

STATE OF NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
DIVISION OF AIR QUALITY

REPORT OF PROCEEDINGS OF PUBLIC HEARING  
ON PROPOSED AMENDMENTS TO  
SOURCE REDUCTION AND RECYCLING REPORTING REQUIREMENTS  
IN 15 NCAC 02Q .0206, PAYMENT OF FEES,  
.0304, APPLICATIONS,  
AND  
.0507, APPLICATION

JUNE 9, 2015  
RALEIGH, NC

ENVIRONMENTAL MANAGEMENT COMMISSION

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## CHAPTER I

### Summaries and Recommendations

Proposed amendments to 15A NCAC 02Q .0206, 02Q .0304, and 02Q .0507.

#### **BACKGROUND AND SUMMARY**

A public hearing was held in Raleigh, NC on June 9, 2015, to take public comments on amendments to the Source Reduction and Recycling Report Requirements in 15A NCAC 02Q Sections .0200, 0300, and 0500. Mr. Ray Stewart was appointed as the hearing officer for this hearing.

The General Assembly enacted Session Law 2014-120 (S.L. 2014-120) on September 18, 2014 to require the Environmental Management Commission (EMC) to eliminate outdated air quality reporting requirement rules that pertain to source reduction and recycling. Section 38.(c) of the Session Law repealed G.S. 143-215.108(g) which was the underlying requirement that sources submit a written description of their current and projected plans to reduce emissions of air contaminants by source reduction and recycling with their air permit applications for new facilities and for modifications. This requirement was determined to be unnecessary and its repeal reduces burden on permit applicants. Three Division of Air Quality (DAQ) rules need to be amended to reflect the session law repeal of the outdated requirement and involve paragraph renumbering: namely, 15A NCAC 02Q .0206 Payment of Fee; .0304, Applications; and .0507, Application.

**15A NCAC 02Q .0206**, *Permit Fees*, is proposed to be amended to eliminate the requirement for permit holders to report their plans for source reduction and recycling along with the annual permit fee payment.

**15A NCAC 02Q .0304**, *Applications*, is proposed for amendment to remove the requirement for non-Title V permit holders to report their plans for source reduction and recycling along with their permit application.

**15A NCAC 02Q .0507**, *Application*, is proposed for amendment to eliminate the requirement for Title V permit holders to report their plans for source reduction and recycling along with their permit application.

#### **PUBLIC COMMENTS AND RESPONSES THERETO**

No comments were received during the public hearing comment period.

#### **CONCLUSION**

There were not any comments received on the proposed rule during the public comment period. No changes were made to the proposed rule as presented in Chapter IV of this hearing record.

**HEARING OFFICER'S RECOMMENDATION**

The Hearing Officer recommends that the proposed amendments as presented in Chapter II of this hearing record be adopted by the Environmental Management Commission.

## CHAPTER II

**Regulations Proposed for Adoption**

## Rule Change Formatting Key

Chapter IV of this hearing record represents the proposed rules as noticed in the *North Carolina Register* for public comment.

Chapter II represents the proposed rules as published with changes made in response to comments received during the public comment period incorporated.

For Rule Amendments:

~~Text~~ = deleted text

Text = added text

~~Text~~ = existing text in what was published in the *North Carolina Register* (NCR) that is proposed to be deleted following the comment period

Text = text proposed to be added to what was published in the NCR following the comment period

Text = text initially proposed in the NCR to be deleted that is restored following the comment period

~~Text~~ = text proposed in the NCR to be added that is deleted following the comment period

Note: For new rules proposed for adoption, all text is initially underlined. If there are changes to the proposed new rule following publication in the NCR, the underlining is removed, deleted text is struck through, added text is underlined, and there is no highlighting.



II-3

1 15A NCAC 02Q .0206 is proposed for amendment as follows:

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**15A NCAC 02Q .0206 PAYMENT OF FEES**

(a) Payment of fees required under this Section may be by check or money order made payable to the N.C. Department of ~~Environment, Health~~ Environment and Natural Resources. Annual permit fee payments shall refer to the permit number.

(b) If, within 30 days after being billed, the permit holder fails to pay an annual fee required under this Section, the Director may initiate action to terminate the permit under Rule .0309 or .0519 of this Subchapter, as appropriate.

(c) A holder of multiple permits may arrange to consolidate the payment of annual fees into one annual payment.

~~(d) The permit holder shall submit a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling in accordance with G.S. 143-215.108(e) along with the annual permit fee payment. The description shall include a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling.~~

~~(d)~~ (d) The payment of the permit application fee required by this Section shall accompany the application and is non-refundable.

~~(e)~~ (e) The Division shall annually prepare and make publicly available an accounting showing aggregate fee payments collected under this Section from facilities which have obtained or will obtain permits under Section .0500 of this Subchapter except synthetic minor facilities and showing a summary of reasonable direct and indirect expenditures required to develop and administer the Title V permit program.

*History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d); ~~143-215.108~~; 150B-21.6;*  
*Eff. July 1, ~~1994~~, 1994;*  
*Amended Eff. \_\_\_\_\_ ;*

## II-4

1 15A NCAC 02Q .0304 is proposed for amendment as follows:

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3 15A NCAC 02Q .0304 APPLICATIONS

4 (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained  
5 and shall be filed in writing according to Rule .0104 of this Subchapter.

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

8 (1) for a new facility or an expansion of existing facility, a consistency determination according to  
9 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 all 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 under Rule .0113 of this Subchapter;

15 ~~(3) for a new facility or modification of an existing facility, a written description of current and  
16 projected plans to reduce the emissions of air contaminants by source reduction and recycling  
17 according to G.S.143-215.108(g); the description shall include:~~

18 ~~(A) for an existing facility, a summary of activities related to source reduction and recycling  
19 and a quantification of air emissions reduced and material recycled during the previous  
20 year and a summary of plans for further source reduction and recycling; or~~

21 ~~(B) for a new facility, a summary of activities related to and plans for source reduction and  
22 recycling; and~~

23 ~~(4) (3)~~ for permit renewal, an emissions inventory that contains the information specified under 15A  
24 NCAC 02D .0202, Registration of Air Pollution Sources (the applicant may use emission  
25 inventory forms provided by the Division to satisfy this requirement); and

26 ~~(5) (4)~~ documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if the  
27 Director finds this information necessary to evaluate the source, its air pollution abatement  
28 equipment, or the facility:

29 (A) The applicant is financially qualified to carry out the permitted activities, or

30 (B) The applicant has substantially complied with the air quality and emissions standards  
31 applicable to any activity in which the applicant has previously been engaged, and has  
32 been in substantial compliance with federal and state environmental laws and rules.

33 (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 (prevention of  
34 significant deterioration) or .0531 (new source review for sources in nonattainment areas), applicants shall file air  
35 permit applications at least 180 days before the projected construction date. For all other sources, applicants shall  
36 file air permit applications at least 90 days before the projected date of construction of a new source or modification  
37 of an existing source.

## II-5

1 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the  
2 originally permitted source, application for permit change may be made by letter to the Director at the address  
3 specified in Rule .0104 of this Subchapter. The permit renewal, name, or ownership change letter must state that  
4 there have been no changes in the permitted facility since the permit was last issued. However, the Director may  
5 require the applicant for ownership change to submit additional information, if the Director finds the following  
6 information necessary to evaluate the applicant for ownership change, showing that:

- 7 (1) The applicant is financially qualified to carry out the permitted activities, or
- 8 (2) The applicant has substantially complied with the air quality and emissions standards applicable to  
9 any activity in which the applicant has previously been engaged, and has been in substantial  
10 compliance with federal and state environmental laws and rules.

11 To make a name or ownership change, the applicant shall send the Director the number of copies of letters specified  
12 in Rule .0305(a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

13 (e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting  
14 procedures may be made by letter to the Director at the address specified in Rule .0104 of this Subchapter. To make  
15 changes in construction or test dates or reporting procedures, the applicant shall send the Director the number of  
16 copies of letters specified in Rule .0305(a)(5) of this Section signed by a person specified in Paragraph (j) of this  
17 Rule.

18 (f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are  
19 mailed to the Director at the address specified in Rule .0104 of this Subchapter and postmarked at least 90 days  
20 before expiration of the permit.

21 (g) Name, or ownership change. The permittee shall file requests for permit name or ownership changes as soon as  
22 the permittee is aware of the imminent name or ownership change.

23 (h) Number of copies of additional information. The applicant shall submit the same number of copies of additional  
24 information as required for the application package.

25 (i) Requesting additional information. Whenever the information provided on the permit application forms does not  
26 adequately describe the source and its air cleaning device, the Director may request that the applicant provide any  
27 other information that the Director considers necessary to evaluate the source and its air cleaning device. Before  
28 acting on any permit application, the Director may request any information from an applicant and conduct any  
29 inquiry or investigation that he considers necessary to determine compliance with applicable standards.

30 (j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:

- 31 (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly  
32 authorized representative, if such representative is responsible for the overall operation of the  
33 facility from which the emissions described in the permit application form originates;
- 34 (2) for partnership or limited partnership, by a general partner;
- 35 (3) for a sole proprietorship, by the proprietor;
- 36 (4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected  
37 official, or other duly authorized employee.

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1 (k) Application fee. With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit  
2 application processing fee shall accompany each application. The permit application processing fees are defined in  
3 Section .0200 of this Subchapter. A permit application is incomplete until the permit application processing fee is  
4 received.

5 (l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant facts  
6 pertaining to his permit application and to correct incorrect information on his permit application.

7 (m) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term one  
8 complete copy of the application package and any information submitted in support of the application package.

9  
10 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*  
11 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is*  
12 *effective, whichever is sooner;*  
13 *Eff. July 1, 1994;*  
14 *Amended Eff. \_\_\_\_\_; January 1, 2009; December 1, 2005; July 1, 1999.*

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1 15A NCAC 02Q .0507 is proposed for amendment as follows:

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

4 (a) Except for:

- 5 (1) minor permit modifications covered under Rule .0515 of this Section,  
6 (2) significant modifications covered under Rule .0516(c) of this Section, or  
7 (3) permit applications submitted under Rule .0506 of this Section,

8 the owner or operator of a source shall have one year from the date of beginning of operation of the source to file a  
9 complete application for a permit or permit revision. However, the owner or operator of the source shall not begin  
10 construction or operation until he has obtained a construction and operation permit pursuant to Rule .0501(c) or (d)  
11 and Rule .0504 of this Section.

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

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

24 (d) Along with filing a complete application form, the applicant shall also file the following:

- 25 (1) for a new facility or an expansion of existing facility, a consistency determination in accordance  
26 with G.S. 143-215.108(f) that:  
27 (A) bears the date of receipt entered by the clerk of the local government, or  
28 (B) consists of a letter from the local government indicating that all zoning or subdivision  
29 ordinances are met by the facility;  
30 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and  
31 proof of publication of a legal notice as required under Rule .0113 of this Subchapter; and  
32 ~~(3) for a new facility or modification of an existing facility, a written description of current and~~  
33 ~~projected plans to reduce the emissions of air contaminants by source reduction and recycling in~~  
34 ~~accordance with G.S. 143-215.108(g); the description shall include:~~  
35 ~~(A) for an existing facility, a summary of activities related to source reduction and recycling~~  
36 ~~and a quantification of air emissions reduced and material recycled during the previous~~  
37 ~~year and a summary of plans for further source reduction and recycling; or~~

## II-8

1 ~~(B) — for a new facility, a summary of activities related to and plans for source reduction and~~  
 2 ~~recycling; and~~

3 (4) (3) if required by the Director, information showing that:

4 (A) The applicant is financially qualified to carry out the permitted activities, or

5 (B) The applicant has substantially complied with the air quality and emissions standards  
 6 applicable to any activity in which the applicant has previously been engaged, and has  
 7 been in substantial compliance with federal and state environmental laws and rules.

8 (e) The applicant shall submit copies of the application package as follows:

9 (1) for sources subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, six copies plus  
 10 one additional copy for each affected state that the Director has to notify;

11 (2) for sources not subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, four copies  
 12 plus one additional copy for each affected state that the Director has to notify.

13 The Director may at any time during the application process request additional copies of the complete application  
 14 package from the applicant.

15 (f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit  
 16 application shall, upon becoming aware of such failure or incorrect submittal, submit, as soon as possible, such  
 17 supplementary facts or corrected information. In addition, an applicant shall provide additional information as  
 18 necessary to address any requirements that become applicable to the source after the date he filed a complete  
 19 application but prior to release of a draft permit.

20 (g) The applicant shall submit the same number of copies of additional information as required for the application  
 21 package.

22 (h) The submittal of a complete permit application shall not affect the requirement that any facility have a  
 23 preconstruction permit under 15A NCAC 02D .0530, .0531, or .0532 or under Section .0400 of this Subchapter.

24 (i) The Director shall give priority to permit applications containing early reduction demonstrations under Section  
 25 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications as soon as  
 26 practicable after receipt of the complete permit application.

27 (j) With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application processing  
 28 fee shall accompany each application. The permit application processing fees are defined in Section .0200 of this  
 29 Subchapter. Each permit or renewal application is incomplete until the permit application processing fee is received.

30 (k) The applicant shall retain for the duration of the permit term one complete copy of the application package and  
 31 any information submitted in support of the application package.

32  
 33 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

34 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*  
 35 *becomes effective, whichever is sooner;*

36 *Eff. July 1, 1994;*

37 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*

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*Temporary Amendment Eff. December 1, 1999;*  
*Amended Eff. \_\_\_\_\_; April 1, 2004; July 1, 2000.*

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## CHAPTER III

### REPORT OF PROCEEDINGS

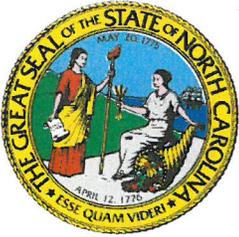
#### Introduction

The Department of Environmental and Natural Resources, Division of Air Quality, held a public hearing on June 9, 2015 at 3:00pm at the Training Room #1210, DENR Green Square Office Building, 217 West Jones Street, Raleigh, NC 27603.

The hearing considered the proposed amendment to Rule 15A NCAC 02Q .0206 Payment of Fees, 02Q .0304 Applications, and 02Q .0507 Application.

The proposed effective date for these rules is projected to be September 1, 2015.

A public notice announcing this hearing was mailed to each person on the official mailing list for rule-making hearings. The public notice was also published in the North Carolina Register at least 30 days before the public hearing.



## ENVIRONMENTAL MANAGEMENT COMMISSION

### NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Gerard P. Carroll  
Chairman  
Kevin Martin  
Vice Chairman

Pat McCrory, Governor  
Donald R. van der Vaart, Secretary

David W. Anderson  
Charles Carter  
Tommy Craven  
Daniel E. Dawson  
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E. O. Ferrell

Manning Puette  
Dr. Lawrence W. Raymond  
Dr. Albert R. Rubin  
Clyde E. Smith, Jr.  
Steve W. Tedder  
Julie A. Wilsey

May 14, 2015

## MEMORANDUM

To: Ray Stewart

From: Gerard Carroll

Subject: Hearing Officer Appointment

Public hearings have been scheduled for June 9, 2015, at 3:00 p.m. at the Division of Air Quality central office in Raleigh, Room 1210, to receive public comments on permanent amendments to the Prevention of Significant Deterioration for Greenhouse Gases and Title V Permit Applicability rules to remove the requirement that sources obtain permits solely on the basis of their greenhouse gas emissions and update global warming potentials, incorporation of the 2012 PM2.5 National Ambient Air Quality Standards into the state rule, and removal of the source reduction and recycling reporting requirements repealed by Session Law 2014-120. The attached public notice describes the hearings' purpose.

I am hereby appointing you to serve as hearing officer for these hearings. Please receive all relevant public comment and report your findings and recommendations to the Environmental Management Commission. Ms. Joelle Burleson will provide staff support for you.

If you have any questions, please feel free to contact Joelle Burleson at (919) 707-8720, or me.

SCH/jb

Attachment

cc: Sheila Holman  
Lois Thomas  
Hearing Record File

## NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

## PUBLIC NOTICE

Notice is hereby given for one public hearing to be heard by the North Carolina Department of Environment and Natural Resources, Division of Air Quality concerning the proposed amendments to air quality rules.

## PURPOSE:

Hearing 1: To receive comments on amendments to Rule 15A NCAC 02D .0544 to remove the requirement that major stationary sources obtain a Prevention of Significant Deterioration permit on the sole basis of its greenhouse gas (GHG) emissions and update the global warming potentials for GHGs, and to Rule 15A NCAC 02Q .0502, Applicability, to remove the requirement that facilities obtain a Title V permit on the sole basis of its GHG emissions.

Hearing 2: To receive comments on amendment to Rule 15A NCAC 02D .0410, PM2.5 Particulate Matter, which reflects more stringent National Ambient Air Quality Standards.

Hearing 3: To receive comments on amendment to Rules 15A NCAC 02Q .0206, Payment of Fees; .0304, Applications; and .0507, Application, which reflect the repeal of source reduction and recycling reporting requirements under Session Law 2014-120.

NOTE: The proposed amendments considered in these hearings, if adopted, will be effective statewide and submitted to the United States Environmental Protection Agency to be included in the North Carolina State Implementation Plan (SIP); if they are later adopted by a local air pollution control agency, then that agency will enforce them in its area of jurisdiction.

## DATES AND LOCATION:

June 9, 2015, 3:00 P.M.  
Training Room (#1210), DENR Green Square Office  
Building, 217 West Jones Street, Raleigh, NC 27603

COMMENT PROCEDURES: All persons interested in these matters are invited to attend the public hearings. **Any person desiring to comment on the rules or fiscal analyses is requested to submit a written statement for inclusion in the record of proceedings at the public hearing.** The hearing officer may limit oral presentation lengths if many people want to speak. The hearing record will remain open until June 15, 2015 to receive additional written statements. To be included, the statement must be received by the Division of Air Quality by June 15, 2015.

INFORMATION: Copies of the proposed rule changes may be downloaded at <http://daq.state.nc.us/Rules/Hearing/>. Copies of the proposals may also be reviewed at the regional offices of the North Carolina Department of Environment and Natural Resources, Division of Air Quality, located at the following cities:

Asheville	828/296-4500
Fayetteville	910/433-3300
Mooresville	704/663-1699
Raleigh	919/791-4200
Washington	252/946-6481
Wilmington	910/796-7215
Winston-Salem	336/776-9800

Comments should be sent to and additional information concerning the hearings or the proposals may be obtained by contacting:

Ms. Joelle Burleson  
 Division of Air Quality  
 1641 Mail Service Center  
 Raleigh, North Carolina 27699-1641  
 (919) 707-8720 Phone/Fax  
[daq.publiccomments@ncdenr.gov](mailto:daq.publiccomments@ncdenr.gov)  
 (please type June 9, 2015 Hearing Comments  
 in subject line)

DATE: \_\_\_\_\_

4/14/15



\_\_\_\_\_  
 Sheila Holman,  
 DAQ Director

### Transcript

A transcript of the June 9, 2015 hearing has not been prepared; however, an audio recording of the proceeding will be kept on file with the Division of Air Quality (DAQ) for one year from the date of the final actions by the Environmental Management Commission.

A list of those attending the hearing is as follows:

#### Hearing Officer

Mr. Ray Stewart, DAQ, DENR, Winston-Salem Regional Office Compliance Supervisor

#### Staff Members

Ms. Joelle Burleson, DENR, DAQ  
Mr. Patrick Knowlson, DENR, DAQ  
Mr. Glenn Sappie, DENR, DAQ  
Mr. Vladimer Zaytsev, DENR, DAQ

#### Other State Government Staff

Mr. Tony Pendola, DENR, DEACS

#### Members of the General Public

No members of the general public attended the public hearing.

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EXHIBITS

<u>EXHIBIT</u>	<u>PAGE</u>
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Hearing Officer Comments at the Public Hearing	IV-6

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol3/pdf/CFR-2011-title40-vol3-sec52-21.pdf>, and with the amendment set forth on 76 FR 43507 at <http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-17256.pdf> and does not include any subsequent amendments or editions to the referenced material. This Rule is applicable in accordance with 40 CFR 51.166(b)(48) and (b)(49)(iv) and (v).

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.108(b); 150B-21.6.

## SUBCHAPTER 02Q – AIR QUALITY PERMITS PROCEDURES

### SECTION .0200 – PERMIT FEES

#### 15A NCAC 02Q .0206 PAYMENT OF FEES

(a) Payment of fees required under this Section may be by check or money order made payable to the N.C. Department of ~~Environment, Health~~ Environment and Natural Resources. Annual permit fee payments shall refer to the permit number.

(b) If, within 30 days after being billed, the permit holder fails to pay an annual fee required under this Section, the Director may initiate action to terminate the permit under Rule .0309 or .0519 of this Subchapter, as appropriate.

(c) A holder of multiple permits may arrange to consolidate the payment of annual fees into one annual payment.

~~(d) The permit holder shall submit a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling in accordance with G.S. 143-215.108(g) along with the annual permit fee payment. The description shall include a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling.~~

~~(e)~~(d) The payment of the permit application fee required by this Section shall accompany the application and is non-refundable.

~~(f)~~(e) The Division shall annually prepare and make publicly available an accounting showing aggregate fee payments collected under this Section from facilities which have obtained or will obtain permits under Section .0500 of this Subchapter except synthetic minor facilities and showing a summary of reasonable direct and indirect expenditures required to develop and administer the Title V permit program.

Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d); 150B-21.6.

### SECTION .0300 – CONSTRUCTION AND OPERATION PERMITS

#### 15A NCAC 02Q .0304 APPLICATIONS

(a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and shall be filed in writing according to Rule .0104 of this Subchapter.

(b) Information to accompany application. Along with filing a complete application form, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination according to G.S. 143-215.108(f) that:
  - (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 all zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required under Rule .0113 of this Subchapter;
  - ~~(3) for a new facility or modification of an existing facility, a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling according to G.S. 143-215.108(g); the description shall include:~~
    - ~~(A) for an existing facility, a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling; or~~
    - ~~(B) for a new facility, a summary of activities related to and plans for source reduction and recycling; and~~
  - ~~(4)~~(3) for permit renewal, an emissions inventory that contains the information specified under 15A NCAC 02D .0202, Registration of Air Pollution Sources (the applicant may use emission inventory forms provided by the Division to satisfy this requirement); and
  - ~~(5)~~(4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if the Director finds this information necessary to evaluate the source, its air pollution abatement equipment, or the facility:
    - (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.
- (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 (prevention of significant deterioration) or .0531 (new source review for sources in nonattainment areas), applicants shall file air permit applications at least 180 days before the projected construction date. For all other sources, applicants shall file air permit applications at least 90 days before the projected date of construction of a new source or modification of an existing source.

(d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the originally permitted source, application for permit change may be made by letter to the Director at the address specified in Rule .0104 of this Subchapter. The permit renewal, name, or ownership change letter must state that there have been no changes in the permitted facility since the permit was last issued. However, the Director may require the applicant for ownership change to submit additional information, if the Director finds the following information necessary to evaluate the applicant for ownership change, showing that:

- (1) The applicant is financially qualified to carry out the permitted activities, or
- (2) 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.

To make a name or ownership change, the applicant shall send the Director the number of copies of letters specified in Rule .0305(a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

(e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting procedures may be made by letter to the Director at the address specified in Rule .0104 of this Subchapter. To make changes in construction or test dates or reporting procedures, the applicant shall send the Director the number of copies of letters specified in Rule .0305(a)(5) of this Section signed by a person specified in Paragraph (j) of this Rule.

(f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are mailed to the Director at the address specified in Rule .0104 of this Subchapter and postmarked at least 90 days before expiration of the permit.

(g) Name, or ownership change. The permittee shall file requests for permit name or ownership changes as soon as the permittee is aware of the imminent name or ownership change.

(h) Number of copies of additional information. The applicant shall submit the same number of copies of additional information as required for the application package.

(i) Requesting additional information. Whenever the information provided on the permit application forms does not adequately describe the source and its air cleaning device, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air cleaning device. Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that he considers necessary to determine compliance with applicable standards.

(j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:

- (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emissions described in the permit application form originates;
- (2) for partnership or limited partnership, by a general partner;

- (3) for a sole proprietorship, by the proprietor;
- (4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected official, or other duly authorized employee.

(k) Application fee. With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application processing fee shall accompany each application. The permit application processing fees are defined in Section .0200 of this Subchapter. A permit application is incomplete until the permit application processing fee is received.

(l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant facts pertaining to his permit application and to correct incorrect information on his permit application.

(m) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package.

*Authority G.S. 143-215.3(a)(1); 143-215.108.*

## SECTION .0500 – TITLE V PROCEDURES

### 15A NCAC 02Q .0502 APPLICABILITY

(a) Except as provided in Paragraph (b) or (c) of this Rule, the following facilities are required to obtain a permit under this Section:

- (1) major facilities;
- (2) facilities with a source subject to 15A NCAC 02D .0524 or 40 CFR Part 60, except new residential wood heaters;
- (3) facilities with a source subject to 15A NCAC 02D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (4) facilities with a source subject to 15A NCAC 02D .1111 or 40 CFR Part 63 or any other standard or other requirement under Section 112 of the federal Clean Air Act, except that a source is not required to obtain a permit solely because it is subject to rules or requirements under Section 112(r) of the federal Clean Air Act;
- (5) facilities to which 15A NCAC 02D .0517(2), .0528, .0529, or .0534 applies;
- (6) facilities with a source subject to Title IV or 40 CFR Part 72; or
- (7) facilities in a source category designated by EPA as subject to the requirements of 40 CFR Part 70.

(b) This Section does not apply to minor facilities with sources subject to requirements of 15A NCAC 02D .0524, .1110, or .1111 or 40 CFR Part 60, 61, or 63 until EPA requires these facilities to have a permit under 40 CFR Part 70.

(c) A facility shall not be required to obtain a permit under this Section on the sole basis of its greenhouse gas emissions.

~~(e)~~(d) Once a facility is subject to this Section because of emissions of one pollutant, the owner or operator of that facility shall submit an application that includes all sources of all regulated air pollutants located at the facility except for insignificant activities because of category.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);  
143-215.108.

### 15A NCAC 02Q .0507 APPLICATION

(a) Except for:

- (1) minor permit modifications covered under Rule .0515 of this Section,
- (2) significant modifications covered under Rule .0516(c) of this Section, or
- (3) permit applications submitted under Rule .0506 of this Section,

the owner or operator of a source shall have one year from the date of beginning of operation of the source to file a complete application for a permit or permit revision. However, the owner or operator of the source shall not begin construction or operation until he has obtained a construction and operation permit pursuant to Rule .0501(c) or (d) and Rule .0504 of this Section.

(b) The application shall include all 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. The application form shall be certified by a responsible official for truth, accuracy, and completeness. In the application submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to Section .0400 of this Subchapter or 15A NCAC 02D .0530 or .0531, provided the information in those applications contains information required in this Section and is current, valid, and complete.

(c) Application for a permit, permit revision, or permit renewal shall be made in accordance with Rule .0104 of this Subchapter on forms of the Division and shall include plans and specifications giving all necessary data and information as required by this Rule. Whenever 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 may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air pollution abatement equipment.

(d) Along with filing a complete application form, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:
  - (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 all zoning or subdivision ordinances are met by the facility;
- (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 under Rule .0113 of this Subchapter; and

~~(3) for a new facility or modification of an existing facility, a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling in accordance with~~

~~G.S. 143-215.108(g); the description shall include:~~

~~(A) for an existing facility, a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling; or~~

~~(B) for a new facility, a summary of activities related to and plans for source reduction and recycling; and~~

~~(4)~~(3) if required by the Director, information showing that:

(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.

(e) The applicant shall submit copies of the application package as follows:

(1) for sources subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, six copies plus one additional copy for each affected state that the Director has to notify;

(2) for sources not subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, four copies plus one additional copy for each affected state that the Director has to notify.

The Director may at any time during the application process request additional copies of the complete application package from the applicant.

(f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit, as soon as possible, such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date he filed a complete application but prior to release of a draft permit.

(g) The applicant shall submit the same number of copies of additional information as required for the application package.

(h) The submittal of a complete permit application shall not affect the requirement that any facility have a preconstruction permit under 15A NCAC 02D .0530, .0531, or .0532 or under Section .0400 of this Subchapter.

(i) The Director shall give priority to permit applications containing early reduction demonstrations under Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications as soon as practicable after receipt of the complete permit application.

(j) With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application processing fee shall accompany each application. The permit application processing fees are defined in Section .0200 of this Subchapter.

Each permit or renewal application is incomplete until the permit application processing fee is received.

(k) The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package.

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

Hearing Officer's Suggested Hearing Comments  
Raleigh, NC -- June 9, 2015

INTRODUCTION

[Ray Stewart, Hearing officer]:

Good evening ladies and gentlemen. My name is Ray Stewart. I am the Compliance Supervisor of the Division of Air Quality's Winston-Salem Regional Office. My role as hearing officer is to listen to all relevant comment on these proceedings and report them to the full commission. Sitting with me is Ms. Joelle Burleson. She is with the North Carolina Division of Air Quality, Planning Section.

Some of the staff from the Division of Air Quality are here to assist. Ms. Burleson, please introduce the staff present.

[Ms. Burleson] (Introduces staff)

[Ray Stewart]:

This afternoon we are conducting three hearings. During Hearing 1, we will take comments concerning the amendments to Rules 15A NCAC 02D .0544, Prevention of Significant Deterioration (PSD) Requirements for Greenhouse Gases and 15A NCAC 02Q .0502, Applicability. During Hearing 2, we will take comments on amendment to Rule 15A NCAC 02D .0410, PM<sub>2.5</sub> Particulate Matter, which reflects more stringent National Ambient Air Quality Standards. During Hearing 3, we will take comments on amendments to rules concerning Source Reduction and Recycling Reporting Requirements in 15A NCAC 02Q Section .0200, Section .0300, and Section .0500. These hearings will be held according to the North Carolina Administrative Procedures Act. The public notice for these hearings has been published in the *North Carolina Register* and on the Division of Air Quality website. Notice also has been emailed to those on the DAQ email distribution list. I will enter the public notice and the proposed amendment into the hearing record without reading them at this time.

It would be helpful if any person desiring to comment would also submit a written statement for inclusion into the hearing record. Once called to speak, please come to the podium and state your name clearly, identify the rule or rules you are commenting on, and whom you represent.

**[Hearing 1]:**

I will now open the first hearing and take relevant comments on the rule amendments to the PSD rule for greenhouse gases (GHG) and Title V permit applicability rule.

On June 23, 2014, the United States Supreme Court issued a decision in *Utility Air Regulatory Group (UARG) v. Environmental Protection Agency (EPA)* addressing the application of stationary source permitting requirements to GHG emissions. In its decision, the Supreme Court said that the EPA may not treat greenhouse gases as an air pollutant for the purposes of determining whether a source is a major source required to obtain a PSD or Title V permit.

On July 24, 2014, Janet G. McCabe, Acting Assistant Administrator, EPA Office of Air and Radiation, and Cynthia Giles, Assistant Administrator, EPA Office of Enforcement and Compliance Assurance, wrote a memo outlining EPA's next steps for the agency's GHG permit program. In the memo, they wrote that the EPA will not apply or enforce the following regulatory requirements:

- Federal regulations or the EPA-approved PSD SIP provisions that require a stationary source to obtain a PSD permit if GHG are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (e.g., 40 CFR 52.21(b)(49)(v)).
- Federal regulations or provisions in the EPA-approved Title V programs that require a stationary source to obtain a Title V permit solely because the source emits or has the potential to emit GHG above the major source thresholds.

To align the state rules with the Court decision, 15A NCAC 02D .0544, Prevention of Significant Deterioration Requirements for Greenhouse Gases, is proposed for amendment to remove the requirement that major stationary sources obtain a PSD permit on the sole basis of its GHG emissions and to update the reference to the global warming potentials for GHGs.

15A NCAC 02Q .0502, Applicability, is proposed for amendment to remove the requirement that facilities obtain a Title V permit on the sole basis of its GHG emissions.

Temporary rule amendments to 15A NCAC 02D .0544 and 15A NCAC 02Q .0502 were adopted on December 2, 2014 and these same rules under consideration are to make these amendments permanent.

{ optional script if there are a large number of speakers }

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[Ray Stewart]:            Optional Time Limit

Many people have requested to speak at this hearing. Due to time constraints, speakers' presentations will be limited to \_\_\_ minutes. It would be helpful if speakers would also submit a written statement by the close of the comment period for inclusion into the hearing record.

---

[Ray Stewart]:

I will now take any comments that you may have.

[SPEAKERS]

[Ray Stewart]:

Is there anyone else who would like to comment? If there are no more comments, then this hearing is closed. The hearing record will remain open until June 15, 2015, for additional written comments.

**[Hearing 2]:**

I will now open the second hearing and take relevant comments on amendment to Rule 15A NCAC 02D .0410, PM2.5 Particulate Matter, which reflects more stringent National Ambient Air Quality Standards or NAAQS. A regulatory analysis was prepared for the rule amendments presented in the hearing today and was approved by the OSBM.

On Dec. 14, 2012, EPA strengthened the PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) NAAQS by revising the level of the annual arithmetic mean concentration from 15.0  $\mu\text{g}/\text{m}^3$  to 12.0  $\mu\text{g}/\text{m}^3$  while maintaining the current 24-hour average concentration of 35.0  $\mu\text{g}/\text{m}^3$ .

The proposed rule amendments update the state rule to reflect the current NAAQS value. Based on the 2010 – 2012 and subsequent ambient monitoring data, all counties in North Carolina are below the newly established 12  $\mu\text{g}/\text{m}^3$  national annual standard and the established daily 35  $\mu\text{g}/\text{m}^3$  standard<sup>1</sup>. On December 18, 2014, EPA determined that no area within North Carolina violates the 2012 standard or contributes to a nearby violation of the standard and designated all counties in North Carolina unclassifiable/attainment for the 2012 PM2.5 NAAQS as published in the *Federal Register* January 15, 2015 effective April 1, 2015.

{ optional script if there are a large number of speakers }

-----  
 [Ray Stewart]:            Optional Time Limit: Many people have requested to speak at this hearing. Due to time constraints, speakers' presentations will be limited to \_\_\_\_ minutes.  
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<sup>1</sup> NCDENR. Division of Air Quality. PM2.5 Design Values for 2010-2012 in NC Counties.  
<http://daq.state.nc.us/monitor/data/pm2pt5/10-12.shtml>

[Ray Stewart]:

I will now take any comments you may have.

[SPEAKERS]

Is there anyone else who would like to comment? If there are no more comments, then this hearing is closed. The hearing record will remain open until June 15, 2015 for additional written comments.

**[Hearing 3]:**

I will now open the third hearing and take relevant comments on amendments to the Air Quality Permit Procedures rules to eliminate outdated air quality reporting requirements that pertain to source reduction and recycling. A regulatory impact analysis was developed for the rule amendments presented in the hearing today and was approved by the OSBM.

Section 38.(c) of the Session Law repealed G.S. 143-215.108(g) which was the underlying requirement that sources submit a written description of their current and projected plans to reduce emissions of air contaminants by source reduction and recycling with their air permit applications for new facilities and for modifications. This requirement was determined to be unnecessary and its repeal reduces burden on permit applicants. Three air quality rules are proposed to be amended to reflect the session law repeal of the outdated requirement by removing related language and involve paragraph renumbering: namely, 15A NCAC 02Q .0206 Payment of Fee; .0304, Applications; and .0507, Application.

{ optional script if there are a large number of speakers }

-----  
 [Ray Stewart]:            Optional Time Limit: Many people have requested to speak at this hearing. Due to time constraints, speakers' presentations will be limited to \_\_\_\_ minutes.  
 -----

[Ray Stewart]:

I will now take any comments you may have.

[SPEAKERS]

Is there anyone else who would like to comment? If there are no more comments, then this hearing is closed. The hearing record will remain open until June 15, 2015 for additional written comments.

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That concludes this afternoon's hearings. Thank you for your participation.

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CHAPTER V

COMMENTS DURING THE COMMENT PERIOD

INDEX OF COMMENTERS

NAME

REPRESENTING

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No comments were received.

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CHAPTER VI

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### Regulatory Impact Analysis

**Rule Topic:** Revisions to Source Reduction and Recycling Report Requirement Rules to Reflect S.L. 2014-120 (530)

**Rules Citation:** 15A NCAC 02Q .0206 *PAYMENT OF FEES*  
15A NCAC 02Q .0304 *APPLICATIONS*  
15A NCAC 02Q .0507 *APPLICATION*

**DENR Division:** Division of Air Quality

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**Impact Summary:** State government: No  
Local government: No  
Substantial impact: No  
Federal government: No

**Authority:** G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; S.L. 2014-120.

**Necessity:** The General Assembly enacted Session Law 2014-120 (S.L. 2014-120) on September 18, 2014 to require the Environmental Management Commission (EMC) to eliminate outdated air quality reporting requirement rules that pertain to source reduction and recycling. Section 38.(c) of the Session Law repealed G.S. 143-215.108(g) which was the underlying requirement that sources submit a written description of their current and projected plans to reduce emissions of air contaminants by source reduction and recycling with their air permit applications for new facilities and for modifications. This requirement was determined to be unnecessary and its repeal reduces burden on permit applicants. Three Division of Air Quality (DAQ) rules need to be amended to reflect the session law repeal of the outdated requirement and involve paragraph renumbering: namely, 15A NCAC 02Q .0206 Payment of Fee; .0304, Applications; and .0507, Application (see text of the proposed rule changes in the Appendix).

## **I. Executive Summary**

The purpose of this regulatory impact analysis is to evaluate the costs and benefits associated with the mandatory revisions to three air quality rules associated with source reduction and recycling report requirements to reflect the provisions of Section 38.(c) of S.L. 2014-120, “An act to provide further regulatory relief to the Citizens of North Carolina by providing for various administrative reforms, by eliminating certain unnecessary or outdated statutes and regulations, and by modernizing or simplifying cumbersome and outdated regulations, and by making other statutory changes.” S.L. 2014-120 repeals the statutory requirements to report source reduction and recycling plans which in turn requires the EMC to amend the corresponding rules; therefore, any impact from these changes stems from the session law and not actual conforming amendments to the rule.

As a result of S.L. 2014-120, Section 38.(g), three DAQ rules need amendment to reflect the repeal of the outdated statutory requirement and involve paragraph renumbering: namely, 15A NCAC 02Q .0206, Payment of Fee; .0304, Applications; and .0507, Application. These requirements were determined to be of no longer useful value and their repeal reduces burden on permit applicants to report their plans for source reduction and recycling. These rule amendments do not cause substantial economic impacts, as defined in the Administrative Procedure Act in N.C.G.S. 150B-21.4(b1), meaning that the estimated impacts exceed \$1,000,000 in a 12-month period. The amendments do not cause impacts on state or local funds, but private sector impacts are estimated to be approximately \$530,000.

## **II. Background**

The intent of the reporting requirement in rules 15A NCAC 02Q Sections .0200 - Permit Fees, .0300 - Construction and Operating Permits, and .0500 - Title V Procedures was to encourage facilities to consider source reduction and recycling as a means of pollution prevention. Now many used materials have enough value making it worthwhile to recycle without government intervention. Instead of facilities reporting information, the NC Department of Environment and Natural Resources has developed web sites to help connect those that produce recyclable material with collectors, processors, and end users of recyclable materials.<sup>1</sup> The DAQ began implementing the provisions of the repeal when it became effective on September 18, 2014 by discontinuing the requirement for permit holders to report their source reduction and recycling plans.

## **III. Description of Existing Rules 15A NCAC 02Q .0206, .0304, and .0507**

15A NCAC 02Q .0206 – *Payment of Fees*. This rule requires permit holders to report their plans for source reduction and recycling along with the annual permit fee payment.

15A NCAC 02Q .0304 - *Applications*. This rule requires non-Title V permit holders to report their plans for source reduction and recycling along with their permit application.

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<sup>1</sup> See <http://www.p2pays.org/dmrm/start.aspx> and <http://www.ncwastetrader.org/home.aspx>

15A NCAC 02Q .0507 - *Application*. This rule requires Title V permit holders to report their plans for source reduction and recycling along with their permit application.

Note that G.S. 143-215.108(g) contained the same language in its first two sentences as mentioned in the three rules above, but also included the following language in its third sentence: “The written description required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification.” DAQ interpreted the third sentence to mean there would not be any adverse consequences for not reporting any source reduction and recycling information. In addition, DAQ had developed a one-page form (Form A4) to simplify the reporting for source reduction and recycling which was used as the report submittal by all permitted facilities. Review of a few hundred recent Form A4 submittals showed that more than 90 percent only contained the facility’s name and contact information without any specific information reported on source reduction and recycling plans. Given that most Form A4s contained no relevant content and if they did have content there was no subsequent data processing for it, Form A4 held little value and warranted minimal priority in handling. Its absence in future DAQ and local programs’ workload level will not result in any staffing level changes or redistribution of any funds, and therefore is considered too negligible for which to estimate a meaningful cost savings.

Table 1 presents the cost estimate for the baseline condition for permit holders when source reduction and recycling reporting was a requirement under the prior practice of submitting a Form A4. There are approximately 3,650 permitted facilities in North Carolina including those permitted by the DAQ and the three local programs. Conservative estimates are used as the basis for the overall percentage of facilities submitting Form A4 with and without content, the level of effort (Labor hours per facility) with and without Form A4 content, and the average labor cost (\$100/hour). Table 1 shows that the total cost estimate for the baseline is approximately \$530,000 over a 12-month period, well below the \$1,000,000 threshold for substantial economic impacts, as defined in the Administrative Procedure Act in N.C.G.S. 150B-21.4(b1).

**Table 1. Cost Estimate for Source Reduction and Recycling Reporting via Form A4 Submittals**

Estimates for Form A4 Submittals	Facilities	Labor hours per facility	Labor cost, \$/hr	Cost, \$
Total number of facilities	3,650			
Facility submittals with Form A4 content (assumed 10%)	365	10 <sup>a</sup>	100 <sup>b</sup>	365,000
Facility submittals without Form A4 content (assumed 90%)	3,285	0.5 <sup>c</sup>	100 <sup>b</sup>	164,250
Total for Form A4 submittals				529,250

<sup>a</sup> Estimates from three contractors providing permitting service indicated that it took up to four hours on average to complete Form A4 if there were detailed content on source reduction and recycling plans; DAQ’s conservative estimate assumed 10 hours for such an effort.

<sup>b</sup> Estimates from the same three contractors indicated that the billable labor rate for engineers to complete Form A4 averaged \$80/hour - \$90/hour; DAQ’s conservative estimate assumed \$100/hour labor rate.

<sup>c</sup> Estimates are that it took up to five minutes to make a copy of the previous Form A4 submittal when there was no content; DAQ's conservative estimate assumed 30 minutes or 0.5 labor hours for such an effort.

#### **IV. Motivation for the Proposed Changes**

The motivation for the S.L. 2014-120 statute and the ensuing proposed rules is to reduce the economic impact of environmental rules found to be unnecessary without any loss of air quality.

#### **V. Identification of the Affected Sources**

Affected sources will be all 3,650 Title V and non-Title V permitted facilities in the state.

#### **VI. Conclusions**

The DAQ began implementing the provisions of Section 38.(g) of the S.L. 2014-120 when it became effective on September 18, 2014. The revision to rules 15A NCAC 02Q .0206, *Payment of Fee*; .0304, *Applications*; and .0507, *Application*, removes the need for permit holders to report their source reduction and recycling plans.

These rule amendments do not cause substantial economic impacts, as defined in the Administrative Procedure Act in N.C.G.S. 150B-21.4(b1), meaning that the estimated impacts exceed \$1,000,000 in a 12-month period. The rule amendments are *de minimis* and do not have any impact on state or local funds, therefore this regulatory impact analysis was prepared because a fiscal note is not required for amendment of rules with estimated impacts less than \$1,000,000.

1 **APPENDIX A**

2

3 15A NCAC 02Q .0203 is proposed for amendment as follows:

4

5 **15A NCAC 02Q .0206 PAYMENT OF FEES**

6 (a) Payment of fees required under this Section may be by check or money order made payable to the N.C.  
7 Department of ~~Environment, Health and Natural Resources~~, Environment and Natural Resources. Annual permit fee payments shall  
8 refer to the permit number.

9 (b) If, within 30 days after being billed, the permit holder fails to pay an annual fee required under this Section,  
10 the Director may initiate action to terminate the permit under Rule .0309 or .0519 of this Subchapter, as  
11 appropriate.

12 (c) A holder of multiple permits may arrange to consolidate the payment of annual fees into one annual  
13 payment.

14 ~~(d) The permit holder shall submit a written description of current and projected plans to reduce the emissions of  
15 air contaminants by source reduction and recycling in accordance with G.S. 143-215.108(g) along with the  
16 annual permit fee payment. The description shall include a summary of activities related to source reduction  
17 and recycling and a quantification of air emissions reduced and material recycled during the previous year and a  
18 summary of plans for further source reduction and recycling.~~

19 ~~(e)~~ (d) The payment of the permit application fee required by this Section shall accompany the application and is  
20 non-refundable.

21 ~~(f)~~ (e) The Division shall annually prepare and make publicly available an accounting showing aggregate fee  
22 payments collected under this Section from facilities which have obtained or will obtain permits under Section  
23 .0500 of this Subchapter except synthetic minor facilities and showing a summary of reasonable direct and  
24 indirect expenditures required to develop and administer the Title V permit program.

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26 *History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the  
27 permanent*

28 *rule becomes effective, whichever is sooner;*

29 *Authority G.S. 143-215.3(a)(1),(1a),(1b),(1d); ~~143-215.108~~; 150B-21.6;*

30 *Amended Eff. \_\_\_\_\_; Eff. July 1, 1994.*

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1 **15A NCAC 02Q .0304 is proposed for amendment as follows:**

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

4 (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be  
5 obtained and shall be filed in writing according to Rule .0104 of this Subchapter.

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

8 (1) for a new facility or an expansion of existing facility, a consistency determination according to G.S.  
9 143-215.108(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 all 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 under Rule .0113 of this Subchapter;

15 ~~(3) for a new facility or modification of an existing facility, a written description of current and  
16 projected plans to reduce the emissions of air contaminants by source reduction and recycling according  
17 to G.S. 143-215.108(g); the description shall include:~~

18 ~~(A) for an existing facility, a summary of activities related to source reduction and  
19 recycling and a quantification of air emissions reduced and material recycled during  
20 the previous year and a summary of plans for further source reduction and recycling; or~~

21 ~~(B) for a new facility, a summary of activities related to and plans for source reduction and  
22 recycling; and~~

23 ~~(4)~~ (3) for permit renewal, an emissions inventory that contains the information specified under 15A  
24 NCAC 02D .0202, Registration of Air Pollution Sources (the applicant may use emission inventory  
25 forms provided by the Division to satisfy this requirement); and

26 ~~(5)~~ (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if the  
27 Director finds this information necessary to evaluate the source, its air pollution abatement equipment,  
28 or the facility:

29 (A) The applicant is financially qualified to carry out the permitted activities, or

30 (B) The applicant has substantially complied with the air quality and emissions standards  
31 applicable to any activity in which the applicant has previously been engaged, and has  
32 been in substantial compliance with federal and state environmental laws and rules.

1 (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 (prevention of  
2 significant deterioration) or .0531 (new source review for sources in nonattainment areas), applicants shall file  
3 air permit applications at least 180 days before the projected construction date. For all other sources, applicants  
4 shall file air permit applications at least 90 days before the projected date of construction of a new source or  
5 modification of an existing source.

6 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the  
7 originally permitted source, application for permit change may be made by letter to the Director at the address  
8 specified in Rule .0104 of this Subchapter. The permit renewal, name, or ownership change letter must state that  
9 there have been no changes in the permitted facility since the permit was last issued. However, the Director may  
10 require the applicant for ownership change to submit additional information, if the Director finds the following  
11 information necessary to evaluate the applicant for ownership change, showing that:

12 (1) The applicant is financially qualified to carry out the permitted activities, or

13 (2) The applicant has substantially complied with the air quality and emissions standards applicable to  
14 any activity in which the applicant has previously been engaged, and has been in substantial compliance  
15 with federal and state environmental laws and rules.

16 To make a name or ownership change, the applicant shall send the Director the number of copies of letters  
17 specified in Rule .0305(a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

18 (e) Applications for date and reporting changes. Application for changes in construction or test dates or  
19 reporting procedures may be made by letter to the Director at the address specified in Rule .0104 of this  
20 Subchapter. To make changes in construction or test dates or reporting procedures, the applicant shall send the  
21 Director the number of copies of letters specified in Rule .0305(a)(5) of this Section signed by a person  
22 specified in Paragraph (j) of this Rule.

23 (f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are  
24 mailed to the Director at the address specified in Rule .0104 of this Subchapter and postmarked at least 90 days  
25 before expiration of the permit.

26 (g) Name, or ownership change. The permittee shall file requests for permit name or ownership changes as soon  
27 as the permittee is aware of the imminent name or ownership change.

28 (h) Number of copies of additional information. The applicant shall submit the same number of copies of  
29 additional information as required for the application package.

30 (i) Requesting additional information. Whenever the information provided on the permit application forms does  
31 not adequately describe the source and its air cleaning device, the Director may request that the applicant  
32 provide any other information that the Director considers necessary to evaluate the source and its air cleaning  
33 device. Before acting on any permit application, the Director may request any information from an applicant and

1 conduct any inquiry or investigation that he considers necessary to determine compliance with applicable  
2 standards.

3 (j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:

4 (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly  
5 authorized representative, if such representative is responsible for the overall operation of the facility  
6 from which the emissions described in the permit application form originates;

7 (2) for partnership or limited partnership, by a general partner;

8 (3) for a sole proprietorship, by the proprietor;

9 (4) for municipal, state, federal, or other public entity, by a principal executive officer, ranking elected  
10 official, or other duly authorized employee.

11 (k) Application fee. With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit  
12 application processing fee shall accompany each application. The permit application processing fees are defined  
13 in Section .0200 of this Subchapter. A permit application is incomplete until the permit application processing  
14 fee is received.

15 (l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant  
16 facts pertaining to his permit application and to correct incorrect information on his permit application.

17 (m) Retaining copy of permit application package. The applicant shall retain for the duration of the permit term  
18 one complete copy of the application package and any information submitted in support of the application  
19 package.

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

22 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is*  
23 *effective, whichever is sooner;*

24 *Eff. July 1, 1994;*

25 *Amended Eff. \_\_\_\_\_; Amended Eff. January 1, 2009; December 1, 2005; July 1, 1999.*

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1 **15A NCAC 02Q .0507 is proposed for amendment as follows:**

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

4 (a) Except for:

5 (1) minor permit modifications covered under Rule .0515 of this Section,

6 (2) significant modifications covered under Rule .0516(c) of this Section, or

7 (3) permit applications submitted under Rule .0506 of this Section,

8 the owner or operator of a source shall have one year from the date of beginning of operation of the source to  
9 file a complete application for a permit or permit revision. However, the owner or operator of the source shall  
10 not begin construction or operation until he has obtained a construction and operation permit pursuant to Rule  
11 .0501(c) or (d) and Rule .0504 of this Section.

12 (b) The application shall include all the information described in 40 CFR 70.3(d) and 70.5(c), including a list of  
13 insignificant activities because of size or production rate; but not including insignificant activities because of  
14 category. The application form shall be certified by a responsible official for truth, accuracy, and completeness.

15 In the application submitted pursuant to this Rule, the applicant may attach copies of applications submitted  
16 pursuant to Section .0400 of this Subchapter or 15A NCAC 02D .0530 or .0531, provided the information in  
17 those applications contains information required in this Section and is current, valid, and complete.

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

24 (d) Along with filing a complete application form, the applicant shall also file the following:

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

27 (A) bears the date of receipt entered by the clerk of the local government, or

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

30 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and  
31 proof of publication of a legal notice as required under Rule .0113 of this Subchapter; and

1 ~~(3) for a new facility or modification of an existing facility, a written description of current and~~  
 2 ~~projected plans to reduce the emissions of air contaminants by source reduction and recycling in~~  
 3 ~~accordance with G.S. 143-215.108(g); the description shall include:~~

- 4 ~~(A) for an existing facility, a summary of activities related to source reduction and recycling~~  
 5 ~~and a quantification of air emissions reduced and material recycled during the previous~~  
 6 ~~year and a summary of plans for further source reduction and recycling; or~~  
 7 ~~(B) for a new facility, a summary of activities related to and plans for source reduction and~~  
 8 ~~recycling; and~~

9 (4) (3) if required by the Director, information showing that:

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

14 (e) The applicant shall submit copies of the application package as follows:

- 15 (1) for sources subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, six copies plus  
 16 one additional copy for each affected state that the Director has to notify;  
 17 (2) for sources not subject to the requirements of 15A NCAC 02D .0530, .0531, or .1200, four copies  
 18 plus one additional copy for each affected state that the Director has to notify.

19 The Director may at any time during the application process request additional copies of the complete  
 20 application package from the applicant.

21 (f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit  
 22 application shall, upon becoming aware of such failure or incorrect submittal, submit, as soon as possible, such  
 23 supplementary facts or corrected information. In addition, an applicant shall provide additional information as  
 24 necessary to address any requirements that become applicable to the source after the date he filed a complete  
 25 application but prior to release of a draft permit.

26 (g) The applicant shall submit the same number of copies of additional information as required for the  
 27 application package.

28 (h) The submittal of a complete permit application shall not affect the requirement that any facility have a  
 29 preconstruction permit under 15A NCAC 02D .0530, .0531, or .0532 or under Section .0400 of this Subchapter.

30 (i) The Director shall give priority to permit applications containing early reduction demonstrations under  
 31 Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications as  
 32 soon as practicable after receipt of the complete permit application.

1 (j) With the exceptions specified in Rule .0203(i) of this Subchapter, a non-refundable permit application  
2 processing fee shall accompany each application. The permit application processing fees are defined in Section  
3 .0200 of this Subchapter. Each permit or renewal application is incomplete until the permit application  
4 processing fee is received.

5 (k) The applicant shall retain for the duration of the permit term one complete copy of the application package  
6 and any information submitted in support of the application package.

7  
8 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

9 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*  
10 *becomes effective, whichever is sooner;*

11 *Eff. July 1, 1994;*

12 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*

13 *Temporary Amendment Eff. December 1, 1999;*

14 *Amended Eff. \_\_\_\_\_; Amended Eff. April 1, 2004; July 1, 2000.*

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**APPENDIX B****SESSION LAW 2014-120  
SENATE BILL 734**

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES

**ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS**

SECTION 38.(a) G.S. 143-215.3A reads as rewritten:

"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title V Account; I & M Air Pollution Control Account; reports.

...

(c) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the State's environmental permitting programs contained within the Department on or before 1 November of each year. In addition, the Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the Title V Program on or before 1 November of each year. The reports report shall include, but are is not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

SECTION 38.(b) The following sections of S.L. 2002-4 are repealed:

- (1) Section 10.
- (2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.
- (3) Section 12.
- (4) Section 13.

SECTION 38.(c) G.S. 143-215.108(g) is repealed.

**North Carolina General Statute 143-215.108**

Page 4

...

(g) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the emission of air contaminants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification.

**SESSION LAW 2014-120 (SENATE BILL 734)**

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES

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SECTION 38.(b) The following sections of S.L. 2002-4 are repealed:

- (1) Section 10.
- (2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.
- (3) Section 12.
- (4) Section 13.

SECTION 38.(c) G.S. 143-215.108(g) is repealed.

**North Carolina General Statute 143-215.108** (repealed)

Page 4

...

(g) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the emission of air contaminants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification.

## VII-1

## Chapter VII

The following documentation of filing and notification is incorporated as part of this hearing record and is maintained on file:

1. ENR 101 Internal Approval Form.
2. Submission for Notice Form and material submitted to the Office of Administrative Hearings.
3. The public notice as it appears in *The North Carolina Register* Volume 29, Issue 20, pages 2340-2343.
4. Memorandum transmitting hearing notice and proposal to regional offices for public inspection.
5. Memorandum transmitting hearing notice and proposal to local programs.
6. Submission of Filing Forms and material filed with Office of Administrative Hearings.
7. Executive Order No. 70 Certification Form

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