construction of a new
27 source or modification of an existing source.

28 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the
29 originally permitted source, application for permit change ~~may shall~~ be made by application to the Director as specified
30 in 15A NCAC 02Q .0104. The permit renewal, name, or ownership change application shall state that there have been
31 no changes in the permitted facility since the permit was last issued.

32 To make a name or ownership change, the applicant shall send the Director the content specified in 15A NCAC 02Q
33 .0305(3) or (4) signed by the responsible official as defined in 15A NCAC 02Q .0303.

34 (e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting
35 procedures may be made by letter to the Director as specified in 15A NCAC 02Q .0104. To make changes in
36 construction or test dates or reporting procedures, the applicant shall send the Director the letter specified in 15A
37 NCAC 02Q .0305(5) signed by the responsible official as defined in 15A NCAC 02Q .0303.

1 (f) When to file applications for permit renewal. Applicants shall file applications for renewals as specified in 15A
2 NCAC 02Q .0104 no less than 90 days before expiration of the permit. If a hard copy of the application is mailed to
3 the Director, the application shall be postmarked no later than 90 days before expiration of the permit.

4 (g) Name or ownership change. The permittee shall file requests for permit name or ownership changes when the
5 permittee is aware of the name or ownership change.

6 (h) Requesting additional information. Whenever the information provided on the permit application forms does not
7 adequately describe the source or its air cleaning device, the Director may request that the applicant provide other
8 information to evaluate the source or its air cleaning device. Before acting on a permit application, the Director may
9 request information from an applicant and conduct an inquiry or investigation to determine compliance with standards.

10 (i) Application fee. With the exceptions specified in 15A NCAC 02Q ~~.0203(i), .0203(l)~~, a non-refundable permit
11 application processing fee shall accompany the application. The permit application processing fees are listed in 15A
12 NCAC 02Q ~~.0203, .0200~~. ~~A permit application shall be incomplete until the permit application processing fee is~~
13 ~~received.~~

14 (j) Correcting submittals of incorrect information. An applicant shall have a continuing obligation to submit relevant
15 facts pertaining to his or her permit application and to correct incorrect information in his or her permit application.

16 (k) Retaining copy of permit application package. The applicant shall retain during the permit term one complete
17 copy of the application package and the information submitted in support of the application package.

18
19 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
20 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is*
21 *effective, whichever is sooner;*
22 *Eff. July 1, 1994;*
23 *Amended Eff. September 1, 2015; January 1, 2009; December 1, 2005; July 1, 1999;*
24 *Readopted Eff. April 1, 2018;*
25 *Amended Eff. September 1, 2023.*
26 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
27 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
28 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
29 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

1 15A NCAC 02Q .0305 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0305 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit the following information with the application package, the application package shall
5 be considered incomplete ~~for processing~~; and not accepted by the Division for processing:

- 6 (1) for new facilities and modified facilities:
- 7 (a) an application fee required pursuant to 15A NCAC 02Q ~~.0200~~; .0203;
 - 8 (b) a zoning consistency determination required pursuant ~~to 15A to 15A~~ NCAC 02Q
9 .0304(b)(1);
 - 10 (c) the documentation required pursuant to 15A NCAC 02Q ~~.0304(b)(2)~~ .0304(b)(2), if
11 required;
 - 12 (d) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q
13 .0507(d)(3), if required; and
 - 14 (e) ~~applications~~ application forms required ~~[and submitted]~~ pursuant to 15A NCAC 02Q
15 .0304(a) and signed by the responsible official;
- 16 (2) for renewals: the application required pursuant to 15A NCAC 02Q .0304(a) and (d), signed by the
17 responsible official, and an emissions inventory that contains the information specified pursuant to
18 15A NCAC 02D .0202, Registration of Air Pollution Sources;
- 19 (3) for a name change: a letter signed by the responsible official indicating the current facility name,
20 the date on which the name change will occur, and the new facility name;
- 21 (4) for an ownership change: an application fee required pursuant to 15A NCAC 02Q ~~.0200~~ .0203 and:
- 22 (a) a letter signed by the seller and the buyer, indicating the change;
 - 23 (b) a letter bearing the signature of both the seller and buyer, containing a written agreement
24 with a specific date for the transfer of permit responsibility, coverage, and liability between
25 the current and new permittee; or
 - 26 (c) submit the form provided by the Division pursuant to 15A NCAC 02Q .0104; and
- 27 (5) for corrections of typographical errors; changes in name, address, or telephone number of the
28 individual identified in the permit; changes in test dates or construction dates; or similar minor
29 changes: a letter signed by the responsible official describing the proposed change and explaining
30 the need for the proposed change.

31
32 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
33 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
34 *becomes effective, whichever is sooner;*
35 *Eff. July 1, 1994;*
36 *Amended Eff. December 1, 2005; April 1, 2004;*
37 *Readopted Eff. April 1, 2018;*

1 Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the
2 Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental
3 Protection Agency has approved the amended rule into the North Carolina State Implementation
4 Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.);
5 September 1, 2023.
6

1 15A NCAC 02Q .0312 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0312 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the ~~following schedule~~ review timelines and procedures of this Paragraph for
5 processing applications for ~~permits, permit modifications, permits and permit renewals~~ renewals; submitted pursuant
6 to this Section. The review timelines and procedures of this Paragraph shall ~~only~~ apply to applications for permit
7 modifications only as specified in Paragraph (b) of this Rule.

8 (1) ~~for~~ For permit applications, except for applications that do not require review for prevention of
9 significant deterioration pursuant to 15A NCAC 02D .0530 ~~and or~~ case-by-case maximum
10 achievable control technology pursuant to 15A NCAC 02D .1109 or ~~1112~~ .1112, the Division shall
11 follow the procedures of Parts (a)(1)(A) through (F)(E) of this Rule.

12 (A) Within 10 days of receiving an application, the ~~The~~ Division shall send the applicant
13 written acknowledgment of receipt of the permit application ~~application. The~~
14 acknowledgement letter shall also state whether the application is accepted for processing.
15 Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall
16 be accepted for processing. If the application does not contain the minimum processing
17 elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant
18 within 10 days of receipt of the application, that the application is not accepted for
19 processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing
20 from the application package.

21 (B) For applications accepted for processing by the Division pursuant to Part (a)(1)(A) of this
22 Rule, the ~~The~~ Division shall review all permit applications within 45 days of receipt of the
23 application to determine whether the application if it is a complete application, or
24 incomplete for processing purposes. Within 45 days of receiving the application, The the
25 Division shall notify the applicant in writing that:

- 26 (i) the application as submitted is ~~complete and complete,~~ specifying the
27 completeness ~~date, date;~~
- 28 (ii) the application is incomplete, requesting additional information necessary to
29 make the application complete, and specifying the deadline date by which the
30 requested information is to shall be received by the Division, Division to deem
31 the application complete; or
- 32 (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and
33 resubmit the application.

34 If the Division does not notify the applicant in writing within 45 days of receipt of ~~the~~ an
35 accepted application that the application is incomplete, the application shall be deemed
36 complete. A completeness determination shall not prevent the Director from requesting
37 additional information ~~at a later date~~ later in the review process if such information is

1 necessary to properly evaluate the source, its air pollution abatement equipment, or the
2 facility. If the applicant has not provided the requested additional information by the date
3 specified in a written request for additional ~~information~~, information pursuant to Subpart
4 (ii) of this Part, the Director shall cease processing the application until additional
5 information is provided. The applicant may request a time extension for submittal of the
6 requested additional information.

7 ~~(C)~~ ~~The Division shall determine within 45 days of receipt of a complete application if any~~
8 ~~additional information is needed to conduct the technical review of the application. A~~
9 ~~technical completeness determination shall not prevent the Director from requesting~~
10 ~~additional information at a later date if such information is necessary to properly evaluate~~
11 ~~the source, its air pollution abatement equipment, or the facility. The Division shall~~
12 ~~complete the technical review within 90 days of receipt of a complete application or 10~~
13 ~~days after receipt of requested additional information, whichever is later.~~

14 ~~(D)~~(C) If the draft permit is not required to go to public notice or to public hearing, the Director
15 shall issue or deny the permit within 90 days of receipt of a complete application or 10
16 days after receipt of requested additional information, whichever is later.

17 ~~(E)~~(D) If the draft permit is required to go to public notice with a an request for opportunity to
18 request a for public hearing pursuant to 15A NCAC 02Q .0306(a), the Director shall:

- 19 (i) ~~send~~publish the draft permit ~~to~~ for public notice within 90 days after receipt of a
20 complete application; and
21 (ii) complete the review of the record and take final action on the permit within 30
22 days after the close of the public comment period.

23 ~~(F)~~(E) If the draft permit is required to go to public hearing as a result of a request for public
24 hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- 25 (i) send the draft permit to public hearing within 45 days after approving the request
26 for the public hearing; and
27 (ii) complete the review of the record and take final action on the permit within 30
28 days after the close of the public hearing.

29 (2) ~~for~~For permit applications for prevention of significant deterioration pursuant to 15A NCAC 02D
30 .0530, the ~~processing schedules~~ review timelines and procedures are set out in that Rule.

31 (3) ~~for~~For permit applications for case-by-case maximum achievable control technology pursuant to
32 15A NCAC 02D .1109 or .1112 that are not permit modification applications, the ~~processing~~
33 ~~schedules~~ review timelines and procedures of Parts (A) through ~~(E)~~(D) of this Subparagraph shall
34 apply.

35 (A) Within 10 days of receiving an ~~application~~ application, the ~~The~~ Division shall send the
36 applicant written acknowledgment of receipt of the permit ~~application~~ application. The
37 acknowledgement letter shall also state whether the application is accepted for processing.

1 Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall
2 be accepted for processing. If the application does not contain the minimum processing
3 elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant
4 within 10 days of receipt of the application, that the application has not been accepted for
5 processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing
6 from the application package.

7 (B) For applications accepted by the Division pursuant to Part (A) of this Subparagraph, the
8 The Division shall review all permit applications within 45 days of receipt of the
9 application to determine whether the application, if it is a complete application, or
10 incomplete for processing purposes. The Within 45 days of receiving the application, the
11 Division shall notify the applicant in writing that:

- 12 (i) the application as submitted is ~~complete and complete~~, specifying the
13 completeness ~~date, date~~;
14 (ii) the application is incomplete, requesting additional information necessary to
15 make the application complete, and specifying the ~~deadline~~ date by which the
16 requested information ~~is to shall~~ be received by the ~~Division, Division to~~
17 determine the application as complete; or
18 (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and
19 resubmit the application.

20 If the Division does not notify the applicant in writing within 45 days of receipt of ~~the an~~
21 accepted application that the application is incomplete, the application shall be deemed
22 complete. A completeness determination shall not prevent the Director from requesting
23 additional information ~~at a later date~~ later in the review process if such information is
24 necessary to properly evaluate the source, its air pollution abatement equipment, or the
25 facility. If the applicant has not provided the requested additional information by the date
26 specified in the letter requesting additional ~~information, information pursuant to Subpart~~
27 (ii) of this Part, the Director shall cease processing the application until additional
28 information is provided. The applicant may request a time extension for submittal of the
29 requested additional information.

30 ~~(C)~~ The Division shall determine within 60 days of receipt of a complete application if any
31 additional information is needed to conduct the technical review of the application. A
32 technical completeness determination shall not prevent the Director from requesting
33 additional information at a later date if such information is necessary to properly evaluate
34 the source, its air pollution abatement equipment, or the facility. The Division shall
35 complete the technical review within 120 days of receipt of a complete application or 10
36 days after receipt of requested additional information, whichever is later.

37 ~~(D)~~(C) The Director shall:

- 1 (i) ~~send~~ publish the draft permit ~~to~~ for public notice within 120 days after receipt of
2 a complete application or 10 days after receipt of requested additional
3 information, whichever is later; and
4 (ii) complete the review of the record and take final action on the permit within 30
5 days after the close of the public comment period.

6 ~~(E)(D)~~ If the draft permit is required to go to public hearing as a result of a request for public
7 hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- 8 (i) send the draft permit to public hearing within 45 days after approving the request
9 for the public hearing; and
10 (ii) complete the review of the record and take final action on the permit within 30
11 days after the close of the public hearing.

12 The days that fall between sending out a written notification requesting additional information and receiving that
13 additional information shall not be counted in the ~~schedules~~ review timelines and procedures pursuant to this
14 Paragraph.

15 ~~(b) The days that fall between sending out a written notification requesting additional information and receiving that~~
16 ~~additional information shall not be counted in the schedules pursuant to Paragraph (a) of this Rule.~~

17 (b) For permit modification applications reviewed pursuant to this Section, the Division shall adhere to the processing
18 review timelines and procedures ~~schedule~~ of this Paragraph.

19 (1) The Division shall send written acknowledgement of receipt and acceptance or non-acceptance of
20 permit modification applications using the procedures and timelines Part (a)(1)(A) or (a)(3)(A) of
21 this Rule, as applicable.

22 (2) For permit modification applications that are accepted for processing by the Division pursuant to
23 Subparagraph (1) of this Paragraph, the Division shall notify the applicant of the completeness
24 determination of the application using the procedures and timelines of Part (a)(1)(B) or (a)(3)(B) of
25 this Rule, as applicable.

26 (3) Within 90 calendar days of the application completeness date pursuant to Subparagraph (2) of this
27 Paragraph, the Director shall take one of the following actions:

28 (A) If the draft permit is not required to go to public notice or to public hearing, the Director
29 shall issue or deny the permit.

30 (B) If the draft permit is required to go to public notice with an opportunity to request a public
31 hearing pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall publish the draft
32 permit for public notice within 90 calendar days of receipt of a complete application, and
33 shall complete the review of the record and take final action on the permit within the
34 timeline specified in Subpart (a)(1)(D)(ii) or (a)(3)(C)(ii) of this Rule, as applicable.

35 (4) If the draft permit is required to go to public hearing as a result of a request for public hearing
36 pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall follow the procedures and timelines
37 of Part (a)(1)(E) or (a)(3)(D) of this Rule, as applicable.

1 (c) The Director shall cease processing an application that contains insufficient information to complete the review.

2
3 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

4 *Eff. February 1, 1995;*

5 *Amended Eff. July 1, 1998;*

6 *Readopted Eff. April 1, ~~2018~~-2018;*

7 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

8 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

9 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

10 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

11

1 15A NCAC 02Q .0503 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0503 DEFINITIONS**

4 For the purposes of this Section, the definitions in G.S. 143-212, G.S. 143-213, 15A NCAC 02Q .0103, and the
5 following definitions apply:

- 6 (1) "Affected States" means all states or local air pollution control agencies whose areas of jurisdiction
7 are:
- 8 (a) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
 - 9 (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per
10 year, and
 - 11 (ii) D = distance from the facility to the contiguous state or local air pollution control
12 agency in ~~miles~~ miles, unless the applicant can demonstrate that the ambient
13 impact in the contiguous states or local air pollution control agencies is less than
14 the incremental ambient levels in 15A NCAC 02D-~~0532(e)(5)~~; .0532(c)(4); or
 - 15 (b) within 50 miles of the permitted facility.
- 16 (2) "Complete application" means an application that contains all information required by statute,
17 regulation, and application form, consistent with~~is administratively complete, as defined in~~ G.S.
18 143-213, and provides all information described in 40 CFR 70.5(c) and such other information that
19 is necessary to determine compliance with all applicable federal and State requirements.
- 20 (3) "Draft permit" means the version of a permit that the Division offers for public participation
21 pursuant to 15A NCAC 02Q .0521 or affected state review pursuant to 15A NCAC 02Q .0522.
- 22 (4) "Emissions allowable under the permit" means an emissions limit, including a work practice
23 standard, established by a federally enforceable permit term or condition, or a federally enforceable
24 emissions cap that the facility has assumed to avoid an applicable requirement to which the facility
25 would otherwise be subject.
- 26 (5) "Final permit" means the version of a permit that the Director issues that has completed all review
27 procedures required pursuant to this Section if the permittee does not file a petition pursuant to
28 Article 3 of G.S. 150B that is related to the permit.
- 29 (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack,
30 chimney, vent, or other functionally-equivalent opening.
- 31 (7) "Insignificant activities because of category" means:
- 32 (a) mobile sources;
 - 33 (b) air-conditioning units used for human comfort that are not subject to applicable
34 requirements pursuant to Title VI of the federal Clean Air Act and do not exhaust air
35 pollutants into the ambient air from any manufacturing or other industrial process;
 - 36 (c) ventilating units used for human comfort that do not exhaust air pollutants into the ambient
37 air from any manufacturing or other industrial process;

- 1 (d) heating units used for human comfort that have a heat input of less than 10,000,000 Btu
2 per hour and that do not provide heat for any manufacturing or other industrial process;
- 3 (e) noncommercial food preparation;
- 4 (f) consumer use of office equipment and products;
- 5 (g) janitorial services and consumer use of janitorial products;
- 6 (h) internal combustion engines used for landscaping purposes;
- 7 (i) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
- 8 (j) demolition and renovation activities covered solely pursuant to 40 CFR Part 61, Subpart
9 M.
- 10 (8) "Insignificant activities because of size or production rate" means any activity whose emissions
11 would not violate any applicable emissions standard and whose potential emission of particulate,
12 sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon ~~monoxide monoxide,~~
13 before air pollution control ~~devices, devices~~ are each no more than five tons per ~~year year,~~ and
14 whose potential emissions of hazardous air pollutants before air pollution control ~~devices, devices~~
15 are each below 1000 pounds per year.
- 16 (9) "Minor facility" means any facility that is not a major facility.
- 17 (10) "Operation" means the use of equipment that emits regulated pollutants.
- 18 (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- 19 (12) "Permit revision" means any permit modification pursuant to 15A NCAC 02Q .0515, .0516, or .0517
20 or any administrative permit amendment pursuant to 15A NCAC 02Q .0514.
- 21 (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to
22 EPA for review pursuant to 15A NCAC 02Q .0522.
- 23 (14) "Responsible official" means a responsible official as defined in 40 CFR 70.2.
- 24 (15) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition.
25 Such changes shall not include changes that would violate applicable requirements or contravene
26 federally enforceable permit terms and conditions that are monitoring, including test methods,
27 recordkeeping, reporting, or compliance certification requirements.
- 28 (16) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures
29 of this Section except that the potential to emit is restricted by one or more federally enforceable
30 physical or operational limitations, including air pollution control equipment and restrictions on
31 hours or operation, the type or amount of material combusted, stored, or processed, or similar
32 parameters.
- 33 (17) "Timely" means:
- 34 (a) for a new facility or newly subject facility, 12 months from the date that the facility or
35 source becomes subject to the Title V operating permit program pursuant to ~~15A NCAC~~
36 ~~02Q .0500;~~ the rules of Section .0500 of this Subchapter;

- 1 (b) for renewal of a permit previously issued pursuant to this Section, six months before the
2 expiration of that permit;
- 3 (c) for a minor modification pursuant to 15A NCAC 02Q .0515, before commencing the
4 modification;
- 5 (d) for a significant modification pursuant to 15A NCAC 02Q .0516 where the change would
6 not contravene or conflict with a condition in the existing permit, 12 months after
7 commencing operation;
- 8 (e) for reopening for cause pursuant to 15A NCAC 02Q .0517, as specified by the Director in
9 a request for additional information by the Director;
- 10 (f) for requests for additional information, as specified by the Director in a request for
11 additional information by the Director; or
- 12 (g) for modifications made pursuant to Section 112(j) of the federal Clean Air Act, 18 months
13 after EPA fails to promulgate a standard for that category of source pursuant to Section
14 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or
15 (3) of the federal Clean Air Act.

16
17 *History Note:* Authority G.S. 143-212; 143-213; 143-215.3(a)(1);
18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*
20 *Eff. July 1, 1994;*
21 *Amended Eff. July 1, 1996;*
22 *Temporary Amendment Eff. December 1, 1999;*
23 *Amended Eff. January 1, 2007; July 1, 2000;*
24 *Readopted Eff. April 1, 2018;*
25 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
26 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
27 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
28 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.);*
29 *September 1, 2022.*

1 15A NCAC 02Q .0505 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0505 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit the following information with its application package, the application package shall
5 not be accepted by the Division for processing: returned:

- 6 (1) for new facilities and modified facilities:
- 7 (a) an application fee as required pursuant to 15A NCAC 02Q ~~.0200;~~ .0203;
 - 8 (b) a consistency determination as required pursuant to 15A NCAC 02Q ~~.0507(d)(1);~~
9 .0507(d)(1) or the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);
 - 10 ~~(c) — the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);~~
 - 11 ~~(d)(c)~~ (c) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q
12 .0507(d)(3) if required; and
 - 13 ~~(e)(d)~~ (d) applications submitted as required pursuant to 15A NCAC 02Q .0507(a), signed and
14 certified as required by 15A NCAC 02Q .0520;
- 15 (2) for renewals: applications ~~as required pursuant to 15A NCAC 02Q .0507(a);~~ signed and certified as
16 required by 15A NCAC 02Q .0520;
- 17 (3) for a name change: a letter signed and certified by a responsible official in accordance with 15A
18 NCAC 02Q .0520 indicating the current facility name, the date on which the name change will
19 occur, and the new facility name;
- 20 (4) for an ownership change: an application fee as required pursuant to 15A NCAC 02Q ~~.0200;~~ .0203;
21 and a ~~letter letter~~ bearing the signature of both the seller and ~~buyer buyer, and~~ containing a written
22 agreement with a specific date for the transfer of permit responsibility, coverage, and liability
23 between the current and new permittee; and
- 24 (5) for corrections of typographical errors; changes of the name, address, or telephone number of an
25 individual identified in the permit; changes in test dates or construction dates; or similar ~~minor~~
26 ~~changes;~~ administrative changes pursuant to 15A NCAC 02Q .0514; a letter signed and certified by
27 a responsible official in accordance with 15A NCAC 02Q .0520 describing the proposed ~~change~~
28 changes and explaining the need for the proposed ~~change.~~ changes.

29
30 *History Note: Authority G.S. 143-215.3(a)(1),(1a); 143-215.107(a)(10); 143-215.108;*
31 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
32 *becomes effective, whichever is sooner;*
33 *Eff. July 1, 1994;*
34 *Amended Eff. April 1, 2004;*
35 *Readopted Eff. April 1, 2018;*
36 *Amended Eff. September 1, 2023; September 1, 2022.*

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Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental Protection Agency has approved the amended rule into the North Carolina State Implementation Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)

1 15A NCAC 02Q .0507 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0507 APPLICATION**

4 (a) Except for:

- 5 (1) minor permit modifications covered pursuant to 15A NCAC 02Q .0515;
- 6 (2) significant modifications covered pursuant to 15A NCAC 02Q .0516(c); or
- 7 (3) renewals submitted pursuant to 15A NCAC 02Q .0513;

8 the owner or operator of a new or existing source shall have 12 months after the facility or source becomes subject to
9 the Title V operating permit program pursuant to ~~15A NCAC 02Q .0500~~ the rules of Section .0500 of this Subchapter
10 to file a complete application for a permit or permit revision. However, the owner or operator of a source shall not
11 begin construction or operation of a source until he or she has obtained a construction and operation permit pursuant
12 to 15A NCAC 02Q .0501(b) or (c) and 15A NCAC 02Q .0504.

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

19 (c) Application for a permit, permit revision, or permit renewal shall be made in accordance with 15A NCAC 02Q
20 .0104 on forms of the Division and shall include plans and specifications with complete data and information as
21 required by this Rule. If the information provided on these forms does not describe the source or its air pollution
22 abatement equipment to the extent necessary to evaluate the application, the Director shall request that the applicant
23 provide other information necessary to evaluate the source and its air pollution abatement equipment.

24 (d) ~~Along with filing a complete application, the applicant shall also file the following:~~ The application shall contain
25 a zoning consistency determination, financial qualification demonstration, and substantial compliance statement as
26 specified in Subparagraphs (1) through (3) of this Paragraph.

27 (1) for a new facility or an expansion of existing facility, a consistency determination in accordance
28 with G.S. 143-215.108(f) that:

- 29 (A) bears the date of receipt entered by the clerk of the local government; or
- 30 (B) consists of a letter from the local government indicating that zoning or subdivision
31 ordinances are met by the facility;

32 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and
33 proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113; and

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

- 35 (A) the applicant is financially qualified to carry out the permitted activities; or
- 36 (B) the applicant has substantially complied with the air quality and emissions standards
37 applicable to any activity in which the applicant has previously been engaged and has been
38 in substantial compliance with federal and State environmental laws and rules.

1 (e) An applicant who fails to submit relevant facts or submits incorrect information in a permit application shall, upon
2 becoming aware of the failure or incorrect submittal, submit supplementary facts or corrected information to resolve
3 the deficiency. In addition, an applicant shall provide additional information to address requirements to which the
4 source becomes subject after the date the applicant filed a complete application but prior to release of a draft permit.

5 (f) The submittal of a complete permit application shall not affect the requirement that a facility have a permit pursuant
6 to 15A NCAC 02D .0530, .0531, or .0532 or pursuant to ~~the rules of Section .0400 of this Subchapter.~~ 15A NCAC
7 02Q .0400.

8 (g) The Director shall give priority to permit applications containing early reduction demonstrations pursuant to
9 Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on these permit applications after
10 receipt of the complete permit application.

11 (h) Except as specified in 15A NCAC 02Q ~~.0203(i), .0203(l),~~ a non-refundable permit application processing ~~fee,~~
12 ~~defined in 15A NCAC 02Q .0200,~~ fee as required by the Rules of Section .0200 of this Subchapter shall accompany
13 the application. ~~The permit application shall be deemed incomplete until the permit application processing fee is~~
14 ~~received.~~

15 (i) The applicant shall retain during the permit term one complete copy of the application package and the information
16 submitted in support of the application package.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
19 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
20 *becomes effective, whichever is sooner;*
21 *Eff. July 1, 1994;*
22 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*
23 *Temporary Amendment Eff. December 1, 1999;*
24 *Amended Eff. September 1, 2015; April 1, 2004; July 1, 2000;*
25 *Readopted Eff. April 1, 2018;*
26 *Amended Eff. ~~[Month DD, YYYY;]~~ September 1, 2023; September 1, 2022.*
27 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
28 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
29 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
30 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

1 15A NCAC 02Q .0515 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0515 MINOR PERMIT MODIFICATIONS**

4 (a) The procedures set out in this Rule shall apply to permit modifications if the modifications:

- 5 (1) do not violate any applicable requirement;
- 6 (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements
7 in the permit;
- 8 (3) do not require or change a case-by-case determination of an emission limitation or other standard, a
9 source-specific determination for temporary sources of ambient impacts, or a visibility or increment
10 analysis;
- 11 (4) do not seek to establish or change a permit term or condition for which there is no corresponding
12 underlying applicable requirement and that the facility has assumed to avoid an applicable
13 requirement to which the facility would otherwise be subject. Such terms and conditions include:
 - 14 (A) a federally enforceable emissions cap assumed to avoid an applicable requirement pursuant
15 to any provision of Title I of the federal Clean Air Act; or
 - 16 (B) an alternative emissions limit approved as part of an early reduction plan submitted
17 pursuant to Section 112(i)(5) of the federal Clean Air Act;
- 18 (5) are not modifications pursuant to any provision of Title I of the federal Clean Air Act; and
- 19 (6) are not required to be processed as a significant modification pursuant to 15A NCAC 02Q .0516.

20 (b) In addition to the items required pursuant to 15A NCAC 02Q .0505, an application requesting the use of the
21 procedures set out in this Rule shall include:

- 22 (1) an application form including:
 - 23 (A) a description of the change;
 - 24 (B) the emissions resulting from the change; and
 - 25 (C) identification of any new applicable requirements that will apply if the change occurs;
- 26 (2) a list of the facility's other pending applications awaiting group processing and a determination of
27 whether the requested modification, aggregated with these other applications, equals or exceeds the
28 thresholds set out in Subparagraphs (c)(1) through (3) of this Rule;
- 29 (3) the applicant's suggested draft permit;
- 30 (4) certification by a responsible official that the proposed modification meets the criteria for using the
31 procedures set out in this Rule and a request that these procedures be used; and
- 32 (5) complete information for the Director to use to notify the EPA and affected states.

33 (c) The Director ~~shall~~ may use group processing for minor permit modifications processed pursuant to this Rule. The
34 Director shall notify the EPA and affected states of the requested permit revisions pursuant to this Rule and shall
35 provide the information specified in 15A NCAC 02Q .0522 on a quarterly basis. If the aggregated emissions from all
36 pending minor permit modifications equal or exceed:

- 37 (1) 10 percent of the emissions allowed for the source for which the change is requested;

1 (2) 20 percent of the applicable definition of major facility; or

2 (3) five tons per year,

3 then the Director shall notify ~~the~~ EPA and affected states within five business days of the requested permit revision
4 pursuant to this Rule and provide the information specified in 15A NCAC 02Q .0522.

5 (d) Within 90 calendar days ~~after of receiving a complete an application for a minor permit modification that is~~
6 accepted by the Division for processing, that exceeds the thresholds in Subparagraphs (c)(1), (2), or (3) of this Rule
7 or 15 days after the end of EPA's 45 day review period, whichever is later, the Director shall: shall take one of the
8 following actions:

9 (1) issue the permit modification ~~as proposed; and transmit the proposed permit to the~~ EPA for a review
10 period of 45 days. The effective date of the modified permit shall be 60 days after the issuance date
11 unless the EPA objects in writing to the modified permit as proposed, in which case the procedures
12 of Paragraph (e) of this Rule shall apply;

13 (2) deny the permit modification application; or

14 (3) determine that the requested modification does not qualify for the procedures set out in this Rule
15 and should be processed pursuant to 15A NCAC 02Q ~~.0516; or~~ .0516.

16 (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

17 (e) If the EPA objects in writing to the issuance of a permit modification within its 45-day review period pursuant to
18 Subparagraph (d)(1) of this Rule, the Director shall notify the permittee of the EPA's objection. Within 15 days of the
19 objection, the Division shall revise the draft permit modification and transmit to the EPA a revised proposed permit
20 in response to the EPA's objections. The revised permit modification shall be issued and effective upon~~conurrence~~
21 with approval by the EPA.

22 (e) ~~If the thresholds in Subparagraphs (c)(1), (2), and (3) of this Rule are not exceeded, the Director shall, within 180~~
23 ~~days after receiving a completed application for a permit modification or 15 days after the end of EPA's 45 day review~~
24 ~~period, whichever is later:~~

25 (1) ~~issue the permit modification as proposed;~~

26 (2) ~~deny the permit modification application;~~

27 (3) ~~determine that the requested modification does not qualify for the procedures set out in this Rule~~
28 ~~and should be processed pursuant to 15A NCAC 02Q .0516; or~~

29 (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

30 (f) The permit applicant may make the change proposed in ~~his a~~ minor permit modification application immediately
31 after filing ~~the completed an~~ application ~~with that is accepted by~~ the Division. After the applicant makes the change,
32 the facility shall comply with both the applicable requirements governing the change and the proposed permit terms
33 and conditions until the Director takes one of the final actions specified in ~~Paragraph~~ Paragraphs (d) or (e) of this
34 Rule. Between the filing of the permit modification application and the Director's final action, the facility need not
35 comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with
36 its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions
37 of the existing permit that the applicant seeks to modify, as necessary to ensure protection of air quality.

- 1 (g) The permit shield allowed pursuant to 15A NCAC 02Q .0512 shall not extend to minor permit modifications.
- 2 (h) If the only revised provisions are in the State-enforceable only portion of the permit,~~permit is revised,~~ the
- 3 procedures in ~~15A NCAC 02Q.0300~~ the rules of Section .0300 of this Subchapter shall be followed.
- 4 (i) The proceedings shall affect only those parts of the permit related to the modification.

5

6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*

8 *becomes effective, whichever is sooner;*

9 *Eff. July 1, 1994;*

10 *Amended Eff. July 1, 1997;*

11 *Readopted Eff. April 1, 2018.*

12 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

13 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

14 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

15 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

16

1 15A NCAC 02Q .0525 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0525 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the following schedule in processing permit applications:

5 (1) Within 10 calendar days of receiving an application, the ~~The~~ Division shall send the applicant
6 written acknowledgment of receipt of an application to the applicant within 10 days of receipt of the
7 application, that the application was received. The acknowledgement letter shall also state whether
8 the application was accepted for processing pursuant to Part (A) of this Subparagraph, or the
9 application is not accepted for processing pursuant to Part (B) of this Subparagraph.

10 (A) For an application that contains the minimum processing elements of 15A NCAC 02Q
11 .0505 and .0507, the acknowledgement letter shall state that the application is accepted by
12 the Division for processing; and

13 (B) For an application that does not contain the minimum processing elements of 15A NCAC
14 02Q .0505 and .0507, the acknowledgement letter shall state that the application is not
15 accepted for processing, indicate the application elements of 15A NCAC 02Q .0505 or
16 .0507 that are missing from the application package, and request that the applicant resubmit
17 the application package.

18 (2) For applications accepted by the Division pursuant to Part (a)(1)(A) of this Rule, the ~~The~~ Division
19 shall review all the permit application applications within 60 calendar days of receipt of the
20 application to determine whether the application is complete or incomplete. ~~A completeness~~
21 ~~determination shall not be necessary for minor modifications pursuant to 15A NCAC 02Q .0515.~~
22 The Division shall notify the applicant ~~by letter;~~ in writing that:

23 ~~(a)(A) stating that the application as submitted is complete and complete,~~ specifying the
24 completeness date;

25 ~~(b)(B) stating that the application is incomplete, requesting additional information necessary to~~
26 make the application complete, conduct the technical review of the application; and
27 specifying the date by which the requested information is required to shall be received by
28 the Division; Division; or

29 ~~(c)(C) stating that the application is incomplete and incomplete,~~ requesting that the applicant
30 rewrite and resubmit the application.

31 If the Division does not notify the applicant by letter dated within 60 calendar days of receipt of the
32 application that the application is incomplete, the application shall be deemed complete. ~~A~~
33 ~~completeness determination shall not prevent the Director from requesting additional information~~
34 ~~at a later date if such information is necessary to properly evaluate the source, its air pollution~~
35 ~~abatement equipment, or the facility. If the applicant has not provided the requested additional~~
36 ~~information by the date specified in the letter requesting additional information, the Director shall~~

1 ~~cease processing the application until additional information is provided. The applicant may request~~
2 ~~a time extension for submittal of the requested additional information.~~

3 ~~(3) A completeness determination [shall not be necessary for, and the completeness determination~~
4 ~~provisions]specified in Subparagraph (a)(2) of this Rule shall not apply to minor modifications~~
5 ~~submitted pursuant to 15A NCAC 02Q .0515.~~

6 ~~(4) For all permit application types, a completeness determination shall not prevent the Director from~~
7 ~~requesting additional information later in the review process if such information is necessary to~~
8 ~~evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not~~
9 ~~provided the requested additional information by the date specified in a written request for additional~~
10 ~~information, the Director shall cease processing the application until additional information is~~
11 ~~provided. The applicant may request a time extension for submittal of the requested additional~~
12 ~~information.~~

13 ~~(3) The Division shall complete the technical review of significant modifications received pursuant to~~
14 ~~15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii).~~

15 ~~(4) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a~~
16 ~~public hearing is requested and approved by the Director for a draft permit, it shall be held within~~
17 ~~45 days of the Director's decision to hold a public hearing.~~

18 ~~(5) The Director shall complete the review of the record and send the proposed permit to EPA and~~
19 ~~affected states in accordance with 15A NCAC 02Q .0522.~~

20 ~~(6) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.~~

21 (b) In addition to the schedule in Paragraph (a) of this Rule, the Division shall adhere to the following timelines when
22 processing applications for permit revisions:

23 (1) For minor modification applications received pursuant to 15A NCAC 02Q .0515, the Division shall
24 complete the review and take action on the permit application pursuant to 15A NCAC 02Q .0515(d)
25 and (e).

26 (2) The Division shall complete the technical review of significant modifications received pursuant to
27 15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii). Within 270 calendar days of
28 receipt of a complete application for a significant permit modification pursuant to 15A NCAC 02Q
29 .0516, the Division shall complete the review of the application and either issue the modified permit,
30 deny the modified permit, or publish the modified permit for public notice and comment.

31 (3) For applications for permit revisions that are not minor modifications pursuant to 15A NCAC 02Q
32 .0515 or significant modifications pursuant to 15A NCAC 02Q .0516, the application shall be
33 reviewed pursuant to 15A NCAC 02Q .0514 or .0517, as applicable.

34 (c) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a public hearing
35 is requested and approved by the Director for a draft permit, it shall be held within 45 calendar days of the Director's
36 decision to hold a public hearing.

1 (d) The Director shall complete the review of the record and send the proposed permit to EPA and affected states in
2 accordance with 15A NCAC 02Q .0522.

3 (e) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.
4
5

6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

7 *Eff. February 1, 1995;*

8 *Amended Eff. July 1, 1998;*

9 *Readopted Eff. April 1, 2018;*

10 *Amended Eff. September 1, ~~2022~~, 2022;*

11 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

12 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

13 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

14 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*
15

Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Sent: Thursday, April 17, 2025 12:42 PM

To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>

Subject: Re: April 2025 RRC Meeting

Ok, will do, thanks!

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Thursday, April 17, 2025 11:39 AM

To: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>

Subject: RE: April 2025 RRC Meeting

Thank you for the change and responses.

Please submit the final revised rules via email to oah.rules@oah.nc.gov no later than 5pm on April 18, 2025. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email. Feel free to send these revised rules now or wait to send all of them at once.

Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Wednesday, April 16, 2025 4:39 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>
Subject: Fw: April 2025 RRC Meeting

Hi Mr. Wiggs,

Below are your requests and the agency responses. Thanks.

Comment: In .0304, (4)(A), the language in your response, the applicant must have the fiscal standing to be capable of complying with permit requirements, is less ambiguous than “financially qualified to carry out the permitted activities.” I interpret these phrases to mean two different things. To “carry out the permitted activities” seems to require the financial ability to complete, and continue to carry out, the activities for which permitting has been obtained. “Capable of complying with permit requirements” only mandates the financial ability to do what is specified in the permit(s). Please clarify.

Agency Response: The requirement is that the applicant be “financially qualified to carry out the permitted activities.” You are correct that the example in our initial response was overly limiting. To be “financially qualified to carry out the permitted activities” requires that the applicant demonstrate it is able to cover the cost of constructing and operating the facility as proposed in the permit application, including construction of emission sources and control technologies proposed to mitigate emissions from those sources, and that it can operate those devices in a manner consistent with the representations of the application. Being financially qualified to carry out permit activities also includes the cost of maintaining the emission sources and control devices such that the facility will continue achieving the level of control represented in the application, as well as the appropriate monitoring, recordkeeping, and reporting required to verify compliance with the permit and all applicable regulations and laws.

Comment: In .0304, (4)(B), the language in your response, “one violation at a facility would not necessarily.... will generally provide sufficient evidence for the DAQ to determine whether the facility has been in substantial compliance with the applicable standards.” Please incorporate the standard elucidated in your response into this Rule for clarity.

Agency Response: The language in the initial response was intended to clarify that the words in the phrase “substantial compliance” carry their ordinary meaning within the context of the rule. The examples provided were not intended to define the phrase, because what is considered substantial compliance will depend on the facility, the permit at issue, and the area in which the facility is located, among other variables. Substantial compliance

for a Title V facility that sits in a nonattainment area (i.e., the facility is geographically located where the air quality does not meet the National Ambient Air Quality Standards) may look different than substantial compliance for a small wood pellet facility in an attainment area. Similarly, what may be considered “substantial” for a recordkeeping violation may be different than a violation of an emissions standard. In short, to define what substantial entails beyond its ordinary meaning within the context of the air permitting rules would necessarily be overly broad and underinclusive due to the range of factors that make a facility “in compliance.”

Comment: In .0507, pg. 2, (f), line 6, “15A NCAC 02Q .0400” should be replaced with “the rules of Section .0400 of this Subchapter.”

Agency Response: This change has been made. Please see the revised Rule 02Q .0507 attached to this email.

Please reply to these requests for changes as soon as possible.

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting
Attachments: 15A NCAC 02Q .0507.docx

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Wednesday, April 16, 2025 4:39 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>
Subject: Fw: April 2025 RRC Meeting

Hi Mr. Wiggs,

Below are your requests and the agency responses. Thanks.

Comment: In .0304, (4)(A), the language in your response, the applicant must have the fiscal standing to be capable of complying with permit requirements, is less ambiguous than “financially qualified to carry out the permitted activities.” I interpret these phrases to mean two different things. To “carry out the permitted activities” seems to require the financial ability to complete, and continue to carry out, the activities for which permitting has been obtained. “Capable of complying with permit requirements” only mandates the financial ability to do what is specified in the permit(s). Please clarify.

Agency Response: The requirement is that the applicant be “financially qualified to carry out the permitted activities.” You are correct that the example in our initial response was overly limiting. To be “financially qualified to carry out the permitted activities” requires that the applicant demonstrate it is able to cover the cost of constructing and operating the facility as proposed in the permit application, including construction of emission sources and control technologies proposed to mitigate emissions from those sources, and that it can operate those devices in a manner consistent with the representations of the application. Being financially qualified to carry out permit activities also includes the cost of maintaining the emission sources and control devices such that the facility will continue achieving the level of control represented in the application, as well as the appropriate monitoring, recordkeeping, and reporting required to verify compliance with the permit and all applicable regulations and laws.

Comment: In .0304, (4)(B), the language in your response, “one violation at a facility would not necessarily.... will generally provide sufficient evidence for the DAQ to determine whether the facility has been in substantial compliance with the applicable standards.” Please incorporate the standard elucidated in your response into this Rule for clarity.

Agency Response: The language in the initial response was intended to clarify that the words in the phrase “substantial compliance” carry their ordinary meaning within the context of the rule. The examples provided were not intended to define the phrase, because what is considered substantial compliance will depend on the facility, the permit at issue, and the area in which the facility is located, among other variables. Substantial compliance for a Title V facility that sits in a nonattainment area (i.e., the facility is geographically located where the air quality does not meet the National Ambient Air Quality Standards) may look different than substantial compliance for a small wood pellet facility in an attainment area. Similarly, what may be considered “substantial” for a recordkeeping violation may be different than a violation of an emissions standard. In short, to define what substantial entails beyond its ordinary meaning within the context of the air permitting rules would necessarily be overly broad and underinclusive due to the range of factors that make a facility “in compliance.”

Comment: In .0507, pg. 2, (f), line 6, “15A NCAC 02Q .0400” should be replaced with “the rules of Section .0400 of this Subchapter.”

Agency Response: This change has been made. Please see the revised Rule 02Q .0507 attached to this email.

Please reply to these requests for changes as soon as possible.

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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1 15A NCAC 02Q .0507 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0507 APPLICATION**

4 (a) Except for:

- 5 (1) minor permit modifications covered pursuant to 15A NCAC 02Q .0515;
- 6 (2) significant modifications covered pursuant to 15A NCAC 02Q .0516(c); or
- 7 (3) renewals submitted pursuant to 15A NCAC 02Q .0513;

8 the owner or operator of a new or existing source shall have 12 months after the facility or source becomes subject to
9 the Title V operating permit program pursuant to ~~15A NCAC 02Q .0500~~ the rules of Section .0500 of this Subchapter
10 to file a complete application for a permit or permit revision. However, the owner or operator of a source shall not
11 begin construction or operation of a source until he or she has obtained a construction and operation permit pursuant
12 to 15A NCAC 02Q .0501(b) or (c) and 15A NCAC 02Q .0504.

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

19 (c) Application for a permit, permit revision, or permit renewal shall be made in accordance with 15A NCAC 02Q
20 .0104 on forms of the Division and shall include plans and specifications with complete data and information as
21 required by this Rule. If the information provided on these forms does not describe the source or its air pollution
22 abatement equipment to the extent necessary to evaluate the application, the Director shall request that the applicant
23 provide other information necessary to evaluate the source and its air pollution abatement equipment.

24 (d) ~~Along with filing a complete application, the applicant shall also file the following:~~ The application shall contain
25 a zoning consistency determination, financial qualification demonstration, and substantial compliance statement as
26 specified in Subparagraphs (1) through (3) of this Paragraph.

27 (1) for a new facility or an expansion of existing facility, a consistency determination in accordance
28 with G.S. 143-215.108(f) that:

- 29 (A) bears the date of receipt entered by the clerk of the local government; or
- 30 (B) consists of a letter from the local government indicating that zoning or subdivision
31 ordinances are met by the facility;

32 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and
33 proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113; and

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

- 35 (A) the applicant is financially qualified to carry out the permitted activities; or
- 36 (B) the applicant has substantially complied with the air quality and emissions standards
37 applicable to any activity in which the applicant has previously been engaged and has been
38 in substantial compliance with federal and State environmental laws and rules.

1 (e) An applicant who fails to submit relevant facts or submits incorrect information in a permit application shall, upon
2 becoming aware of the failure or incorrect submittal, submit supplementary facts or corrected information to resolve
3 the deficiency. In addition, an applicant shall provide additional information to address requirements to which the
4 source becomes subject after the date the applicant filed a complete application but prior to release of a draft permit.

5 (f) The submittal of a complete permit application shall not affect the requirement that a facility have a permit pursuant
6 to 15A NCAC 02D .0530, .0531, or .0532 or pursuant to ~~the rules of Section .0400 of this Subchapter.~~ 15A NCAC
7 02Q .0400.

8 (g) The Director shall give priority to permit applications containing early reduction demonstrations pursuant to
9 Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on these permit applications after
10 receipt of the complete permit application.

11 (h) Except as specified in 15A NCAC 02Q ~~.0203(i), .0203(l),~~ a non-refundable permit application processing ~~fee,~~
12 ~~defined in 15A NCAC 02Q .0200,~~ fee as required by the Rules of Section .0200 of this Subchapter shall accompany
13 the application. ~~The permit application shall be deemed incomplete until the permit application processing fee is~~
14 ~~received.~~

15 (i) The applicant shall retain during the permit term one complete copy of the application package and the information
16 submitted in support of the application package.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
19 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
20 *becomes effective, whichever is sooner;*
21 *Eff. July 1, 1994;*
22 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*
23 *Temporary Amendment Eff. December 1, 1999;*
24 *Amended Eff. September 1, 2015; April 1, 2004; July 1, 2000;*
25 *Readopted Eff. April 1, 2018;*
26 *Amended Eff. ~~[Month DD, YYYY;]~~ September 1, 2023; September 1, 2022.*
27 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
28 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
29 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
30 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Sent: Monday, April 14, 2025 1:28 PM

To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>

Subject: Re: April 2025 RRC Meeting

Thanks Mr. Wiggs,

We are working on it. Will be in touch soon.

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

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Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Monday, April 14, 2025 12:11 PM
To: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>
Subject: RE: April 2025 RRC Meeting

Good afternoon,

In .0304, (4)(A), the language in your response, **the applicant must have the fiscal standing to be capable of complying with permit requirements**, is less ambiguous than “financially qualified to carry out the permitted activities.” I interpret these phrases to mean two different things. To “carry out the permitted activities” seems to require the financial ability to complete, and continue to carry out, the activities for which permitting has been obtained. “Capable of complying with permit requirements” only mandates the financial ability to do what is specified in the permit(s). Please clarify.

In .0304, (4)(B), the language in your response, **“one violation at a facility would not necessarily.... will generally provide sufficient evidence for the DAQ to determine whether the facility has been in substantial compliance with the applicable standards.”** Please incorporate the standard elucidated in your response into this Rule for clarity.

In .0507, pg. 2, (f), line 6, “15A NCAC 02Q .0400” should be replaced with “the rules of Section .0400 of this Subchapter.”

Please reply to these requests for changes as soon as possible.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: April 2025 RRC Meeting
Attachments: 15A NCAC 02Q .0303.docx; 15A NCAC 02Q .0304.docx; 15A NCAC 02Q .0305.docx; 15A NCAC 02Q .0312.docx; 15A NCAC 02Q .0503.docx; 15A NCAC 02Q .0505.docx; 15A NCAC 02Q .0507.docx; 15A NCAC 02Q .0515.docx; 15A NCAC 02Q .0525.docx; 2025-04 EMC Air Response to Request for Technical Changes.docx

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Friday, April 11, 2025 4:34 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Quinlan, Katherine L <katherine.quinlan@deq.nc.gov>
Subject: Re: April 2025 RRC Meeting

Hello Mr. Wiggs,

Happy Friday! Attached are the rewritten rules and responses to your technical change requests from the Environmental Management Commission.

Thank you!

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

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Information and Instructions for Making Technical Changes

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request technical changes from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "a~~A~~ssociation"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day~~;~~ and"
 - Right: "day, day, and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of technical changes after reviewing the rules and examples, please contact the reviewing attorney.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0303

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (1), lines 5-6, “contains’ through “with” was not published in the Register. Was this language added post-publication due to public comments? Why does this additional language not constitute a “substantial change?”

Agency Response: You are correct that the language was added post-publication due to a comment from the US EPA, but it does not constitute a substantial change. When the Rule was published in the North Carolina Register, the definition of “complete application” cross-referenced the definition of “administratively complete” in G.S. 143-213. G.S. 143-213 states that “administratively complete means that all information required by statute, regulation, and application form has been submitted to the Department for the purpose of processing a permit application.” During the comment period, the US EPA noted that the cross reference to G.S. 143-213 would not be incorporated into the North Carolina State Implementation Plan (SIP) and suggested that the relevant language from G.S. 143-213(1) be incorporated into the definitions in 02Q .0303 and .0503. To address this comment, the relevant language defining “administratively complete” from G.S. 143-213 was added to the text of the rule. This is not a substantial change because the definition of “complete application” as published in the North Carolina Register included the language “contains all information required by statute regulation, and application form”, through the cross-reference to the definition of “administratively complete” in G.S. 143-213.

In (5), line 20, consider replacing “one” with “any.”

Agency Response: A facility can designate only one person as the responsible official, so the word “one” is more applicable to this definition. In addition, the language mirrors that of 40 CFR 70.2 to retain consistency for the benefit of the regulated public.

In (6), line 37, the cited Rule doesn’t exist. Section .0400 covers “Acid Rain Procedures.” Did you intend to say “the rules of Section .0500 of this Subchapter?”

Agency Response: The citation is intended to be to Section .0400 of Subchapter 02Q. The Acid Rain program is implemented pursuant to Title IV of the Clean Air Act (CAA), so sources subject to this program are often referred to as “Title IV sources.” The language has been revised to be consistent with the suggested changes in Item (7) as noted below.

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

On pg. 2, (7), line 1, "15A NCAC 02Q .0500" should be replaced with "the rules of Section .0500 of this Subchapter."

Agency Response: This change has been made.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0304

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (b)(4)(A), line 20, how does the Commission determine if the applicant is “financially qualified?”
Agency Response: The phrase “financially qualified” carries its ordinary meaning within the context of the rule. In other words, the applicant must have the fiscal standing to be capable of complying with permit requirements.

In (b)(4)(B), how does the Commission determine whether the applicant has “substantially complied” with an emission standard or is in “substantial compliance” with applicable laws and rules? Please cross-reference other rules or laws they may provide a definition or application of these terms.

Agency Response: Compliance refers to a permit holder meeting applicable standards (i.e.- standards set within the permit and by relevant rules and statute). The phrase “substantial compliance” in 02Q .0304(b)(4)(B) clarifies that one violation at a facility would not necessarily prohibit the facility from obtaining a new permit (or modified permit, renewed permit, etc.). In other words, there may be times that a permit holder does not meet standards; but phrasing the rule as requiring substantial compliance, as opposed to outright compliance, allows an applicant to demonstrate that they have generally met applicable standards in the past. A permit holder’s regular reporting (as required by their permit and any applicable rules) will generally provide sufficient evidence for the DAQ to determine whether the facility has been in substantial compliance with the applicable standards.

In (d), line 29, and (e), line 35, replace “may” with “shall.”

Agency Response: This change has been made.

On pg. 2, in (i), lines 11-12, did you intend to cite “15A NCAC 02Q .0203” instead of “.0200”? If not, “.0200” should be replaced with “the rules of Section .0200 of this Subchapter.”

Agency Response: The citation to 02Q “.0200” has been replaced with 02Q “.0203.”

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

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0305

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (1)(a), line 7, please cite "15A NCAC 02Q .0203" instead of ".0200."

Agency Response: This change has been made.

On line 8, add a space between "to" and "15A."

Agency Response: This change has been made.

On line 9, add a comma after "(2)."

Agency Response: This change has been made.

In (e), line 12, is "and submitted" necessary? You already stated the forms shall be submitted in the opening paragraph. Also, in line 13, consider replacing "the" with "a."

Agency Response: We agree that the phrase "and submitted" does not need to be included in (1)(e) and have removed it. With regard to replacing "the" with "a" in line 13, we believe that the correct term should be "the". The responsible official is a singular person as defined in 15A NCAC .0303(4), and therefore using the term "the" is appropriate. Each regulated entity can designate only one person as their responsible official.

In (4), line 19, please cite "15A NCAC 02Q .0203" instead of ".0200?"

Agency Response: This change has been made.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0312

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (a), lines 4 and 6, what are the “schedules of this Paragraph?” Why is the last sentence of “(a)” not located in “Paragraph (b)” if the schedules “only apply” to permit modifications in (b).

Agency Response: The language “schedules of this Paragraph” refers to the timelines for reviewing applications described throughout Paragraph (a). The last sentence of Paragraph (a) indicates that only some of the timelines in Paragraph (a) apply to permit modifications, while others are different, as specified in Paragraph (b). The language in the last sentence of Paragraph (a) has been rephrased to reflect this distinction. The term “schedules” has been replaced with “review timelines and procedures” for clarity throughout the rule.

In (a)(1), line 11, replace “(F)” with “(E).”

Agency Response: This correction has been made in the revised Rule.

On pg. 2, (3), line 33, replace “(F)” with “(E).”

Agency Response: “(E)” has been corrected to “(D)”.

In (3)(A), line 34, add a comma after “application.”

Agency Response: This change has been made in the revised Rule.

On pg. 4, line 12, what is the meaning of “The days that fall between...shall not counted in the schedules?” What “schedules” are you referring to and where are they found?

Agency Response: This language indicates that any time the Division spends waiting to receive additional information will be excluded when determining how many days have passed when reviewing an application. In other words, the timelines set forth in this rule in which the Division has to review applications will be tolled during the times the Division is waiting to receive information from the applicant.

In (b), line 17, I don’t see the word “schedule” in Paragraph (b). Are you referring to “timelines” or “deadlines” that are referenced?

Agency Response: The term “schedule” is used to generally refer to all timelines and deadlines in Paragraph (b). This term has been changed to “review timelines and procedures” throughout the rule for clarity.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0503

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (1)(ii), line 12, add a comma after "miles." On line 14, did you intend to cite "(5)" or "(4)?"

Agency Response: A comma has been added after "miles" and "(5)" has been corrected to "(4)" in Subitem (1)(a)(ii).

In (2), lines 16-17, beginning with "contains" through "with" was not published in the Register. Was this language added post-publication due to public comments? Why does this additional language not constitute a "substantial change?"

Agency Response: You are correct that the language was added post-publication due to a comment from the US EPA, but it does not constitute a substantial change. When the Rule was published in the North Carolina Register, the definition of "complete application" cross-referenced the definition of "administratively complete" in G.S. 143-213. G.S. 143-213 states that "administratively complete means that all information required by statute, regulation, and application form has been submitted to the Department for the purpose of processing a permit application." During the comment period, the US EPA noted that the cross reference to G.S. 143-213 would not be incorporated into the North Carolina State Implementation Plan (SIP) and suggested that the relevant language from G.S. 143-213(1) be incorporated into the definitions in 02Q .0303 and .0503. To address this comment, the relevant language defining "administratively complete" from G.S. 143-213 was added to the text of the rule. This is not a substantial change because the definition of "complete application" as published in the North Carolina Register included the language "contains all information required by statute regulation, and application form", through the cross-reference to the definition of "administratively complete" in G.S. 143-213.

In (4), line 24, consider replacing "has assumed" with "has accepted" for clarity.

Agency Response: The phrase "has assumed" is used throughout 40 CFR part 70 and North Carolina's air quality rules in Subchapters 02D and 02Q to refer to the operational limits certain synthetic minor facilities voluntarily propose to incorporate in their permits to avoid the requirements of Title V facilities. To maintain consistency and avoid confusion in the regulated public with the federal and state programs, the EMC suggests retaining the phrase "has assumed." Additionally, the language "has assumed" comes from the definition of "emissions

allowable under the permit” in 40 CFR §70.2, and this definition is designed to mirror the federal statute.

In (6), line 29, consider replacing "reasonably" with "foreseeably" or "reasonably foreseeable."

Agency Response: The language "reasonably" comes from the definition of "fugitive emissions" in 40 CFR §70.2, and this rule is designed to mirror the federal statute. In addition, fugitive emissions describe emissions that do not pass through a stack or vent, such as material stockpiles that can release emissions during windy conditions or dust released when trucks drive on gravel roads throughout a site. While these emissions *are* foreseeable, the focus of the fugitive emissions definition is that they cannot reasonably be expected to be collected and transported through a stack or vent.

On pg. 2, (8), lines 13-14, delete the comma after "devices" in both lines and add a comma after "year" in line 13.

Agency Response: The comma after "devices" was removed in both lines 13 and 14, and a comma was added after "year" in line 13. We have added a comma after "carbon monoxide" in line 12 to clarify that the phrase "before pollution control devices" applies to the list of potential emissions, not just to carbon monoxide.

In (17)(a), lines 35-36, "15A NCAC 02Q .0500" should be replaced with "the rules of Section .0500 of this Subchapter."

Agency Response: This change has been made in the revised Rule.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0505

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (1)(a), line 7, please cite "15A NCAC 02Q .0203" instead of ".0200."

Agency response: The reference to 02Q .0200 has been replaced with 02Q .0203.

In (1)(d), line 13, and (2), line 15, .0520 uses "certified" instead of "signed". Please use language consistent with the cited rule or law, if possible.

Agency response: "Signed" has been replaced with "signed and certified" to be consistent with .0520 and 40 CFR Part 70.

In (3), lines 17-18, .0520 says, a "responsible official shall certify..." Consider replacing "a letter signed..." to be consistent with the language of the cited Rule.

Agency response: "Signed" has been replaced with "signed and certified" to be consistent with .0520 and 40 CFR Part 70.

In (4), line 20, please cite "15A NCAC 02Q .0203" instead of ".0200".

Agency response: The reference to 02Q .0200 has been replaced with 02Q .0203.

In line 20, consider adding a comma after "letter" and after "buyer." Also, delete "and."

Agency response: The suggested changes to line 20 have been made.

In (5), line 26, .0514 uses the word "amendment" instead of "changes". I'm satisfied with "changes" if that's what you prefer.

Agency response: The term "changes" has been retained.

On lines 26-27, .0520 uses "certified" instead of "signed." In lines 27-28, consider making "change" plural.

Agency response: "Signed" has been replaced with "signed and certified" to be consistent with .0520 and 40 CFR Part 70. The word "change" has been made plural in both instances.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0507

DEADLINE FOR RECEIPT: April 11, 2025

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:

On line 9, "15A NCAC 02Q .0500" should be replaced with "the rules of Section .0500 of this Subchapter."

Agency response: This change has been made in the revised Rule.

In (b), line 16, was "may" or "shall" intended?

Agency response: The term "may" was intended. The paragraph allows the applicant to provide information that was previously submitted as part of an application for an acid rain, prevention of significant deterioration, or nonattainment area permit to help the permit reviewer.

On lines 16-17, "15A NCAC 02Q .0400" should be replaced with "the rules of Section .0400 of this Subchapter."

Agency response: This change has been made in the revised Rule.

On pg. 2, (f), line 6, how does "15A NCAC 02D .0530, .0531, or .0532" require permits? I have the same question about "15A NCAC 02Q .0400" as that Section deals with "Acid Rain Procedures."

Agency response: The 02D .0530, .0531, and .0532 rules contain preconstruction permit requirements established by the EPA as part of the 1977 Clean Air Act (CAA) amendments for new major sources or new major modifications at existing sources. These preconstruction permitting programs are designed to prevent exceedances of the National Ambient Air Quality Standards (NAAQS) and reflect the federal New Source Review (NSR) requirements in 40 CFR Part 51, Subpart I. Specifically, Rule 02D .0530 provides provisions for permitting of major sources located in areas that are attaining the NAAQS, in order to prevent deterioration of the air quality in that area to a level that is not in attainment with the NAAQS. New major sources wishing to locate in these areas, as well as existing major sources proposing a major modification in these areas, must undergo a specific type of permit review and be issued a Prevention of Significant Deterioration, or PSD, permit in accordance with Rule 02D .0530 prior to beginning construction. Rule 02D .0531 pertains to permitting of major sources located in areas of the State that are designated as not attaining the NAAQS (i.e., nonattainment areas), and contains the requirements for review and issuance of nonattainment permits. Rule 02D .0532 applies to new major stationary

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

sources and major modifications that would contribute to a violation of the NAAQS but not cause a new violation of the NAAQS. The provisions of 15A NCAC 02D .0532 originate from the EPA's Interpretive Ruling codified under 40 CFR Part 51, Appendix S. These three rules (02D .0530, .0531, and .0532) specify requirements for certain types of federal permit reviews that can be triggered by Title V facilities.

The 02Q .0400 rules provide the acid rain permitting procedures established by the EPA that are delegated to DAQ to enforce. Specifically, Rule 02Q .0402 contains the acid rain permitting procedures.

In (g), line 7, what does "shall give priority" mean? How will this be practically applied?

Agency response: Permit applications that show demonstrations of emission reductions of Hazardous Air Pollutants pursuant to Section 112(i)(5) of the federal Clean Air Act will be given precedence for processing over other permits received by the permitting group. This language was added to the rule during the original adoption of Rule 02Q .0507 in response to a comment from the US EPA stating that this language should be included. As noted in 57 FR 32254, the EPA urged States to "*encourage early submittals of complete applications*" and "*expedited review and issuance procedures may be required for permit applications for sources pursuing compliance extensions for early reductions of hazardous air pollutants under section 112(i)(5).*"

See https://archives.federalregister.gov/issue_slice/1992/7/21/32247-32312.pdf#page=4 for the full Federal Register (FR) publication.

In (h), where in Section .0200 is this defined? Did you intend to cite .0203(d)?

Agency response: The cross-reference to the Rules of Section .0200 was included to account for the applications that do not require a fee. The language has been changed to be clearer.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0515

DEADLINE FOR RECEIPT: April 11, 2025

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:

In (a)(2), line 6, please delete or define "significant."

Agency response: "Significant" retains its dictionary definition as "having or likely to have influence or effect." See [Merriam Webster Dictionary, https://www.merriam-webster.com/dictionary/significant](https://www.merriam-webster.com/dictionary/significant). The use of the term "significant changes" aligns the rule with [40 CFR §70.7\(e\)\(2\)\(i\)\(A\)\(2\)](#) and thus ensures consistency for the benefit of the regulated public.

In (4), line 12, add a comma after "requirement" and delete "that". Consider replacing "has assumed" with "has accepted the modifications."

Agency response: The language "has assumed" is the commonly used phrasing for synthetic minor limits and is used throughout the federal Title V rules, such as 40 CFR 70.2, and our State air quality regulations (e.g., 15A NCAC 02Q .0503). The facility voluntarily assumes an operational restriction in order to remain a minor source (i.e., not require a Title V permit), and then the DAQ ensures that their assumed restriction becomes enforceable in the permit.

The EMC would prefer not to add a comma after "requirement" and delete "that" as those changes suggest that the facility has assumed a modification rather than a permit term or condition. The language of (a)(4) is intended to prohibit a minor modification from being used to change a permit condition containing a synthetic limit. Synthetic limits are operational limits that the facility has voluntarily assumed (i.e., the limit is not being imposed due to an underlying requirement) to avoid being subject to another underlying requirement that would be applicable to the facility without this permit condition/limit. Additionally, this language comes directly from 40 CFR § 70.7(e)(2)(i)(A)(4).

In (4)(A), line 14, consider replacing "assumed" with "accepted."

Agency response: This language comes from 40 CFR §71.2. Additional information regarding this language is provided in the previous response.

In (b)(5), line 32, and elsewhere in this Rule, add "the" before "EPA."

Agency response: The suggestions have been added as requested.

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

On pg. 2, (e), line 17, add “the” before “issuance.”

Agency response: The suggestions have been added as requested.

In line 20, consider replacing “concurrence with” with “approval by.”

Agency response: The suggestions have been added as requested.

In (f), line 30, add “or her” after “his.”

Agency response: To include both “his” and “her”, the word “his” was changed to “a”.

On pg. 3, (h), line 2, consider beginning with, “If the only State-enforceable...” “15A NCAC 02Q .0300” should be replaced with “the rules of Section .0300 of this Subchapter.”

Agency response: “State-enforceable only” is a defined term in 15A NCAC 02Q .0101(33), which means “terms and conditions that are not required under the Clean Air Act or under any of its applicable requirements. Terms and conditions designated as State-enforceable only are not subject to the requirements of 40 CFR Part 70.” Permit terms and conditions that are designated as “state-enforceable only” are treated no differently than terms and conditions in a minor source permit, or state permit, issued pursuant to the procedures of 15A NCAC 02Q .0300. To clarify the meaning of this sentence while keeping the defined term intact, Paragraph (h) was revised to: “If the only revised provisions are in the State-enforceable only portion of the permit, the procedures in the rules of Section .0300 of this Subchapter shall be followed.”.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02Q .0525

DEADLINE FOR RECEIPT: April 11, 2025

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, please specify if you intend for the "days" to be "calendar" or "business" days.

Agency response: We have clarified that all days are calendar days.

On pg. 2, (3), line 3, do you need to include "shall not be necessary for, and the completeness determination provisions"? It appears unnecessary.

Agency response: We agree and have made the suggested change.

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

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency on March 28, 2025

1 15A NCAC 02Q .0303 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0303 DEFINITIONS**

4 For the purposes of this Section, the following definitions apply:

5 ~~(1)~~ "Complete application" means an application that contains all information required by statute,
6 regulation, and application form, consistent with ~~[is administratively complete, as defined in]~~ G.S.
7 143-213, and provides all information necessary to determine compliance with all applicable federal
8 and State requirements.

9 ~~(1)(2)~~ "Modified facility" means a modification of an existing facility or source and:

- 10 (a) the permitted facility or source is being modified in such a manner as to require a new or
11 reissued permit pursuant to this Section; or
12 (b) a new source is being added in such a manner as to require a new or reissued permit
13 pursuant to this Section.

14 A modified facility does not include a facility or source that requests to change name or ownership,
15 construction or test dates, or reporting procedures.

16 ~~(2)(3)~~ "New facility" means a facility that is receiving a permit from the Division for construction and
17 operation of an emission source that it is not currently permitted.

18 ~~(3)(4)~~ "Plans and Specifications" means the completed application and any other documents required to
19 define the operating conditions of the air pollution source.

20 ~~(4)(5)~~ "Responsible official" means one of the following:

- 21 (a) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who
22 is in charge of a principal business function; any other person who performs similar policy
23 or decision-making functions for the corporation; or a duly-authorized representative of
24 such a person if the representative is responsible for the overall operation of one or more
25 manufacturing, production, or operating facilities applying for or subject to a permit and
26 either;
27 (i) the facilities employ more than 250 persons or have gross annual sales or
28 expenditures exceeding twenty-five million dollars (\$25,000,000) (in second
29 quarter 1980 dollars); or
30 (ii) the delegation of authority to such representatives is approved in advance by the
31 permitting authority;
32 (b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
33 (c) for a municipality, State, federal, or other public agency: either a principal executive officer
34 or ranking elected official. A principal executive officer of a federal agency includes the
35 chief executive officer having responsibility for the overall operations of a principal
36 geographic unit of the agency (e.g., a Regional Administrator of EPA).

1 ~~(5)~~(6) "Title IV source" means a source that is required to be permitted pursuant to 15A NCAC 02Q .0400.
2 the rules of Section .0400 of this Subchapter.

3 ~~(6)~~(7) "Title V source" means a source that is required to be permitted pursuant to 15A NCAC 02Q .0500.
4 the rules of Section .0500 of this Subchapter.

5
6 *History Note: Authority G.S. 143-213; 143-215.3(a)(1);*
7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
8 *becomes effective, whichever is sooner;*
9 *Eff. July 1, 1994;*
10 *Readopted Eff. April 1, ~~2018~~, 2018;*
11 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
12 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
13 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
14 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*
15

1 15A NCAC 02Q .0304 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0304 APPLICATIONS**

4 (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and
5 shall be filed according to 15A NCAC 02Q .0104.

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

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

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

11 (B) consists of a letter from the local government indicating that zoning or subdivision
12 ordinances are met by the facility;

13 (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and
14 proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113;

15 (3) for permit renewal, an emissions inventory that contains the information specified pursuant to 15A
16 NCAC 02D .0202 using emission inventory forms or electronic data systems provided by the
17 Division; and

18 (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if this
19 information is necessary to evaluate the source, its air pollution abatement equipment, or the facility:

20 (A) the applicant is financially qualified to carry out the permitted activities; or

21 (B) the applicant has substantially complied with the air quality and emissions standards
22 applicable to any activity in which the applicant has previously been engaged, and has been
23 in substantial compliance with federal and State environmental laws and rules.

24 (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 or .0531, applicants
25 shall file air permit applications no less than 180 days before the projected construction date. For other sources,
26 applicants shall file air permit applications no less than 90 days before the projected date of construction of a new
27 source or modification of an existing source.

28 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the
29 originally permitted source, application for permit change ~~may shall~~ be made by application to the Director as specified
30 in 15A NCAC 02Q .0104. The permit renewal, name, or ownership change application shall state that there have been
31 no changes in the permitted facility since the permit was last issued.

32 To make a name or ownership change, the applicant shall send the Director the content specified in 15A NCAC 02Q
33 .0305(3) or (4) signed by the responsible official as defined in 15A NCAC 02Q .0303.

34 (e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting
35 procedures may be made by letter to the Director as specified in 15A NCAC 02Q .0104. To make changes in
36 construction or test dates or reporting procedures, the applicant shall send the Director the letter specified in 15A
37 NCAC 02Q .0305(5) signed by the responsible official as defined in 15A NCAC 02Q .0303.

1 (f) When to file applications for permit renewal. Applicants shall file applications for renewals as specified in 15A
2 NCAC 02Q .0104 no less than 90 days before expiration of the permit. If a hard copy of the application is mailed to
3 the Director, the application shall be postmarked no later than 90 days before expiration of the permit.

4 (g) Name or ownership change. The permittee shall file requests for permit name or ownership changes when the
5 permittee is aware of the name or ownership change.

6 (h) Requesting additional information. Whenever the information provided on the permit application forms does not
7 adequately describe the source or its air cleaning device, the Director may request that the applicant provide other
8 information to evaluate the source or its air cleaning device. Before acting on a permit application, the Director may
9 request information from an applicant and conduct an inquiry or investigation to determine compliance with standards.

10 (i) Application fee. With the exceptions specified in 15A NCAC 02Q ~~.0203(i), .0203(l)~~, a non-refundable permit
11 application processing fee shall accompany the application. The permit application processing fees are listed in 15A
12 NCAC 02Q ~~.0203, .0200~~. ~~A permit application shall be incomplete until the permit application processing fee is~~
13 ~~received.~~

14 (j) Correcting submittals of incorrect information. An applicant shall have a continuing obligation to submit relevant
15 facts pertaining to his or her permit application and to correct incorrect information in his or her permit application.

16 (k) Retaining copy of permit application package. The applicant shall retain during the permit term one complete
17 copy of the application package and the information submitted in support of the application package.

18
19 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
20 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is*
21 *effective, whichever is sooner;*
22 *Eff. July 1, 1994;*
23 *Amended Eff. September 1, 2015; January 1, 2009; December 1, 2005; July 1, 1999;*
24 *Readopted Eff. April 1, 2018;*
25 *Amended Eff. September 1, 2023.*
26 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
27 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
28 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
29 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

1 15A NCAC 02Q .0305 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0305 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit the following information with the application package, the application package shall
5 be considered incomplete ~~for processing~~; and not accepted by the Division for processing:

- 6 (1) for new facilities and modified facilities:
- 7 (a) an application fee required pursuant to 15A NCAC 02Q ~~.0200~~; .0203;
 - 8 (b) a zoning consistency determination required pursuant ~~to 15A to 15A~~ NCAC 02Q
9 .0304(b)(1);
 - 10 (c) the documentation required pursuant to 15A NCAC 02Q ~~.0304(b)(2)~~ .0304(b)(2), if
11 required;
 - 12 (d) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q
13 .0507(d)(3), if required; and
 - 14 (e) ~~applications~~ application forms required ~~[and submitted]~~ pursuant to 15A NCAC 02Q
15 .0304(a) and signed by the responsible official;
- 16 (2) for renewals: the application required pursuant to 15A NCAC 02Q .0304(a) and (d), signed by the
17 responsible official, and an emissions inventory that contains the information specified pursuant to
18 15A NCAC 02D .0202, Registration of Air Pollution Sources;
- 19 (3) for a name change: a letter signed by the responsible official indicating the current facility name,
20 the date on which the name change will occur, and the new facility name;
- 21 (4) for an ownership change: an application fee required pursuant to 15A NCAC 02Q ~~.0200~~ .0203 and:
- 22 (a) a letter signed by the seller and the buyer, indicating the change;
 - 23 (b) a letter bearing the signature of both the seller and buyer, containing a written agreement
24 with a specific date for the transfer of permit responsibility, coverage, and liability between
25 the current and new permittee; or
 - 26 (c) submit the form provided by the Division pursuant to 15A NCAC 02Q .0104; and
- 27 (5) for corrections of typographical errors; changes in name, address, or telephone number of the
28 individual identified in the permit; changes in test dates or construction dates; or similar minor
29 changes: a letter signed by the responsible official describing the proposed change and explaining
30 the need for the proposed change.

31
32 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
33 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
34 *becomes effective, whichever is sooner;*
35 *Eff. July 1, 1994;*
36 *Amended Eff. December 1, 2005; April 1, 2004;*
37 *Readopted Eff. April 1, 2018;*

1 Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the
2 Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental
3 Protection Agency has approved the amended rule into the North Carolina State Implementation
4 Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.);
5 September 1, 2023.
6

1 15A NCAC 02Q .0312 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0312 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the ~~following schedule~~ review timelines and procedures of this Paragraph for
5 processing applications for ~~permits, permit modifications, permits and permit renewals~~ renewals; submitted pursuant
6 to this Section. The review timelines and procedures of this Paragraph shall ~~only~~ apply to applications for permit
7 modifications only as specified in Paragraph (b) of this Rule.

8 (1) ~~for~~ For permit applications, except for applications that do not require review for prevention of
9 significant deterioration pursuant to 15A NCAC 02D .0530 ~~and or~~ case-by-case maximum
10 achievable control technology pursuant to 15A NCAC 02D .1109 or ~~1112~~ .1112, the Division shall
11 follow the procedures of Parts (a)(1)(A) through (F)(E) of this Rule.

12 (A) Within 10 days of receiving an application, the ~~The~~ Division shall send the applicant
13 written acknowledgment of receipt of the permit application ~~application. The~~
14 acknowledgement letter shall also state whether the application is accepted for processing.
15 Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall
16 be accepted for processing. If the application does not contain the minimum processing
17 elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant
18 within 10 days of receipt of the application, that the application is not accepted for
19 processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing
20 from the application package.

21 (B) For applications accepted for processing by the Division pursuant to Part (a)(1)(A) of this
22 Rule, the ~~The~~ Division shall review all permit applications within 45 days of receipt of the
23 application to determine whether the application if it is a complete application, or
24 incomplete for processing purposes. Within 45 days of receiving the application, The the
25 Division shall notify the applicant in writing that:

- 26 (i) the application as submitted is ~~complete and complete,~~ specifying the
27 completeness ~~date, date;~~
- 28 (ii) the application is incomplete, requesting additional information necessary to
29 make the application complete, and specifying the deadline date by which the
30 requested information is to shall be received by the Division, Division to deem
31 the application complete; or
- 32 (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and
33 resubmit the application.

34 If the Division does not notify the applicant in writing within 45 days of receipt of ~~the~~ an
35 accepted application that the application is incomplete, the application shall be deemed
36 complete. A completeness determination shall not prevent the Director from requesting
37 additional information ~~at a later date~~ later in the review process if such information is

1 necessary to properly evaluate the source, its air pollution abatement equipment, or the
2 facility. If the applicant has not provided the requested additional information by the date
3 specified in a written request for additional ~~information~~, information pursuant to Subpart
4 (ii) of this Part, the Director shall cease processing the application until additional
5 information is provided. The applicant may request a time extension for submittal of the
6 requested additional information.

7 ~~(C)~~ ~~The Division shall determine within 45 days of receipt of a complete application if any~~
8 ~~additional information is needed to conduct the technical review of the application. A~~
9 ~~technical completeness determination shall not prevent the Director from requesting~~
10 ~~additional information at a later date if such information is necessary to properly evaluate~~
11 ~~the source, its air pollution abatement equipment, or the facility. The Division shall~~
12 ~~complete the technical review within 90 days of receipt of a complete application or 10~~
13 ~~days after receipt of requested additional information, whichever is later.~~

14 ~~(D)~~(C) If the draft permit is not required to go to public notice or to public hearing, the Director
15 shall issue or deny the permit within 90 days of receipt of a complete application or 10
16 days after receipt of requested additional information, whichever is later.

17 ~~(E)~~(D) If the draft permit is required to go to public notice with a an request for opportunity to
18 request a for public hearing pursuant to 15A NCAC 02Q .0306(a), the Director shall:

- 19 (i) ~~send~~publish the draft permit ~~to~~ for public notice within 90 days after receipt of a
20 complete application; and
21 (ii) complete the review of the record and take final action on the permit within 30
22 days after the close of the public comment period.

23 ~~(F)~~(E) If the draft permit is required to go to public hearing as a result of a request for public
24 hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- 25 (i) send the draft permit to public hearing within 45 days after approving the request
26 for the public hearing; and
27 (ii) complete the review of the record and take final action on the permit within 30
28 days after the close of the public hearing.

29 (2) ~~for~~For permit applications for prevention of significant deterioration pursuant to 15A NCAC 02D
30 .0530, the ~~processing schedules~~ review timelines and procedures are set out in that Rule.

31 (3) ~~for~~For permit applications for case-by-case maximum achievable control technology pursuant to
32 15A NCAC 02D .1109 or .1112 that are not permit modification applications, the ~~processing~~
33 ~~schedules~~ review timelines and procedures of Parts (A) through ~~(E)~~(D) of this Subparagraph shall
34 apply.

35 (A) Within 10 days of receiving an ~~application~~ application, the ~~The~~ Division shall send the
36 applicant written acknowledgment of receipt of the permit ~~application~~ application. The
37 acknowledgement letter shall also state whether the application is accepted for processing.

1 Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall
2 be accepted for processing. If the application does not contain the minimum processing
3 elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant
4 within 10 days of receipt of the application, that the application has not been accepted for
5 processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing
6 from the application package.

7 (B) For applications accepted by the Division pursuant to Part (A) of this Subparagraph, the
8 The Division shall review all permit applications within 45 days of receipt of the
9 application to determine whether the application, if it is a complete application, or
10 incomplete for processing purposes. The Within 45 days of receiving the application, the
11 Division shall notify the applicant in writing that:

- 12 (i) the application as submitted is ~~complete and complete~~, specifying the
13 completeness ~~date, date~~;
14 (ii) the application is incomplete, requesting additional information necessary to
15 make the application complete, and specifying the ~~deadline~~ date by which the
16 requested information ~~is to shall~~ be received by the ~~Division, Division to~~
17 determine the application as complete; or
18 (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and
19 resubmit the application.

20 If the Division does not notify the applicant in writing within 45 days of receipt of ~~the an~~
21 accepted application that the application is incomplete, the application shall be deemed
22 complete. A completeness determination shall not prevent the Director from requesting
23 additional information ~~at a later date~~ later in the review process if such information is
24 necessary to properly evaluate the source, its air pollution abatement equipment, or the
25 facility. If the applicant has not provided the requested additional information by the date
26 specified in the letter requesting additional ~~information, information pursuant to Subpart~~
27 (ii) of this Part, the Director shall cease processing the application until additional
28 information is provided. The applicant may request a time extension for submittal of the
29 requested additional information.

30 ~~(C)~~ The Division shall determine within 60 days of receipt of a complete application if any
31 additional information is needed to conduct the technical review of the application. A
32 technical completeness determination shall not prevent the Director from requesting
33 additional information at a later date if such information is necessary to properly evaluate
34 the source, its air pollution abatement equipment, or the facility. The Division shall
35 complete the technical review within 120 days of receipt of a complete application or 10
36 days after receipt of requested additional information, whichever is later.

37 ~~(D)~~(C) The Director shall:

- 1 (i) ~~send~~ publish the draft permit ~~to~~ for public notice within 120 days after receipt of
2 a complete application or 10 days after receipt of requested additional
3 information, whichever is later; and
4 (ii) complete the review of the record and take final action on the permit within 30
5 days after the close of the public comment period.

6 ~~(E)(D)~~ If the draft permit is required to go to public hearing as a result of a request for public
7 hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- 8 (i) send the draft permit to public hearing within 45 days after approving the request
9 for the public hearing; and
10 (ii) complete the review of the record and take final action on the permit within 30
11 days after the close of the public hearing.

12 The days that fall between sending out a written notification requesting additional information and receiving that
13 additional information shall not be counted in the ~~schedules~~ review timelines and procedures pursuant to this
14 Paragraph.

15 ~~(b) The days that fall between sending out a written notification requesting additional information and receiving that~~
16 ~~additional information shall not be counted in the schedules pursuant to Paragraph (a) of this Rule.~~

17 (b) For permit modification applications reviewed pursuant to this Section, the Division shall adhere to the processing
18 review timelines and procedures ~~schedule~~ of this Paragraph.

19 (1) The Division shall send written acknowledgement of receipt and acceptance or non-acceptance of
20 permit modification applications using the procedures and timelines Part (a)(1)(A) or (a)(3)(A) of
21 this Rule, as applicable.

22 (2) For permit modification applications that are accepted for processing by the Division pursuant to
23 Subparagraph (1) of this Paragraph, the Division shall notify the applicant of the completeness
24 determination of the application using the procedures and timelines of Part (a)(1)(B) or (a)(3)(B) of
25 this Rule, as applicable.

26 (3) Within 90 calendar days of the application completeness date pursuant to Subparagraph (2) of this
27 Paragraph, the Director shall take one of the following actions:

28 (A) If the draft permit is not required to go to public notice or to public hearing, the Director
29 shall issue or deny the permit.

30 (B) If the draft permit is required to go to public notice with an opportunity to request a public
31 hearing pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall publish the draft
32 permit for public notice within 90 calendar days of receipt of a complete application, and
33 shall complete the review of the record and take final action on the permit within the
34 timeline specified in Subpart (a)(1)(D)(ii) or (a)(3)(C)(ii) of this Rule, as applicable.

35 (4) If the draft permit is required to go to public hearing as a result of a request for public hearing
36 pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall follow the procedures and timelines
37 of Part (a)(1)(E) or (a)(3)(D) of this Rule, as applicable.

1 (c) The Director shall cease processing an application that contains insufficient information to complete the review.

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3 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

4 *Eff. February 1, 1995;*

5 *Amended Eff. July 1, 1998;*

6 *Readopted Eff. April 1, ~~2018~~-2018;*

7 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

8 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

9 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

10 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

11

1 15A NCAC 02Q .0503 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0503 DEFINITIONS**

4 For the purposes of this Section, the definitions in G.S. 143-212, G.S. 143-213, 15A NCAC 02Q .0103, and the
5 following definitions apply:

- 6 (1) "Affected States" means all states or local air pollution control agencies whose areas of jurisdiction
7 are:
8 (a) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
9 (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per
10 year, and
11 (ii) D = distance from the facility to the contiguous state or local air pollution control
12 agency in ~~miles~~ miles, unless the applicant can demonstrate that the ambient
13 impact in the contiguous states or local air pollution control agencies is less than
14 the incremental ambient levels in 15A NCAC 02D-~~0532(e)(5); .0532(c)(4)~~; or
15 (b) within 50 miles of the permitted facility.
16 (2) "Complete application" means an application that contains all information required by statute,
17 regulation, and application form, consistent with~~is administratively complete, as defined in~~ G.S.
18 143-213, and provides all information described in 40 CFR 70.5(c) and such other information that
19 is necessary to determine compliance with all applicable federal and State requirements.
20 (3) "Draft permit" means the version of a permit that the Division offers for public participation
21 pursuant to 15A NCAC 02Q .0521 or affected state review pursuant to 15A NCAC 02Q .0522.
22 (4) "Emissions allowable under the permit" means an emissions limit, including a work practice
23 standard, established by a federally enforceable permit term or condition, or a federally enforceable
24 emissions cap that the facility has assumed to avoid an applicable requirement to which the facility
25 would otherwise be subject.
26 (5) "Final permit" means the version of a permit that the Director issues that has completed all review
27 procedures required pursuant to this Section if the permittee does not file a petition pursuant to
28 Article 3 of G.S. 150B that is related to the permit.
29 (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack,
30 chimney, vent, or other functionally-equivalent opening.
31 (7) "Insignificant activities because of category" means:
32 (a) mobile sources;
33 (b) air-conditioning units used for human comfort that are not subject to applicable
34 requirements pursuant to Title VI of the federal Clean Air Act and do not exhaust air
35 pollutants into the ambient air from any manufacturing or other industrial process;
36 (c) ventilating units used for human comfort that do not exhaust air pollutants into the ambient
37 air from any manufacturing or other industrial process;

- 1 (d) heating units used for human comfort that have a heat input of less than 10,000,000 Btu
2 per hour and that do not provide heat for any manufacturing or other industrial process;
- 3 (e) noncommercial food preparation;
- 4 (f) consumer use of office equipment and products;
- 5 (g) janitorial services and consumer use of janitorial products;
- 6 (h) internal combustion engines used for landscaping purposes;
- 7 (i) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
- 8 (j) demolition and renovation activities covered solely pursuant to 40 CFR Part 61, Subpart
9 M.
- 10 (8) "Insignificant activities because of size or production rate" means any activity whose emissions
11 would not violate any applicable emissions standard and whose potential emission of particulate,
12 sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon ~~monoxide monoxide,~~
13 before air pollution control ~~devices, devices~~ are each no more than five tons per ~~year year,~~ and
14 whose potential emissions of hazardous air pollutants before air pollution control ~~devices, devices~~
15 are each below 1000 pounds per year.
- 16 (9) "Minor facility" means any facility that is not a major facility.
- 17 (10) "Operation" means the use of equipment that emits regulated pollutants.
- 18 (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- 19 (12) "Permit revision" means any permit modification pursuant to 15A NCAC 02Q .0515, .0516, or .0517
20 or any administrative permit amendment pursuant to 15A NCAC 02Q .0514.
- 21 (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to
22 EPA for review pursuant to 15A NCAC 02Q .0522.
- 23 (14) "Responsible official" means a responsible official as defined in 40 CFR 70.2.
- 24 (15) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition.
25 Such changes shall not include changes that would violate applicable requirements or contravene
26 federally enforceable permit terms and conditions that are monitoring, including test methods,
27 recordkeeping, reporting, or compliance certification requirements.
- 28 (16) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures
29 of this Section except that the potential to emit is restricted by one or more federally enforceable
30 physical or operational limitations, including air pollution control equipment and restrictions on
31 hours or operation, the type or amount of material combusted, stored, or processed, or similar
32 parameters.
- 33 (17) "Timely" means:
- 34 (a) for a new facility or newly subject facility, 12 months from the date that the facility or
35 source becomes subject to the Title V operating permit program pursuant to ~~15A NCAC~~
36 ~~02Q .0500;~~ the rules of Section .0500 of this Subchapter;

- 1 (b) for renewal of a permit previously issued pursuant to this Section, six months before the
2 expiration of that permit;
- 3 (c) for a minor modification pursuant to 15A NCAC 02Q .0515, before commencing the
4 modification;
- 5 (d) for a significant modification pursuant to 15A NCAC 02Q .0516 where the change would
6 not contravene or conflict with a condition in the existing permit, 12 months after
7 commencing operation;
- 8 (e) for reopening for cause pursuant to 15A NCAC 02Q .0517, as specified by the Director in
9 a request for additional information by the Director;
- 10 (f) for requests for additional information, as specified by the Director in a request for
11 additional information by the Director; or
- 12 (g) for modifications made pursuant to Section 112(j) of the federal Clean Air Act, 18 months
13 after EPA fails to promulgate a standard for that category of source pursuant to Section
14 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or
15 (3) of the federal Clean Air Act.

16
17 *History Note: Authority G.S. 143-212; 143-213; 143-215.3(a)(1);*
18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*
20 *Eff. July 1, 1994;*
21 *Amended Eff. July 1, 1996;*
22 *Temporary Amendment Eff. December 1, 1999;*
23 *Amended Eff. January 1, 2007; July 1, 2000;*
24 *Readopted Eff. April 1, 2018;*
25 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
26 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
27 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
28 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.);*
29 *September 1, 2022.*

1 15A NCAC 02Q .0505 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0505 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit the following information with its application package, the application package shall
5 not be accepted by the Division for processing: returned:

- 6 (1) for new facilities and modified facilities:
- 7 (a) an application fee as required pursuant to 15A NCAC 02Q ~~.0200;~~ .0203;
 - 8 (b) a consistency determination as required pursuant to 15A NCAC 02Q ~~.0507(d)(1);~~
9 .0507(d)(1) or the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);
 - 10 ~~(c) — the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);~~
 - 11 ~~(d)(c)~~ (c) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q
12 .0507(d)(3) if required; and
 - 13 ~~(e)(d)~~ (d) applications submitted as required pursuant to 15A NCAC 02Q .0507(a), signed and
14 certified as required by 15A NCAC 02Q .0520;
- 15 (2) for renewals: applications ~~as required pursuant to 15A NCAC 02Q .0507(a);~~ signed and certified as
16 required by 15A NCAC 02Q .0520;
- 17 (3) for a name change: a letter signed and certified by a responsible official in accordance with 15A
18 NCAC 02Q .0520 indicating the current facility name, the date on which the name change will
19 occur, and the new facility name;
- 20 (4) for an ownership change: an application fee as required pursuant to 15A NCAC 02Q ~~.0200;~~ .0203;
21 and a ~~letter~~ letter bearing the signature of both the seller and ~~buyer~~ buyer, ~~and~~ containing a written
22 agreement with a specific date for the transfer of permit responsibility, coverage, and liability
23 between the current and new permittee; and
- 24 (5) for corrections of typographical errors; changes of the name, address, or telephone number of an
25 individual identified in the permit; changes in test dates or construction dates; or similar ~~minor~~
26 ~~changes;~~ administrative changes pursuant to 15A NCAC 02Q .0514; a letter signed and certified by
27 a responsible official in accordance with 15A NCAC 02Q .0520 describing the proposed ~~change~~
28 changes and explaining the need for the proposed ~~change.~~ changes.

29
30 *History Note: Authority G.S. 143-215.3(a)(1),(1a); 143-215.107(a)(10); 143-215.108;*
31 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
32 *becomes effective, whichever is sooner;*
33 *Eff. July 1, 1994;*
34 *Amended Eff. April 1, 2004;*
35 *Readopted Eff. April 1, 2018;*
36 *Amended Eff. September 1, 2023; September 1, 2022.*

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Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental Protection Agency has approved the amended rule into the North Carolina State Implementation Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)

1 15A NCAC 02Q .0507 is amended with changes as published in 39:13 NCR 791 as follows:

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15A NCAC 02Q .0507 APPLICATION

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(a) Except for:

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- (1) minor permit modifications covered pursuant to 15A NCAC 02Q .0515;
- (2) significant modifications covered pursuant to 15A NCAC 02Q .0516(c); or
- (3) renewals submitted pursuant to 15A NCAC 02Q .0513;

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the owner or operator of a new or existing source shall have 12 months after the facility or source becomes subject to the Title V operating permit program pursuant to ~~15A NCAC 02Q .0500~~ the rules of Section .0500 of this Subchapter to file a complete application for a permit or permit revision. However, the owner or operator of a source shall not begin construction or operation of a source until he or she has obtained a construction and operation permit pursuant to 15A NCAC 02Q .0501(b) or (c) and 15A NCAC 02Q .0504.

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(b) An application shall include the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production rate but not including insignificant activities because of category.

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An application shall be certified by a responsible official for truth, accuracy, and completeness. In an application submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to ~~15A NCAC 02Q .0400~~ the rules of Section .0400 of this Subchapter or 15A NCAC 02D .0530 or .0531 if the information in those applications contains information required in this Section and is current, accurate, and complete.

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(c) Application for a permit, permit revision, or permit renewal shall be made in accordance with 15A NCAC 02Q .0104 on forms of the Division and shall include plans and specifications with complete data and information as required by this Rule. If the information provided on these forms does not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the Director shall request that the applicant provide other information necessary to evaluate the source and its air pollution abatement equipment.

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(d) ~~Along with filing a complete application, the applicant shall also file the following: The application shall contain a zoning consistency determination, financial qualification demonstration, and substantial compliance statement as specified in Subparagraphs (1) through (3) of this Paragraph.~~

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(1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:

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- (A) bears the date of receipt entered by the clerk of the local government; or
- (B) consists of a letter from the local government indicating that zoning or subdivision ordinances are met by the facility;

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(2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113; and

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

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- (A) the applicant is financially qualified to carry out the permitted activities; or
- (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged and has been in substantial compliance with federal and State environmental laws and rules.

- 1 (e) An applicant who fails to submit relevant facts or submits incorrect information in a permit application shall, upon
2 becoming aware of the failure or incorrect submittal, submit supplementary facts or corrected information to resolve
3 the deficiency. In addition, an applicant shall provide additional information to address requirements to which the
4 source becomes subject after the date the applicant filed a complete application but prior to release of a draft permit.
5 (f) The submittal of a complete permit application shall not affect the requirement that a facility have a permit pursuant
6 to 15A NCAC 02D .0530, .0531, or .0532 or pursuant to 15A NCAC 02Q .0400.
7 (g) The Director shall give priority to permit applications containing early reduction demonstrations pursuant to
8 Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on these permit applications after
9 receipt of the complete permit application.
10 (h) Except as specified in 15A NCAC 02Q ~~.0203(i)~~, ~~.0203(l)~~, a non-refundable permit application processing fee,
11 ~~defined in 15A NCAC 02Q .0200,~~ fee as required by the Rules of Section .0200 of this Subchapter shall accompany
12 the application. ~~The permit application shall be deemed incomplete until the permit application processing fee is~~
13 ~~received.~~
14 (i) The applicant shall retain during the permit term one complete copy of the application package and the information
15 submitted in support of the application package.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*
20 *Eff. July 1, 1994;*
21 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*
22 *Temporary Amendment Eff. December 1, 1999;*
23 *Amended Eff. September 1, 2015; April 1, 2004; July 1, 2000;*
24 *Readopted Eff. April 1, 2018;*
25 *Amended Eff. ~~Month DD, YYYY,~~ September 1, 2023; September 1, 2022.*
26 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
27 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
28 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
29 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*
30

Commented [KQ1]: Instead of removing the citation to 02Q .0200 entirely, I wonder if we should rephrase it to something such as "...permit application fee as required by the Rules of Section .0200 of this Subchapter." (or similar). Not all applications require a fee, so I'm thinking that the cross reference to the .0200 rules was intended to capture that.

1 15A NCAC 02Q .0515 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0515 MINOR PERMIT MODIFICATIONS**

4 (a) The procedures set out in this Rule shall apply to permit modifications if the modifications:

- 5 (1) do not violate any applicable requirement;
- 6 (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements
7 in the permit;
- 8 (3) do not require or change a case-by-case determination of an emission limitation or other standard, a
9 source-specific determination for temporary sources of ambient impacts, or a visibility or increment
10 analysis;
- 11 (4) do not seek to establish or change a permit term or condition for which there is no corresponding
12 underlying applicable requirement and that the facility has assumed to avoid an applicable
13 requirement to which the facility would otherwise be subject. Such terms and conditions include:
 - 14 (A) a federally enforceable emissions cap assumed to avoid an applicable requirement pursuant
15 to any provision of Title I of the federal Clean Air Act; or
 - 16 (B) an alternative emissions limit approved as part of an early reduction plan submitted
17 pursuant to Section 112(i)(5) of the federal Clean Air Act;
- 18 (5) are not modifications pursuant to any provision of Title I of the federal Clean Air Act; and
- 19 (6) are not required to be processed as a significant modification pursuant to 15A NCAC 02Q .0516.

20 (b) In addition to the items required pursuant to 15A NCAC 02Q .0505, an application requesting the use of the
21 procedures set out in this Rule shall include:

- 22 (1) an application form including:
 - 23 (A) a description of the change;
 - 24 (B) the emissions resulting from the change; and
 - 25 (C) identification of any new applicable requirements that will apply if the change occurs;
- 26 (2) a list of the facility's other pending applications awaiting group processing and a determination of
27 whether the requested modification, aggregated with these other applications, equals or exceeds the
28 thresholds set out in Subparagraphs (c)(1) through (3) of this Rule;
- 29 (3) the applicant's suggested draft permit;
- 30 (4) certification by a responsible official that the proposed modification meets the criteria for using the
31 procedures set out in this Rule and a request that these procedures be used; and
- 32 (5) complete information for the Director to use to notify the EPA and affected states.

33 (c) The Director ~~shall~~ may use group processing for minor permit modifications processed pursuant to this Rule. The
34 Director shall notify the EPA and affected states of the requested permit revisions pursuant to this Rule and shall
35 provide the information specified in 15A NCAC 02Q .0522 on a quarterly basis. If the aggregated emissions from all
36 pending minor permit modifications equal or exceed:

- 37 (1) 10 percent of the emissions allowed for the source for which the change is requested;

1 (2) 20 percent of the applicable definition of major facility; or

2 (3) five tons per year,

3 then the Director shall notify ~~the~~ EPA and affected states within five business days of the requested permit revision
4 pursuant to this Rule and provide the information specified in 15A NCAC 02Q .0522.

5 (d) Within 90 calendar days ~~after of receiving a complete an application for a minor permit modification that is~~
6 accepted by the Division for processing, that exceeds the thresholds in Subparagraphs (c)(1), (2), or (3) of this Rule
7 or 15 days after the end of EPA's 45 day review period, whichever is later, the Director shall: shall take one of the
8 following actions:

9 (1) issue the permit modification ~~as proposed; and transmit the proposed permit to the~~ EPA for a review
10 period of 45 days. The effective date of the modified permit shall be 60 days after the issuance date
11 unless the EPA objects in writing to the modified permit as proposed, in which case the procedures
12 of Paragraph (e) of this Rule shall apply;

13 (2) deny the permit modification application; or

14 (3) determine that the requested modification does not qualify for the procedures set out in this Rule
15 and should be processed pursuant to 15A NCAC 02Q ~~.0516; or~~ .0516.

16 (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

17 (e) If the EPA objects in writing to the issuance of a permit modification within its 45-day review period pursuant to
18 Subparagraph (d)(1) of this Rule, the Director shall notify the permittee of the EPA's objection. Within 15 days of the
19 objection, the Division shall revise the draft permit modification and transmit to the EPA a revised proposed permit
20 in response to the EPA's objections. The revised permit modification shall be issued and effective upon~~concurrent~~
21 with approval by the EPA.

22 (e) ~~If the thresholds in Subparagraphs (c)(1), (2), and (3) of this Rule are not exceeded, the Director shall, within 180~~
23 ~~days after receiving a completed application for a permit modification or 15 days after the end of EPA's 45 day review~~
24 ~~period, whichever is later:~~

25 (1) ~~issue the permit modification as proposed;~~

26 (2) ~~deny the permit modification application;~~

27 (3) ~~determine that the requested modification does not qualify for the procedures set out in this Rule~~
28 ~~and should be processed pursuant to 15A NCAC 02Q .0516; or~~

29 (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

30 (f) The permit applicant may make the change proposed in ~~his a~~ minor permit modification application immediately
31 after filing ~~the completed an~~ application ~~with that is accepted by~~ the Division. After the applicant makes the change,
32 the facility shall comply with both the applicable requirements governing the change and the proposed permit terms
33 and conditions until the Director takes one of the final actions specified in ~~Paragraph~~ Paragraphs (d) or (e) of this
34 Rule. Between the filing of the permit modification application and the Director's final action, the facility need not
35 comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with
36 its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions
37 of the existing permit that the applicant seeks to modify, as necessary to ensure protection of air quality.

- 1 (g) The permit shield allowed pursuant to 15A NCAC 02Q .0512 shall not extend to minor permit modifications.
- 2 (h) If the only revised provisions are in the State-enforceable only portion of the permit,~~permit is revised,~~ the
- 3 procedures in ~~15A NCAC 02Q.0300~~ the rules of Section .0300 of this Subchapter shall be followed.
- 4 (i) The proceedings shall affect only those parts of the permit related to the modification.

5

6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*

8 *becomes effective, whichever is sooner;*

9 *Eff. July 1, 1994;*

10 *Amended Eff. July 1, 1997;*

11 *Readopted Eff. April 1, 2018.*

12 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

13 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

14 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

15 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

16

1 15A NCAC 02Q .0525 is amended with changes as published in 39:13 NCR 791 as follows:

2
3 **15A NCAC 02Q .0525 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the following schedule in processing permit applications:

5 (1) Within 10 calendar days of receiving an application, the ~~The~~ Division shall send the applicant
6 written acknowledgment of receipt of an application to the applicant within 10 days of receipt of the
7 application, that the application was received. The acknowledgement letter shall also state whether
8 the application was accepted for processing pursuant to Part (A) of this Subparagraph, or the
9 application is not accepted for processing pursuant to Part (B) of this Subparagraph.

10 (A) For an application that contains the minimum processing elements of 15A NCAC 02Q
11 .0505 and .0507, the acknowledgement letter shall state that the application is accepted by
12 the Division for processing; and

13 (B) For an application that does not contain the minimum processing elements of 15A NCAC
14 02Q .0505 and .0507, the acknowledgement letter shall state that the application is not
15 accepted for processing, indicate the application elements of 15A NCAC 02Q .0505 or
16 .0507 that are missing from the application package, and request that the applicant resubmit
17 the application package.

18 (2) For applications accepted by the Division pursuant to Part (a)(1)(A) of this Rule, the ~~The~~ Division
19 shall review all the permit application applications within 60 calendar days of receipt of the
20 application to determine whether the application is complete or incomplete. ~~A completeness~~
21 ~~determination shall not be necessary for minor modifications pursuant to 15A NCAC 02Q .0515.~~
22 The Division shall notify the applicant ~~by letter;~~ in writing that:

23 ~~(a)(A) stating that the application as submitted is complete and complete,~~ specifying the
24 completeness date;

25 ~~(b)(B) stating that the application is incomplete, requesting additional information necessary to~~
26 make the application complete, conduct the technical review of the application; and
27 specifying the date by which the requested information ~~is required to shall~~ be received by
28 the ~~Division;~~ Division; or

29 ~~(c)(C) stating that the application is incomplete and incomplete,~~ requesting that the applicant
30 rewrite and resubmit the application.

31 If the Division does not notify the applicant by letter dated within 60 calendar days of receipt of the
32 application that the application is incomplete, the application shall be deemed complete. ~~A~~
33 ~~completeness determination shall not prevent the Director from requesting additional information~~
34 ~~at a later date if such information is necessary to properly evaluate the source, its air pollution~~
35 ~~abatement equipment, or the facility. If the applicant has not provided the requested additional~~
36 ~~information by the date specified in the letter requesting additional information, the Director shall~~

1 ~~cease processing the application until additional information is provided. The applicant may request~~
2 ~~a time extension for submittal of the requested additional information.~~

3 ~~(3) A completeness determination [shall not be necessary for, and the completeness determination~~
4 ~~provisions]specified in Subparagraph (a)(2) of this Rule shall not apply to minor modifications~~
5 ~~submitted pursuant to 15A NCAC 02Q .0515.~~

6 ~~(4) For all permit application types, a completeness determination shall not prevent the Director from~~
7 ~~requesting additional information later in the review process if such information is necessary to~~
8 ~~evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not~~
9 ~~provided the requested additional information by the date specified in a written request for additional~~
10 ~~information, the Director shall cease processing the application until additional information is~~
11 ~~provided. The applicant may request a time extension for submittal of the requested additional~~
12 ~~information.~~

13 ~~(3) The Division shall complete the technical review of significant modifications received pursuant to~~
14 ~~15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii).~~

15 ~~(4) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a~~
16 ~~public hearing is requested and approved by the Director for a draft permit, it shall be held within~~
17 ~~45 days of the Director's decision to hold a public hearing.~~

18 ~~(5) The Director shall complete the review of the record and send the proposed permit to EPA and~~
19 ~~affected states in accordance with 15A NCAC 02Q .0522.~~

20 ~~(6) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.~~

21 (b) In addition to the schedule in Paragraph (a) of this Rule, the Division shall adhere to the following timelines when
22 processing applications for permit revisions:

23 (1) For minor modification applications received pursuant to 15A NCAC 02Q .0515, the Division shall
24 complete the review and take action on the permit application pursuant to 15A NCAC 02Q .0515(d)
25 and (e).

26 (2) The Division shall complete the technical review of significant modifications received pursuant to
27 15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii). Within 270 calendar days of
28 receipt of a complete application for a significant permit modification pursuant to 15A NCAC 02Q
29 .0516, the Division shall complete the review of the application and either issue the modified permit,
30 deny the modified permit, or publish the modified permit for public notice and comment.

31 (3) For applications for permit revisions that are not minor modifications pursuant to 15A NCAC 02Q
32 .0515 or significant modifications pursuant to 15A NCAC 02Q .0516, the application shall be
33 reviewed pursuant to 15A NCAC 02Q .0514 or .0517, as applicable.

34 (c) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a public hearing
35 is requested and approved by the Director for a draft permit, it shall be held within 45 calendar days of the Director's
36 decision to hold a public hearing.

1 (d) The Director shall complete the review of the record and send the proposed permit to EPA and affected states in
2 accordance with 15A NCAC 02Q .0522.

3 (e) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.
4
5

6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

7 *Eff. February 1, 1995;*

8 *Amended Eff. July 1, 1998;*

9 *Readopted Eff. April 1, 2018;*

10 *Amended Eff. September 1, ~~2022~~, 2022;*

11 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

12 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

13 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

14 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*
15

Burgos, Alexander N

From: Wiggs, Travis C
Sent: Friday, March 28, 2025 11:23 AM
To: Everett, Jennifer; Quinlan, Katherine L
Cc: Burgos, Alexander N
Subject: April 2025 RRC Meeting
Attachments: 4_2025_Environmental Management Commission-Request for Technical Changes.docx

Good morning,

I'm the attorney who reviewed the rules submitted by the Environmental Management Commission for the April 2025 RRC meeting. The RRC will formally review these rules at its meeting on Thursday, April 24, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get invites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised rules to me via email, no later than 5 p.m. on April 11, 2025. Let me know if you have any questions.

Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

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