# STATE OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF AIR QUALITY

#### REPORT OF PROCEEDINGS OF PUBLIC HEARING ON

## PROPOSED AMENDMENT TO RULES 15A NCAC 02D .0103 - .0105

PROPOSED READOPTION AS A REPEAL TO RULES 15A NCAC 02D .1301 - .1305

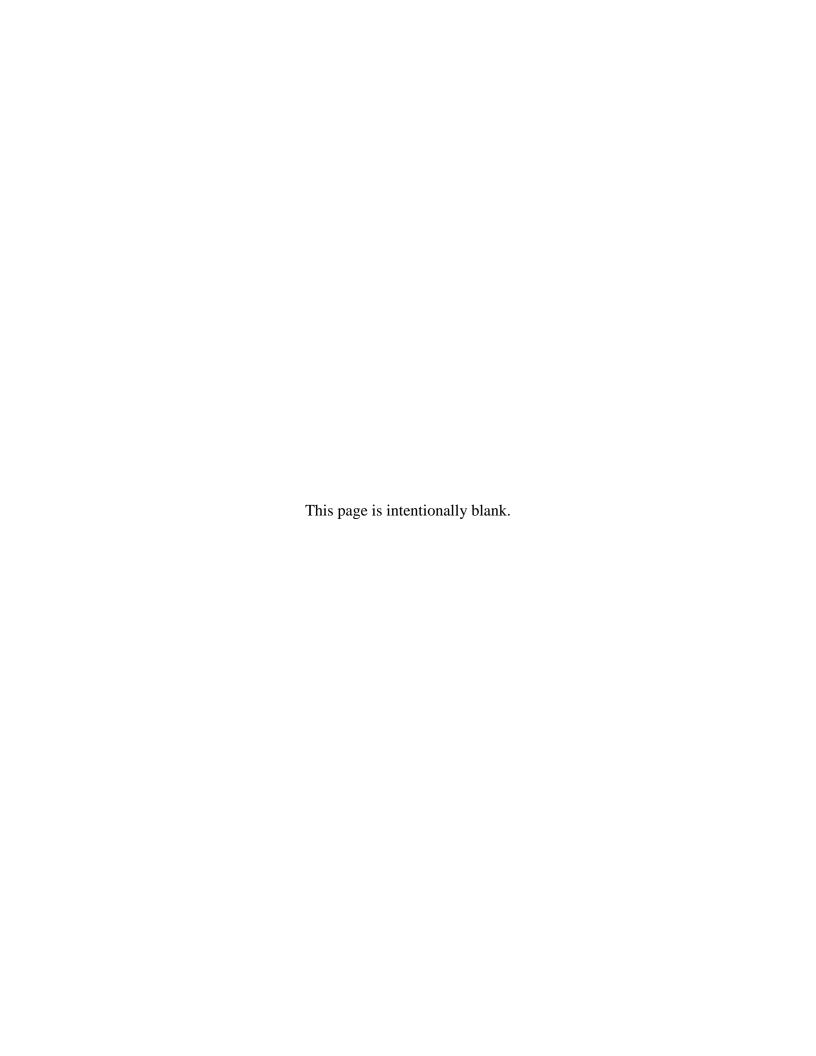
PROPOSED READOPTION WITH SUBSTANTIVE CHANGE TO RULES 15A NCAC 02D .0302, .0305 - .0307, .2001, AND .2203

PROPOSED READOPTION WITHOUT SUBSTANTIVE CHANGE TO RULES 15A NCAC 02D .0101, .0303, .0304, .0401, .0402, .0404, .0407 - .0410, .2003, .2005, AND .2204

PROPOSED READOPTION WITHOUT CHANGE TO RULES 15A NCAC 02D .0201, .0202, .0301, .2002, .2004, .2201, .2202, AND .2205

AUGUST 3, 2017 CHARLOTTE, NC

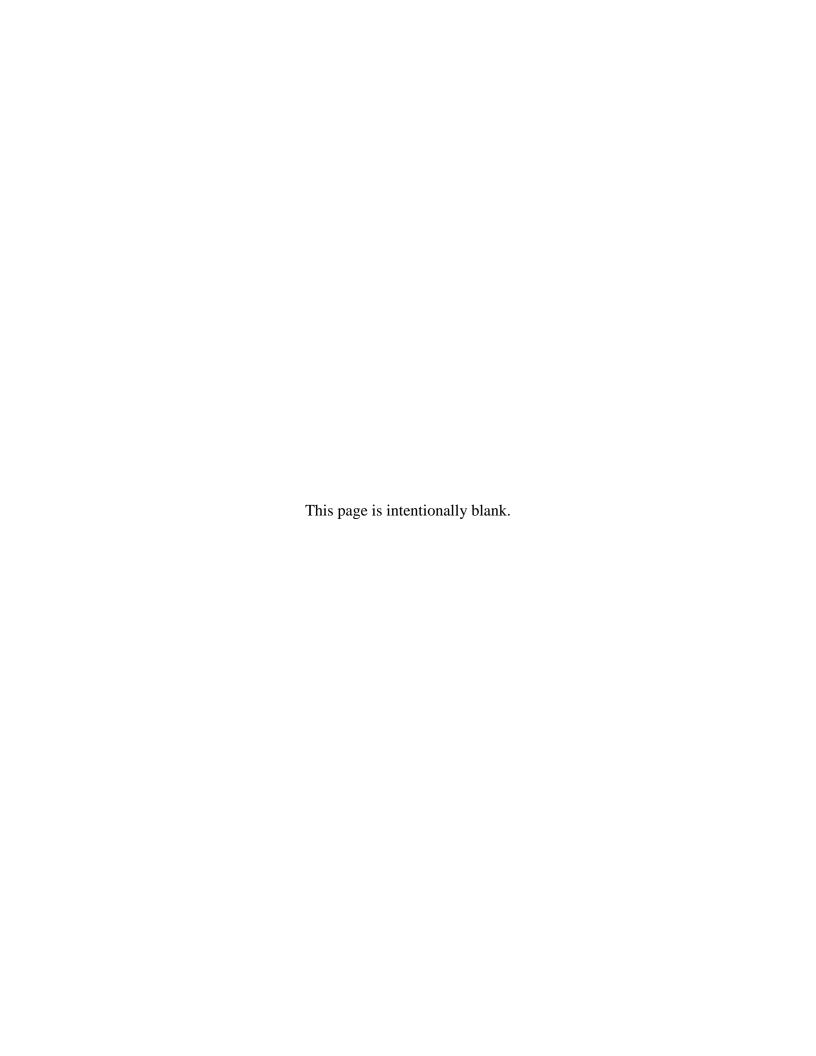
ENVIRONMENTAL MANAGEMENT COMMISSION



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#### CHAPTER I

#### **Summaries and Recommendations**

Proposed amendment to Rules 15A NCAC 02D .0103 - .0105

Proposed readoption as a repeal to Rules 15A NCAC 02D .1301 - .1305

Proposed readoption with substantive change to Rules 15A NCAC 02D .0302, .0305 - .0307, .2001, and .2203

Proposed readoption without substantive change to Rules 15A NCAC 02D .0101, .0303, .0304, .0401, .0402, .0404, .0407 - .0410, .2003, .2005, and .2204

Proposed readoption without change to Rules 15A NCAC 02D .0201, .0202, .0301, .2002, .2004, .2201, .2202, and .2205

#### **BACKGROUND AND SUMMARY**

General Statute (G.S.) 150B-21.3A, adopted by the state in 2013, requires state agencies to review existing rules every 10 years. Following an initial review, rules will be reviewed on a 10-year review cycle. The initial review comment period on all air quality rules in 15A NCAC 02D, Air Pollution Control Requirements, and 15A NCAC 02Q, Air Quality Permits Procedures, was held from March 13, 2015 through June 19, 2015. The Environmental Management Commission (EMC) subsequently approved the report on the review of the rules and comments received on November 4, 2015. The report was approved by the Rules Review Commission (RRC) on December 17, 2015. The Administrative Procedures Oversight Committee of the legislature met on January 5, 2016 and the report became final. The rules determined to be unnecessary (15A NCAC 02D .2400, 02D .2500, and 02D .1600) expired effective February 1, 2016. On May 19, 2016, the RRC established December 31, 2020 as the date by which the EMC must readopt the rules in subchapters 02D and 02Q designated as necessary.

A public hearing was held in Charlotte, North Carolina, on August 3, 2017 on the proposed amendment, repeal, and readoption of 35 rules in 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200. Mr. Gerard P. Carroll, Environmental Management Commissioner and Air Quality Committee member, was appointed and acted as the hearing officer during the hearing.

A regulatory impact analysis was submitted to the Office of State Budget and Management (OSBM) in accordance with G.S.150B-21.4. OSBM determined the rule changes have little to no impact on state or local governments and no substantial economic impact. A copy of the approved regulatory impact analysis is available in Chapter VI of this hearing record.

**15A NCAC 02D .0101, Definitions**, is proposed for readoption without substantive change to update the format of units and references.

**15A NCAC 02D .0103, Copies of Referenced Federal Regulations**, is proposed for amendment to update the Department name, update regional office addresses, include web addresses where referenced documents may be obtained, and to update document cost references.

**15A NCAC 02D .0104, Incorporation by Reference**, is proposed for amendment to include a website where Code of Federal Regulations (CFR) documents referenced within the Subchapter may be obtained free of charge, and to include a website where copyrighted American Society Testing Materials (ASTM) methods referenced throughout other rules in 15A NCAC 02D may be obtained.

**15A NCAC 02D .0105, Mailing List**, is proposed for amendment to update the Department's name, address, and to specify that individuals requesting to be on the rulemaking notification list may opt to receive notifications via email free of charge.

15A NCAC 02D .0201, Classification of Air Pollution Sources, 15A NCAC 02D .0202, Registration of Air Pollution Sources, and 15A NCAC 02D .0301, Purpose, are proposed for readoption without change.

**15A NCAC 02D .0302, Episode Criteria**, is proposed for readoption with substantive change to update who proclaims air quality alerts, warnings, and declarations of emergency at various pollutant levels requiring abatement actions to the Department of Environmental Quality Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations for consistency with federal requirements, and to update the format of units for consistency.

15A NCAC 02D .0303, Emission Reduction Plans, and 15A NCAC 02D .0304, Preplanned Abatement Program, are proposed for readoption without substantive change to update the format of references.

15A NCAC 02D .0305, Emission Reduction Plan: Alert Level, 15A NCAC 02D .0306, Emission Reduction Plan: Warning Level, and 15A NCAC 02D .0307, Emission Reduction Plan: Emergency Level, are proposed for readoption with substantive change to reference the open burning rule which already specifies allowable open burning for consistency, and eliminate redundant language in Paragraph (b)(4) that is already reflected in (a)(2).

**15A NCAC 02D .0401, Purpose**, is proposed for readoption without substantive change to update the format of references.

15A NCAC 02D .0402, Sulfur Oxides, 15A NCAC 02D .0404, Carbon Monoxide, and 15A NCAC 02D .0407, Nitrogen Dioxide, are proposed for readopt

**15A NCAC 02D .0407, Nitrogen Dioxide**, are proposed for readoption without substantive change to update the format of references and other administrative language, as necessary.

**15A NCAC 02D .0408, Lead**, is proposed for readoption without substantive change to update administrative language.

**15A NCAC 02D .0409, PM10 Particulate Matter**, is proposed for readoption without substantive change to update administrative language and the format of units.

**15A NCAC 02D .0410, PM2.5 Particulate Matter**, is proposed for readoption without substantive change to update administrative language and the format of references.

15A NCAC 02D .1301, Purpose,

15A NCAC 02D .1302, Applicability,

15A NCAC 02D .1303, Definitions,

15A NCAC 02D .1304, Oxygen Content Standard, and

**15A NCAC 02D .1305, Measurement and Enforcement**, are proposed for readoption as a repeal to remove obsolete contingency measures since the state has been attainment of the CO NAAQS for many years, the ambient CO levels remain very low statewide, and the limited maintenance plan for CO has expired.

**15A NCAC 02D .2001, Purpose, Scope and Applicability**, is proposed for readoption with substantive change to remove obsolete references to affected areas based on current attainment status of the state, update internal paragraph references, and clarify the duration of applicability to maintenance areas.

**15A NCAC 02D .2002, Definitions**, is proposed for readoption without change.

**15A NCAC 02D .2003, Transportation Conformity Determination**, is proposed for readoption without substantive change to include a clarifying reference to 40 CFR 93.119 regarding provisions for areas without motor vehicle emissions budgets, and update the format of references.

**15A NCAC 02D .2004, Determining Transportation-Related Emissions**, is proposed for readoption without change.

**15A NCAC 02D .2005, Memorandum of Agreement**, is proposed for readoption without substantive change to update the format of references.

**15A NCAC 02D .2201, Purpose, and** 

15A NCAC 02D .2202, Definitions, are proposed for readoption without change.

**15A NCAC 02D .2203, Public Notice**, is proposed for readoption with substantive change to update the rule for consistency with the statutory language in G.S. 143-215.110(a1)(2) specifying online posting of Special Orders by Consent which is consistent with agency practice.

**15A NCAC 02D .2204, Final Action on Consent Orders**, is proposed for readoption without substantive change to update the format of references.

15A NCAC 02D .2205, Notification of Right to Contest Special Orders Issued without Consent, is proposed for readoption without change.

#### PUBLIC COMMENTS AND RESPONSES THERETO

**Comment:** R. Scott Davis of the USEPA commented that the agency had completed its review of the prehearing package. Specifically, the amendment, repeal, and readoption of 35 rules in 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200. The USEPA offered no comments at this time.

**Response:** Thank you for reviewing the prehearing package for Group 1 air quality rules.

**Comment:** R. Scott Davis of the USEPA commented that the agency had completed its review of the prehearing package. Specifically, the repeal of 15A NCAC 02D Section .1300, Oxygenated Gasoline Standard. The USEPA offered no comments at this time.

**Response:** Thank you for reviewing the prehearing package for the repeal of 15A NCAC 02D Section .1300, Oxygenated Gasoline Standard.

**Comment:** Tim Laughlin of the North Carolina Petroleum and Convenience Marketers (NCPCM) commented in support of repealing the 15A NCAC 02D Section .1300 rules.

**Response:** Thank you for the comment in support of the repeal of 15A NCAC 02D Section .1300 air quality rules.

**Comment:** Gordon C. Miller commented in support of periodic review of 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200. Further, periodic review discovers obsolete rules, rules that should be present, language that should be modified, and enforceability.

**Response:** Thank you for the comment in support of periodically reviewing existing air quality rules.

**Comment:** Terry Lansdell of Clean Air Carolina commented in support of the process for periodically reviewing existing air quality rules. Further, the process defends public health from air pollution generated in North Carolina.

**Response:** Thank you for the comment in support of periodically reviewing existing air quality rules.

#### **CONCLUSION**

Five comments were received on the proposed rule revisions during the comment period. Of those, two sets of comments were submitted by USEPA, one comment was submitted by NCPCM, one comment was submitted by the public, and one comment was submitted by Clean Air Carolina.

USEPA offered no comments on the prehearing package for readopting Group 1 air quality rules and for repealing 15A NCAC 02D Section .1300, Oxygenated Gasoline Standard. NCPCM commented in support of repealing 15A NCAC 02D Section .1300, Oxygenated Gasoline Standard. The public and Clean Air Carolina commented in support of periodically reviewing existing air quality rules.

No changes were made to the proposed amendment, repeal, and readoption of 35 rules in 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200.

#### **HEARING OFFICERS' RECOMMENDATION**

The Hearing Officer recommends that the proposed amendment, repeal, and readoption of 35 rules in 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200, as presented in Chapter II of this hearing report be adopted by the Environmental Management Commission.

#### **CHAPTER II**

#### 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:

 $\frac{\text{Text}}{\text{Text}} = \text{deleted text}$ 

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

<u>Text</u> = 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: Rules proposed for readoption without change are continuously underlined. If there are changes to the proposed rule following publication in the NCR, the underlining is removed, deleted text is struck through, added text is underlined, and there is no highlighting.

1	15A NCAC 02	D .0101 is proposed for readoption without substantive change as follows:
2		
3		SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS
4		
5		SECTION .0100 - DEFINITIONS AND REFERENCES
6		
7	15A NCAC 02	D .0101 DEFINITIONS
8	The definition	of any word or phrase used in Rules of this Subchapter is the same as given in Article 21, G.S. 143, as
9	amended. The	following words and phrases, which are not defined in the article, have the following meaning:
10	(1)	"Act" means The North Carolina Water and Air Resources of Article 21.
11	(2)	"Administrator" means, when it appears in any Code of Federal Regulation incorporated by
12		reference in this Subchapter, the Director of the Division of Air Quality unless:
13		(a) a specific rule in this Subchapter specifies otherwise, or
14		(b) the U.S. Environmental Protection Agency in its delegation or approval states that a
15		specific authority of the Administrator of the Environmental Protection Agency is not
16		included in its delegation or approval.
17	(3)	"Air pollutant" means an air pollution agent or combination of such agents, including any physical,
18		chemical, biological, radioactive substance or matter emitted into or otherwise entering the ambient
19		air.
20	(4)	"Ambient air" means that portion of the atmosphere outside buildings or other enclosed structures,
21		stacks, or ducts; and that surrounds human, animal or plant life, or property.
22	(5)	"Approved" means approved by the Director of the Division of Air Quality according to these Rules.
23	(6)	"Capture system" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture,
24		or transport a pollutant to a control device.
25	(7)	"CFR" means the Code of Federal Regulations.
26	(8)	"Combustible material" means any substance that, when ignited, will burn in air.
27	(9)	"Construction" means change in method of operation or any physical change, including on-site
28		fabrication, erection, installation, replacement, demolition, or modification of a source, that results
29		in a change in emissions or affects the compliance status.
30	(10)	"Control device" means equipment (fume incinerator, adsorber, absorber, scrubber, filter media,
31		cyclone, electrostatic precipitator, or the like) used to destroy or remove air pollutant(s) before
32		discharge to the ambient air.
33	(11)	"Day" means a 24-hour period beginning at midnight.
34	(12)	"Director" means the Director of the Division of Air Quality, unless otherwise specified.
35	(13)	"Division" means Division of Air Quality.
36	(14)	"Dustfall" means particulate matter that settles out of the air and is expressed in units of grams per
37		square meter per 30-day period.

1	(15)	"Emission" means the release or discharge, whether directly or indirectly, of any air pollutant into
2		the ambient air from any source.
3	(16)	"Facility" means all of the pollutant-emitting activities, except transportation facilities, that are
4		located on one or more adjacent properties under common control.
5	(17)	"FR" means the Federal Register.
6	(18)	"Fugitive emission" means those emissions that could not reasonably pass through a stack, chimney,
7		vent, or other functionally-equivalent opening.
8	(19)	"Fuel burning equipment" means equipment whose primary purpose is the production of energy or
9		power from the combustion of any fuel. Uses of the equipment includes heating water, generating
10		or circulating steam, heating air as in warm air furnace, or furnishing process heat by transferring
11		energy by fluids or through process vessel walls.
12	(20)	"Garbage" means any animal and vegetable waste resulting from the handling, preparation, cooking,
13		and serving of food.
14	(21)	"Incinerator" means a device designed to burn solid, liquid, or gaseous waste material.
15	(22)	"Opacity" means that property of a substance tending to obscure vision and is measured as percent
16		obscuration.
17	(23)	"Open burning" means any fire whose products of combustion are emitted directly into the outdoor
18		atmosphere without passing through a stack or chimney, approved incinerator, or other similar
19		device.
20	(24)	"Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility,
21		source, or air pollution control equipment.
22	(25)	"Particulate matter" means any material except uncombined water that exists in a finely divided
23		form as a liquid or solid at standard conditions.
24	(26)	"Particulate matter emissions" means all finely divided solid or liquid material, other than
25		uncombined water, emitted to the ambient air as measured by methods specified in this Subchapter.
26	(27)	"Permitted" means any source subject to a permit under this Subchapter or Subchapter 15A NCAC
27		02Q.
28	(28)	"Person" as defined in G.S. 143-212 includes any individual, partnership, co-partnership, firm,
29		company, corporation, association, joint stock company, trust, estate, political subdivision, or any
30		other legal entity, or its legal representative, agent, or assigns.
31	(29)	"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10
32		micrometers as measured by methods specified in this Subchapter.
33	(30)	"PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less
34		than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods
35		specified in this Subchapter.
36	(31)	"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5
37		micrometers as measured by methods specified in this Subchapter.

1	(32)	"Refuse" means any garbage, rubbish, or trade waste.
2	(33)	"Rubbish" means solid or liquid wastes from residences, commercial establishments, or institutions.
3	(34)	"Rural area" means an area that is devoted to the following uses: agriculture, recreation, wildlife
4		management, state park, or any area of natural cover.
5	(35)	"Salvage operation" means any business, trade, or industry engaged in whole or in part in salvaging
6		or reclaiming any product or material, including metal, chemicals, motor vehicles, shipping
7		containers, or drums.
8	(36)	"Smoke" means small gas-borne particles resulting from incomplete combustion, consisting
9		predominantly of carbon, ash, and other burned or unburned residue of combustible materials that
10		form a visible plume.
11	(37)	"Source" means any stationary article, machine, process equipment, or other contrivance; or any
12		combination; or any tank-truck, trailer, or railroad tank car; from which air pollutants emanate or
13		are emitted, either directly or indirectly.
14	(38)	"Sulfur oxides" means sulfur dioxide, sulfur trioxide, their acids, and the salts of their acids. The
15		concentration of sulfur dioxide shall be measured by the methods specified in this Subchapter.
16	(39)	"Transportation facility" means a complex source as defined in G.S. 143-213(22).
17	(40)	"Total suspended particulate" means any finely divided solid or liquid material, except water in
18		uncombined form, that is or has been airborne as measured by methods specified in this Subchapter.
19	(41)	"Trade wastes" means all solid, liquid, or gaseous waste materials or rubbish resulting from
20		combustion, salvage operations, building operations, or the operation of any business, trade, or
21		industry including, but not limited to, plastic products, paper, wood, glass, metal, paint, grease, oil
22		and other petroleum products, chemicals, and ashes.
23	(42)	"ug" or "µg" means micrograms.
24		
25	History Note:	Authority G.S. 143-213; 143-215.3(a)(1);
26		Eff. June 1, 1976;
27		Amended Eff. December 1, 1989; July 1, 1988; July 1, 1984;
28		Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule
29		becomes effective, whichever is sooner;
30		Amended Eff. January 1, 2015; December 1, 2005; June 1, 2004; July 1, 1998; July 1, 1996; July
31		1, <del>1994.<u>1</u>994;</del>
32		Readopted Eff
33		

1	15A NCAC 02I	O .0103 is proposed for amendment as follows:
2		
3	15A NCAC 021	D .0103 COPIES OF REFERENCED FEDERAL REGULATIONS
4	(a) Copies of a	pplicable Code of Federal Regulations sections referred to in this Subchapter are available for public
5	inspection at De	epartment of Environment and Natural Resources Environmental Quality regional offices. They are:
6	(1)	Asheville Regional Office, 2090 Highway 70, Swannanoa, North Carolina 28778;
7	(2)	Winston-Salem Regional Office, 585 Waughtown Street, Winston Salem, North Carolina 27107;
8		450 West Hanes Mill Road, Suite 300, Winston-Salem, NC 27105;
9	(3)	Mooresville Regional Office, 610 East Center Avenue, Suite 301, Mooresville, North Carolina
10		28115;
11	(4)	Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina
12		<del>27611;</del> 27609;
13	(5)	Fayetteville Regional Office, Systel Building, 225 Green Street, Suite 714, Fayetteville, North
14		Carolina 28301;
15	(6)	Washington Regional Office, 943 Washington Square Mall, Washington, North Carolina 27889;
16	(7)	Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.
17	(b) Copies of s	uch rules <del>can be made at these regional offices for ten cents (\$0.10) per.page or may be obtained free</del>
18	of charge online	e at https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.
19		
20	History Note:	Authority G.S. 143-215.3; 150B-21.6;
21		Eff. December 1, 1976;
22		Amended Eff; December 1, 2005; December 1, 1992; August 1, 1991; July 1, 1988;
23		July 1, 1987;
24		Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 5,
25		2016.

1	15A NCAC 02D .0104 is proposed for amendment as follows:	
2		
3	15A NCAC 02D .0104 INCORPORATION BY REFERENCE	
4	(a) Anywhere there is a reference to rules contained in the Code of Federal Regulations (CFR) or to an America	can
5	Society for Testing and Materials method (ASTM) in this Subchapter, those rules and methods are incorporated	by
6	reference.	
7	(b) The Code of Federal Regulations and American Society for Testing and Materials methods incorporated	by
8	reference in this Subchapter shall automatically include any later amendments thereto unless a specific rule specific	ies
9	otherwise.	
10	(c) The Code of Federal Regulations is available in electronic form free of charge	at
11	https://www.gpo.gov/fdsys/search/home.action.may be purchased from the Superintendent of Documents, PO E	ОХ
12	371954, Pittsburgh, PA 15250. The cost of the referenced documents is as follows:	
13	(1) 40 CFR Parts 1 to 51: fifty dollars (\$50.00).	
14	(2) 40 CFR Part 52: thirty nine dollars (\$39.00).	
15	(3) 40 CFR Parts 53 to 59: eleven dollars (\$11.00).	
16	(4) 40 CFR Part 60: thirty six dollars (\$36.00).	
17	(5) 40 CFR Parts 61 to 71: thirty six dollars (\$36.00).	
18	(6) 40 CFR Parts 72 to 85: forty one dollars (\$41.00).	
19	(7) 40 CFR Part 86: forty dollars (\$40.00).	
20	(8) 40 CFR Parts 87 to 135: five dollars (\$5.00).	
21	(9) 40 CFR Parts 260 to 299: forty dollars (\$40.00).	
22	These prices are October 15, 1996 prices.	
23	(d) The American Society for Testing and Materials methods may be purchased from <a href="https://www.astm.org/.the">https://www.astm.org/.the</a>	Air
24	Quality Division, PO Box 29580, Raleigh, North Carolina 27626 0580 at a price of twenty cents (\$0.20)	pei
25	pagePurchase price is dependent on the particular method and format chosen.	
26		
27	History Note: Authority G.S. 150B-21.6;	
28	Eff. July 1, 1988;	
29	Amended Eff. ; July 1, 1998; May 1, 1995; December 1, 1992; October 1, 1989;	
30	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January	, 5,
31	2016.	

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1	15A NCAC 02D .0105 is proposed for amendment without substantive change as follows:		
2			
3	15A NCAC 02D .0105 MAILING LIST		
4	(a) The Division shall develop and maintain a mailing list of persons who have requested notification of rule-making		
5	as required by G.S. 150B 21.2(d). Such persons shall receive a copy of the complete notice as filed with the Office		
6	of Administrative Hearings.		
7	(b) Any person requesting to be on a mailing list established under Paragraph (a) of this Rule shall submit a written		
8	request to the Division of Air Quality, 1641 Mail Service Center, Raleigh, North Carolina, 27699.27699-1641.		
9	Payment of fees required under this SectionRule may be by check or money order for thirty dollars (\$30.00) made		
10	payable to the Department of Environment and Natural Resources. Environmental Quality. Payment shall be submitted		
11	with each request and received by June 1 of each year. The fee covers from July 1 to June 30 of the following year.		
12	A person requesting to be on the list for notification of rule-making may opt to receive notification via email free of		
13	charge by contacting Division staff.		
14			
15	History Note: Authority G.S. 143-215.3(a)(1); 150B 21.2(d);		
16	Eff. April 1, 1995;		
17	<u>Amended Eff.</u> ; April 1, 2003; July 1, 1998; May 1, 1998;		
18	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 5,		
19	2016.		
20			
21			

1	15A NCAC 021	D .0201 is proposed for readoption without change as follows:
2		
3		SECTION .0200 - AIR POLLUTION SOURCES
4		
5	15A NCAC 02	D .0201 CLASSIFICATION OF AIR POLLUTION SOURCES
6	(a) Purpose. T	This Regulation establishes a system for classifying air pollution sources. The Commission shall use
7	this classificati	on system to classify air pollution sources which the Commission believes to be of sufficient
8	importance to ju	ustify classification or control.
9	(b) Scope. The	nis Regulation shall apply to all air pollution sources, both combustion and non-combustion. The
10	following syste	m for classifying air pollution sources shall be used:
11	<u>(1)</u>	"Class I-C" includes all sources of air pollution using fuel burning equipment for the production of
12		heat to generate electricity for public use.
13	(2)	"Class II-C" includes all sources of air pollution using fuel burning equipment for the production of
14		steam, and for other process uses at commercial and industrial establishments.
15	(3)	"Class III-C" includes all sources of air pollution using fuel burning equipment for comfort heating
16		at institutional, commercial or industrial establishments, or apartment houses having a central
17		heating system serving more than four apartments.
18	<u>(4)</u>	"Class IV-C" includes all sources of air pollution burning trash, rubbish, refuse, or similar materials
19		in incinerators, teepee burners, or similar devices.
20	<u>(5)</u>	"Class V-C" includes all sources of air pollution using fuel burning equipment for comfort heating
21		that are not included in Class III-C.
22	<u>(6)</u>	"Class VI-C" includes all sources of air pollution using internal combustion engines.
23	<u>(7)</u>	"Class I-I" includes all sources of air pollution resulting from industrial plants engaged in the
24		manufacture of chemicals or allied products whose processes depend on the chemical reaction of
25		two or more elements or compounds and includes plants producing acids, fertilizer materials,
26		dyestuff, synthetic fibers and industrial gases.
27	<u>(8)</u>	"Class II-I" includes all sources of air pollution resulting from industrial plants engaged in the
28		production of pulp and paper.
29	<u>(9)</u>	"Class III-I" includes all sources of air pollution resulting from the mining and processing of
30		minerals, stone, clay and cement products, and includes phosphate ore, mica and feldspar operations,
31		stone quarries and crushers, cement plants, concrete mixing plants, and masonry block plants.
32	(10)	"Class IV-I" includes all sources of air pollution resulting from industrial operations using petroleum
33		products, and includes asphalt mix plants, roofing felt plants, and petroleum products storage areas.
34	(11)	"Class V-I" includes all sources of air pollution resulting from furniture, lumber, or wood product
35		plants.
36	(12)	"Class VI-I" includes all sources of air pollution resulting from textile manufacturing, textile dyeing
37		or finishing plants.

1	(13)	"Class VII-I" includes all sources of air pollution resulting from the shelling, drying, storage,
2		ginning and processing of tobacco, corn, soybeans, peanuts, cotton, fruits, vegetables, or other
3		agricultural products.
4	<u>(14)</u>	"Class VIII-I" includes all sources of air pollution resulting from industries engaged in the
5		processing of metals, and includes smelting, casting foundries, metal working, and other similar
6		operations.
7	(15)	"Class IX-I" includes all sources of air pollution resulting from slaughtering and processing of meat,
8		poultry, fish, and similar products and from rendering or the recovering of by-products of these
9		operations.
10	<u>(16)</u>	"Class X-I" includes all sources of air pollution resulting from industries which do not fall within
11		the classifications described in Subparagraphs (b)(7) through (b)(15) of this Regulation.
12	These sources s	hall be controlled pursuant to the requirements of regulations and other provisions of law.
13		
14	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);
15		Eff. February 1, 1976;
16		Amended Eff. July 1, 1984; December 1, 1976.
17		Readopted Eff
18		

1	15A NCAC 02E	0.0202 is proposed for readoption without change as follows:
2		
3	15A NCAC 02I	D .0202 REGISTRATION OF AIR POLLUTION SOURCES
4	(a) The Directo	r may require the owner or operator of a source of air pollution to register that source.
5	(b) Any person	n required to register a source of air pollution with the Division shall register the source on forms
6	provided by the	Division and shall provide the following information:
7	<u>(1)</u>	the name of the person, company, or corporation operating the sources;
8	(2)	the address, location, and county;
9	(3)	principal officer of the company;
10	<u>(4)</u>	quantities and kinds of raw materials used;
11	(5)	process flow sheets;
12	<u>(6)</u>	operating schedules;
13	<u>(7)</u>	total weights and kinds of air pollution released;
14	<u>(8)</u>	types and quantities of fuels used;
15	<u>(9)</u>	stack heights; and
16	(10)	other information considered essential in evaluating the potential of the source to cause air pollution.
17	The forms shall	be completed and returned to the Division within 60 days following their receipt.
18		
19	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);
20		Eff. February 1, 1976;
21		Amended Eff. July 1, 1998; June 1, 1985; July 1, 1984.
22		Readopted Eff
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1	15A NCAC 02I	O .0301 is proposed for readoption without change as follows:	
2			
3		SECTION .0300 - AIR POLLUTION EMERGENCIES	
4			
5	15A NCAC 02	D .0301 PURPOSE	
6	Notwithstandin	g any other provisions of air pollution control regulations or standards, this Section is designed to	
7	prevent the excessive buildup of air contaminants during air pollution episodes thereby preventing the occurrence of		
8	an emergency d	ue to the effects of these contaminants on the public health.	
9			
10	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);	
11		Eff. February 1, 1976.	
12		Readopted Eff	
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1	ISA NCAC 021	ノ .ひろひと ぼ	s proposed for readoption with substantive changes as follows:
2			
3	15A NCAC 021	D .0302	EPISODE CRITERIA
4			
5	Conditions justi	fying the	proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall
6	be deemed to ex	kist when	never the director Director determines that the accumulation of air contaminants in any place
7	is attaining or h	as attaine	ed levels that could, if such levels are sustained or exceeded, lead to a threat to the health of
8	the public. In m	naking th	is determination, the director Director shall be guided by the following criteria:
9	(1)	Air Po	llution Forecast. An internal watch by the Division and local air pollution control agencies
10		shall b	e activated by a National Weather Service advisory that an atmospheric stagnation advisory
11		is in ef	fect, or the equivalent local forecast of stagnant atmospheric conditions.
12	(2)	Alert.	The alert level is that concentration of pollutants at which first stage control actions are to
13		begin.	The directorSecretary of the Department of Environmental Quality with the concurrence of
14		the Go	vernor shall proclaim an alert when any of the following levels is reached at any monitoring
15		site:	
16		(a)	sulfur dioxide $800 \frac{\text{ug/m}^3}{\text{µg/m}^3}$ (0.3 <del>p.p.m.)ppm)</del> , 24-hour average;
17		<del>(b)</del>	particulate 375 ug/m3, 24 hour average;
18		<del>(c)</del>	sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour
19			average, and particulate ug/m3, 24 hour average, equal to 65,000;
20		(d)(b)	carbon monoxide 17 ug/m <sup>3</sup> µg/m <sup>3</sup> (15 <del>p.p.m.), ppm),</del> eight-hour average;
21		<u>(e)(c)</u>	ozone 400 <del>ug/m3</del> <u>ug/m³</u> (0.2 <del>p.p.m.), ppm),</del> one-hour average;
22		<u>(f)(d)</u>	nitrogen dioxide 1130 <del>ug/m3</del> μg/m³ (0.6 <del>p.p.m.),</del> ppm), one-hour average; 282 <del>ug/m3</del>
23			<u>ид/m³</u> (0.15 <del>p.p.m.),</del> ppm), 24-hour average;
24		<del>(g)</del> (e)	PM10350 ug/m;, µg/m <sup>3</sup> 24-hour average; and average; and meteorological conditions are
25			such that pollutant concentrations can be expected to remain at these levels for 12 or more
26			hours or increase or, for ozone, the situation is likely to recur within the next 24 hours
27			unless control actions are taken.
28		<u>(f)</u>	in addition to the levels listed for the above pollutants, meteorological conditions are such
29			that pollutant concentrations can be expected to remain at the above levels for twelve (12)
30			or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
31			the next 24-hours unless control actions are taken.
32	(3)	Warnii	ng. The warning level indicates that air quality is continuing to degrade and that additional
33		abatem	nent actions are necessary. The Secretary of the Department of Environmental Quality with
34		the cor	ncurrence of the Governor Director shall proclaim a warning when any one of the following
35		levels	is reached at any monitoring site:
36		(a)	sulfur dioxide 1600 <del>ug/m3</del> μg/m³ (0.6 <del>p.p.m.),ppm),</del> 24-hour average
37		(b)	particulate 625 ug/m3, 24 hour average;

1		<del>(c)</del>	sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour
2			average, and particulate ug/m3, 24 hour average, equal to 261,000;
3		(d)(b)	carbon monoxide 34 ug/m3 µg/m³ (30 p.p.m.),ppm), eight-hour average;
4		<del>(e)</del> (c)	ozone 800 <del>ug/m3</del> <u>µg/m³</u> (0.4 <del>p.p.m.), ppm),</del> one-hour average;
5		<del>(f)</del> (d)	nitrogen dioxide 2260 ug/m3 µg/m³ (1.2 p.p.m.), ppm), one-hour average; 565 ug/m3
6			$\mu g/m^3$ (0.3 p.p.m.), ppm), 24-hour average;
7		<del>(g)</del> (e)	PM10 420 ug/m;; µg/m <sup>3</sup> 24-hour average; and meteorological conditions
8			are such that pollutant concentrations can be expected to remain at these levels for 12 or
9			more hours or increase or, for ozone, the situation is likely to recur within the next 24 hours
10			unless control actions are taken.
11		<u>(f)</u>	in addition to the levels listed for the above pollutants, meteorological conditions are such
12			that pollutant concentrations can be expected to remain at the above levels for twelve (12)
13			or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
14			the next 24-hours unless control actions are taken.
15	(4)	Emerge	ency. The emergency level indicates that air quality is continuing to degrade to a level that
16		should	never be reached and that the most stringent control actions are necessary. The Secretary of
17		the <del>Dep</del>	partment of Environment and Natural Resources Department of Environmental Quality with
18		the con	currence of the Governor shall declare an emergency when any one of the following levels
19		is reach	ned at any monitoring site:
20		(a)	sulfur dioxide 2100 <del>ug/m3</del> μg/m³ (0.8 <del>p.p.m.),ppm)</del> 24-hour average;
21		<del>(b)</del>	particulate 875 ug/m3, 24 hour average;
22		<del>(c)</del>	sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour
23			average, and particulate ug/m3, 24 hour average, equal to 393,000;
24		(d)(b)	carbon monoxide 46 mg/m3 µg/m³ (40 p.p.m.), ppm), eight-hour average;
25		<u>(e)(c)</u>	ozone 1000 <del>ug/m3</del> <u>µg/m³</u> (0.5 <del>p.p.m.), ppm),</del> one-hour average;
26		<del>(f)</del> (d)	nitrogen dioxide 3000 <del>ug/m3</del> μg/m³ (1.6 <del>p.p.m.),ppm),</del> one-hour average; 750 <del>ug/m3</del>
27			$\mu g/m^3$ (0.4 p.p.m.), 24-hour average;
28		(g)(e)	PM10500 <del>ug/m;,</del> μg/m <sup>3</sup> 24-hour <del>average</del> .average; and
29		<u>(f)</u>	in addition to the levels listed for the above pollutants, meteorological conditions are such
30			that pollutant concentrations can be expected to remain at the above levels for twelve (12)
31			or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
32			the next 24-hours unless control actions are taken. Same clarification applies to Warning
33			and Emergency Levels.
34	(5)	Termin	ation. Once declared any level reached by application of these criteria shall remain in effect
35		until th	e criteria for that level are no longer met. At that time the next lower level shall be assumed.
36			
37	History Note:	Author	ity G.S. 143-215.3(a)(1); 143-215.3(a)(12);

1	Eff. February 1, 1976;
2	Amended Eff. July 1, 1998; July 1, 1988; July 1, 1984; June 1, 1980; December 1, <del>1976.</del> 1976,
3	Readopted Eff

1	15A NCAC 02E	0.0303 is proposed for amendment without substantive change as follows:
2		
3	15A NCAC 02I	0.0303 EMISSION REDUCTION PLANS
4	(a) Air Pollution	Alert. Any person responsible for the operation of a source of air pollution described in Regulation
5	15A NCAC 02D	0.0305, .0305 of this Section, shall take all air pollution alert actions required for that source and shall
6	put into effect th	e preplanned program for an air pollution alert.
7	(b) Air Pollution	on Warning. Any person responsible for the operation of a source of air pollution described in
8	Regulation .030	6 of this Section, 15A NCAC 02D .0306, shall take all air pollution warning actions required for that
9	source and shall	put into effect the preplanned program for an air pollution warning.
10	(c) Air Pollutio	on Emergency. Any person responsible for the operation of a source of air pollution described in
11	Regulation .030	7 of this Section, 15A NCAC 02D .0307, shall take all air pollution emergency actions required for
12	that source and s	shall put into effect the preplanned program for an air pollution emergency.
13		
14	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
15		Eff. February 1, 1976;
16		Amended Eff. July 1, <del>1984.</del> <u>1984;</u>
17		Readopted Eff
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1	ISA NCAC 021	2.0504 is proposed for readoption without substantive change as follows:	
2			
3	15A NCAC 021	D .0304 PREPLANNED ABATEMENT PROGRAM	
4	(a) Any person	who is responsible for the operation of a source of air pollution that is described in 15A NCAC 02D	
5	Regulations .03	05, .0306, or <u>.0307</u> , <del>.0307 of this Section,</del> or that emits 100 tons per year or more of any one pollutant	
6	shall prepare a	plan to reduce the emissions of air pollutants into the outdoor atmosphere during periods of an air	
7	pollution episod	le. The plan shall be consistent with good industrial practices and safe operating procedures. When	
8	the Director req	quests that the plan be submitted for his review, the owner or operator of the source shall submit the	
9	plan within 30 c	lays of the Director's request.	
10	(b) When reque	ested by the Commission in writing, any person responsible for the operation of a source not described	
11	in Regulations 1	5A NCAC 02D .0305, .0306, or .0307, .0307 of this Section, shall prepare a plan to reduce the	
12	emissions of air pollutants into the outdoor atmosphere during periods of air pollution alert, air pollution warning, and		
13	air pollution em	ergency. The plan shall be consistent with good industrial practices and safe operating procedures.	
14			
15	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);	
16		Eff. February 1, 1976;	
17		Amended Eff. July 1, 1988; July 1, <del>1984.<u>1984</u>;</del>	
18		Readopted Eff	
19			
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1	15A NCAC 02D	.0305 is proposed for readoption with substantive changes as follows:	
2			
3	15A NCAC 02I	0.0305 EMISSION REDUCTION PLAN: ALERT LEVEL	
4	(a) General General	eral.	
5	(1)	There shall be no open burning by any person of trade waste, vegetation, refuse, or debris in a	<del>.ny</del>
6		form. any material otherwise allowed under 15A NCAC 02D .1900.	
7	(2)	The use of incinerators for the disposal of any form of solid waste shall be limited to the hor	urs
8		between <del>12 noon</del> 12:00 p.m. and 4:00 p.m.	
9	(3)	Persons operating fuel burning equipment which requires boiler lancing or soot blowing sh	all
10		perform such operations only between the hours of 12 noon 12:00 p.m. and 4:00 p.m.	
11	(4)	Persons operating motor vehicles should eliminate all unnecessary operations.	
12	(b) Source Curt	ailment. Any person responsible for the operation of a source of air pollution shall take all requir	red
13	control actions f	or the alert level that are listed below:	
14	(1)	Operators of coal or oil fired electric power generating facilities shall:	
15		(A) use fuels having low ash and sulfur content,	
16		(B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m., and	d
17		(C) divert electric power generation to facilities outside of alert area;	
18	(2)	Operators of coal or oil fired process steam generating facilities shall:	
19		(A) use fuels having low ash and sulfur content,	
20		(B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m., and	d
21		(C) reduce steam load demands consistent with continuing plant operation;	
22	(3)	Operators of manufacturing industries of the following classifications: primary metals indust	ry;
23		petroleum refining and related industries; chemical and allied products industries; paper and allied	ied
24		products industries; glass, clay, and concrete products industries shall:	
25		(A) reduce air pollutants from manufacturing operations by curtailing, postponing or deferri	ng
26		production and related operations;	
27		(B) defer trade waste disposal operations which emit particles, gases, vapors, or malodoro	ous
28		substances;	
29		(C) reduce heat load demands for processing; and	
30		(D) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; p.m.; a	ınd
31	(4)	Municipal and commercial refuse disposal operations shall limit burning of refuse in incinerators	<del>to</del>
32		hours between 12 noon to 4:00 p.m.;	
33	<del>(5)</del> (4)	Other persons requested by the Commission to prepare a preplanned abatement plan shall take	all
34		required control actions for the alert level contained in their plan.	
35			
36	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);	
37		Eff. February 1, 1976;	

1	Amended Eff. July 1, 1984; December 1, <del>1976.</del> <u>1976;</u>
2	Readopted Eff
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1	15A NCAC 02D	.0306 is	s proposed for readoption with substantive changes as follows:
2			
3	15A NCAC 02D	.0306	EMISSION REDUCTION PLAN: WARNING LEVEL
4	(a) General		
5	(1)	There s	shall be no open burning by any person of trade waste, refuse, vegetation, or debris in any
6		form.aı	ny material otherwise allowed under 15A NCAC 02D .1900.
7	(2)	The use	e of incinerators for the disposal of solid waste or liquid waste shall be prohibited.
8	(3)	Person	s operating fuel burning equipment which requires boiler lancing or soot blowing shall
9		perform	m such operations only between 12 noon 12:00 p.m. and 4:00 p.m.p.m
10	(4)	Person	s operating motor vehicles should minimize their use through car pools and increased use of
11		public	transportation.
12	(b) Source Curta	ilment.	Any person responsible for the operation of a source of air pollution shall take all required
13	control actions fo	or the wa	arning level that are listed below:
14	(1)	Operat	ors of coal or oil fired electric power generating facilities shall:
15		(A)	use fuels having the lowest ash and sulfur content; content;
16		(B)	perform boiler lancing and soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.,p.m.;
17			and
18		(C)	divert electric power generating to facilities outside of warning area;
19	(2)	Operat	ors of coal or oil fired process steam generating facilities shall:
20		(A)	use fuels having the lowest ash and sulfur content; content;
21		(B)	perform boiler lancing and soot blowing between 12 noon12:00 p.m. to 4:00 p.m.,p.m.;
22		(C)	reduce steam load demands consistent with continuing plant operations, operations; and
23		(D)	prepare to use the plan of action to be taken if an emergency develops;
24	(3)	Operat	ors of manufacturing industries of the following classifications: primary metal industries;
25		petrole	um refining and related industries; chemical and allied products industries; paper and allied
26		produc	ts industries; glass, clay and concrete products industries shall:
27		(A)	reduce air pollutants from manufacturing operations by, if necessary, assuming reasonable
28			economic hardship by postponing production and related operations;
29		(B)	defer trade waste disposal operations which emit particles, gases, vapors, or malodorous
30			substances;
31		(C)	reduce heat load demands for processing consistent with continuing plant operations; and
32		(D)	perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; p.m.; and
33	(4)	Munici	ipal and commercial refuse disposal operations shall stop incinerating waste;
34	<del>(5)</del> (4)	Other p	persons requested by the Commission to prepare a preplanned abatement plan shall take all
35		require	ed control actions for the warning level contained in their plan.
36			
37	History Note:	Author	ity G.S. 143-215.3(a)(1); 143-215.3(a)(12);

1	Eff. February 1, 1976;
2	Amended Eff. July 1, 1984; December 1, <del>1976.</del> <u>1976;</u>
3	Readopted Eff
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1	15A NCAC 02D	.0307 i	s proposed for readoption with substantive changes as follows:
2			
3	15A NCAC 02D	.0307	EMISSION REDUCTION PLAN: EMERGENCY LEVEL
4	(a) General		
5	(1)	There	shall be no open burning by any person of trade waste, vegetation, refuse, or debris in any
6		form.a	ny material otherwise allowed under 15A NCAC 02D .1900.
7	(2)	The us	se of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
8	(3)	All pla	aces of employment described below shall immediately cease operations:
9		(A)	mining and quarrying of nonmetallic minerals;
10		(B)	all manufacturing establishments except those required to have in force an air pollution
11			emergency plan;
12		(C)	all construction work involving grading or other operations which generate dust;
13		(D)	all wholesale and retail establishments except pharmacies and stores primarily engaged in
14			the sale of food;
15		(E)	all commercial and manufacturing establishments, automobile repair services and garages,
16			laundries, barbershops, beauty shops and motion picture theaters; and
17		(F)	elementary and secondary schools, colleges, universities and professional schools.
18	(4)	The us	se of motor vehicles isshall be prohibited except in emergencies with the approval of local or
19		state p	olice.
20	(b) Source Curta	ilment.	Any person responsible for the operation of a source of air pollution shall take all required
21	control actions fo	or the er	nergency level that are listed below:
22	(1)	Operat	tors of coal or oil fired electric power generating facilities shall:
23		(A)	use fuels having lowest ash and sulfur content,
24		(B)	perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m., p.m.;
25		(C)	divert electric power generating to facilities outside of emergency area;
26	(2)	Operat	tors of coal or oil fired process steam generating facilities shall:
27		(A)	reduce heat and steam demands to that absolutely necessary to prevent equipment damage,
28		(B)	perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m.,p.m.;
29		(C)	take the action called for in the abatement plan;
30	(3)	Operat	tors of manufacturing industries of the following classifications: primary metals industries;
31		petrole	eum refining and related industries; chemical and allied products industries; paper and allied
32		produc	cts industries; glass, clay and concrete products industries shall:
33		(A)	eliminate air pollutants from manufacturing operations by ceasing, curtailing, postponing
34			or deferring production and related operations of the extent possible without causing injury
35			to persons or damage to equipment;
36		(B)	eliminate air pollution from trade waste disposal processes which emit particles, gases,
37			vapors, or malodorous substances;

1		(C) reduce heat load demands for processing to the minimum;
2		(D) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; and
3	(4)	Municipal and commercial refuse disposal operations shall stop incinerating waste;
4	<del>(5)</del> (4)	Other persons requested by the Commission to prepare a preplanned abatement plan shall take all
5		required control actions for the emergency level contained in their plan.
6		
7	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
8		Eff. February 1, 1976;
9		Amended Eff. July 1, 1984; December 1, <del>1976.</del> <u>1976;</u>
10		Readopted Eff
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1	15A NCAC 02I	0.0401 is proposed for readoption without substantive change as follows:
2		
3		SECTION .0400 - AMBIENT AIR QUALITY STANDARDS
4		
5	15A NCAC 021	D.0401 PURPOSE
6	(a) The purpose	e of the ambient air quality standards set out in this Section is to establish certain maximum limits on
7	parameters of a	ir quality considered desirable for the preservation and enhancement of the quality of the state's air
8	resources. Furt	hermore, the objective of the Commission, consistent with the North Carolina Air Pollution Control
9	Law, shall be to	prevent significant deterioration in ambient air quality in any substantial portion of the state where
10	existing air qua	lity is better than the standards. An atmosphere in which these standards are not exceeded should
11	provide for the j	protection of the public health, plant and animal life, and property.
12	(b) Ground leve	el concentrations of pollutants will be determined by sampling at fixed locations in areas beyond the
13	premises on wh	ich a source is located. The standards are applicable at each such sampling location in the state.
14	(c) No facility of	or source of air pollution shall cause any ambient air quality standard in this Section to be exceeded or
15	contribute to a	violation of any ambient air quality standard in this Section except as allowed by Rules 15A NCAC
16	<u>02D</u> .0531 or <del>.0</del>	532 of this Subchapter. 0532.
17		
18	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
19		Eff. February 1, 1976;
20		Amended Eff. December 1, 1992; October 1, 1989; July 1, <del>1984.</del> <u>1984;</u>
21		Readopted Eff
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1	15A NCAC 02D	.0402 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02D	.0402 SULFUR OXIDES
4	(a) The ambient	air quality standards for sulfur oxides measured as sulfur dioxide are:
5	(1)	80 micrograms per cubic meter (0.03 ppm) annual arithmetic mean,
6	(2)	365 micrograms per cubic meter (0.14 ppm) maximum 24-hour concentration not to be exceeded
7		more than once per year, and
8	(3)	1300 micrograms per cubic meter (0.5 ppm) maximum three-hour concentration not to be exceeded
9		more than once per year.
10	(b) Sampling an	d analysis shall be in accordance with procedures in Appendix A or A-1 of 40 CFR Part 50 or by a
11	Federal Equivale	ent Method (FEM) designated in accordance with 40 CFR Part 53.
12	(c) Applicability	of the standards listed in Subparagraph (a)(1) and (2) of this Rule is shall be in effect until one year
13	after the effective	e date of initial designations under Section 107(d) of the Clean Air Act for the sulfur dioxide standard
14	in Paragraph (d)	of this Rule.
15	(d) The primary	one-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which
16	is 1 part in 1,000	,000,000), measured in the ambient air as sulfur dioxide.
17	(e) The one-hour	primary standard is shall be met at an ambient air quality monitoring site when the three-year average
18	of the annual (99	th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb,
19	as determined in	accordance with Appendix T of 40 CFR Part 50.
20		
21	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
22		Eff. February 1, 1976;
23		Amended Eff. September 1, 2011; July 1, 1984; December 1, <del>1976.</del> <u>1976.</u>
24		Readopted Eff

1	15A NCAC 02E	0.0404 is proposed for readoption without substantive change as follows:	
2			
3	15A NCAC 02I	D.0404 CARBON MONOXIDE	
4	(a) The ambient	t air quality standards for carbon monoxide are:	
5	(1)	9 parts per million (10 milligrams per cubic meter) maximum eight-hour average concentration not	
6		to be exceeded more than once per year, and	
7	(2)	35 parts per million (40 milligrams per cubic meter) maximum one-hour average concentration not	
8		to be exceeded more than once per year.	
9	(b) Sampling as	nd analysis shall be in accordance with procedures in Appendix C of 40 CFR Part 50 or equivalent	
10	methods established under 40 CFR Part 53.		
11	(c) An eight-ho	our average shall be considered valid if at least 75 percent of the hourly averages for the eight-hour	
12	period are availa	able. In the event that only six or seven hourly averages are available, the eight-hour average shall be	
13	computed on the basis of the hours available using six or seven as the divisor.		
14	(d) When summarizing data for comparison with the standards, averages shall be stated to one decimal place		
15	Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with		
16	fractional parts of 0.5 or greater rounding up.		
17			
18	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);	
19		Eff. February 1, 1976;	
20		Amended Eff. October 1, 1989; July 1, 1984; December 1, <del>1976.</del> <u>1976</u> ;	
21		Readopted Eff	
22			
23			
24			

1	15A NCAC 02D .0407 is proposed for readoption without substantive change as follows:			
2				
3	15A NCAC 02D .0407 NITROGEN DIOXIDE			
4	(a) The primary annual ambient air quality standard for oxides of nitrogen is 53 parts per billion annual average			
5	concentration measured in the ambient air as nitrogen dioxide.			
6	(b) The primary one hour ambient air quality standard for oxides of nitrogen is 100 parts per billion one hour annual			
7	average concentration measured in the ambient air as nitrogen dioxide.			
8	(c) The secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per			
9	cubic meter) annual arithmetic mean concentration.			
10	(d) Sampling and analysis shall be in accordance with:			
11	(1) procedures in Appendix F of 40 CFR Part 50; or			
12	(2) by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.			
13	(e) The annual primary standard isshall be attained when the annual average concentration in a calendar year is less			
14	than or equal to 53 parts per billion, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual			
15	standard.			
16	(f) The one hour primary standard is shall be attained when the three-year average of the annual 98th percentile of the			
17	daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with			
18	Appendix S of 40 CFR Part 50 for one hour standard.			
19	(g) The secondary standard is shall be attained when the annual arithmetic mean concentration in a calendar year is			
20	less than or equal to $0.053$ parts per million, rounded to three decimal places (fractional parts equal to or greater than			
21	0.0005 parts per million are rounded up). To demonstrate attainment, an annual mean mustshall be based on hourly			
22	data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent complete			
23	for the scheduled sampling days in each calendar quarter.			
24				
25	History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);			

Eff. February 1, 1976; 26 Amended Eff. September 1, 2011; October 1, 1989; July 1, 1984; December 1, <del>1976.</del> 1976; 27 Readopted Eff. . 28

1	15A NCAC 02D .0408 is proposed for readoption without substantive change as follows:		
2			
3	15A NCAC 02I	D.0408 LEAD	
4	The ambient air	quality standard for lead and its compounds, measured as elemental lead by a reference method based	
5	on Appendix G of 40 CFR Part 50 or by an equivalent method established under 40 CFR Part 53, is 0.15 micrograms		
6	per cubic meter	The standard isshall be met when the maximum arithmetic three month mean concentration for a	
7	three year period, as determined in accordance with Appendix R of 40 CFR Part 50, is less than or equal to 0.1		
8	micrograms per cubic meter.		
9			
10	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);	
11		Eff. June 1, 1980;	
12		Amended Eff. January 1, 2010; July 1, <del>1984.</del> <u>1984;</u>	
13		Readopted Eff	
14			

1	15A NCAC 021	D .0409 is proposed for readoption without substantive change as follows:	
2			
3	15A NCAC 02	D .0409 PM10 PARTICULATE MATTER	
4	(a) The ambien	t air quality standard for PM10 particulate matter is 150 micrograms per cubic meter <del>(ug/m3),</del> (µg/m³)	
5	24-hour average	e concentration. This standard is shall be attained when 150 (ug/m³), (μg/m³), as determined according	
6	to Appendix N	of 40 CFR Part 50, is not exceeded more than once per year on average over a three-year period.	
7	(b) For the purpose of determining attainment of the standards in Paragraph (a) of this Rule, particulate matter shall		
8	be measured in the ambient air as PM10 (particles with an aerodynamic diameter less than or equal to a nominal 10		
9	micrometers) by either:		
10	(1)	a reference method based on Appendix M of 40 CFR Part 50 and designated according to 40 CFF	
11		Part 53; or	
12	(2)	an equivalent method designated according to 40 CFR Part 53.	
13			
14	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);	
15		Eff. July 1, 1988;	
16		Amended Eff. January 1, 2010; April 1, <del>1999.</del> <u>1999;</u>	
17		Readopted Eff	
18			
19			

1	15A NCAC 02I	0.0410 is proposed for readoption without substantive change as follows:	
2			
3	15A NCAC 021	D .0410 PM2.5 PARTICULATE MATTER	
4	(a) The national	primary ambient air quality standards for PM2.5 are 12.0 micrograms per cubic meter ( $\mu g/m^3$ ) annual	
5	arithmetic mean	concentration and 35 $\mu g/m^3$ 24-hour average Concentration measured in the ambient air as PM2.5	
6	(particles with a	n aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:	
7	(1)	A reference method based on appendix L to 40 C.F.R.CFR Part 50 and designated in accordance	
8		with 40 C.F.R.CFR Part 53; or	
9	(2)	An equivalent method designated in accordance with 40 C.F.R.CFR Part 53.	
10	(b) The primary annual PM2.5 standard is shall be met when the annual arithmetic mean concentration, as determined		
11	in accordance with appendix Appendix N of 40 C.F.R.CFR Part 50, is less than or equal to $12.0\mu\text{g/m}^3$ .		
12	(c) The primary 24-hour PM2.5 standard isshall be met when the 98th percentile 24-hour concentration, as determined		
13	in accordance with appendix Appendix N of 40 C.F.R.CFR Part 50, is less than or equal to 35 $\mu$ g/m <sup>3</sup> .		
14			
15	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);	
16		Eff. April 1, 1999;	
17		Amended Eff. September 1, 2015; January 1, <del>2010.</del> 2010;	
18		Readopted Eff	
19			

1	15A NCAC 02	D .1301 is proposed for readoption as a repeal as follows:	
2			
3		SECTION .1300 - OXYGENATED GASOLINE STANDARD	
4			
5	15A NCAC 02	D .1301 PURPOSE	
6	This Section set	ts forth oxygenated gasoline standards in areas where an oxygenated gasoline program is implemented	
7	pursuant to Stat	te law for all gasoline sold wholesale for use or for all gasoline sold retail, offered for use, dispensed,	
8	or otherwise provided for use in any spark ignition engine other than aircraft in the areas defined in Rule .1302 of this		
9	Section during the time periods defined in Rule .1302(c) of this Section.		
10			
11	History Note:	Filed as a Temporary Amendment Eff. October 23, 1995 for a period of 180 days or until the	
12		permanent rule becomes effective, whichever is sooner;	
13		Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7);	
14		Eff. September 1, 1992;	
15		Amended Eff. September 1, 1996; November 1, <del>1994.<u></u>1994;</del>	
16		Repealed Eff	
17			
18			
19			
20			

1	15A NCAC 02	D .1302 is proposed for readoption as a repeal as follows:			
2					
3	15A NCAC 02	D .1302 APPLICABILITY			
4	(a) This Section shall apply to gasoline identified in Rule .1301 of this Section during the time period described in				
5	Paragraph (c) of this Rule in any of the following areas, and in that area only, when the Director notices in accordance				
6	with Paragraph (b) of this Rule in the North Carolina Register that oxygenated gasoline is needed in that area to attain				
7	and maintain th	e ambient air quality standard for carbon monoxide:			
8	(1)	the Greensboro/Winston Salem/High Point Metropolitan Statistical Area consisting of Davie,			
9		Davidson, Forsyth, Guilford, Randolph, Stokes, and Yadkin Counties;			
10	(2)	the Charlotte/Gastonia/Rock Hill Metropolitan Statistical Area consisting of Cabarrus, Gaston,			
11		Mecklenburg, and Union Counties; and			
12	(3)	the Raleigh/Durham Metropolitan Statistical Area consisting of Durham, Franklin, Orange, and			
13		Wake Counties.			
14	(b) If a violati	on of the ambient air quality standard for carbon monoxide is measured in accordance with 40 CFR			
15	50.8 in one of	the areas named in Paragraph (a) of this Rule, the Director shall initiate analyses to determine if			
16	additional meas	sures are needed to attain and maintain the ambient air quality standards in that area. If the Director			
17	finds that 2.7 pe	ercent oxygen by weight oxygenated gasoline is needed, the Director shall notice in the North Carolina			
18	Register by the following September 1 that only oxygenated gasoline shall be sold in that area beginning on the				
19	following November 1. The notice shall identify the area in which oxygenated gasoline shall be sold. Also by the				
20	following July 1, the Director shall notify the Gasoline and Oil Inspection Board and the primary gasoline distributors				
21	that only oxygenated gasoline shall be sold in the area beginning on the following November 1.				
22	(c) This Section applies to gasoline identified in Rule .1301 of this Section and in the counties identified in Paragraph				
23	(a) of this Rule for the four month period beginning November 1 and running through the last day of February of the				
24	following year.				
25	(d) Gasoline in	storage within the counties identified in Paragraph (a) of this Rule prior to November 1 of the year in			
26	which this Sect	ion goes into effect at a dispensing facility having total gasoline tank capacity of less than 550 gallons			
27	or a total weekl	y dispensing rate of less than 550 gallons is exempted from Rule .1304 of this Section, but any gasoline			
28	supplied to the	facility during the period identified in Paragraph (c) of this Rule shall comply with Rule .1304 of this			
29	Section.				
30					
31	History Note:	Filed as a Temporary Amendment Eff. October 23, 1995 for a period of 180 days or until the			
32		permanent rule becomes effective, whichever is sooner;			
33		Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7);			
34		Eff. September 1, 1992;			
35		Amended Eff. September 1, 1996; November 1, <del>1994.</del> 1994;			
36		Repealed Eff			

2

1	15A NCAC 02I	O .1303 is proposed for readoption as a repeal as follows:		
2				
3	15A NCAC 02	D .1303 DEFINITIONS		
4	For the purpose of this Section, "oxygenated gasoline" means any gasoline which contains a substance or substance			
5	to raise the oxygen content of the gasoline to conform with Rule .1304 of this Section.			
6				
7	History Note:	Authority G.S. 143-213; 143-215.3(a)(1); 143-215.108(c)(7);		
8		Eff. September 1, <del>1992.</del> 1992;		
9		Repealed Eff		
10				
11				
12				
13				

1	15A NCAC 02I	O .1304 is proposed for readoption as a repeal as follows:
2		
3	15A NCAC 021	D .1304 OXYGEN CONTENT STANDARD
4	Gasoline to whi	ch this Section applies in accordance with Rule .1302(a) of this Section shall have an oxygen content
5	of not less than	2.7 percent by weight during the period defined in Rule .1302(c) of this Section.
6		
7	History Note:	Filed as a Temporary Amendment Eff. October 23, 1995 for a period of 180 days or until the
8		permanent rule becomes effective, whichever is sooner;
9		Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7);
10		Eff. September 1, 1992;
11		Amended Eff. September 1, 1996; November 1, <del>1994.</del> <u>1994;</u>
12		Repealed Eff
13		
14		
15		
16		

1	15A NCAC 02I	O .1305 is proposed for readoption as a repeal as follows:
2		
3	15A NCAC 02	D .1305 MEASUREMENT AND ENFORCEMENT
4	(a) Gasoline sa	mples shall be taken and handled by methods approved by the Gasoline and Oil Inspection Board.
5	(b) Gasoline sa	amples shall be analyzed by the American Society for Testing and Materials (ASTM) standard tes
6	method, design	ation D 4815 89 or by other methods approved by the Gasoline and Oil Inspection Board and the
7	United States E	nvironmental Protection Agency.
8	(c) Enforcemen	tt shall be in accordance with procedures adopted by the Gasoline and Oil Inspection Board in 2 NCAC
9	<del>42 .0100.</del>	
10		
11	History Note:	Authority G.S. 119-26; 143-215.3(a)(1); 143-215.107(a)(3),(7); 150B-21.6;
12		Eff. September 1, 1992;
13		Amended Eff. July 1, <del>1998.</del> 1998;
14		Repealed Eff
15		
16		
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1	15A NCAC 02D .2001 is proposed for readoption with substantive changes as follows:
2	
3	SECTION .2000 - TRANSPORTATION CONFORMITY
4	
5	15A NCAC 02D .2001 PURPOSE, SCOPE AND APPLICABILITY
6	(a) The purpose of this Section is to assure the conformity of transportation plans, programs, and projects that are
7	developed, funded, or approved by the United States Department of Transportation and by metropolitan planning
8	organizations or other recipients of funds under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.), or
9	State or Local only sources of funds, with all plans required of areas designated as nonattainment or maintenance
10	under 40 CFR 81.334 for the pollutants specified therein or listed in Paragraph (b), (c), or (d) (c) of this Rule.
11	(b) This Section applies to the emissions of volatile organic compounds and nitrogen oxides in the following areas:
12	(1) Davidson County,
13	(2) Durham County,
14	(3) Forsyth County,
15	(4) Gaston County,
16	(5) Guilford County,
17	(6) Mecklenburg County,
18	(7) Wake County,
19	(8) Dutchville Township in Granville County, and
20	(9) that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway
21	801, Fulton Creek, and back to the Yadkin River.
22	(1) townships of Central Cabarrus, Concord, Georgeville, Harrisburg, Kannapolis, Midland, Mount
23	Pleasant, New Gilead, Odell, Poplar Tent, and Rimertown in Cabarrus County;
24	(2) townships of Crowders Mountain, Dallas, Gastonia, Riverbend, and South Point in Gaston County
25	(3) townships of Davidson and Coddle Creek in Iredell County;
26	(4) townships of Catawba Springs, Lincolnton, and Ironton in Lincoln County;
27	(5) all townships in Mecklenburg County;
28	(6) townships of Atwell, China Grove, Franklin, Gold Hill, Litaker, Locke, Providence, Salisbury,
29	Steele, and Unity in Rowan County;
30	(7) townships of Goose Creek, Marshville, Monroe, Sandy Ridge, and Vance in Union County.
31	(c) This Section applies to the emissions of carbon monoxide in the following areas:
32	(1) Durham County,
33	(2) Forsyth County,
34	(3) Mecklenburg County, and
35	(4) Wake County.
36	(d)(c) This Section applies to the emissions of:

1	(1)	particulate matter in areas identified in 40 CFR 81.334 as nonattainment or that have been
2		redesignated attainment and are current maintenance areas for fine particulate (PM2.5), or
3	(2)	volatile organic compounds or nitrogen oxides in areas identified in 40 CFR 81.334 as
4		nonattainment or that have been redesignated attainment and are current maintenance areas for
5		ozone.
6	(e)(d) This Sect	tion applies to FHWA/FTA projects or regionally significant State or local projects. For FHWA/FTA
7	projects or region	onally significant State or local projects in the areas identified in Paragraph (b), (c), or (d)(b) of this
8	Rule and for the	pollutants identified in Paragraph (b), (c), or (d)(c) of this Rule, this Section applies to:
9	(1)	the adoption, acceptance, approval, or support of transportation plans and transportation plan
10		amendments developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning
11		organization or the United States Department of Transportation;
12	(2)	the adoption, acceptance, approval, or support of transportation improvement programs or
13		amendments to transportation improvement programs pursuant to 23 CFR Part 450 or 49 CFR Part
14		613 by a metropolitan planning organization or the United States Department of Transportation; or
15	(3)	the approval, funding, or implementation of FHWA/FTA projects.
16	Conformity det	erminations are not required under this Section for individual projects that are not FHWA/FTA
17	projects. Howe	ver, 40 CFR 93.121 shall apply to these projects if they are regionally significant projects.
18	(f)(e) This Sect	ion applies to maintenance areas for 20 years from the date the EnvironmentEnvironmental Protection
19	Agency approv	ves the area's request under Section 107(d) of the Clean Air Act for redesignation to
20	attainment.attaiı	nment or until the effective date of revocation of the conformity requirements for the NAAQS by EPA.
21		
22	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
23		Eff. April 1, 1999;
24		Amended Eff. December 1, <del>2005.</del> 2005;
25		Readopted Eff
26		

1	15A NCAC 02D	2002 is proposed for readoption without change as follows:
2		
3	15A NCAC 02I	0.2002 DEFINITIONS
4	For the purposes	s of this Section, the definitions contained in 40 CFR 93.101 and the following definitions apply:
5	<u>(1)</u>	"Consultation" means that one party confers with another identified party, provides all information
6		necessary to that party needed for meaningful input, and considers and responds to the views of that
7		party in a timely, substantive written manner prior to any final decision.
8	<u>(2)</u>	"Regionally significant project" means a transportation project (other than an exempt project under
9		40 CFR 93.126) that is on a facility that serves regional transportation needs (such as access to and
10		$\underline{from\ the\ area\ outside\ of\ the\ region,\ major\ activity\ centers\ in\ the\ region,\ major\ planned\ developments}$
11		$\underline{such\ as\ new\ retail\ malls\ and\ sports\ complexes,\ or\ transportation\ terminals\ as\ well\ as\ most\ terminals}$
12		$\underline{\text{themselves})} \text{ and would normally be included in the modeling of a metropolitan area's transportation}$
13		network, including at a minimum all principal arterial highways and all fixed guide way transit
14		facilities that offer an alternative to regional highway travel.
15	(3)	"Regionally significant State or local project" means any highway or transit project that is a
16		regionally significant project and that is proposed to receive only funding assistance (receives no
17		federal funding) or approval through the State or any local program.
18		
19	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
20		Eff. April 1, <del>1999.</del> 1999;
21		Readopted Eff
22		
23		
24		
25		

15A NCAC 02D .2003 is proposed for readoption without substantive change as follows:

#### 15A NCAC 02D .2003 TRANSPORTATION CONFORMITY DETERMINATION

- (a) Conformity analyses, determinations, and redeterminations for transportation plans, transportation improvement programs, FHWA/FTA projects, and State or local regionally significant projects shall be made according to the requirements of 40 CFR 93.104 and shall comply with the applicable requirements of 40 CFR 93.119, 93.120, 93.124, 93.125, and 93.126. For the purposes of this Rule, regionally significant State or local projects shall be subject to the same requirements under 40 CFR Part 93 as FHWA/FTA projects except that State Environmental Policy Act procedures and requirements shall be substituted for National Environmental Policy Act procedures and requirements. Regionally significant State or local projects subject to this Section for which the State Environmental Policy Act process and a conformity determination have been completed may proceed toward implementation without further conformity determination unless more than three years have elapsed since the most recent major step (State Environmental Policy Act process completion, start of final design, acquisition of a significant portion of the right-of-way, or approval of the plans, specifications, and estimates) occurred. All phases of these projects considered in the conformity determination are also included if these phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases.
- (b) Before making a conformity determination, the metropolitan planning organizations, local transportation departments, North Carolina Department of Transportation, United States Department of Transportation, the Division of Air Quality, local air pollution control agencies, and United States Environmental Protection Agency shall consult with each other on matters described in 15A NCAC 2D02D .2005. Consultation shall begin as early as possible in the development of the emissions analysis used to support a conformity determination. The agency that performs the emissions analysis shall make the analysis available to the Division of Air Quality and at least 21 days shall be allowed for review and comment on the emissions analysis. The 21-day review period shall begin upon receipt of the analysis by the Director of the Division of Air Quality. After review by the Division of Air Quality the approving agency shall seek public comments in accordance with its public participation policy. The agency making the conformity determination shall address all written comments received prior to close of the public comment period, and these comments and responses thereto shall be included in the final document. If the Division of Air Quality disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall be resolved in accordance with 40 CFR 93.105(d). The 14-day appeal period shall begin upon receipt by the Director of the Division of Air Quality of the metropolitan planning organization's resolution that determines conformity.
- (c) The agency that performs the conformity analysis shall notify the Division of Air Quality of:
  - (1) any changes in planning or analysis assumptions [including land use and vehicle miles traveled (VMT) forecasts], and
  - (2) any revisions to transportation plans or transportation improvement plans that add, delete, or change projects that require a new emissions analysis (including design scope and dates that change the transportation network existing in a horizon year).

- 1 Comments made by the Division of Air Quality and responses thereto made by the agency shall become part of the
- 2 final planning document.
- 3 (d) Transportation plans shall satisfy the requirements of 40 CFR 93.106. Transportation plans and transportation
- 4 improvement programs shall satisfy the fiscal constraints specified in 40 CFR 93.108. Transportation plans, programs,
- and FHWA/FTA projects shall satisfy the applicable requirements of 40 CFR 93.109 through 93.118.93.119.
- 6 (e) Written commitments to implement control measures that are not included in the transportation plan and
- 7 transportation improvement program (TIP) shall be obtained before a conformity determination and these
- 8 commitments shall be fulfilled. Written commitments to implement mitigation measures shall be obtained before a
- 9 positive conformity determination, and project sponsors shall comply with these commitments.
- 10 (f) A recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall not adopt or approve
- a regionally significant highway or transit project, regardless of funding source, unless the requirements of 40 CFR
- 12 Part 93 are fully complied with.
- 13 (g) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality
- modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969
- process, in accordance with 40 CFR 93.107.
- 16 (h) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration
- and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation
- of those transportation portions of an applicable implementation plan prepared to attain and maintain the national
- 19 ambient air quality standards as provided under 40 CFR 93.103. This priority shall be consistent with statutory
- 20 requirements for allocation of funds among states or other jurisdictions.

- 22 History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
- 23 Eff. April 1, <del>1999.</del> 1999;
- 24 <u>Readopted Eff.</u> .

2526

27

1	15A NCAC 02I	2004 is proposed for readoption without change as follows:
2		
3	15A NCAC 021	D .2004 DETERMINING TRANSPORTATION-RELATED EMISSIONS
4	(a) The procedu	ures in 40 CFR 93.122 shall be used to determine regional transportation-related emissions.
5	(b) The procedu	ures in 40 CFR 93.123 shall be used to determine localized carbon monoxide concentrations (hot-spot
6	analysis).	
7		
8	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
9		Eff. April 1, <del>1999.</del> 1999;
10		Readopted Eff
11		
12		
13		
14		

1	15A NCAC 02D .2005 is proposed for readoption without substantive change as follows:						
2							
3	15A NCAC 021	D .2005	MEMORANDUM OF AGREEMENT				
4	(a) The Division	on of Air	Quality shall develop and maintain a memorandum of agreement with the North Carolin	na			
5	Department of Transportation, the metropolitan planning organizations of the areas identified in <u>15A NCAC 02D Rule</u>						
6	.2001 <del>(b), (c), or</del>	(d) of th	is Section, and the United States Department of Transportation to describe the participation	on			
7	and responsibili	ties of ea	ach of these agencies in implementing the requirements of this Section and 40 CFR Part 9	13.			
8	For those areas	identifie	ed in Rule 15A NCAC 02D .2001(b), (c), or (d) of this Section for which there is a	no			
9	metropolitan pla	anning or	ganization, the North Carolina Department of Transportation shall represent those areas f	or			
10	the purposes of	the memo	orandum of agreement. The memorandum of agreement shall include:				
11	(1)	consult	tation procedures described under 40 CFR 93.105;				
12	(2)	the pro	jected time allotted for each agency to review and comment on or to respond to commen	ıts			
13		on trans	sportation improvement programs, transportation plans, and transportation projects; and				
14	(3)	consult	tation procedures for the development of State Implementation Plans that relate	to			
15		transpo	ortation.				
16	The contents of	the Men	norandum of Agreement shall comply with the criteria and procedures in the federal Clean	an			
17	Air Act Section	176(c) [	[42 U.S.C. 7401-7671q] and 40 CFR Part 51, Subpart T, 40 CFR Part 93, Subpart A, and	nd			
18	Rules 15A NCA	<u>C 02D</u> .20	001 through <del>.2004 of this Section.</del> <u>.2004.</u>				
19	(b) No recipient	t of federa	al funds (as defined at 40 CFR 93.101) designated under Title 23 U.S.C. or the Federal Trans	sit			
20	Act shall adopt	or appro	eve or take any action to develop or implement a regionally significant highway or trans	sit			
21	project unless such recipient has signed the Memorandum of Agreement established under this Rule. This						
22	Memorandum of Agreement shall bind the recipient to adhere to the conformity criteria and procedures of this Section.						
23	(c) No agency shall adopt or approve or take any action to implement or develop any transportation plan,						
24	transportation improvement program, or federally funded or approved FHWA/FTA highway or transit project unless						
25	the agency has signed the Memorandum of Agreement established under this Rule. This Memorandum of Agreement						
26	shall bind the recipient to adhere to the conformity criteria and procedures of this Section.						
27	(d) Each federal agency that participates in determinations of conformity to state and federal implementation plans						
28	shall sign the Memorandum of Agreement established under this Rule. This Memorandum of Agreement shall bind						
29	the recipient to adhere to the conformity criteria and procedures of this Section.						
30							
31	History Note:	Author	ity G.S. 143-215.3(a)(1); 143-215.107(a)(10);				
32		Eff. Apr	ril 1, <del>1999.<u>1</u>999;</del>				
33		<u>Readop</u>	oted Eff				
34							
35							

1	15A NCAC 02I	O .2201 is proposed for readoption without change as follows:
2		
3		SECTION .2200 – SPECIAL ORDERS
4		
5	15A NCAC 02	D .2201 PURPOSE
6	The purpose of	this Section is to implement the provisions of G.S. 143-215.110 pertaining to the issuance of air quality
7	Special Orders	by the Environmental Management Commission.
8		
9	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.110;
10		Eff. April 1, <del>2004.</del> 2004;
11		Readopted Eff
12		
13		

1	15A NCAC 02I	O .2202 is proposed for readoption without change as follows:
2		
3	15A NCAC 021	D.2202 DEFINITIONS
4	For the purpose	s of this Section, the following definitions apply:
5	<u>(1)</u>	"Special Order" means a directive of the Commission to any person whom it finds responsible for
6		causing or contributing to any pollution of the air of the State. The term includes all orders or
7		instruments issued by the Commission pursuant to G.S. 143-215.110.
8	(2)	"Consent Order" means a Special Order into which the Commission enters with the consent of the
9		person who is subject to the order.
10	(3)	"Special Order by Consent" means "Consent Order."
11		
12	History Note:	Authority G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.110;
13		Eff. April 1, <del>2004.</del> 2004;
14		Readopted Eff
15		
16		

1	15A NCAC 02E	2.2203 is proposed for readoption with substantive change as follows:
2		
3	15A NCAC 02I	0.2203 PUBLIC NOTICE
4	(a) The requirer	nents of this Rule for public notice and public hearing apply to Consent Orders. The Commission may
5	specify other co	nditions for Special Orders issued without consent if it finds such conditions are necessary to achieve
6	or demonstrate of	compliance with a requirement under this Subchapter or 15A NCAC 02Q.
7	(b) Notice of pr	oposed Consent Order:
8	(1)	The Director shall give notice pursuant to G.S. 143-215.110(a1).
9	<u>(2)</u>	The Director shall give notice of a proposed Consent Order at least 30 days prior to any final action
10		regarding the Consent Order.
11	<u>(3)</u>	The notice shall be posted on the North Carolina Division of Air Quality web site at
12		http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent
13		and provided to those persons specified in G.S. 143-215.110(a1)(1) for air quality special orders.
14	<del>(2)</del> (4)	The notice shall include at least the following:
15		(A) name, address, and telephone number of the Division;
16		(B) name and address of the person to whom the proposed order is directed;
17		(C) a brief summary of the conditions of the proposed order including the period of time in
18		which action shall be taken to achieve compliance and the major permit conditions or
19		emission standards that the source will be allowed to exceed during the pendency of the
20		order;
21		(D) a brief description of the procedures to be followed by the Commission or Director in
22		reaching a final decision on the proposed order, which shall include descriptions of the
23		process for submitting comments and requesting a public hearing. The description shall
24		specify that comments and requests for a public hearing are to be received by the Division
25		within 30 days following the date of public notice; and
26		(E) a description of the information available for public review, where it can be found, and
27		procedures for obtaining copies of pertinent documents.
28	(c) Notice of pu	blic hearing for proposed Consent Order:
29	(1)	The Director shall consider all requests for a public hearing, and if he determines significant public
30		interest for a public hearing exists, then he shall hold a public hearing.
31	(2)	The Director shall give notice of the public hearing at least 30 days before the hearing.
32	(3)	The notice shall be advertised in a local newspaper posted on the North Carolina Division of Air
33		Quality web site at http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-
34		orders-by-consent and provided to those persons specified in G.S. 143-215.110(a1)(2) for air quality
35		special orders.
36	(4)	The notice shall include the information specified in Subparagraph (b)(2)(b)(4) of this Rule. It shall
37		also state the time and location for the hearing along with procedures for providing comment.

1	(5)	The Chairman of the Commission or the Director shall appoint one or more hearing officers to	
2	preside over the public hearing and to receive written and oral comments. The hearing officer sha		
3		provide the Commission a written report of the hearing, which shall include:	
4		(A) a copy of the public notice published in the newspaper; notice;	
5		(B) a copy of all the written comments and supporting documentation received;	
6		(C) a summary of all the oral comments received;	
7		(D) recommendations of the hearing officer to the Commission; and	
8		(E) a proposed Consent Order for the Commission's consideration.	
9	(d) Any person	may request to receive copies of all notices required by this Rule, and the Director shall mail copies	
10	of notices to tho	se who have submitted a request.	
11	(e) The Director	r may satisfy the requirements in Paragraphs (b) and (c) of this Rule by issuing a notice that complies	
12	with both Paragr	raphs.	
13	(f) Any Consen	t Order may be amended by the Director to incorporate minor modifications, such as modification o	
14	standard conditi	ons to reflect updated versions, correction of typographical errors, or interim date extensions, in a	
15	consent order wa	ithout public notice provided that the modifications do not extend the final compliance date by more	
16	than four month	s.	
17			
18	History Note:	Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110;	
19		Eff. April 1, <del>2004.</del> 2004;	
20		Readopted Eff/ .	
21			

1	15A NCAC 02I	O .2204 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02	D .2204 FINAL ACTION ON CONSENT ORDERS
4	(a) The Directo	or shall take final action for the Commission on Consent Orders for which a public hearing has not
5	been held as pr	ovided in Rule .2203 of this Section.15A NCAC 02D .2203. The final action on the proposed order
6	shall be taken n	o later than 60 days following publication of the notice.
7	(b) The Comm	ission shall take final action on Consent Orders for which a public hearing has been held as provided
8	in <del>Rule .2203 o</del>	f this Section. 15A NCAC 02D .2203. The final action on the proposed order shall be taken no later
9	than 90 days fol	llowing the hearing.
10		
11	History Note:	Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4); 143-215.110;
12		Eff. April 1, <del>2004.</del> 2004;
13		Readopted Eff
14		

1	15A NCAC 02I	O .2205 is proposed for readoption without change as follows:
2		
3	15A NCAC 02	D .2205 NOTIFICATION OF RIGHT TO CONTEST SPECIAL ORDERS ISSUED
4		WITHOUT CONSENT
5	For any Special	Orders other than Consent Orders, the Commission shall notify the person subject to the order of the
6	procedure set or	ut in G.S. 150B-23 to contest the Special Order.
7		
8	History Note:	Authority G.S. 143-215.2(b); 143-215.3(a)(1); 143-215.110(b);
9		Eff. April 1, <del>2004.</del> 2004;
10		Readopted Eff
11		
12		

#### CHAPTER III

#### REPORT OF PROCEEDINGS

#### Introduction

The Department of Environmental Quality, Division of Air Quality, held a public hearing on August 3, 2017 at 2:00 pm in Charlotte, NC.

The hearing considered the proposed readoption, amendment, and repeal of several rules in 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200.

The proposed effective date for these rules is projected to be January 1, 2018.

A public notice announcing this hearing was emailed to each person on the interested party email distribution list. The public notice was also published in the North Carolina Register at least 15 days before the public hearing and posted on the North Carolina Division of Air Quality website at least 30 days prior to the public hearing.



#### ENVIRONMENTAL MANAGEMENT COMMISSION

John D. Solomon Chairman Kevin Martin Vice Chairman

# NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY

Roy Cooper, Governor Michael S. Regan, Secretary David W. Anderson Gerard P. Carroll Charles Carter Tommy Craven Charles B. Elam E. O. Ferrell Dr. Suzanne Lazorick Manning Puette Dr. Albert R. Rubin Clyde E. Smith, Jr. Steve W. Tedder Julie A. Wilsey

May 17, 2017

**To:** Gerard P. Carroll

From: J. D. Solomon

**Subject:** Hearing Officer Appointment

Public hearings have been scheduled for August 3, 2017 at 2:00 p.m. at the Mecklenburg County Land Use and Environmental Services Agency Building, Suttle Avenue, Charlotte, NC, 28208, to receive public comments on revisions to incorporate the 2015 Ozone National Ambient Air Quality Standards (NAAQS) into the state rule and readoption of the first set of air quality rules, in 15A NCAC 02D .0100, .0200, .0300, .0400, 1300, .2000, and .2200, pursuant to G.S. 150B-21.3A. 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.

JDS/jb

Attachment

cc: Mike Abraczinskas

Lois Thomas

Hearing Record File

State of North Carolina | Environmental Quality

1611 Mail Service Center | Raleigh, North Carolina 27699-1611

919-707-9023

#### NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

#### PUBLIC NOTICE

Notice is hereby given for public hearings to be heard by the North Carolina Department of Environmental Quality, Division of Air Quality concerning the proposed amendment to air quality rules.

PURPOSE:

Hearing 1: To receive comments on proposed amendments to Rule 15A NCAC 02D .0405, Ozone, to reflect changes to the national ambient air quality standards (NAAQS) for ozone. These proposed rule changes are necessary to comply with federal requirements. The rule is also proposed for readoption to meet the requirements of G.S.150B-21.3A, Periodic Review and Expiration of Existing Rules.

The United States Environmental Protection Agency (USEPA) strengthened its NAAQS for ozone, also known as O3, on October 1, 2015 (80 FR 65291). These revisions are the result of USEPA's five-year periodic review of NAAQS as required by the Clean Air Act. USEPA revised the primary and secondary ozone standards from 0.075 ppm, set in 2008, to 0.070 ppm, while retaining the indicators (O3), forms (fourth-highest daily maximum, averaged across three consecutive years) and averaging times (eight hours).

Hearing 2: To receive comments on the amendment and proposed readoption of air quality rules in several sections in 15A NCAC 02D to meet the requirements of G.S.150B-21.3A, Periodic Review and Expiration of Existing Rules.

#### Section .0100 - Definitions and References

The rules in Section .0100 include definitions and references that apply throughout Subchapter 02D unless specified otherwise in a particular rule. 15A NCAC 02D .0101 is proposed for readoption with amendments to update format of units and references and .0103, .0104, and .0105 for amendment to update agency name and addresses, include web addresses where referenced documents may be obtained, and update references to document costs.

#### Section .0200 - Air Pollution Sources

The rules in Section .0200 reflect the system used to classify air pollution sources of importance in establishing the air quality program and the agency authority to require registration of such sources. 15A NCAC 02D .0201-.0202 are proposed for readoption.

#### Section .0300 - Air Pollution Emergencies

The rules in Section .0300 address prevention of buildup of air contaminants during an air pollution episode in order to prevent a public health emergency. 15A NCAC 02D .0301 and .0303-.0304, are proposed for readoption with amendments to update format of references. 02D .0302 is proposed for readoption with amendments to update who proclaims air quality alerts and warnings and declarations of emergency at various pollutant levels requiring abatement actions to the Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations and update format of units for consistency. 02D .0305, .0306, and .0307 are proposed for readoption with amendments to reference the open burning rule and eliminate redundant language in Paragraph (4).

#### Section .0400 - Ambient Air Quality Standards

The rules in Section .0400 contain the ambient air quality standards and associated monitoring methodologies for the state and reflect the National Ambient Air Quality Standards (NAAQS). 15A NCAC 02D .0401., .0409, and .0410 are proposed for readoption with amendments to update format of references and acronyms and .0402, .0404, .0407, and .0408 are proposed for readoption.

Section .1300 - Oxygenated Gasoline Standard
Section .1300 establishes requirements for use of gasoline with certain oxygen content in carbon monoxide (CO) nonattainment or maintenance areas. 15A NCAC 02D Section .1300 is proposed for repeal because the measures were part of a contingency plan for the CO NAAQS and the limited maintenance plan for CO has now expired.

#### Section .2000 - Transportation Conformity

Section .2000 reflects federally set requirements to assure conformity of federal, state, or local funded transportation projects and plans with plans for attainment and maintenance of NAAQS for areas designated nonattainment or maintenance. 15A NCAC 02D .2001-.2005 are proposed for readoption. 02D .2001 is proposed for readoption with amendments to remove obsolete references to affected areas based on current attainment status, update internal paragraph references, include clarifying reference to 40 CFR 93.119 regarding provisions for areas without motor vehicle emissions budgets, and clarify duration of applicability to maintenance areas. 02D .2002 and .2004 are proposed for readoption and .2003 and .2005 for readoption with updates to format of references.

Section .2200 - Special Orders

Section .2200 lays out procedures to be followed for establishing Special Orders by Consent to achieve compliance with air quality requirements in 15A NCAC 02D or 02Q consistent with the requirements of G.S. 143-215.110. 15A NCAC 02D .2201-.2202 and .2205 are proposed for readoption, .2203 is proposed for readoption with amendments to update the rule for consistency with the statutory language in G.S. 143-15.110(a1)(2) specifying online posting, and .2204 is proposed for readoption with amendments to update format of references.

NOTE: The proposed amendments considered in this hearing, 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.

DATE AND LOCATION:

August 3, 2017, 2:00 P.M.

Pine & Fraser Fir Rooms, 4th Floor, Mecklenburg County Land Use and Environmental Services Agency Building, 2145 Suttle Avenue, Charlotte, NC 28208

COMMENT PROCEDURES:

All persons interested in these matters are invited to attend the public hearings. Any person desiring to comment is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The hearing officer may limit the length of oral presentations if many people want to speak. The hearing record will remain open until August 14, 2017 to receive additional written statements. To be included, the statement must be received by the Division by August 14, 2017.

INFORMATION:

Copies of the proposed rule changes may be downloaded <a href="http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process">http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process</a>. Copies of the proposals may also be reviewed at the regional offices of the North Carolina Department of Environmental Quality, 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
(Please type "08-03-2017 Hearings" in subject line)

DATE: 5/25/17

Michael A. Abraczinskas,

**DAQ Director** 

## **Transcript**

A transcript of the August 3, 2017 Charlotte hearing has not been prepared; however, an audio recording of the proceeding will be kept on file with the Division of Air Quality for one year from the date of the final actions by the Environmental Management Commission.

A list of those attending the Charlotte hearing are as follows:

## Hearing Officer:

Mr. Gerard P. Carroll, Environmental Management Commission

# <u>Staff Members of the Division of Air Quality or other state employees at the Charlotte hearing:</u>

Ms. Joelle Burleson, DAQ, DEQ

Mr. Matthew Davis, DAQ, DEQ

Mr. Patrick Knowlson, DAQ, DEQ

Ms. Leslie Rhodes, MCAQ

Mr. Jason Rayfield, MCAQ

Ms. Lexin Murphy, MCAQ

Mr. Chuck Greco, MCAQ

Ms. Ivonne Hernandez, MCAQ

#### Members of the General Public:

Mr. Terry Lansdell

Mr. Gordon Miller

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## CHAPTER IV

## **EXHIBITS**

(Please note that the exhibits are hyperlinked for customer service.)

<u>EXHIBIT</u>	<u>PAGE</u>
Proposed Regulations as Published in the North Carolina Register and Presented at the Hearing	IV-2
Hearing Officer's Suggested Hearing Comments	IV-18

North Carolina Justice Academy. All trainee presentations must have met the criteria and conditions specified in the course orientation of the "Basic Instructor Training Manual;"

- attain the minimum score on each performance (2) area as specified in the course abstract of the "Basic Instructor Manual" for the final written lesson plan and final 80-minute presentation;
- (3) achieve a score of 75 percent correct answers on the comprehensive written examination.
- (b) Should a trainee fail to meet the minimum criteria on the final lesson plan or the final 80 minute 70-minute presentation, he/she shall be authorized one opportunity to correct either of these deficiencies by the end of the original two-week course.

Authority G.S. 17C-6.

#### 12 NCAC 09G .0414 INSTRUCTOR TRAINING

- (a) The instructor training course required for general instructor certification shall consist of a minimum of 78 hours of instruction presented during a continuous period of not more than two weeks.
- (b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.
- (c) Each instructor training course shall include as a minimum the following identified topic areas: areas and minimum instructional hours for each area:

(	1)	Orientation and Pretest;	3 hours
(	2)	Curriculum Development: ISD Model; Instructional Systems Design (ISD);	<u>6 hours</u>
(	3)	Civil Liability for Law Enforcement Trainers; Law Enforcement Instructor	
		<u>Liabilities and Legal Responsibilities;</u>	3 hours
(	4)	Interpersonal Communication in Instruction; Instructional Leadership	4 hours
(	5)	Lesson Plan Preparation: Professional Resources;	3 hours
(	6)	Lesson Plan Preparation: Development: Format and Objectives;	4 hours
(	7)	Teaching Adults; Adult Learning;	4 hours
(	8)	Principles of Instruction: Demonstration Methods and Practical Exercise;	
		Instructional Style and Platform Skills;	4 hours
(	9)	Methods and Strategies of Instruction; Classroom Management;	4 hours
(	10)	Active Learning: Demonstration and Practical Exercises;	<u>6 hours</u>
(	<del>10)</del> (11	The Evaluation <del>Process;</del> <u>Process of Learning</u> ;	4 hours
(	<del>11)</del> (12	Principles of Instruction: Audio-Visual Aids;	4 hours
(	<del>12)</del> (13	Student 10 Minute 8-Minute Talk and Video Critique; and	<u>6 hours</u>
(	<del>13)</del> (14	Student Performance:	
		First 30-Minute Presentation;	5 hours
		Second 30-Minute Presentation; and	5 hours
		Final 80 Minute 70-Minute Presentation. Presentation and Review;	12 hours
(	15)	<u>Course Closing</u>	1 hour

(d) The "Basic Instructor Training Manual" "Instructor Training Manual" as published by the North Carolina Justice Academy is to shall be applied as the basic curriculum for delivery of basic instructor training courses. Copies of this publication may be inspected at the agency:

> Criminal Justice Standards Division North Carolina Department of Justice 1700 Tryon Park Drive Post Office Drawer 149 Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy Post Office Drawer 99 Salemburg, North Carolina 28385

Authority G.S. 17C-6.

### TITLE 15A – DEPARTMENT OF ENVIRONMENTAL **QUALITY**

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Environmental Management

Commission intends to amend the rules cited as 15A NCAC 02D .0103-.0105, readopt with substantive changes the rules cited as 15A NCAC 02D .0302, .0305-.0307, .0405, .1301-.1305, .2001, .2203 and readopt without substantive changes the rules cited as 15A NCAC 02D .0101, .0201, .0202, .0301, .0303, .0304, .0401, .0402, .0404, .0407-.0410, .2002-.2005, .2201, .2202, .2204 and .2205. Existing rules proposed for readoption without changes have been underlined.

Link to agency website pursuant to G.S. 150B-19.1(c): http://deq.nc.gov/about/divisons/air-quality/air-qualityrules/rules-hearing-process

**Proposed Effective Date:** January 1, 2018

**Public Hearing: Date:** August 3, 2017 **Time:** 2:00 p.m.

**Location:** *Pine and Fraser Fir Rooms, 4<sup>th</sup> Floor, Mecklenburg* County Land Use and Environmental Services Agency Building, 2145 Suttle Avenue, Charlotte, NC 28208

#### **Reason for Proposed Action:**

Hearing 1: To receive comments on proposed amendments to Rule 15A NCAC 02D .0405, Ozone, to reflect changes to the national ambient air quality standards (NAAQS) for ozone. These proposed rule changes are necessary to comply with federal requirements. The rule is also proposed for readoption to meet the requirements of G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.

The United States Environmental Protection Agency (USEPA) strengthened its NAAQS for ozone, also known as O3, on October 1, 2015 (80 FR 65291). These revisions are the result of USEPA's five-year periodic review of NAAQS as required by the Clean Air Act. USEPA revised the primary and secondary ozone standards from 0.075 ppm, set in 2008, to 0.070 ppm, while retaining the indicators (O3), forms (fourth-highest daily maximum, averaged across three consecutive years) and averaging times (eight hours).

Hearing 2: To receive comments on the amendment and proposed readoption of air quality rules in several sections in 15A NCAC 02D to meet the requirements of G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.

#### Section .0100 - Definitions and References

The rules in Section .0100 include definitions and references that apply throughout Subchapter 02D unless specified otherwise in a particular rule. 15A NCAC 02D .0101 is proposed for readoption with amendments to update format of units and references and .0103, .0104, and .0105 for amendment to update agency name and addresses, include web addresses where referenced documents may be obtained, and update references to document costs.

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The rules in Section .0200 reflect the system used to classify air pollution sources of importance in establishing the air quality program and the agency authority to require registration of such sources. 15A NCAC 02D .0201-.0202 are proposed for readoption.

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The rules in Section .0300 address prevention of buildup of air contaminants during an air pollution episode in order to prevent a public health emergency. 15A NCAC 02D .0301 and .0303-.0304, are proposed for readoption with amendments to update format of references. 02D .0302 is proposed for readoption with amendments to update who proclaims air quality alerts and warnings and declarations of emergency at various pollutant levels requiring abatement actions to the Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations and update format of units for consistency. 02D .0305, .0306, and .0307 are proposed for readoption with amendments to reference the open burning rule and eliminate redundant language in Paragraph (4).

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#### Section .1300 - Oxygenated Gasoline Standard

Section .1300 establishes requirements for use of gasoline with certain oxygen content in carbon monoxide (CO) nonattainment or maintenance areas. 15A NCAC 02D Section .1300 is proposed for repeal because the measures were part of a contingency plan for the CO NAAQS and the limited maintenance plan for CO has now expired.

#### Section .2000 - Transportation Conformity

Section .2000 reflects federally set requirements to assure conformity of federal, state, or local funded transportation projects and plans with plans for attainment and maintenance of NAAQS for areas designated nonattainment or maintenance. 15A NCAC 02D .2001-.2005 are proposed for readoption. 02D .2001 is proposed for readoption with amendments to remove obsolete references to affected areas based on current attainment status, update internal paragraph references, include clarifying reference to 40 CFR 93.119 regarding provisions for areas without motor vehicle emissions budgets, and clarify duration of applicability to maintenance areas. 02D .2002 and .2004 are proposed for readoption and .2003 and .2005 for readoption with updates to format of references.

#### Section .2200 – Special Orders

Section .2200 lays out procedures to be followed for establishing Special Orders by Consent to achieve compliance with air quality requirements in 15A NCAC 02D or 02Q consistent with the requirements of G.S. 143-215.110. 15A NCAC 02D .2201-.2202 and .2205 are proposed for readoption, .2203 is proposed for readoption with amendments to update the rule for consistency with the statutory language in G.S. 143-15.110(a1)(2) specifying online posting, and .2204 is proposed for readoption with amendments to update format of references.

Comments may be submitted to: Joelle Burleson, 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8720; fax (919) 707-8720; email daq.publiccomments@ncdenr.gov (Please type "08-03-2017 Hearings" in subject line)

Comment period ends: August 14, 2017

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after

the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

# Fiscal impact (check all that apply). State funds affected Environmental permitting of DOT affected Analysis submitted to Board of Transportation Local funds affected Substantial economic impact (≥\$1,000,000) Approved by OSBM No fiscal note required by G.S. 150B-21.4 No fiscal note required by G.S. 150B-21.3A(d)(2)

#### **CHAPTER 02 - ENVIRONMENTAL MANAGEMENT**

# SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS

#### **SECTION .0100 - DEFINITIONS AND REFERENCES**

#### 15A NCAC 02D .0101 DEFINITIONS

The definition of any word or phrase used in Rules of this Subchapter is the same as given in Article 21, G.S. 143, as amended. The following words and phrases, which are not defined in the article, have the following meaning:

- (1) "Act" means The North Carolina Water and Air Resources of Article 21.
- (2) "Administrator" means, when it appears in any Code of Federal Regulation incorporated by reference in this Subchapter, the Director of the Division of Air Quality unless:
  - (a) a specific rule in this Subchapter specifies otherwise, or
  - (b) the U.S. Environmental Protection Agency in its delegation or approval states that a specific authority of the Administrator of the Environmental Protection Agency is not included in its delegation or approval.
- (3) "Air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter emitted into or otherwise entering the ambient air.
- (4) "Ambient air" means that portion of the atmosphere outside buildings or other enclosed structures, stacks, or ducts; and that surrounds human, animal or plant life, or property.

- (5) "Approved" means approved by the Director of the Division of Air Quality according to these Rules.
- (6) "Capture system" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.
- (7) "CFR" means the Code of Federal Regulations.
- (8) "Combustible material" means any substance that, when ignited, will burn in air.
- (9) "Construction" means change in method of operation or any physical change, including onsite fabrication, erection, installation, replacement, demolition, or modification of a source, that results in a change in emissions or affects the compliance status.
- (10) "Control device" means equipment (fume incinerator, adsorber, absorber, scrubber, filter media, cyclone, electrostatic precipitator, or the like) used to destroy or remove air pollutant(s) before discharge to the ambient air.
- (11) "Day" means a 24-hour period beginning at midnight.
- (12) "Director" means the Director of the Division of Air Quality, unless otherwise specified.
- (13) "Division" means Division of Air Quality.
- (14) "Dustfall" means particulate matter that settles out of the air and is expressed in units of grams per square meter per 30-day period.
- (15) "Emission" means the release or discharge, whether directly or indirectly, of any air pollutant into the ambient air from any source.
- (16) "Facility" means all of the pollutant-emitting activities, except transportation facilities, that are located on one or more adjacent properties under common control.
- (17) "FR" means the Federal Register.
- (18) "Fugitive emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (19) "Fuel burning equipment" means equipment whose primary purpose is the production of energy or power from the combustion of any fuel. Uses of the equipment includes heating water, generating or circulating steam, heating air as in warm air furnace, or furnishing process heat by transferring energy by fluids or through process vessel walls.
- (20) "Garbage" means any animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
- (21) "Incinerator" means a device designed to burn solid, liquid, or gaseous waste material.
- (22) "Opacity" means that property of a substance tending to obscure vision and is measured as percent obscuration.
- (23) "Open burning" means any fire whose products of combustion are emitted directly into the

- outdoor atmosphere without passing through a stack or chimney, approved incinerator, or other similar device.
- (24) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (25) "Particulate matter" means any material except uncombined water that exists in a finely divided form as a liquid or solid at standard conditions.
- (26) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by methods specified in this Subchapter.
- (27) "Permitted" means any source subject to a permit under this Subchapter or Subchapter 15A NCAC 02Q.
- (28) "Person" as defined in G.S. 143-212 includes any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or its legal representative, agent, or assigns.
- (29) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by methods specified in this Subchapter.
- (30) "PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods specified in this Subchapter.
- (31) "PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by methods specified in this Subchapter.
- (32) "Refuse" means any garbage, rubbish, or trade waste.
- (33) "Rubbish" means solid or liquid wastes from residences, commercial establishments, or institutions.
- (34) "Rural area" means an area that is devoted to the following uses: agriculture, recreation, wildlife management, state park, or any area of natural cover.
- (35) "Salvage operation" means any business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material, including metal, chemicals, motor vehicles, shipping containers, or drums.
- (36) "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other burned or unburned residue of combustible materials that form a visible plume.

- (37) "Source" means any stationary article, machine, process equipment, or other contrivance; or any combination; or any tank-truck, trailer, or railroad tank car; from which air pollutants emanate or are emitted, either directly or indirectly.
- (38) "Sulfur oxides" means sulfur dioxide, sulfur trioxide, their acids, and the salts of their acids. The concentration of sulfur dioxide shall be measured by the methods specified in this Subchapter.
- (39) "Transportation facility" means a complex source as defined in G.S. 143-213(22).
- (40) "Total suspended particulate" means any finely divided solid or liquid material, except water in uncombined form, that is or has been airborne as measured by methods specified in this Subchapter.
- (41) "Trade wastes" means all solid, liquid, or gaseous waste materials or rubbish resulting from combustion, salvage operations, building operations, or the operation of any business, trade, or industry including, but not limited to, plastic products, paper, wood, glass, metal, paint, grease, oil and other petroleum products, chemicals, and ashes.
- (42) "ug" or "µg" means micrograms.

Authority G.S. 143-213; 143-215.3(a)(1).

# 15A NCAC 02D .0103 COPIES OF REFERENCED FEDERAL REGULATIONS

- (a) Copies of applicable Code of Federal Regulations sections referred to in this Subchapter are available for public inspection at Department of Environment and Natural Resources Environmental Quality regional offices. They are:
  - (1) Asheville Regional Office, 2090 Highway 70, Swannanoa, North Carolina 28778;
  - (2) Winston-Salem Regional Office, 585 Waughtown Street, Winston Salem, North Carolina 27107; 450 West Hanes Mill Road, Suite 300, Winston-Salem, NC 27105;
  - (3) Mooresville Regional Office, 610 East Center Avenue, Suite 301, Mooresville, North Carolina 28115;
  - (4) Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina 27611;27609;
  - (5) Fayetteville Regional Office, Systel Building, 225 Green Street, Suite 714, Fayetteville, North Carolina 28301;
  - (6) Washington Regional Office, 943 Washington Square Mall, Washington, North Carolina 27889;
  - (7) Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.
- (b) Copies of such rules can be made at these regional offices for ten cents (\$0.10) per.page or may be obtained free of charge

online at <a href="https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR">https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR</a>.

Authority G.S. 143-215.3; 150B-21.6.

## 15A NCAC 02D .0104 INCORPORATION BY REFERENCE

- (a) Anywhere there is a reference to rules contained in the Code of Federal Regulations (CFR) or to an American Society for Testing and Materials method (ASTM) in this Subchapter, those rules and methods are incorporated by reference.
- (b) The Code of Federal Regulations and American Society for Testing and Materials methods incorporated by reference in this Subchapter shall automatically include any later amendments thereto unless a specific rule specifies otherwise.
- (c) The Code of Federal Regulations is available in electronic form free of charge at <a href="https://www.gpo.gov/fdsys/search/home.action.may">https://www.gpo.gov/fdsys/search/home.action.may</a> be purchased from the Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250. The cost of the referenced documents is as follows:
  - (1) 40 CFR Parts 1 to 51: fifty dollars (\$50.00).
  - (2) 40 CFR Part 52: thirty nine dollars (\$39.00).
  - (3) 40 CFR Parts 53 to 59: eleven dollars (\$11.00).
  - (4) 40 CFR Part 60: thirty six dollars (\$36.00).
  - (5) 40 CFR Parts 61 to 71: thirty six dollars (\$36.00).
  - (6) 40 CFR Parts 72 to 85: forty one dollars (\$41.00).
  - (7) 40 CFR Part 86: forty dollars (\$40.00).
  - (8) 40 CFR Parts 87 to 135: five dollars (\$5.00).
  - (9) 40 CFR Parts 260 to 299: forty dollars (\$40.00).

#### These prices are October 15, 1996 prices.

(d) The American Society for Testing and Materials methods may be purchased from <a href="https://www.astm.org/.the Air Quality Division">https://www.astm.org/.the Air Quality Division</a>, PO Box 29580, Raleigh, North Carolina 27626 0580 at a price of twenty cents (\$0.20) per page <a href="Purchase price">Purchase price is dependent on the particular method and format chosen</a>.

Authority G.S. 150B-21.6.

#### 15A NCAC 02D .0105 MAILING LIST

- (a) The Division shall develop and maintain a mailing list of persons who have requested notification of rule-making as required by G.S. 150B 21.2(d). Such persons shall receive a copy of the complete notice as filed with the Office of Administrative Hearings.
- (b) Any person requesting to be on a mailing list established under Paragraph (a) of this Rule shall submit a written request to the Division of Air Quality, 1641 Mail Service Center, Raleigh, North Carolina, 27699. 27699-1641. Payment of fees required under this Section Rule may be by check or money order for thirty dollars (\$30.00) made payable to the Department of Environment and Natural Resources. Environmental Quality. Payment shall be submitted with each request and received by June 1 of each year. The fee covers from July 1 to June 30 of the following year. A person requesting to be on the list for notification of rule-making

may opt to receive notification via email free of charge by contacting Division staff.

Authority G.S. 143-215.3(a)(1); 150B 21.2(d).

#### SECTION .0200 - AIR POLLUTION SOURCES

## 15A NCAC 02D .0201 CLASSIFICATION OF AIR POLLUTION SOURCES

- (a) Purpose. This Regulation establishes a system for classifying air pollution sources. The Commission shall use this classification system to classify air pollution sources which the Commission believes to be of sufficient importance to justify classification or control.
- (b) Scope. This Regulation shall apply to all air pollution sources, both combustion and non-combustion. The following system for classifying air pollution sources shall be used:
  - (1) "Class I-C" includes all sources of air pollution using fuel burning equipment for the production of heat to generate electricity for public use.
  - (2) "Class II-C" includes all sources of air pollution using fuel burning equipment for the production of steam, and for other process uses at commercial and industrial establishments.
  - (3) "Class III-C" includes all sources of air pollution using fuel burning equipment for comfort heating at institutional, commercial or industrial establishments, or apartment houses having a central heating system serving more than four apartments.
  - (4) "Class IV-C" includes all sources of air pollution burning trash, rubbish, refuse, or similar materials in incinerators, teepee burners, or similar devices.
  - (5) "Class V-C" includes all sources of air pollution using fuel burning equipment for comfort heating that are not included in Class III-C.
  - (6) "Class VI-C" includes all sources of air pollution using internal combustion engines.
  - "Class I-I" includes all sources of air pollution resulting from industrial plants engaged in the manufacture of chemicals or allied products whose processes depend on the chemical reaction of two or more elements or compounds and includes plants producing acids, fertilizer materials, dyestuff, synthetic fibers and industrial gases.
  - (8) "Class II-I" includes all sources of air pollution resulting from industrial plants engaged in the production of pulp and paper.
  - (9) "Class III-I" includes all sources of air pollution resulting from the mining and processing of minerals, stone, clay and cement products, and includes phosphate ore, mica and feldspar operations, stone quarries and crushers, cement plants, concrete mixing plants, and masonry block plants.
  - (10) "Class IV-I" includes all sources of air pollution resulting from industrial operations using

- petroleum products, and includes asphalt mix plants, roofing felt plants, and petroleum products storage areas.
- (11) "Class V-I" includes all sources of air pollution resulting from furniture, lumber, or wood product plants.
- (12) "Class VI-I" includes all sources of air pollution resulting from textile manufacturing, textile dyeing or finishing plants.
- (13) "Class VII-I" includes all sources of air pollution resulting from the shelling, drying, storage, ginning and processing of tobacco, corn, soybeans, peanuts, cotton, fruits, vegetables, or other agricultural products.
- (14) "Class VIII-I" includes all sources of air pollution resulting from industries engaged in the processing of metals, and includes smelting, casting foundries, metal working, and other similar operations.
- (15) "Class IX-I" includes all sources of air pollution resulting from slaughtering and processing of meat, poultry, fish, and similar products and from rendering or the recovering of by-products of these operations.
- (16) "Class X-I" includes all sources of air pollution
  resulting from industries which do not fall
  within the classifications described in
  Subparagraphs (b)(7) through (b)(15) of this
  Regulation.

These sources shall be controlled pursuant to the requirements of regulations and other provisions of law.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4).

# 15A NCAC 02D .0202 REGISTRATION OF AIR POLLUTION SOURCES

- (a) The Director may require the owner or operator of a source of air pollution to register that source.
- (b) Any person required to register a source of air pollution with the Division shall register the source on forms provided by the Division and shall provide the following information:
  - (1) the name of the person, company, or corporation operating the sources;
  - (2) the address, location, and county;
  - (3) principal officer of the company;
  - (4) quantities and kinds of raw materials used;
  - (5) process flow sheets;
  - (6) operating schedules;
  - (7) total weights and kinds of air pollution released;
  - (8) types and quantities of fuels used;
  - (9) stack heights; and
  - (10) other information considered essential in evaluating the potential of the source to cause air pollution.

The forms shall be completed and returned to the Division within 60 days following their receipt.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4).

#### SECTION .0300 - AIR POLLUTION EMERGENCIES

#### 15A NCAC 02D .0301 PURPOSE

Notwithstanding any other provisions of air pollution control regulations or standards, this Section is designed to prevent the excessive buildup of air contaminants during air pollution episodes thereby preventing the occurrence of an emergency due to the effects of these contaminants on the public health.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

#### 15A NCAC 02D .0302 EPISODE CRITERIA

Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the <u>director Director</u> determines that the accumulation of air contaminants in any place is attaining or has attained levels that could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the <u>director Director</u> shall be guided by the following criteria:

- (1) Air Pollution Forecast. An internal watch by the Division and local air pollution control agencies shall be activated by a National Weather Service advisory that an atmospheric stagnation advisory is in effect, or the equivalent local forecast of stagnant atmospheric conditions.
- (2) Alert. The alert level is that concentration of pollutants at which first stage control actions are to begin. The director Secretary of the Department of Environmental Quality with the concurrence of the Governor shall proclaim an alert when any of the following levels is reached at any monitoring site:
  - (a) sulfur dioxide -- 800 <del>ug/m3</del> <u>µg/m³</u> (0.3 <del>p.p.m.)ppm)</del>, 24-hour average;
  - (b) particulate -- 375 ug/m3, 24-hour average;
  - (e) sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour average, and particulate ug/m3, 24 hour average, equal to 65,000;
  - (d)(b) carbon monoxide -- 17 ug/m<sup>3</sup> μg/m<sup>3</sup> (15 p.p.m.), ppm), eight-hour average;
  - (e)(c) ozone -- 400 ug/m3  $\mu$ g/m³ (0.2 p.p.m.), ppm), one-hour average;
  - (f)(d) nitrogen dioxide -- 1130 ug/m³ μg/m³ (0.6 p.p.m.), ppm), one-hour average; 282 ug/m³ μg/m³ (0.15 p.p.m.),ppm), 24-hour average;
  - (g)(e) PM10--350 ug/m;, μg/m³ 24-hour average; and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, for ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.

- (f) in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for 12 or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.
- (3) Warning. The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. The Secretary of the Department of Environmental Quality with the concurrence of the Governor Director shall proclaim a warning when any one of the following levels is reached at any monitoring site:
  - (a) sulfur dioxide --  $1600 \frac{\text{ug/m}^3}{\text{ug/m}^3}$  (0.6 p.p.m.),ppm), 24-hour average
  - (b) particulate 625 ug/m3, 24 hour average;
  - (c) sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour average, and particulate ug/m3, 24 hour average, equal to 261,000;
  - (d)(b) carbon monoxide -- 34 ug/m<sup>3</sup> μg/m<sup>3</sup> (30 p.p.m.), ppm), eight-hour average;
  - $\frac{\text{(e)(c)}}{\text{p.p.m.)}}$  ozone -- 800  $\frac{\text{ug/m}}{\text{ug/m}}$  (0.4  $\frac{\text{p.p.m.}}{\text{p.p.m.}}$ ), one-hour average;
  - (f)(d) nitrogen dioxide -- 2260 ug/m3 μg/m³ (1.2 p.p.m.), ppm), one-hour average; 565 ug/m3 μg/m³ (0.3 p.p.m.),ppm), 24-hour average;
  - (g)(e) PM10 -- 420 ug/m; µg/m³ 24-hour average; and average; and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, for ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.
  - (f) in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for 12 or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken.
- (4) Emergency. The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. The Secretary of the Department of Environment and Natural Resources Department of Environmental Quality with the concurrence of

- the Governor shall declare an emergency when any one of the following levels is reached at any monitoring site:
- (a) sulfur dioxide -- 2100  $\frac{\text{ug/m}^3}{\text{ug/m}^3}$  (0.8  $\frac{\text{p.p.m.}}{\text{p.p.m.}}$ )24-hour average;
- (b) particulate 875 ug/m3, 24 hour average;
- (c) sulfur dioxide and particulate combined -- product of sulfur dioxide ug/m3, 24 hour average, and particulate ug/m3, 24 hour average, equal to 393,000;
- (d)(b) carbon monoxide -- 46 mg/m3 μg/m³ (40 p.p.m.), ppm), eight-hour average;
- (e)(c) ozone -- 1000  $\frac{\text{ug/m}^3}{\text{p.p.m.}}$  (0.5  $\frac{\text{p.p.m.}}{\text{p.p.m.}}$ , one-hour average;
- (f)(d) nitrogen dioxide -- 3000 ug/m3 μg/m³ (1.6 p.p.m.),ppm), one-hour average; 750 ug/m³ μg/m³ (0.4 p.p.m.), 24-hour average:
- (g)(e) PM10--500 ug/m;, μg/m³ 24-hour average: and
- (f) in addition to the levels listed for the above pollutants, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for 12 or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next 24-hours unless control actions are taken. Same clarification applies to Warning and Emergency Levels.
- (5) Termination. Once declared any level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that time the next lower level shall be assumed.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

## 15A NCAC 02D .0303 EMISSION REDUCTION PLANS

- (a) Air Pollution Alert. Any person responsible for the operation of a source of air pollution described in Regulation 15A NCAC 02D .0305, .0305 of this Section, shall take all air pollution alert actions required for that source and shall put into effect the preplanned program for an air pollution alert.
- (b) Air Pollution Warning. Any person responsible for the operation of a source of air pollution described in Regulation .0306 of this Section,15A NCAC 02D .0306, shall take all air pollution warning actions required for that source and shall put into effect the preplanned program for an air pollution warning.
- (c) Air Pollution Emergency. Any person responsible for the operation of a source of air pollution described in Regulation .0307 of this Section, 15A NCAC 02D .0307, shall take all air pollution emergency actions required for that source and shall put into effect the preplanned program for an air pollution emergency.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

# 15A NCAC 02D .0304 PREPLANNED ABATEMENT PROGRAM

- (a) Any person who is responsible for the operation of a source of air pollution that is described in 15A NCAC 02D Regulations .0305, .0306, or .0307, .0307 of this Section, or that emits 100 tons per year or more of any one pollutant shall prepare a plan to reduce the emissions of air pollutants into the outdoor atmosphere during periods of an air pollution episode. The plan shall be consistent with good industrial practices and safe operating procedures. When the Director requests that the plan be submitted for his review, the owner or operator of the source shall submit the plan within 30 days of the Director's request.
- (b) When requested by the Commission in writing, any person responsible for the operation of a source not described in Regulations 15A NCAC 02D .0305, .0306, or .0307, .0307 of this Section, shall prepare a plan to reduce the emissions of air pollutants into the outdoor atmosphere during periods of air pollution alert, air pollution warning, and air pollution emergency. The plan shall be consistent with good industrial practices and safe operating procedures.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

# 15A NCAC 02D .0305 EMISSION REDUCTION PLAN: ALERT LEVEL

- (a) General General.
  - (1) There shall be no open burning by any person of trade waste, vegetation, refuse, or debris in any form. any material otherwise allowed under 15A NCAC 02D .1900.
  - (2) The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12 noon 12:00 p.m. and 4:00 p.m.
  - (3) Persons operating fuel burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon 12:00 p.m. and 4:00 p.m.
  - (4) Persons operating motor vehicles should eliminate all unnecessary operations.
- (b) Source Curtailment. Any person responsible for the operation of a source of air pollution shall take all required control actions for the alert level that are listed below:
  - (1) Operators of coal or oil fired electric power generating facilities shall:
    - (A) use fuels having low ash and sulfur content,
    - (B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m., and
    - (C) divert electric power generation to facilities outside of alert area;
  - (2) Operators of coal or oil fired process steam generating facilities shall:
    - (A) use fuels having low ash and sulfur content,
    - (B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m., and

- (C) reduce steam load demands consistent with continuing plant operation;
- (3) Operators of manufacturing industries of the following classifications: primary metals industry; petroleum refining and related industries; chemical and allied products industries; paper and allied products industries; glass, clay, and concrete products industries shall:
  - (A) reduce air pollutants from manufacturing operations by curtailing, postponing or deferring production and related operations;
  - (B) defer trade waste disposal operations which emit particles, gases, vapors, or malodorous substances;
  - (C) reduce heat load demands for processing; and
  - (D) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; p.m.; and
- (4) Municipal and commercial refuse disposal operations shall limit burning of refuse in incinerators to hours between 12 noon to 4:00 p.m.;
- (5)(4) Other persons requested by the Commission to prepare a preplanned abatement plan shall take all required control actions for the alert level contained in their plan.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

# 15A NCAC 02D .0306 EMISSION REDUCTION PLAN: WARNING LEVEL

- (a) General
  - (1) There shall be no open burning by any person of trade waste, refuse, vegetation, or debris in any form. any material otherwise allowed under 15A NCAC 02D .1900.
  - (2) The use of incinerators for the disposal of solid waste or liquid waste shall be prohibited.
  - (3) Persons operating fuel burning equipment which requires boiler lancing or soot blowing shall perform such operations only between 12 noon12:00 p.m. and 4:00 p.m. p.m.
  - (4) Persons operating motor vehicles should minimize their use through car pools and increased use of public transportation.
- (b) Source Curtailment. Any person responsible for the operation of a source of air pollution shall take all required control actions for the warning level that are listed below:
  - (1) Operators of coal or oil fired electric power generating facilities shall:
    - (A) use fuels having the lowest ash and sulfur content;
    - (B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. to 4:00 p.m., p.m.; and

- (C) divert electric power generating to facilities outside of warning area;
- (2) Operators of coal or oil fired process steam generating facilities shall:
  - (A) use fuels having the lowest ash and sulfur content;
  - (B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.;
  - (C) reduce steam load demands consistent with continuing plant operations, operations; and
  - (D) prepare to use the plan of action to be taken if an emergency develops;
- (3) Operators of manufacturing industries of the following classifications: primary metal industries; petroleum refining and related industries; chemical and allied products industries; paper and allied products industries; glass, clay and concrete products industries shall:
  - (A) reduce air pollutants from manufacturing operations by, if necessary, assuming reasonable economic hardship by postponing production and related operations;
  - (B) defer trade waste disposal operations which emit particles, gases, vapors, or malodorous substances:
  - (C) reduce heat load demands for processing consistent with continuing plant operations; and
  - (D) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; p.m.; and
- (4) Municipal and commercial refuse disposal operations shall stop incinerating waste;
- (5)(4) Other persons requested by the Commission to prepare a preplanned abatement plan shall take all required control actions for the warning level contained in their plan.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

# 15A NCAC 02D .0307 EMISSION REDUCTION PLAN: EMERGENCY LEVEL

- (a) General
  - (1) There shall be no open burning by any person of trade waste, vegetation, refuse, or debris in any form. any material otherwise allowed under 15A NCAC 02D .1900.
  - (2) The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
  - (3) All places of employment described below shall immediately cease operations:
    - (A) mining and quarrying of nonmetallic minerals;

- (B) all manufacturing establishments except those required to have in force an air pollution emergency plan;
- (C) all construction work involving grading or other operations which generate dust;
- (D) all wholesale and retail establishments except pharmacies and stores primarily engaged in the sale of food;
- (E) all commercial and manufacturing establishments, automobile repair services and garages, laundries, barbershops, beauty shops and motion picture theaters; and
- (F) elementary and secondary schools, colleges, universities and professional schools.
- (4) The use of motor vehicles is shall be prohibited except in emergencies with the approval of local or state police.
- (b) Source Curtailment. Any person responsible for the operation of a source of air pollution shall take all required control actions for the emergency level that are listed below:
  - (1) Operators of coal or oil fired electric power generating facilities shall:
    - (A) use fuels having lowest ash and sulfur content.
    - (B) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m., p.m.;
    - (C) divert electric power generating to facilities outside of emergency area;
  - (2) Operators of coal or oil fired process steam generating facilities shall:
    - (A) reduce heat and steam demands to that absolutely necessary to prevent equipment damage,
    - (B) perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m., p.m.;
    - (C) take the action called for in the abatement plan;
  - (3) Operators of manufacturing industries of the following classifications: primary metals industries; petroleum refining and related industries; chemical and allied products industries; paper and allied products industries; glass, clay and concrete products industries shall:
    - (A) eliminate air pollutants from manufacturing operations by ceasing, curtailing, postponing or deferring production and related operations of the extent possible without causing injury to persons or damage to equipment;
    - (B) eliminate air pollution from trade waste disposal processes which emit

- particles, gases, vapors, or malodorous substances;
- (C) reduce heat load demands for processing to the minimum;
- (D) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; and
- (4) Municipal and commercial refuse disposal operations shall stop incinerating waste;
- (5)(4) Other persons requested by the Commission to prepare a preplanned abatement plan shall take all required control actions for the emergency level contained in their plan.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

## **SECTION .0400 - AMBIENT AIR QUALITY STANDARDS**

#### 15A NCAC 02D .0401 PURPOSE

- (a) The purpose of the ambient air quality standards set out in this Section is to establish certain maximum limits on parameters of air quality considered desirable for the preservation and enhancement of the quality of the state's air resources. Furthermore, the objective of the Commission, consistent with the North Carolina Air Pollution Control Law, shall be to prevent significant deterioration in ambient air quality in any substantial portion of the state where existing air quality is better than the standards. An atmosphere in which these standards are not exceeded should provide for the protection of the public health, plant and animal life, and property.
- (b) Ground level concentrations of pollutants will be determined by sampling at fixed locations in areas beyond the premises on which a source is located. The standards are applicable at each such sampling location in the state.
- (c) No facility or source of air pollution shall cause any ambient air quality standard in this Section to be exceeded or contribute to a violation of any ambient air quality standard in this Section except as allowed by Rules 15A NCAC 02D .0531 or .0532 of this Subchapter. .0532.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

#### 15A NCAC 02D .0402 SULFUR OXIDES

- (a) The ambient air quality standards for sulfur oxides measured as sulfur dioxide are:
  - (1) 80 micrograms per cubic meter (0.03 ppm) annual arithmetic mean,
  - (2) 365 micrograms per cubic meter (0.14 ppm) maximum 24-hour concentration not to be exceeded more than once per year, and
  - (3) 1300 micrograms per cubic meter (0.5 ppm) maximum three-hour concentration not to be exceeded more than once per year.
- (b) Sampling and analysis shall be in accordance with procedures in Appendix A or A-1 of 40 CFR Part 50 or by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.
- (c) Applicability of the standards listed in Subparagraph (a)(1) and (2) of this Rule is shall be in effect until one year after the

- effective date of initial designations under Section 107(d) of the Clean Air Act for the sulfur dioxide standard in Paragraph (d) of this Rule.
- (d) The primary one-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which is 1 part in 1,000,000,000), measured in the ambient air as sulfur dioxide.
- (e) The one-hour primary standard is shall be met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

## 15A NCAC 02D .0404 CARBON MONOXIDE

- (a) The ambient air quality standards for carbon monoxide are:
  - (1) 9 parts per million (10 milligrams per cubic meter) maximum eight-hour average concentration not to be exceeded more than once per year, and
  - (2) 35 parts per million (40 milligrams per cubic meter) maximum one-hour average concentration not to be exceeded more than once per year.
- (b) Sampling and analysis shall be in accordance with procedures in Appendix C of 40 CFR Part 50 or equivalent methods established under 40 CFR Part 53.
- (c) An eight-hour average shall be considered valid if at least 75 percent of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using six or seven as the divisor.
- (d) When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

## 15A NCAC 02D .0405 OZONE

The ambient air quality standard for ozone measured by a reference method based on Appendix D of 40 CFR Part 50 and designated according to 40 CFR Part 53 is 0.075 0.070 parts per million (ppm), daily maximum 8-hour average. The standard is attained at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.075 0.070 parts per million (ppm) as determined by Appendix P Appendix U of 40 CFR Part 50, or equivalent methods established under 40 CFR Part 53.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

#### 15A NCAC 02D .0407 NITROGEN DIOXIDE

(a) The primary annual ambient air quality standard for oxides of nitrogen is 53 parts per billion annual average concentration measured in the ambient air as nitrogen dioxide.

- (b) The primary one hour ambient air quality standard for oxides of nitrogen is 100 parts per billion one hour annual average concentration measured in the ambient air as nitrogen dioxide.
- (c) The secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per cubic meter) annual arithmetic mean concentration.
- (d) Sampling and analysis shall be in accordance with:
  - (1) procedures in Appendix F <u>of 40 CFR Part 50;</u> or
  - (2) by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.
- (e) The annual primary standard is <u>shall be</u> attained when the annual average concentration in a calendar year is less than or equal to 53 parts per billion, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual standard.
- (f) The one hour primary standard is shall be attained when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with Appendix S of 40 CFR Part 50 for one hour standard.
- (g) The secondary standard is shall be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 parts per million, rounded to three decimal places (fractional parts equal to or greater than 0.0005 parts per million are rounded up). To demonstrate attainment, an annual mean must shall be based on hourly data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

#### 15A NCAC 02D .0408 LEAD

The ambient air quality standard for lead and its compounds, measured as elemental lead by a reference method based on Appendix G of 40 CFR Part 50 or by an equivalent method established under 40 CFR Part 53, is 0.15 micrograms per cubic meter. The standard is shall be met when the maximum arithmetic three month mean concentration for a three year period, as determined in accordance with Appendix R of 40 CFR Part 50, is less than or equal to 0.15 micrograms per cubic meter.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

## 15A NCAC 02D .0409 PM10 PARTICULATE MATTER

- (a) The ambient air quality standard for PM10 particulate matter is 150 micrograms per cubic meter (ug/m3), (µg/m³), 24-hour average concentration. This standard is shall be attained when 150 (ug/m³), (µg/m³), as determined according to Appendix N of 40 CFR Part 50, is not exceeded more than once per year on average over a three-year period.
- (b) For the purpose of determining attainment of the standards in Paragraph (a) of this Rule, particulate matter shall be measured in the ambient air as PM10 (particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) by either:
  - (1) a reference method based on Appendix M of 40 CFR Part 50 and designated according to 40 CFR Part 53; or

(2) an equivalent method designated according to 40 CFR Part 53.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

### 15A NCAC 02D .0410 PM2.5 PARTICULATE MATTER

- (a) The national primary ambient air quality standards for PM2.5 are 12.0 micrograms per cubic meter ( $\mu g/m^3$ ) annual arithmetic mean concentration and 35  $\mu g/m^3$  24-hour average Concentration measured in the ambient air as PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:
  - (1) A reference method based on appendix L to 40 C.F.R. CFR Part 50 and designated in accordance with 40 C.F.R. CFR Part 53; or
  - (2) An equivalent method designated in accordance with 40 C.F.R. CFR Part 53.
- (b) The primary annual PM2.5 standard is shall be met when the annual arithmetic mean concentration, as determined in accordance with appendix Appendix N of 40 C.F.R.CFR Part 50, is less than or equal to  $12.0~\mu g/m^3$ .
- (c) The primary 24-hour PM2.5 standard is shall be met when the 98<sup>th</sup> percentile 24-hour concentration, as determined in accordance with appendix Appendix N of 40 C.F.R. CFR Part 50, is less than or equal to 35  $\mu$ g/m³.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

# SECTION .1300 - OXYGENATED GASOLINE STANDARD

#### 15A NCAC 02D .1301 PURPOSE

This Section sets forth oxygenated gasoline standards in areas where an oxygenated gasoline program is implemented pursuant to State law for all gasoline sold wholesale for use or for all gasoline sold retail, offered for use, dispensed, or otherwise provided for use in any spark ignition engine other than aircraft in the areas defined in Rule .1302 of this Section during the time periods defined in Rule .1302(e) of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (7).

#### 15A NCAC 02D .1302 APPLICABILITY

(a) This Section shall apply to gasoline identified in Rule .1301 of this Section during the time period described in Paragraph (c) of this Rule in any of the following areas, and in that area only, when the Director notices in accordance with Paragraph (b) of this Rule in the North Carolina Register that oxygenated gasoline is needed in that area to attain and maintain the ambient air quality standard for carbon monoxide:

- (1) the Greensboro/Winston Salem/High Point
  Metropolitan Statistical Area consisting of
  Davie, Davidson, Forsyth, Guilford, Randolph,
  Stokes, and Yadkin Counties;
- (2) the Charlotte/Gastonia/Rock Hill Metropolitan Statistical Area consisting of Cabarrus, Gaston, Mecklenburg, and Union Counties; and

(3) the Raleigh/Durham Metropolitan Statistical Area consisting of Durham, Franklin, Orange, and Wake Counties.

(b) If a violation of the ambient air quality standard for carbon monoxide is measured in accordance with 40 CFR 50.8 in one of the areas named in Paragraph (a) of this Rule, the Director shall initiate analyses to determine if additional measures are needed to attain and maintain the ambient air quality standards in that area. If the Director finds that 2.7 percent oxygen by weight oxygenated gasoline is needed, the Director shall notice in the North Carolina Register by the following September 1 that only oxygenated gasoline shall be sold in that area beginning on the following November 1. The notice shall identify the area in which oxygenated gasoline shall be sold. Also by the following July 1, the Director shall notify the Gasoline and Oil Inspection Board and the primary gasoline distributors that only oxygenated gasoline shall be sold in the area beginning on the following November 1.

(c) This Section applies to gasoline identified in Rule .1301 of this Section and in the counties identified in Paragraph (a) of this Rule for the four month period beginning November 1 and running through the last day of February of the following year.

(d) Gasoline in storage within the counties identified in Paragraph

(d) Gasoline in storage within the counties identified in Paragraph (a) of this Rule prior to November 1 of the year in which this Section goes into effect at a dispensing facility having total gasoline tank capacity of less than 550 gallons or a total weekly dispensing rate of less than 550 gallons is exempted from Rule .1304 of this Section, but any gasoline supplied to the facility during the period identified in Paragraph (c) of this Rule shall comply with Rule .1304 of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7).

#### 15A NCAC 02D .1303 DEFINITIONS

For the purpose of this Section, "oxygenated gasoline" means any gasoline which contains a substance or substances to raise the oxygen content of the gasoline to conform with Rule .1304 of this Section.

Authority G.S. 143-213; 143-215.3(a)(1); 143-215.108(c)(7).

# 15A NCAC 02D .1304 OXYGEN CONTENT STANDARD

Gasoline to which this Section applies in accordance with Rule .1302(a) of this Section shall have an oxygen content of not less than 2.7 percent by weight during the period defined in Rule .1302(c) of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7).

# 15A NCAC 02D .1305 MEASUREMENT AND ENFORCEMENT

(a) Gasoline samples shall be taken and handled by methods approved by the Gasoline and Oil Inspection Board.

(b) Gasoline samples shall be analyzed by the American Society for Testing and Materials (ASTM) standard test method, designation D 4815 89 or by other methods approved by the Gasoline and Oil Inspection Board and the United States Environmental Protection Agency.

(c) Enforcement shall be in accordance with procedures adopted by the Gasoline and Oil Inspection Board in 2 NCAC 42 .0100.

Authority G.S. 119-26; 143-215.3(a)(1); 143-215.107(a)(3),(7); 150B-21.6.

#### SECTION .2000 - TRANSPORTATION CONFORMITY

# 15A NCAC 02D .2001 PURPOSE, SCOPE AND APPLICABILITY

(a) The purpose of this Section is to assure the conformity of transportation plans, programs, and projects that are developed, funded, or approved by the United States Department of Transportation and by metropolitan planning organizations or other recipients of funds under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.), or State or Local only sources of funds, with all plans required of areas designated as nonattainment or maintenance under 40 CFR 81.334 for the pollutants specified therein or listed in Paragraph (b), (c), or (d) (c) of this Rule.

- (b) This Section applies to the emissions of volatile organic compounds and nitrogen oxides in the following areas:
  - (1) Davidson County,
  - (2) Durham County,
  - (3) Forsyth County,
  - (4) Gaston County,
  - (5) Guilford County,
  - (6) Mecklenburg County,
  - (7) Wake County,
  - (8) Dutchville Township in Granville County, and
  - (9) that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek, and back to the Yadkin River.
  - (1) townships of Central Cabarrus, Concord,
    Georgeville, Harrisburg, Kannapolis, Midland,
    Mount Pleasant, New Gilead, Odell, Poplar
    Tent, and Rimertown in Cabarrus County;
  - (2) townships of Crowders Mountain, Dallas,
    Gastonia, Riverbend, and South Point in Gaston
    County:
  - (3) townships of Davidson and Coddle Creek in Iredell County;
  - (4) townships of Catawba Springs, Lincolnton, and Ironton in Lincoln County;
  - (5) all townships in Mecklenburg County;
  - (6) townships of Atwell, China Grove, Franklin,
    Gold Hill, Litaker, Locke, Providence,
    Salisbury, Steele, and Unity in Rowan County;
  - (7) townships of Goose Creek, Marshville, Monroe, Sandy Ridge, and Vance in Union County.

(c) This Section applies to the emissions of carbon monoxide in the following areas:

- (1) Durham County,
- (2) Forsyth County,
- (3) Mecklenburg County, and
- (4) Wake County.

(d)(c) This Section applies to the emissions of:

- (1) particulate matter in areas identified in 40 CFR 81.334 as nonattainment or that have been redesignated attainment and are current maintenance areas for fine particulate (PM2.5), or
- (2) volatile organic compounds or nitrogen oxides in areas identified in 40 CFR 81.334 as nonattainment or that have been redesignated attainment and are current maintenance areas for ozone.

(e)(d) This Section applies to FHWA/FTA projects or regionally significant State or local projects. For FHWA/FTA projects or regionally significant State or local projects in the areas identified in Paragraph (b), (c), or (d)(b) of this Rule and for the pollutants identified in Paragraph (b), (e), or (d)(c) of this Rule, this Section applies to:

- (1) the adoption, acceptance, approval, or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning organization or the United States Department of Transportation;
- (2) the adoption, acceptance, approval, or support of transportation improvement programs or amendments to transportation improvement programs pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a metropolitan planning organization or the United States Department of Transportation; or
- (3) the approval, funding, or implementation of FHWA/FTA projects.

Conformity determinations are not required under this Section for individual projects that are not FHWA/FTA projects. However, 40 CFR 93.121 shall apply to these projects if they are regionally significant projects.

(f)(e) This Section applies to maintenance areas for 20 years from the date the Environment Environmental Protection Agency approves the area's request under Section 107(d) of the Clean Air Act for redesignation to attainment. attainment or until the effective date of revocation of the conformity requirements for the NAAQS by EPA.

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

## 15A NCAC 02D .2002 DEFINITIONS

For the purposes of this Section, the definitions contained in 40 CFR 93.101 and the following definitions apply:

- (1) "Consultation" means that one party confers with another identified party, provides all information necessary to that party needed for meaningful input, and considers and responds to the views of that party in a timely, substantive written manner prior to any final decision.
- (2) "Regionally significant project" means a transportation project (other than an exempt project under 40 CFR 93.126) that is on a facility that serves regional transportation needs (such as access to and from the area outside of

the region, major activity centers in the region, major planned developments such as new retail malls and sports complexes, or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guide way transit facilities that offer an alternative to regional highway travel.

(3) "Regionally significant State or local project"

means any highway or transit project that is a
regionally significant project and that is
proposed to receive only funding assistance
(receives no federal funding) or approval
through the State or any local program.

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

# 15A NCAC 02D .2003 TRANSPORTATION CONFORMITY DETERMINATION

- (a) Conformity analyses, determinations, and redeterminations for transportation plans, transportation improvement programs, FHWA/FTA projects, and State or local regionally significant projects shall be made according to the requirements of 40 CFR 93.104 and shall comply with the applicable requirements of 40 CFR 93.119, 93.120, 93.124, 93.125, and 93.126. For the purposes of this Rule, regionally significant State or local projects shall be subject to the same requirements under 40 CFR Part 93 as FHWA/FTA projects except that State Environmental Policy Act procedures and requirements shall be substituted for National Environmental Policy Act procedures and requirements. Regionally significant State or local projects subject to this Section for which the State Environmental Policy Act process and a conformity determination have been completed may proceed toward implementation without further conformity determination unless more than three years have elapsed since the most recent major step (State Environmental Policy Act process completion, start of final design, acquisition of a significant portion of the right-of-way, or approval of the plans, specifications, and estimates) occurred. All phases of these projects considered in the conformity determination are also included if these phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases.
- (b) Before making a conformity determination, the metropolitan planning organizations, local transportation departments, North Carolina Department of Transportation, United States Department of Transportation, the Division of Air Quality, local air pollution control agencies, and United States Environmental Protection Agency shall consult with each other on matters described in 15A NCAC 2D02D .2005. Consultation shall begin as early as possible in the development of the emissions analysis used to support a conformity determination. The agency that performs the emissions analysis shall make the analysis available to the Division of Air Quality and at least 21 days shall be allowed for review and comment on the emissions analysis. The 21-day review period shall begin upon receipt of the analysis by the Director of the Division of Air Quality. After review by the Division of Air Quality the approving agency shall seek public

comments in accordance with its public participation policy. The agency making the conformity determination shall address all written comments received prior to close of the public comment period, and these comments and responses thereto shall be included in the final document. If the Division of Air Quality disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall be resolved in accordance with 40 CFR 93.105(d). The 14-day appeal period shall begin upon receipt by the Director of the Division of Air Quality of the metropolitan planning organization's resolution that determines conformity.

- (c) The agency that performs the conformity analysis shall notify the Division of Air Quality of:
  - (1) any changes in planning or analysis assumptions [including land use and vehicle miles traveled (VMT) forecasts], and
  - (2) any revisions to transportation plans or transportation improvement plans that add, delete, or change projects that require a new emissions analysis (including design scope and dates that change the transportation network existing in a horizon year).

Comments made by the Division of Air Quality and responses thereto made by the agency shall become part of the final planning document

- (d) Transportation plans shall satisfy the requirements of 40 CFR 93.106. Transportation plans and transportation improvement programs shall satisfy the fiscal constraints specified in 40 CFR 93.108. Transportation plans, programs, and FHWA/FTA projects shall satisfy the applicable requirements of 40 CFR 93.109 through 93.118.93.119.
- (e) Written commitments to implement control measures that are not included in the transportation plan and transportation improvement program (TIP) shall be obtained before a conformity determination and these commitments shall be fulfilled. Written commitments to implement mitigation measures shall be obtained before a positive conformity determination, and project sponsors shall comply with these commitments.
- (f) A recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall not adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the requirements of 40 CFR Part 93 are fully complied with.
- (g) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969 process, in accordance with 40 CFR 93.107.
- (h) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the national ambient air quality standards as provided under 40 CFR 93.103. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.

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

# 15A NCAC 02D .2004 DETERMINING TRANSPORTATION-RELATED EMISSIONS

- (a) The procedures in 40 CFR 93.122 shall be used to determine regional transportation-related emissions.
- (b) The procedures in 40 CFR 93.123 shall be used to determine localized carbon monoxide concentrations (hot-spot analysis).

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

# 15A NCAC 02D .2005 MEMORANDUM OF AGREEMENT

- (a) The Division of Air Quality shall develop and maintain a memorandum of agreement with the North Carolina Department of Transportation, the metropolitan planning organizations of the areas identified in 15A NCAC 02D Rule-.2001(b), (c), or (d) of this Section, and the United States Department of Transportation to describe the participation and responsibilities of each of these agencies in implementing the requirements of this Section and 40 CFR Part 93. For those areas identified in Rule-15A NCAC 02D .2001(b), (c), or (d) of this Section—for which there is no metropolitan planning organization, the North Carolina Department of Transportation shall represent those areas for the purposes of the memorandum of agreement. The memorandum of agreement shall include:
  - (1) consultation procedures described under 40 CFR 93.105;
  - (2) the projected time allotted for each agency to review and comment on or to respond to comments on transportation improvement programs, transportation plans, and transportation projects; and
  - (3) consultation procedures for the development of State Implementation Plans that relate to transportation.

The contents of the Memorandum of Agreement shall comply with the criteria and procedures in the federal Clean Air Act Section 176(c) [42 U.S.C. 7401-7671q] and 40 CFR Part 51, Subpart T, 40 CFR Part 93, Subpart A, and Rules 15A NCAC 02D .2001 through .2004 of this Section. .2004.

- (b) No recipient of federal funds (as defined at 40 CFR 93.101) designated under Title 23 U.S.C. or the Federal Transit Act shall adopt or approve or take any action to develop or implement a regionally significant highway or transit project unless such recipient has signed the Memorandum of Agreement established under this Rule. This Memorandum of Agreement shall bind the recipient to adhere to the conformity criteria and procedures of this Section.
- (c) No agency shall adopt or approve or take any action to implement or develop any transportation plan, transportation improvement program, or federally funded or approved FHWA/FTA highway or transit project unless the agency has signed the Memorandum of Agreement established under this Rule. This Memorandum of Agreement shall bind the recipient to adhere to the conformity criteria and procedures of this Section.
- (d) Each federal agency that participates in determinations of conformity to state and federal implementation plans shall sign the Memorandum of Agreement established under this Rule. This

Memorandum of Agreement shall bind the recipient to adhere to the conformity criteria and procedures of this Section.

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

## **SECTION .2200 - SPECIAL ORDERS**

#### 15A NCAC 02D .2201 PURPOSE

The purpose of this Section is to implement the provisions of G.S. 143-215.110 pertaining to the issuance of air quality Special Orders by the Environmental Management Commission.

Authority G.S. 143-215.3(a)(1); 143-215.110.

## 15A NCAC 02D .2202 DEFINITIONS

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

- (1) "Special Order" means a directive of the Commission to any person whom it finds responsible for causing or contributing to any pollution of the air of the State. The term includes all orders or instruments issued by the Commission pursuant to G.S. 143-215.110.
- (2) "Consent Order" means a Special Order into which the Commission enters with the consent of the person who is subject to the order.
- (3) "Special Order by Consent" means "Consent Order."

Authority G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.110.

### 15A NCAC 02D .2203 PUBLIC NOTICE

- (a) The requirements of this Rule for public notice and public hearing apply to Consent Orders. The Commission may specify other conditions for Special Orders issued without consent if it finds such conditions are necessary to achieve or demonstrate compliance with a requirement under this Subchapter or 15A NCAC 02Q.
- (b) Notice of proposed Consent Order:
  - (1) The Director shall give notice pursuant to G.S. 143-215.110(a1).
  - (2) The Director shall give notice of a proposed Consent Order at least 30 days prior to any final action regarding the Consent Order.
  - (3) The notice shall be posted on the North Carolina Division of Air Quality web site at http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent and provided to those persons specified in G.S. 143-215.110(a1)(1) for air quality special orders.
  - $\frac{(2)}{(4)}$  The notice shall include at least the following:
    - (A) name, address, and telephone number of the Division;
    - (B) name and address of the person to whom the proposed order is directed;
    - (C) a brief summary of the conditions of the proposed order including the period of time in which action shall be taken to achieve compliance and the

- major permit conditions or emission standards that the source will be allowed to exceed during the pendency of the order;
- (D) a brief description of the procedures to be followed by the Commission or Director in reaching a final decision on the proposed order, which shall include descriptions of the process for submitting comments and requesting a public hearing. The description shall specify that comments and requests for a public hearing are to be received by the Division within 30 days following the date of public notice; and
- (E) a description of the information available for public review, where it can be found, and procedures for obtaining copies of pertinent documents.
- (c) Notice of public hearing for proposed Consent Order:
  - (1) The Director shall consider all requests for a public hearing, and if he determines significant public interest for a public hearing exists, then he shall hold a public hearing.
  - (2) The Director shall give notice of the public hearing at least 30 days before the hearing.
  - (3) The notice shall be advertised in a local newspaper posted on the North Carolina Division of Air Quality web site at http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent and provided to those persons specified in G.S. 143-215.110(a1)(2) for air quality special orders.
  - (4) The notice shall include the information specified in Subparagraph (b)(2)(b)(4) of this Rule. It shall also state the time and location for the hearing along with procedures for providing comment.
  - (5) The Chairman of the Commission or the Director shall appoint one or more hearing officers to preside over the public hearing and to receive written and oral comments. The hearing officer shall provide the Commission a written report of the hearing, which shall include:
    - (A) a copy of the public notice published in the newspaper; notice;
    - (B) a copy of all the written comments and supporting documentation received;
    - (C) a summary of all the oral comments received:
    - (D) recommendations of the hearing officer to the Commission; and
    - (E) a proposed Consent Order for the Commission's consideration.

- (d) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies of notices to those who have submitted a request.
- (e) The Director may satisfy the requirements in Paragraphs (b) and (c) of this Rule by issuing a notice that complies with both Paragraphs.
- (f) Any Consent Order may be amended by the Director to incorporate minor modifications, such as modification of standard conditions to reflect updated versions, correction of typographical errors, or interim date extensions, in a consent order without public notice provided that the modifications do not extend the final compliance date by more than four months.

Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110.

# 15A NCAC 02D .2204 FINAL ACTION ON CONSENT ORDERS

- (a) The Director shall take final action for the Commission on Consent Orders for which a public hearing has not been held as provided in Rule .2203 of this Section. 15A NCAC 02D .2203. The final action on the proposed order shall be taken no later than 60 days following publication of the notice.
- (b) The Commission shall take final action on Consent Orders for which a public hearing has been held as provided in Rule .2203 of this Section. 15A NCAC 02D .2203. The final action on the proposed order shall be taken no later than 90 days following the hearing.

Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4); 143-215.110.

# 15A NCAC 02D .2205 NOTIFICATION OF RIGHT TO CONTEST SPECIAL ORDERS ISSUED WITHOUT CONSENT

For any Special Orders other than Consent Orders, the Commission shall notify the person subject to the order of the procedure set out in G.S. 150B-23 to contest the Special Order.

Authority G.S. 143-215.2(b); 143-215.3(a)(1); 143-215.110(b).

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .2201, .2202, .2204, and. 2205.

Link to agency website pursuant to G.S. 150B-19.1(c): http://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules

**Proposed Effective Date:** December 1, 2017

Public Hearing: Date: July 12, 2017 Time: 1:30 p.m.

Location: Holiday Inn, 203 SW Greenville Blvd., Greenville, NC

27834

Reason for Proposed Action: Section 07H .2200 defines specific development requirements for the construction of Freestanding Moorings. The Coastal Resources Commission is proposing to amend its administrative rules to expand this General Permit to include bird nesting poles as well as make this General Permit consistent with General Permit 07H .1200.

Comments may be submitted to: Braxton Davis, 400 Commerce Avenue, Morehead City, NC 28557; phone (252) 808-2808

Comment period ends: August 14, 2017

Procedure for Subjecting a Proposed Rule to Legislative **Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

State funds affected

Environmental permitting of DOT affected

Analysis submitted to Board of Transportation

Local funds affected

Substantial economic impact (≥\$1,000,000)

Approved by OSBM

**CHAPTER 07 - COASTAL MANAGEMENT** 

No fiscal note required by G.S. 150B-21.4

# SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .2200 - GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS AND BIRD NESTING POLES IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN HAZARD AREAS

## 15A NCAC 07H .2201 PURPOSE

A general permit pursuant to this Section shall allow the construction of freestanding moorings and bird nesting poles in the estuarine waters and public trust areas AECs according to the procedures provided in 15A NCAC 07J .1100 and according to the rules in this Section. This permit shall not apply to waters adjacent to oceanfront shorelines or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation,

IV-18

Hearing Officer's Suggested Hearing Comments

**INTRODUCTION** 

[Hearing officer]:

Good afternoon ladies and gentlemen. My name is Mr. Gerard P. Carroll. I am a member of the North Carolina Environmental Management Commission. 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)

[Hearing officer]:

This afternoon we are conducting two hearings. During Hearing 1, we will take comments concerning the amendments to Rule 15A NCAC 02D .0405, Ozone. The rule is also proposed for readoption to meet the requirements of G.S.150B-21.3A, Periodic Review and Expiration of Existing Rules. During Hearing 2, we will take comments on the amendment and proposed readoption of air quality rules in several sections in 15A NCAC 02D to meet the requirements of G.S.150B-21.3A, Periodic Review and Expiration of Existing Rules. These hearings will be held in accordance with the North Carolina Administrative Procedures Act. The public notice for these hearings has been published on the North Carolina Office of Administrative Hearings website, in the North Carolina Register and Division of Air Quality website. The public notice also has been emailed to those on the DAQ email distribution list. I will enter the public notice and the proposed rule changes into the hearing record without reading them at this time.

1

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 hearing and take relevant comments on the amendment and proposed readoption to the ozone rule.

The United States Environmental Protection Agency (USEPA) strengthened its NAAQS for ozone, also known as O3, on October 1, 2015 (80 FR 65291). These revisions are the result of USEPA's five-year periodic review of NAAQS as required by the Clean Air Act. USEPA revised the primary and secondary ozone standards from 0.075 ppm, set in 2008, to 0.070 ppm, while retaining the indicators (O3), forms (fourth-highest daily maximum, averaged across three consecutive years) and averaging times (eight hours).

A fiscal note was submitted to the Office of State Budget and Management (OSBM). OSBM reviewed the Division of Air Quality's proposed change to rule 15A NCAC 02D .0405 in accordance with G.S. 150B-21.4. OSBM determined the rule changes have minimal state, unlikely private sector, and no local or substantial impacts.

[Hearing officer]:
I will now take any comments that you may have.
[SPEAKERS]
[Hearing officer]:

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 August 14, 2017, for additional written comments.

# [Hearing 2]:

I will now open the hearing and take relevant comments on the amendment and proposed readoption of air quality rules in several sections in 15A NCAC 02D to meet the requirements of G.S.150B-21.3A, Periodic Review and Expiration of Existing Rules.

Pursuant to S.L. 2013-413 rules in several sections in 15A NCAC 02D are proposed for initial readoption with primarily minor administrative updates, one section of rules is proposed for readoption as a repeal, and three rules initially readopted through the report phase of the process as necessary without substantive public interest are proposed for amendment.

# Section .0100 - Definitions and References

The rules in Section .0100 include definitions and references that apply throughout Subchapter 02D unless specified otherwise in a particular rule. 15A NCAC 02D .0101 is proposed for readoption with amendments to update format of units and references and .0103, .0104, and .0105 for amendment to update agency name and addresses, include web addresses where referenced documents may be obtained, and update references to document costs.

# **Section .0200 - Air Pollution Sources**

The rules in Section .0200 reflect the system used to classify air pollution sources of importance in establishing the air quality program and the agency authority to require registration of such sources. 15A NCAC 02D .0201-.0202 are proposed for readoption.

# **Section .0300 - Air Pollution Emergencies**

The rules in Section .0300 address prevention of buildup of air contaminants during an air pollution episode in order to prevent a public health emergency. 15A NCAC 02D .0301 and .0303-.0304, are proposed for readoption with amendments to update format of references. 02D .0302 is proposed for readoption with amendments to update who proclaims air quality alerts and warnings and declarations of emergency at various pollutant levels requiring abatement actions to the Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations and update format of units for consistency. 02D

.0305, .0306, and .0307 are proposed for readoption with amendments to reference the open burning rule and eliminate redundant language in Paragraph (4).

# Section .0400 - Ambient Air Quality Standards

The rules in Section .0400 contain the ambient air quality standards and associated monitoring methodologies for the state and reflect the National Ambient Air Quality Standards (NAAQS). 15A NCAC 02D .0401., .0409, and .0410 are proposed for readoption with amendments to update format of references and acronyms and .0402, .0404, .0407, and .0408 are proposed for readoption.

# Section .1300 - Oxygenated Gasoline Standard

Section .1300 establishes requirements for use of gasoline with certain oxygen content in carbon monoxide (CO) nonattainment or maintenance areas. 15A NCAC 02D Section .1300 is proposed for repeal because the measures were part of a contingency plan for the CO NAAQS and the limited maintenance plan for CO has now expired.

# **Section .2000 - Transportation Conformity**

Section .2000 reflects federally set requirements to assure conformity of federal, state, or local funded transportation projects and plans with plans for attainment and maintenance of NAAQS for areas designated nonattainment or maintenance. 15A NCAC 02D .2001-.2005 are proposed for readoption. 02D .2001 is proposed for readoption with amendments to remove obsolete references to affected areas based on current attainment status, update internal paragraph references, include clarifying reference to 40 CFR 93.119 regarding provisions for areas without motor vehicle emissions budgets, and clarify duration of applicability to maintenance areas. 02D .2002 and .2004 are proposed for readoption and .2003 and .2005 for readoption with updates to format of references.

# Section .2200 – Special Orders

Section .2200 lays out procedures to be followed for establishing Special Orders by Consent to achieve compliance with air quality requirements in 15A NCAC 02D or 02Q consistent with the requirements of G.S. 143-215.110. 15A NCAC 02D .2201-.2202 and .2205 are proposed for

readoption, .2203 is proposed for readoption with amendments to update the rule for consistency with the statutory language in G.S. 143-15.110(a1)(2) specifying online posting, and .2204 is proposed for readoption with amendments to update format of references.

A regulatory impact analysis was submitted to the Office of State Budget and Management (OSBM). OSBM determined the rule changes have little to no impact on state or local governments and no substantial economic impact.

[Hearing officer]:
I will now take any comments that you may have.
[SPEAKERS]
[Hearing officer]:

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 August 14, 2017, for additional written comments.

# CHAPTER V

# COMMENTS DURING THE COMMENT PERIOD

# INDEX OF COMMENTERS

 $(Please\ note\ that\ the\ index\ is\ hyperlinked\ for\ customer\ service.)$ 

NAME	REPRESENTING	<u>PAGE</u>
R. Scott Davis	United States Environmental Protection Agency, Region 4	V-2
Tim Laughlin	NC Petroleum & Convenience Marketers	V-4
Gordon C. Miller	Himself	V-6
Terry Lansdell	Clean Air Carolina	V-7



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 4 ATLANTA FEDERAL CENTER 61 FORSYTH STREET ATLANTA, GEORGIA 30303-8960

August 14, 2017

Michael A. Abraczinskas, Director Division of Air Quality North Carolina Department of Environmental Quality 1641 Mail Service Center Raleigh, North Carolina 27699-1641

Dear Mr. Abraczinskas:

Thank you for the opportunity to review your proposed revisions to North Carolina's State Implementation Plan regarding the Readoption of Group 1 Air Quality Rules and Incorporation of the 2015 8-hour Ozone National Ambient Air Quality Standards. These revisions were the subject of a public comment period beginning June 15, 2017, with written comments due by the close of business on August 14, 2017. We have completed our review of the submittal and offer no comments at this time.

We look forward to continuing to work with you and your staff. If you have any questions, please contact Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section at (404) 562-9040, or have your staff contact Ms. Nacosta Ward at (404) 562-9140.

Sincerely,

R. Scott Davis

Chief

Air Planning & Implementation Branch



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 4 ATLANTA FEDERAL CENTER 61 FORSYTH STREET ATLANTA, GEORGIA 30303-8960

August 14, 2017

Michael A. Abraczinskas, Director Division of Air Quality North Carolina Department of Environmental Quality 1641 Mail Service Center Raleigh, North Carolina 27699-1641

Dear Mr. Abraczinskas:

Thank you for the opportunity to review your proposed State Implementation Plan revisions regarding North Carolina's Clean Air Act sections 193 and 110(1) noninterference demonstration repealing rule 15A NCAC 02D .1300 for the Oxygenated Gasoline Standard. We have completed our review of this prehearing submittal and offer no comments at this time.

We look forward to continuing to work with you and your staff. If you have any questions, please contact Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section at (404) 562-9040, or have your staff contact Ms. Nacosta Ward at (404) 562-9140.

Sincerely,

R. Scott Davis

Chief

Air Planning & Implementation Branch

From: <u>Tim Laughlin</u>

To: <u>Cuilla, Mark; SVC\_DENR.DAQ.publiccomments</u>

Cc: <u>Doug Howey</u>; <u>Gary Harris</u>; <u>SVC\_DENR.DAQ.publiccomments</u>

Subject: Repeal Oxygen Gasoline 193 & 110(l) Demonstration"

**Date:** Friday, July 14, 2017 1:26:01 PM

Attachments: <u>image001.png</u>

#### Mark.

As this was an important issue for NCPCM members in the early 1990's we fully support the withdraw of the NC DAQ CO regulations.

# Regards,

Timothy Laughlin, PE NC Petroleum & Convenience Marketers 7300 Glenwood Ave. Raleigh, NC 27612 Phone: 919-782-4411

Direct: 919-926-5479 Cell: 919-801-4271 Fax: 919-782-4414 www.ncpcm.org www.ncoilheat.org

Success is going from failure to failure without loss of enthusiasm.- Winston Churchill

From: Cuilla, Mark [mailto:mark.cuilla@ncdenr.gov]

**Sent:** Friday, July 14, 2017 1:21 PM

**To:** NCDENR.DENR.DAQ.Managers\_Supervisors <DENR.DAQ.Managers\_Supervisors@lists.ncmail.net>

**Subject:** North Carolina Clean Air Act Sections 193 and 110(I) noninterference demonstration for

repeal of 15A NCAC 02D .1300, Oxygenated Gasoline Standard Available for Comment

Hello Air Quality Stakeholders:

The pre-hearing draft of the North Carolina Clean Air Act Sections 193 and 110(l) noninterference demonstration for repeal of 15A NCAC 02D .1300, Oxygenated Gasoline Standard is available for public comment at <a href="https://deq.nc.gov/about/divisions/air-quality/air-quality-rules/caa-section-110-sip-submissions">https://deq.nc.gov/about/divisions/air-quality/air-quality-rules/caa-section-110-sip-submissions</a>. The comment period closes **Monday, August 14, 2017**.

The oxygenated gasoline standard rules codified at 15A NCAC 02D Section .1300 were adopted by North Carolina and included as a contingency measure in the limited maintenance plan for the Charlotte, Raleigh/Durham, and Winston-Salem metropolitan areas for the 8-hour carbon monoxide (CO) national ambient air quality standard (NAAQS). The DAQ has identified the rules contained in sections 15A NCAC 02D .1300 as outdated and unnecessary because the CO limited maintenance plan for the Charlotte, Raleigh/Durham, and Winston-Salem areas ended in 2015 and EPA has revised the designation for each area to "attainment." Also, the entire state of North Carolina has been in attainment with the CO NAAQS for over 20 years and ambient CO levels remain

very low statewide. In addition, repealing the 15A NCAC 02D .1300 rules will not increase CO, nitrogen oxide, or total hydrocarbon vehicle exhaust emissions because the oxygenated gasoline standard rules were never implemented due to the success of the foundation control measures included in the plan. For these reasons, the DAQ concludes that repeal of the 15A NCAC 02D .1300 rules will not interfere with continued attainment or maintenance of any applicable NAAQS.

In this non-interference demonstration, the DAQ believes it has in good faith addressed the requirements of Clean Air Act Sections 193 and 110(I) relative to repeal of the oxygenated gasoline standard rules and requests that EPA approve repeal of 15A NCAC 02D Section .1300 rules from the North Carolina State Implementation Plan.

Please submit any comments via the methods below.

Electronically:

daq.publiccomments@ncdenr.gov

(Please type "Repeal Oxygen Gasoline 193 & 110(I) Demonstration" in the subject line) Mail:

Mr. Randy Strait NC Division of Air Quality 1641 Mail Service Center Raleigh, NC 27699-1641 Fax: (919) 715-0717

Thank you.

# Mark J. Cuilla, EIT, CPM

Title V Supervisor
Division of Air Quality, Permitting Section
North Carolina Department of Environmental Quality

919 707 8738 office mark.cuilla@ncdenr.gov

217 West Jones Street 1641 Mail Service Center Raleigh, NC 27699-1641



Nothing Compares

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

# Gordon C. Miller

My name is Gordon Miller and I represent me; I'm a citizen. Rule review is important because of two things. One, it finds rules that are obsolete, and you [hearing officer] mentioned those there. Another thing that it starts to point to is where rules are not present that need to be present. We have situations where technology has advanced. That technology, and I'll propose one, that's Nano. Nanotechnology is moving on very rapidly. Our air pollution regulations are embracing that. If they're not, then we may have a hole in our regulations. It's not that it's good or bad; it needs to be reviewed, and that's the importance of going back and reviewing and evaluating to determine whether there's an issue or not. There may be no issue, there may be an issue; I'm not making that judgement. What I am saying is there may be holes in the regulations that need some review; maybe need some regulation, or addition to regulation, or modification to the current regulations. So, going back and reviewing these things on a regular basis, and that's what the Legislature basically said. It's an important function. It should be taken up with not only air pollution; and I know we are going to be embracing water, we're going to be embracing waste regulations and other things as we go through, and that goes back to our history. It's important to go back and review those, make sure they're relevant, make sure they're...one thing that's very important is enforceable, so that we can move forward, and move forward for the best for the citizenry of North Carolina. One of the things that's a challenge for North Carolina is the diversity of the state, from Murphy to Manteo. We have everything from 6000 feet to zero feet. And, it needs to be applicable and reasonable for everybody who's involved, including those of us in the piedmont where I happen to live. So, I think it's a very reasonable approach and a very reasonable thing. I've not taken a look at every regulation that you've [hearing officer] gone through because I've looked at them over the years, many, many times. They seem appropriate, the changes seem appropriate. So, yes, let's go forward with it though.



August 11, 2017

Joelle Burleson, EIT, CPM Rules Development Branch Supervisor Division of Air Quality, Planning Section North Carolina Department of Environmental Quality

RE: 08-03-2017 Hearings- Incorporation of 2015 Ozone Ambient Standard and Readoption of Group 1 Air Quality Rules

Dear Joelle,

We thank you for the opportunity to present our interest and concern over the NCAC rules in this periodic rule review process. This process is so very important to North Carolina residents, these air quality rules and regulations are first line of defense for public health protection from polluters and pollution generated in North Carolina.

Specifically, we embrace the opportunity to support the amendments to rule 15A NCAC 02D.405 to adjust the ozone standard to match the national ambient air quality standards (NAAQS). This effort would reinforce the amazing work of local, regional and state agencies to reduce pollutants that form ozone in our community. It should be noted and that the strengthening of the ozone standard from 75 to 70 ppb will prevent deaths and improve health outcomes here in Charlotte and across the state.

Sincerely,

Terry Lansdell

Program Director

Clean Air Carolina

Medical Advocates for Healthy Air 980-213-6446

www.cleanaircarolina.org

www.medicaladvocatesforhealthyair.org

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# CHAPTER VI

# INDEX OF ATTACHMENTS

(Please note that the index is hyperlinked for customer service.)

<u>ATTACHMENTS</u>		
1.	Regulatory Impact Analysis	VI-2

# ENVIRONMENTAL MANAGEMENT COMMISSION REGULATORY IMPACT ANALYSIS FOR READOPTION, AMENDMENT, AND REPEAL OF SEVERAL 15A NCAC 02D SECTIONS

**Rule Adoptions:** None

Rule Amendments/Readoption: 15A NCAC 02D Sections .0100, .0200, .0300, .0400, .2000,

.2200

**Rule Repeals:** 15A NCAC 02D Section .1300

**Rule Topic:** Readoption, Amendments, and Repeal of Several Rules in 15A NCAC

02D Sections .0100, .0200, .0300, .0400, .1300, .2000, .2200

**DEQ Division:** Division of Air Quality

**Agency Contact:** Joelle Burleson, Rule Development Branch Supervisor

Division of Air Quality (DAQ)

(919) 707-8720

Joelle.Burleson@ncdenr.gov

**Analyst:** Joelle Burleson, DAQ

(919) 707-8720

Joelle.Burleson@ncdenr.gov

Impact Summary: State government: Minimal

Local government: No
Substantial impact: No
Private Sector: Minimal

**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)

**Necessity:** The proposed amendments readopt several rules in 15A NCAC 02D

Sections .0100, .0200, .0300, .0400, .1300, .2000, and .2200 pursuant to

requirements of G.S. 150B-21.3A.

# I. Executive Summary

The purpose of this document is to provide a regulatory impact analysis addressing the fiscal impacts associated with the readoption and amendments to rules in 15A NCAC 02D Sections .0100, Definitions and References, .0200, Air Pollution Sources, .0300, Air Pollution Emergencies, .0400, Ambient Air

Quality Standards, .1300, Oxygenated Gasoline Standards, .2000, Transportation Conformity, and .2200, Special Orders, pursuant to requirements of S.L. 2013-413 and G.S. 150-B.

A fiscal and regulatory impact analysis is required for readoptions if **all** of the following criteria apply:

- -The rule is readopted with substantive change;
- -The change results in state, local or substantial impact; and
- -A rule in the package proposed to be adopted together creates a net cost on any part of the regulated community.

G.S. 150B-21.3A(d)(2) states that "If a rule is readopted without substantive change or the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

G.S. 150B-21.4(d) states that "If an agency proposes the repeal of an existing rule, the agency is not required to prepare a fiscal note on the proposed rule change as provided by this section."

The proposed readoptions consist primarily of administrative updates and do not rise to the level of substantial impact.

## II. Background

N.C. Gen. Stat. §150B-21.3A, adopted in 2013, requires state agencies to review existing rules every 10 years. Following an initial review, rules will be reviewed on a 10-year review cycle. The initial review comment period on all of the air quality rules in 15A NCAC 02D, Air Pollution Control Requirements, and 15A NCAC 02Q, Air Quality Permits Procedures, was held from March 13, 2015 through June 19, 2015. The Environmental Management Commission (EMC) subsequently approved the report on the review of the rules and comments received on November 4, 2015. The report was approved by the Rules Review Commission (RRC) on December 17, 2015. The Administrative Procedures Oversight Committee of the legislature met on January 5, 2016 and the report became final. The rules determined to be unnecessary (15A NCAC 02D .2400, 02D .2500, and 02D .1600) expired effective February 1, 2016. On May 19, 2016, the RRC established December 31, 2020 as the date by which the EMC must readopt the rules in subchapters 02D and 02Q designated as necessary.

This document addresses the first group of rules being considered for readoption.

# III. Proposed Rule Changes

# 15A NCAC 02D .0100 DEFINITIONS AND REFERENCES

The four rules in Section .0100 include definitions and references that apply throughout Subchapter 02D unless otherwise specified in a particular section of rules and provisions regarding the mailing list for rulemaking notifications. Rule 02D .0101 was initially adopted July 1, 1976 and last amended January 1, 2015. Rules 02D .0103, .0104 were classified as necessary without substantive public interest and their history note updated accordingly January 1, 2016.

The rules are proposed for amendment as follows:

15A NCAC 02D .0101, Definitions, is proposed for readoption without substantive change to update format of units and references.

15A NCAC 02D .0103, Copies of Referenced Federal Regulations, is proposed for amendment without substantive changes to update agency name and addresses, include web addresses where referenced documents may be obtained, and update references to document costs.

15A NCAC 02D .0104, Incorporation by Reference, is proposed for amendment to include a website where the Code of Federal Regulations (CFR) documents referenced in other rules in the Subchapter may be obtained free of charge, to include a website where copyrighted American Society Testing Materials (ASTM) methods referenced throughout other rules in 15A NCAC 02D may be obtained, and to update the name and address of the Division of Air Quality.

15A NCAC 02D .0105, Mailing List, is proposed for amendment to update the name of the Department and update the rule to specify that persons requesting to be on the list for notification of rulemaking may opt to receive notification via email free of charge.

Cost for copies is adjusted to reflect availability free of charge online. Little to no impact is expected as a result of these changes as Division staff indicate requests for hardcopies of the referenced materials are very rare and in general, referenced materials are provided electronically when requested. Notification of rulemaking is already provided to those requesting notification under 15A NCAC 02D .0105 via email free of charge. For a number of years there has not been, and currently is not, anyone on a list to receive notification via hardcopy.

# 15A NCAC 02D .0200 AIR POLLUTION SOURCES

Section .0200, Air Pollution Sources, consists of two rules that reflect the system used to classify air pollution sources of importance in establishing the air quality program and the agency authority to require registration of such sources.

15A NCAC 02D .0201, Classification of Air Pollution Sources, and .0202, Registration of Air Pollution Sources, are proposed for readoption without change.

## 15A NCAC 02D .0300 AIR POLLUTION EMERGENCIES

The seven rules in Section .0300, Air Pollution Emergencies, address prevention of buildup of air contaminants during an air pollution episode in order to prevent a public health emergency.

15A NCAC 02D .0301, Purpose, .0303, Emission Reduction Plans, and .0304, Preplanned Abatement Program, are proposed for readoption without change or without substantive change to update the format of references.

15A NCAC 02D .0302, Episode Criteria, is proposed for readoption with substantive change to update who proclaims air quality alerts, warnings, and declarations of emergency at various pollutant levels

requiring abatement actions to the Department of Environmental Quality Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations for consistency with the federal requirements, and to update the format of units for consistency.

15A NCAC 02D .0305, Emission Reduction Plan: Alert Level, .0306, Emission Reduction Plan: Warning Level, and .0307, Emission Reduction Plan: Emergency Level, are proposed for readoption with substantive change to reference the open burning rule which already specifies allowable open burning for consistency, and eliminate redundant language in Paragraph 4 that is already reflected in (a)(2).

The changes are administrative in nature and do not impose additional costs.

# 15A NCAC 02D .0400 AMBIENT AIR QUALITY STANDARDS

The rules in Section .0400, Ambient Air Quality Standards, establish the state ambient air quality standards and reflect the National Ambient Air Quality Standards, or NAAQS, and associated monitoring methodologies in the state rules. These rules are updated periodically when the national standards are revised as part of the infrastructure elements requirements for the State Implementation Plan (SIP).

15A NCAC 02D .0401, Purpose, .0409, PM10 Particulate Matter, and .0410, PM2.5 Particulate Matter, are proposed for readoption without substantive change to update format of references and acronyms and .0402, Sulfur Oxides, .0404, Carbon Monoxide, .0407, Nitrogen Dioxide, and .0408, Lead, are proposed for readoption without change.

The changes are administrative in nature and do not impose any additional requirements or costs.

# 15A NCAC 02D .1300 OXYGENATED FUEL STANDARDS

The five rules in Section .1300, Oxygenated Fuel Standards, were initially put in place to serve as contingency measures as part of the carbon monoxide (CO) maintenance plan for areas that had formerly been designated nonattainment areas and were subsequently redesignated to attainment in the event that the CO National Ambient Air Quality Standard was exceeded. These contingency measures were never triggered or implemented.

15A NCAC 02D Section .1300 is proposed for readoption as a repeal to remove the obsolete requirements because the measures were part of a contingency plan in the event of an exceedance of the CO NAAQS and have become unnecessary since the state has been attainment for many years, the ambient CO levels remain very low statewide, and the limited maintenance plan for CO has now expired.

The three former nonattainment areas were redesignated attainment and a maintenance plan was approved for each of the areas in 1995. North Carolina's second 10-year maintenance plan was approved March 24, 2006 (71 FR 14817). Subsequently monitoring data from 2008-2011 showed all three areas to be below the 8-hour CO NAAQS value and well below the 85 percent threshold of 7.65 ppm making the areas eligible for a limited maintenance plan. As a result, the state submitted a limited maintenance plan request update August 2, 2012. A limited maintenance plan is not required to include motor vehicle emissions budgets for transportation conformity purposes. The limited maintenance plan was approved into the state

implementation plan, receiving approval June 20, 2013 (78 FR 37118) and was effective July 22, 2013. Transportation conformity requirements for the CO NAAQS ceased to apply for Forsyth County May 23, 2015 and for Durham and Wake counties and for Mecklenburg county September 18, 2015.

Given the expiration of the limited maintenance plan, the requirements are now obsolete and the following rules comprising Section .1300 are proposed to be repealed.

15A NCAC 02D .1301, Purpose 15A NCAC 02D .1302, Applicability 15A NCAC 02D .1303, Definitions 15A NCAC 02D .1304, Oxygen Content Standard 15A NCAC 02D .1305, Measurement and Enforcement

Because mobile source controls have dramatically decreased CO emissions, the rules were never triggered as contingency measures, CO emissions continue to remain low, and the maintenance plan requirements have expired, repeal of these rules is not anticipated to interfere with attainment or maintenance of the CO NAAQS or any other NAAQS.

Per G.S. 150B-21.4(d) a fiscal note is not required for the repeal of rules as part of the readoption process. Nonetheless, because the rules were never triggered to be implemented, there would be no cost savings to any party associated with repeal of the rules.

## 15A NCAC 02D .2000 TRANPSORTATION CONFORMITY

Section .2000, Transportation Conformity, contains five rules that reflect federally set requirements to assure conformity of federal, state, or local funded transportation projects and with plans for attainment and maintenance of NAAQS for areas designated nonattainment or that are under maintenance plans. Rules 15A NCAC 02D .2001 through .2005 are proposed for readoption as follows.

15A NCAC 02D .2001, Purpose, Scope and Applicability, is proposed for readoption with substantive change to remove obsolete references to affected areas based on current attainment status of the state, update internal paragraph references, include clarifying reference to 40 CFR 93.119 regarding provisions for areas without motor vehicle emissions budgets, and clarify duration of applicability to maintenance areas.

15A NCAC 02D .2002, Definitions, and .2004, Determining Transportation Related Emissions, are proposed for readoption without change.

15A NCAC 02D .2003, Transportation Conformity Determinations, and .2005, Memorandum of Agreement, are proposed for readoption without substantive change to update the format of references.

No new requirements are imposed by the proposed updates.

# 15A NCAC 02D .2200 SPECIAL ORDERS

The rules in Section .2200, Special Orders, lay out the procedures to be followed for establishing Special Orders by Consent to achieve compliance with air quality requirements in 15A NCAC 02D or 02Q consistent with the requirements of G.S. 143-215.110.

15A NCAC 02D .2201, Purpose, .2202, Definitions, and .2205, Notification of Right to Contest Special Orders Issued without Consent, are proposed for readoption without change.

15A NCAC 02D .2204, Final Action on Consent Orders, is proposed for readoption without substantive change to update format of references.

15A NCAC 02D .2203, Public Notice, is proposed for readoption with substantive change to update the rule for consistency with the statutory language in G.S. 143-215.110(a1)(2) specifying online posting of Special Orders by Consent which is consistent with agency practice.

No new requirements are imposed on the regulated community by the proposed updates.

## **IV.** Estimating the Fiscal Impacts

Minimal impacts from the proposed readoptions are expected as follows.

15A NCAC 02D .0103, Copies of Referenced Federal Regulations, is proposed for amendment without substantive changes to update agency name and addresses and include web addresses where referenced documents may be obtained free of charge.

Little to no impact is expected as a result of these changes as Division staff indicate requests for referenced materials are very rare and in general, referenced materials are provided electronically when they are requested.

15A NCAC 02D .0104, Incorporation by Reference, is proposed for amendment to include a website where the Code of Federal Regulations (CFR) documents referenced in other rules in the Subchapter may be obtained free of charge, to include a website where copyrighted American Society for Testing and Materials (ASTM) methods referenced throughout other rules in 15A NCAC 02D may be obtained, and to update the name and address of the Division of Air Quality.

The copyrighted ASTM methods relevant for purposes of air quality rules in 15A NCAC 02D generally are available at a base cost ranging from \$45.00-\$65.00 each depending on the particular method or methods purchased and format chosen; however, copyright law precludes the agency from copying and distributing copies of such methods. The individual rules that contain specific references to such methods are not part of this package proposed for readoption at this time. It is anticipated that updates to the particular methods referenced in individual rules may be needed at the time those rules proceed through the readoption process and would be addressed as part of those rulemaking proceedings.

15A NCAC 02D .0105, Mailing List, is proposed for amendment to update the name of the Department and update the rule to specify that persons requesting to be on the list for notification of rulemaking may opt to receive notification via email free of charge.

The current rule includes a cost of \$30.00 per year for someone to be placed on a mailing list to receive hardcopies of notification of rulemakings. The proposed amendment updates the rule to reflect that one can receive notification of rulemaking via email free of charge. The paid mailing list option is left in place in the event that someone would choose that over the free electronic option.

Notification of rulemaking is already provided to those requesting notification under15A NCAC 02D .0105 via email free of charge and in fact is encouraged in instances where someone asks to be placed on the mailing list. To date those inquiring have opted to receive notification electronically for free in lieu of paying to be on a hardcopy mailing list. For a number of years there has not been, and currently is not, any one on a list to receive notification via hardcopy.

No cost impact to the public or regulated community is expected as a result of clarifying that the option to receive notification via email free of charge is available.

15A NCAC 02D .2203, Public Notice, is proposed for readoption with substantive change to update the rule for consistency with the statutory language in G.S. 143-215.110(a1)(2) specifying online posting of proposed Special Orders by Consent which is consistent with agency practice. The statute also specifies publication of any associated notice of public hearing on SOCs on the agency's website.

Over the last 10 years the Division has issued a total of 37 SOCs with anywhere from 2-7 SOCs having been issued in any given year. Typical costs for public notice of the SOCs in the newspaper have averaged approximately \$200 each.

Assuming similar numbers of SOCs are issued in future years with the average number issued per year being four, and the same average cost for publication of approximately \$200/notice, the average cost for any year would be:

4 SOCs/year \* \$200/notice of SOC = \$800/yr

In total the statutorily specified publication on the website rather than in the newspaper saves the agency approximately \$800/year in publication costs.

A total equivalent loss of revenue of \$800 per year would be experienced by the newspaper industry spread across individual newspapers in the state.

Historically, no public hearings on proposed SOCs have been requested in at least the last nine years. As a result, no savings or costs would be anticipated to occur for that element of the noticing procedures. If a public hearing were noticed, the additional per notice cost would be anticipated to be the same amount as estimated above.

No new requirements are imposed on the regulated community by the proposed updates.

# V. Conclusion

The proposed readoptions consist of amendments that are of administrative nature to clean up and update the existing thirty rules and repeal of five obsolete rules for which underlying requirements have expired. Overall, the proposed readoptions and repeals do not result in a significant state or local impact or substantial economic impact to the regulated community or other parties.

# VI-10

# Appendix A – Proposed Rules

1	15A NCAC 02I	O .0101 is proposed for readoption without substantive change as follows:
2		
3		SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS
4		
5		SECTION .0100 - DEFINITIONS AND REFERENCES
6		
7	15A NCAC 021	D.0101 DEFINITIONS
8	The definition of	of any word or phrase used in Rules of this Subchapter is the same as given in Article 21, G.S. 143, as
9	amended. The fe	ollowing words and phrases, which are not defined in the article, have the following meaning:
10	(1)	"Act" means The North Carolina Water and Air Resources of Article 21.
11	(2)	"Administrator" means, when it appears in any Code of Federal Regulation incorporated by
12		reference in this Subchapter, the Director of the Division of Air Quality unless:
13		(a) a specific rule in this Subchapter specifies otherwise, or
14		(b) the U.S. Environmental Protection Agency in its delegation or approval states that a
15		specific authority of the Administrator of the Environmental Protection Agency is not
16		included in its delegation or approval.
17	(3)	"Air pollutant" means an air pollution agent or combination of such agents, including any physical,
18		chemical, biological, radioactive substance or matter emitted into or otherwise entering the ambient
19		air.
20	(4)	"Ambient air" means that portion of the atmosphere outside buildings or other enclosed structures,
21		stacks, or ducts; and that surrounds human, animal or plant life, or property.
22	(5)	"Approved" means approved by the Director of the Division of Air Quality according to these Rules.
23	(6)	"Capture system" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture,
24		or transport a pollutant to a control device.
25	(7)	"CFR" means the Code of Federal Regulations.
26	(8)	"Combustible material" means any substance that, when ignited, will burn in air.
27	(9)	"Construction" means change in method of operation or any physical change, including on-site
28		fabrication, erection, installation, replacement, demolition, or modification of a source, that results
29		in a change in emissions or affects the compliance status.
30	(10)	"Control device" means equipment (fume incinerator, adsorber, absorber, scrubber, filter media,
31		cyclone, electrostatic precipitator, or the like) used to destroy or remove air pollutant(s) before
32		discharge to the ambient air.
33	(11)	"Day" means a 24-hour period beginning at midnight.
34	(12)	"Director" means the Director of the Division of Air Quality, unless otherwise specified.
35	(13)	"Division" means Division of Air Quality.
36	(14)	"Dustfall" means particulate matter that settles out of the air and is expressed in units of grams per
37		square meter per 30-day period.

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# Appendix A – Proposed Rules

1	(15)	"Emission" means the release or discharge, whether directly or indirectly, of any air pollutant into
2		the ambient air from any source.
3	(16)	"Facility" means all of the pollutant-emitting activities, except transportation facilities, that are
4		located on one or more adjacent properties under common control.
5	(17)	"FR" means the Federal Register.
6	(18)	"Fugitive emission" means those emissions that could not reasonably pass through a stack, chimney,
7		vent, or other functionally-equivalent opening.
8	(19)	"Fuel burning equipment" means equipment whose primary purpose is the production of energy or
9		power from the combustion of any fuel. Uses of the equipment includes heating water, generating
LO		or circulating steam, heating air as in warm air furnace, or furnishing process heat by transferring
l1		energy by fluids or through process vessel walls.
L2	(20)	"Garbage" means any animal and vegetable waste resulting from the handling, preparation, cooking,
L3		and serving of food.
L4	(21)	"Incinerator" means a device designed to burn solid, liquid, or gaseous waste material.
L5	(22)	"Opacity" means that property of a substance tending to obscure vision and is measured as percent
L6		obscuration.
L7	(23)	"Open burning" means any fire whose products of combustion are emitted directly into the outdoor
L8		atmosphere without passing through a stack or chimney, approved incinerator, or other similar
L9		device.
20	(24)	"Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility,
21		source, or air pollution control equipment.
22	(25)	"Particulate matter" means any material except uncombined water that exists in a finely divided
23		form as a liquid or solid at standard conditions.
24	(26)	"Particulate matter emissions" means all finely divided solid or liquid material, other than
25		uncombined water, emitted to the ambient air as measured by methods specified in this Subchapter.
26	(27)	"Permitted" means any source subject to a permit under this Subchapter or Subchapter 15A NCAC
27		02Q.
28	(28)	"Person" as defined in G.S. 143-212 includes any individual, partnership, co-partnership, firm,
29		company, corporation, association, joint stock company, trust, estate, political subdivision, or any
30		other legal entity, or its legal representative, agent, or assigns.
31	(29)	"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10
32		micrometers as measured by methods specified in this Subchapter.
33	(30)	"PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less
34		than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods
35		specified in this Subchapter.
36	(31)	"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5
37		micrometers as measured by methods specified in this Subchanter

### Appendix A – Proposed Rules

1	(32)	"Refuse" means any garbage, rubbish, or trade waste.
2	(33)	"Rubbish" means solid or liquid wastes from residences, commercial establishments, or institutions.
3	(34)	"Rural area" means an area that is devoted to the following uses: agriculture, recreation, wildlife
4		management, state park, or any area of natural cover.
5	(35)	"Salvage operation" means any business, trade, or industry engaged in whole or in part in salvaging
6		or reclaiming any product or material, including metal, chemicals, motor vehicles, shipping
7		containers, or drums.
8	(36)	"Smoke" means small gas-borne particles resulting from incomplete combustion, consisting
9		predominantly of carbon, ash, and other burned or unburned residue of combustible materials that
LO		form a visible plume.
l1	(37)	"Source" means any stationary article, machine, process equipment, or other contrivance; or any
L2		combination; or any tank-truck, trailer, or railroad tank car; from which air pollutants emanate or
L3		are emitted, either directly or indirectly.
L4	(38)	"Sulfur oxides" means sulfur dioxide, sulfur trioxide, their acids, and the salts of their acids. The
L5		concentration of sulfur dioxide shall be measured by the methods specified in this Subchapter.
L6	(39)	"Transportation facility" means a complex source as defined in G.S. 143-213(22).
L7	(40)	"Total suspended particulate" means any finely divided solid or liquid material, except water in
L8		uncombined form, that is or has been airborne as measured by methods specified in this Subchapter.
L9	(41)	"Trade wastes" means all solid, liquid, or gaseous waste materials or rubbish resulting from
20		combustion, salvage operations, building operations, or the operation of any business, trade, or
21		industry including, but not limited to, plastic products, paper, wood, glass, metal, paint, grease, oil
22		and other petroleum products, chemicals, and ashes.
23	(42)	"ug" or "µg" means micrograms.
24		
25	History Note:	Authority G.S. 143-213; 143-215.3(a)(1);
26		Eff. June 1, 1976;
27		Amended Eff. December 1, 1989; July 1, 1988; July 1, 1984;
28		Temporary Amendment Eff. March 8, 1994 for a period of 180 days or until the permanent rule
29		becomes effective, whichever is sooner;
30		Amended Eff. January 1, 2015; December 1, 2005; June 1, 2004; July 1, 1998; July 1, 1996; July
31		1, <del>1994.<u>1</u>994;</del>
32		Readopted Eff
33		

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1	15A NCAC 02I	0.0103 is proposed for amendment as follows:
2		
3	15A NCAC 02I	D .0103 COPIES OF REFERENCED FEDERAL REGULATIONS
4	(a) Copies of a	pplicable Code of Federal Regulations sections referred to in this Subchapter are available for public
5	inspection at De	partment of Environment and Natural Resources Environmental Quality regional offices. They are:
6	(1)	Asheville Regional Office, 2090 Highway 70, Swannanoa, North Carolina 28778;
7	(2)	Winston-Salem Regional Office, 585 Waughtown Street, Winston Salem, North Carolina 27107;
8		450 West Hanes Mill Road, Suite 300, Winston-Salem, NC 27105;
9	(3)	Mooresville Regional Office, 610 East Center Avenue, Suite 301, Mooresville, North Carolina
10		28115;
11	(4)	Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina
12		<del>27611;27609;</del>
13	(5)	Fayetteville Regional Office, Systel Building, 225 Green Street, Suite 714, Fayetteville, North
14		Carolina 28301;
15	(6)	Washington Regional Office, 943 Washington Square Mall, Washington, North Carolina 27889;
16	(7)	Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.
17	(b) Copies of su	nch rules <del>can be made at these regional offices fo</del> r—ten- <del>cents (\$0.10) per.page or</del> - <u>may be obtained free</u>
18	of charge online	at https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.
19		
20	History Note:	Authority G.S. 143-215.3; 150B-21.6;
21		Eff. December 1, 1976;
22		Amended Eff; December 1, 2005; December 1, 1992; August 1, 1991; July 1, 1988;
23		July 1, 1987;
24		Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 5,
25		2016.

### Appendix A – Proposed Rules

1	15A NCAC 02D .0104	l is proposed for	or amendment	as follov	vs:						
2											
3	15A NCAC 02D .0104	4 INCORP	ORATION BY	Y REFE	RENCE	C					
4	(a) Anywhere there is	a reference to	rules contain	ed in the	Code o	of Fe	deral Regul	ations (	CFR) of	r to a	n American
5	Society for Testing an	d Materials me	ethod (ASTM)	in this S	Subchap	ter, t	hose rules a	and meth	ods are	inco	orporated by
6	reference.										
7	(b) The Code of Fed	eral Regulatio	ns and Americ	can Soci	ety for '	Testi	ing and Ma	terials n	nethods	inco	rporated by
8	reference in this Subch	napter shall aut	omatically inc	lude any	later am	nend	ments theret	to unless	a spec	ific ru	ale specifies
9	otherwise.										
10	(c) The Code	of Federal	Regulations	is av	ailable	in	electronic	form	free	of	charge at
11	https://www.gpo.gov/f	dsys/search/ho	me.action.may	be pure	hased f	rom	the Superin	tendent	of Doc	umen	ts, PO Box
12	371954, Pittsburgh, PA	<del>∖ 15250. The c</del>	ost of the refer	enced de	<del>cument</del>	s is a	as follows:				
13	<del>(1) 40 C</del>	SFR Parts 1 to 5	51: fifty dollars	<del>s (\$50.00</del>	<del>)).</del>						
14	<del>(2) 40 C</del>	CFR Part 52: th	irty nine dollar	<del>s (\$39.0</del>	<del>0).</del>						
15	<del>(3)</del> 40 C	EFR Parts 53 to	59: eleven do	<del>llars (\$1</del>	l <del>.00).</del>						
16	<del>(4) 40 C</del>	FR Part 60: th	<del>irty six dollars</del>	(\$36.00	<del>).</del>						
17	<del>(5)</del> 40 C	FR Parts 61 to	71: thirty six	<del>dollars (</del>	<del>\$36.00).</del>						
18	<del>(6) 40 C</del>	CFR Parts 72 to	85: forty one	<del>dollars (</del>	<del>\$41.00).</del>						
19	<del>(7) 40 C</del>	FR Part 86: fo	rty dollars (\$40	<del>).00).</del>							
20	<del>(8) 40 C</del>	CFR Parts 87 to	135: five dolla	ars (\$5.0	<del>0).</del>						
21	<del>(9) 40 C</del>	FR Parts 260 t	o 299: forty do	<del>ollars (\$</del> 4	0.00).						
22	These prices are Octob	<del>er 15, 1996 pr</del>	ices.								
23	(d) The American Soc	ciety for Testin	g and Material	s metho	ds may b	oe pu	rchased fro	m <u>https:</u> /	<u>//www.</u>	<u>astm.</u>	org/.the Air
24	Quality Division, PO	Box 29580,	Raleigh, Nort	<del>h Caroli</del>	<del>na 2762</del>	<del>26 05</del>	580 at a pri	ice of tv	venty c	ents	(\$0.20) per
25	pagePurchase price is	dependent on t	he particular m	nethod ar	ıd forma	t cho	osen.				
26											
27	History Note: Auth	ority G.S. 150	B-21.6;								
28	Eff	July 1, 1988;									
29	Ame	nded Eff	<u>;</u> July	1, 1998,	May 1,	199.	5; Decembe	r 1, 1992	2; Octo	ber 1,	, 1989;
30	Purs	ruant to G.S. 1.	50B-21.3A, rul	le is nece	essary w	ithoi	ut substantiv	e public	intere	st Eff.	January 5,
31	2016	<b>5</b> .									
32											

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33

Т	15A NCAC 02L	.0105 is proposed for amendment without substantive change as follows:
2		
3	15A NCAC 02I	0.0105 MAILING LIST
4	(a) The Division	a shall develop and maintain a mailing list of persons who have requested notification of rule-making
5	as required by C	s.S. 150B 21.2(d). Such persons shall receive a copy of the complete notice as filed with the Office
6	of Administrativ	e Hearings.
7	(b) Any person	requesting to be on a mailing list established under Paragraph (a) of this Rule shall submit a written
8	request to the I	Division of Air Quality, 1641 Mail Service Center, Raleigh, North Carolina, 27699-27699-1641.
9	Payment of fees	required under this $\frac{\text{Section}\underline{\text{Rule}}}{\text{Nule}}$ may be by check or money order for thirty dollars (\$30.00) made
10	payable to the De	epartment of Environment and Natural Resources. Environmental Quality. Payment shall be submitted
11	with each reques	at and received by June 1 of each year. The fee covers from July 1 to June 30 of the following year.
12	A person reques	ting to be on the list for notification of rule-making may opt to receive notification via email free of
13	charge by contac	eting Division staff.
14		
15	History Note:	Authority G.S. 143-215.3(a)(1); 150B 21.2(d);
16		Eff. April 1, 1995;
17		<u>Amended Eff.</u> ; April 1, 2003; July 1, 1998; May 1, 1998;
18		Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 5,
19		2016.
20		
21		

1	15A NCAC 021	D .0201 is proposed for readoption without change as follows:
2		
3		SECTION .0200 - AIR POLLUTION SOURCES
4 5	15A NCAC 02	D .0201 CLASSIFICATION OF AIR POLLUTION SOURCES
6		This Regulation establishes a system for classifying air pollution sources. The Commission shall use
7	_	on system to classify air pollution sources which the Commission believes to be of sufficient
8		ustify classification or control.
9	-	nis Regulation shall apply to all air pollution sources, both combustion and non-combustion. The
10	•	m for classifying air pollution sources shall be used:
11	(1)	"Class I-C" includes all sources of air pollution using fuel burning equipment for the production of
12	( )	heat to generate electricity for public use.
13	(2)	"Class II-C" includes all sources of air pollution using fuel burning equipment for the production of
14	, ,	steam, and for other process uses at commercial and industrial establishments.
15	(3)	"Class III-C" includes all sources of air pollution using fuel burning equipment for comfort heating
16		at institutional, commercial or industrial establishments, or apartment houses having a central
17		heating system serving more than four apartments.
18	(4)	"Class IV-C" includes all sources of air pollution burning trash, rubbish, refuse, or similar materials
19		in incinerators, teepee burners, or similar devices.
20	(5)	"Class V-C" includes all sources of air pollution using fuel burning equipment for comfort heating
21		that are not included in Class III-C.
22	(6)	"Class VI-C" includes all sources of air pollution using internal combustion engines.
23	(7)	"Class I-I" includes all sources of air pollution resulting from industrial plants engaged in the
24		manufacture of chemicals or allied products whose processes depend on the chemical reaction of
25		two or more elements or compounds and includes plants producing acids, fertilizer materials,
26		dyestuff, synthetic fibers and industrial gases.
27	(8)	"Class II-I" includes all sources of air pollution resulting from industrial plants engaged in the
28		production of pulp and paper.
29	(9)	"Class III-I" includes all sources of air pollution resulting from the mining and processing of
30		minerals, stone, clay and cement products, and includes phosphate ore, mica and feldspar operations,
31		stone quarries and crushers, cement plants, concrete mixing plants, and masonry block plants.
32	(10)	"Class IV-I" includes all sources of air pollution resulting from industrial operations using petroleum
33		products, and includes asphalt mix plants, roofing felt plants, and petroleum products storage areas.
34	(11)	"Class V-I" includes all sources of air pollution resulting from furniture, lumber, or wood product
35		plants.
36	(12)	"Class VI-I" includes all sources of air pollution resulting from textile manufacturing, textile dyeing
37		or finishing plants.

1	(13)	"Class VII-I" includes all sources of air pollution resulting from the shelling, drying, storage,
2		ginning and processing of tobacco, corn, soybeans, peanuts, cotton, fruits, vegetables, or other
3		agricultural products.
4	(14)	"Class VIII-I" includes all sources of air pollution resulting from industries engaged in the
5		processing of metals, and includes smelting, casting foundries, metal working, and other similar
6		operations.
7	(15)	"Class IX-I" includes all sources of air pollution resulting from slaughtering and processing of meat,
8		poultry, fish, and similar products and from rendering or the recovering of by-products of these
9		operations.
10	(16)	"Class X-I" includes all sources of air pollution resulting from industries which do not fall within
11		the classifications described in Subparagraphs (b)(7) through (b)(15) of this Regulation.
12	These sources s	hall be controlled pursuant to the requirements of regulations and other provisions of law.
13		
14	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);
15		Eff. February 1, 1976;
16		Amended Eff. July 1, 1984; December 1, 1976.
17		Readopted Eff
18		

1	15A NCAC 02D	.0202 is proposed for readoption without change as follows:
2		
3	15A NCAC 02D	.0202 REGISTRATION OF AIR POLLUTION SOURCES
4	(a) The Director	may require the owner or operator of a source of air pollution to register that source.
5	(b) Any person	required to register a source of air pollution with the Division shall register the source on forms
6	provided by the I	Division and shall provide the following information:
7	(1)	the name of the person, company, or corporation operating the sources;
8	(2)	the address, location, and county;
9	(3)	principal officer of the company;
10	(4)	quantities and kinds of raw materials used;
11	(5)	process flow sheets;
12	(6)	operating schedules;
13	(7)	total weights and kinds of air pollution released;
14	(8)	types and quantities of fuels used;
15	(9)	stack heights; and
16	(10)	other information considered essential in evaluating the potential of the source to cause air pollution
17	The forms shall b	be completed and returned to the Division within 60 days following their receipt.
18		
19	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4);
20		Eff. February 1, 1976;
21		Amended Eff. July 1, 1998; June 1, 1985; July 1, 1984.
22		Readopted Eff
23		
24		
25		
26		
27		
28		

1	15A NCAC 02L	0.0301 is proposed for readoption without change as follows:
2		
3		SECTION .0300 - AIR POLLUTION EMERGENCIES
4		
5	15A NCAC 02I	0.0301 PURPOSE
6	Notwithstanding	any other provisions of air pollution control regulations or standards, this Section is designed to
7	prevent the exce	ssive buildup of air contaminants during air pollution episodes thereby preventing the occurrence of
8	an emergency d	ue to the effects of these contaminants on the public health.
9		
10	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
11		Eff. February 1, 1976.
12		Readopted Eff
13		
14		
15		
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1	15A NCAC 02D	.0302 is	proposed for readoption with substantive changes_as follows:
2			
3	15A NCAC 02D	.0302	EPISODE CRITERIA
4			
5	Conditions justif	ying the	proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall
6	be deemed to exi	ist when	ever the director Director determines that the accumulation of air contaminants in any place
7	is attaining or ha	s attaine	d levels that could, if such levels are sustained or exceeded, lead to a threat to the health of
8	the public. In ma	aking thi	s determination, the director Director shall be guided by the following criteria:
9	(1)	Air Pol	lution Forecast. An internal watch by the Division and local air pollution control agencies
10		shall be	e activated by a National Weather Service advisory that an atmospheric stagnation advisory
11		is in eff	fect, or the equivalent local forecast of stagnant atmospheric conditions.
12	(2)	Alert.	The alert level is that concentration of pollutants at which first stage control actions are to
13		begin.	The directorSecretary of the Department of Environmental Quality with the concurrence of
14		the Gov	vernor shall proclaim an alert when any of the following levels is reached at any monitoring
15		site:	
16		(a)	sulfur dioxide $800 \frac{\text{ug/m}}{\text{µg/m}} \frac{\text{µg/m}}{\text{0.3 p.p.m.}} \frac{\text{p.p.m.}}{\text{ppm}}$ , 24-hour average;
17		<del>(b)</del>	particulate 375 ug/m3, 24 hour average;
18		<del>(c)</del>	sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour
19			average, and particulate ug/m3, 24 hour average, equal to 65,000;
20		(d)(b)	carbon monoxide 17 mg/m3 (15 <del>p.p.m.), ppm),</del> eight-hour average;
21		(e)(c)	ozone 400 <del>ug/m3</del> <u>µg/m³</u> (0.2 <del>p.p.m.),</del> <u>ppm),</u> one-hour average;
22		( <u>f)(d)</u>	nitrogen dioxide 1130 $\frac{\text{ug/m3}  \mu \text{g/m}^3}{\text{ug/m3}}$ (0.6 $\frac{\text{p.p.m.}}{\text{p.p.m.}}$ ), one-hour average; 282 $\frac{\text{ug/m3}}{\text{ug/m3}}$
23			<u>μg/m<sup>3</sup></u> (0.15 <del>p.p.m.),ppm),</del> 24-hour average;
24		<del>(g)</del> (e)	PM10350 ug/m;, µg/m <sup>3</sup> _24-hour average; and average; and meteorological conditions are
25			such that pollutant concentrations can be expected to remain at these levels for 12 or more
26			hours or increase or, for ozone, the situation is likely to recur within the next 24 hours
27			unless control actions are taken.
28		<u>(f)</u>	in addition to the levels listed for the above pollutants, meteorological conditions are such
29			that pollutant concentrations can be expected to remain at the above levels for twelve (12)
30			or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
31			the next 24-hours unless control actions are taken.
32	(3)	Warnin	g. The warning level indicates that air quality is continuing to degrade and that additional
33		abatem	ent actions are necessary. The Secretary of the Department of Environmental Quality with
34		the con	currence of the Governor Director shall proclaim a warning when any one of the following
35		levels i	s reached at any monitoring site:
36		(a)	sulfur dioxide $1600 \frac{\text{ug/m}^3}{\text{µg/m}^3} (0.6 \frac{\text{p.p.m.}), \text{ppm}}{24}$ -hour average
37		<del>(b)</del>	particulate 625 ug/m3, 24 hour average;

1		<del>(c)</del>	sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour
2			average, and particulate ug/m3, 24 hour average, equal to 261,000;
3		(d)(b)	carbon monoxide 34 mg/m3 (30 <del>p.p.m.),ppm),</del> eight-hour average;
4		(e)(c)	ozone 800 <del>ug/m3</del> <u>µg/m³</u> (0.4 <del>p.p.m.), ppm),</del> one-hour average;
5		( <u>f)(d)</u>	nitrogen dioxide 2260 ug/m3 μg/m³ (1.2 p.p.m.), ppm), one-hour average; 565 ug/m³
6			$\mu g/m^3$ (0.3 p.p.m.), ppm), 24-hour average;
7		<del>(g)</del> (e)	PM10 420 ug/m;; µg/m <sup>3</sup> 24-hour average; and meteorological conditions
8			are such that pollutant concentrations can be expected to remain at these levels for 12 or
9			more hours or increase or, for ozone, the situation is likely to recur within the next 24 hours
10			unless control actions are taken.
11		<u>(f)</u>	in addition to the levels listed for the above pollutants, meteorological conditions are such
12			that pollutant concentrations can be expected to remain at the above levels for twelve (12)
13			or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
14			the next 24-hours unless control actions are taken.
15	(4)	Emerge	ency. The emergency level indicates that air quality is continuing to degrade to a level that
16		should	never be reached and that the most stringent control actions are necessary. The Secretary of
17		the <del>Dep</del>	partment of Environment and Natural Resources Department of Environmental Quality with
18		the con	currence of the Governor shall declare an emergency when any one of the following levels
19		is reach	ned at any monitoring site:
20		(a)	sulfur dioxide $2100 \frac{\text{ug/m}^3}{\text{µg/m}^3} (0.8 \frac{\text{p.p.m.})}{\text{ppm}} 24$ -hour average;
21		<del>(b)</del>	particulate 875 ug/m3, 24 hour average;
22		<del>(c)</del>	sulfur dioxide and particulate combined product of sulfur dioxide ug/m3, 24 hour
23			average, and particulate ug/m3, 24 hour average, equal to 393,000;
24		(d)(b)	carbon monoxide 46 mg/m3 (40 <del>p.p.m.), ppm),</del> eight-hour average;
25		(e)(c)	ozone 1000 <del>ug/m3</del> <u>µg/m³</u> (0.5 <del>p.p.m.), ppm),</del> one-hour average;
26		( <u>f)(d)</u>	nitrogen dioxide 3000 ug/m3 µg/m³ (1.6 p.p.m.),ppm), one-hour average; 750 ug/m³
27			$\mu g/m^3$ (0.4 p.p.m.), 24-hour average;
28		<del>(g)</del> (e)	PM10500 <del>ug/m;,</del> μg/m <sup>3</sup> 24-hour <del>average</del> .average; and
29		<u>(f)</u>	in addition to the levels listed for the above pollutants, meteorological conditions are such
30			that pollutant concentrations can be expected to remain at the above levels for twelve (12)
31			or more hours or increase, or in the case of ozone, the situation is likely to reoccur within
32			the next 24-hours unless control actions are taken. Same clarification applies to Warning
33			and Emergency Levels.
34	(5)	Termin	ation. Once declared any level reached by application of these criteria shall remain in effect
35		until th	e criteria for that level are no longer met. At that time the next lower level shall be assumed.
36			
37	History Note:	Author	ity G.S. 143-215.3(a)(1); 143-215.3(a)(12);

1	Eff. February 1, 1976;
2	Amended Eff. July 1, 1998; July 1, 1988; July 1, 1984; June 1, 1980; December 1, <del>1976.</del> <u>1976.</u> <u>1976.</u>
3	Readopted Eff

1	15A NCAC 02I	0.0303 is proposed for amendment without substantive change as follows:
2		
3	15A NCAC 02I	D.0303 EMISSION REDUCTION PLANS
4	(a) Air Pollutio	n Alert. Any person responsible for the operation of a source of air pollution described in Regulation
5	15A NCAC 02E	0.0305, .0305 of this Section, shall take all air pollution alert actions required for that source and shall
6	put into effect th	ne preplanned program for an air pollution alert.
7	(b) Air Polluti	on Warning. Any person responsible for the operation of a source of air pollution described in
8	Regulation .030	6 of this Section, 15A NCAC 02D .0306, shall take all air pollution warning actions required for tha
9	source and shall	put into effect the preplanned program for an air pollution warning.
10	(c) Air Pollutio	on Emergency. Any person responsible for the operation of a source of air pollution described in
11	Regulation .030	7 of this Section, 15A NCAC 02D .0307, shall take all air pollution emergency actions required for
12	that source and	shall put into effect the preplanned program for an air pollution emergency.
13		
14	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
15		Eff. February 1, 1976;
16		Amended Eff. July 1, <del>1984.</del> <u>1984;</u>
17		Readopted Eff
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1	15A NCAC 02L	0.0304 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02I	0.0304 PREPLANNED ABATEMENT PROGRAM
4	(a) Any person	who is responsible for the operation of a source of air pollution that is described in 15A NCAC 02D
5	Regulations .030	05, .0306, or <u>.0307</u> , <del>.0307 of this Section,</del> or that emits 100 tons per year or more of any one pollutant
6	shall prepare a	plan to reduce the emissions of air pollutants into the outdoor atmosphere during periods of an air
7	pollution episod	e. The plan shall be consistent with good industrial practices and safe operating procedures. When
8	the Director req	uests that the plan be submitted for his review, the owner or operator of the source shall submit the
9	plan within 30 d	ays of the Director's request.
LO	(b) When reque	sted by the Commission in writing, any person responsible for the operation of a source not described
l1	in Regulations 1	5A NCAC 02D .0305, .0306, or .0307, .0307 of this Section, shall prepare a plan to reduce the
L2	emissions of air	pollutants into the outdoor atmosphere during periods of air pollution alert, air pollution warning, and
L3	air pollution em	ergency. The plan shall be consistent with good industrial practices and safe operating procedures.
L4		
<b>L</b> 5	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
L6		Eff. February 1, 1976;
L7		Amended Eff. July 1, 1988; July 1, <del>1984.</del> <u>1984;</u>
L8		Readopted Eff
L9		
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))		

1	15A NCAC 02D	.0305 is	s proposed for readoption with substantive changes as follows:
2			
3	15A NCAC 02D	.0305	EMISSION REDUCTION PLAN: ALERT LEVEL
4	(a) General Gene	<u>eral.</u>	
5	(1)	There	shall be no open burning <del>by any person</del> of <del>trade waste, vegetation, refuse, or debris in any</del>
6		form. 2	any material otherwise allowed under 15A NCAC 02D .1900.
7	(2)	The us	e of incinerators for the disposal of any form of solid waste shall be limited to the hours
8		betwee	en <del>12 noon</del> 12:00 p.m. and 4:00 p.m.
9	(3)	Person	s operating fuel burning equipment which requires boiler lancing or soot blowing shall
10		perform	n such operations only between the hours of 12 noon 12:00 p.m. and 4:00 p.m.
11	(4)	Person	s operating motor vehicles should eliminate all unnecessary operations.
12	(b) Source Curta	ailment.	Any person responsible for the operation of a source of air pollution shall take all required
13	control actions for	or the ale	ert level that are listed below:
14	(1)	Operat	ors of coal or oil fired electric power generating facilities shall:
15		(A)	use fuels having low ash and sulfur content,
16		(B)	perform boiler lancing and soot blowing between 12 noon12:00 p.m. and 4:00 p.m., and
17		(C)	divert electric power generation to facilities outside of alert area;
18	(2)	Operat	ors of coal or oil fired process steam generating facilities shall:
19		(A)	use fuels having low ash and sulfur content,
20		(B)	perform boiler lancing and soot blowing between 12 noon12:00 p.m. and 4:00 p.m., and
21		(C)	reduce steam load demands consistent with continuing plant operation;
22	(3)	Operat	ors of manufacturing industries of the following classifications: primary metals industry;
23		petrole	rum refining and related industries; chemical and allied products industries; paper and allied
24		produc	ts industries; glass, clay, and concrete products industries shall:
25		(A)	reduce air pollutants from manufacturing operations by curtailing, postponing or deferring
26			production and related operations;
27		(B)	defer trade waste disposal operations which emit particles, gases, vapors, or malodorous
28			substances;
29		(C)	reduce heat load demands for processing; and
30		(D)	perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; p.m.; and
31	(4)	Munic	ipal and commercial refuse disposal operations shall limit burning of refuse in incinerators to
32		hours b	petween 12 noon to 4:00 p.m.;
33	<del>(5)</del> (4)	Other 1	persons requested by the Commission to prepare a preplanned abatement plan shall take all
34		require	ed control actions for the alert level contained in their plan.
35			
36	History Note:	Author	rity G.S. 143-215.3(a)(1); 143-215.3(a)(12);
37		Eff. Fe	bruary 1, 1976;

1	Amended Eff. July 1, 1984; December 1, <del>1976.</del> 1976;
2	Readopted Eff
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### $Appendix \ A-Proposed \ Rules$

1	15A NCAC 02D	.0306 is	proposed for readoption with substantive changes as follows:
2	154 NCAC 02D	0206	EMISSION DEDUCTION DE ANA WARNING I EVEL
3	15A NCAC 02D	.0306	EMISSION REDUCTION PLAN: WARNING LEVEL
4	(a) General	TD1	
5	(1)		shall be no open burning by any person of trade waste, refuse, vegetation, or debris in any
6	(2)		ny material otherwise allowed under 15A NCAC 02D .1900.
7	(2)		e of incinerators for the disposal of solid waste or liquid waste shall be prohibited.
8	(3)		s operating fuel burning equipment which requires boiler lancing or soot blowing shall
9		_	n such operations only between 12 noon12:00 p.m. and 4:00 p.m.p.m
LO	(4)		s operating motor vehicles should minimize their use through car pools and increased use of
l1		_	transportation.
L2			Any person responsible for the operation of a source of air pollution shall take all required
L3	control actions fo	r the wa	arning level that are listed below:
L4	(1)	Operato	ors of coal or oil fired electric power generating facilities shall:
L5		(A)	use fuels having the lowest ash and sulfur content;
L6		(B)	perform boiler lancing and soot blowing between 12 noon12:00 p.m. to 4:00 p.m.,p.m.;
L7			and
L8		(C)	divert electric power generating to facilities outside of warning area;
L9	(2)	Operato	ors of coal or oil fired process steam generating facilities shall:
20		(A)	use fuels having the lowest ash and sulfur content;
21		(B)	perform boiler lancing and soot blowing between 12 noon 12:00 p.m. to 4:00 p.m., p.m.;
22		(C)	reduce steam load demands consistent with continuing plant operations, operations; and
23		(D)	prepare to use the plan of action to be taken if an emergency develops;
24	(3)	Operate	ors of manufacturing industries of the following classifications: primary metal industries;
25		petrole	um refining and related industries; chemical and allied products industries; paper and allied
26		product	ts industries; glass, clay and concrete products industries shall:
27		(A)	reduce air pollutants from manufacturing operations by, if necessary, assuming reasonable
28			economic hardship by postponing production and related operations;
29		(B)	defer trade waste disposal operations which emit particles, gases, vapors, or malodorous
30			substances;
31		(C)	reduce heat load demands for processing consistent with continuing plant operations; and
32		(D)	perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; and
33	(4)	Munici	pal and commercial refuse disposal operations shall stop incinerating waste;
34	<del>(5)</del> (4)		persons requested by the Commission to prepare a preplanned abatement plan shall take all
35	` / <del>*</del>	_	d control actions for the warning level contained in their plan.
36		1	
37	History Note:	Author	ity G.S. 143-215.3(a)(1); 143-215.3(a)(12);

1	Eff. February 1, 1976;
2	Amended Eff. July 1, 1984; December 1, <del>1976.</del> <u>1976;</u>
3	Readopted Eff
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1	15A NCAC 02D	.0307 is	s proposed for readoption with substantive changes as follows:
2			
3	15A NCAC 02D	.0307	EMISSION REDUCTION PLAN: EMERGENCY LEVEL
4	(a) General		
5	(1)	There s	shall be no open burning by any person of trade waste, vegetation, refuse, or debris in any
6		<del>form.</del> aı	ny material otherwise allowed under 15A NCAC 02D .1900.
7	(2)	The use	e of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
8	(3)	All pla	ces of employment described below shall immediately cease operations:
9		(A)	mining and quarrying of nonmetallic minerals;
10		(B)	all manufacturing establishments except those required to have in force an air pollution
11			emergency plan;
12		(C)	all construction work involving grading or other operations which generate dust;
13		(D)	all wholesale and retail establishments except pharmacies and stores primarily engaged in
14			the sale of food;
15		(E)	all commercial and manufacturing establishments, automobile repair services and garages,
16			laundries, barbershops, beauty shops and motion picture theaters; and
17		(F)	elementary and secondary schools, colleges, universities and professional schools.
18	(4)	The use	e of motor vehicles is shall be prohibited except in emergencies with the approval of local or
19		state po	plice.
20	(b) Source Curta	ailment.	Any person responsible for the operation of a source of air pollution shall take all required
21	control actions fo	or the en	nergency level that are listed below:
22	(1)	Operate	ors of coal or oil fired electric power generating facilities shall:
23		(A)	use fuels having lowest ash and sulfur content,
24		(B)	perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.,p.m.;
25		(C)	divert electric power generating to facilities outside of emergency area;
26	(2)	Operate	ors of coal or oil fired process steam generating facilities shall:
27		(A)	reduce heat and steam demands to that absolutely necessary to prevent equipment damage,
28		(B)	perform boiler lancing and soot blowing between 12 noon 12:00 p.m. and 4:00 p.m.,p.m.;
29		(C)	take the action called for in the abatement plan;
30	(3)	Operate	ors of manufacturing industries of the following classifications: primary metals industries;
31		petrole	um refining and related industries; chemical and allied products industries; paper and allied
32		produc	ts industries; glass, clay and concrete products industries shall:
33		(A)	eliminate air pollutants from manufacturing operations by ceasing, curtailing, postponing
34			or deferring production and related operations of the extent possible without causing injury
35			to persons or damage to equipment;
36		(B)	eliminate air pollution from trade waste disposal processes which emit particles, gases,
37			vapors, or malodorous substances;

1		(C) reduce heat load demands for processing to the minimum;
2		(D) perform boiler lancing or soot blowing between 12 noon 12:00 p.m. to 4:00 p.m.; and
3	(4)	Municipal and commercial refuse disposal operations shall stop incinerating waste;
4	<del>(5)</del> (4)	Other persons requested by the Commission to prepare a preplanned abatement plan shall take all
5		required control actions for the emergency level contained in their plan.
6		
7	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12);
8		Eff. February 1, 1976;
9		Amended Eff. July 1, 1984; December 1, <del>1976.</del> <u>1976;</u>
10		Readopted Eff
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1	15A NCAC 021	D .0401 is proposed for readoption as follows:	
2			
3		SECTION .0400 - AMBIENT AIR QUALITY STANDARDS	
4			
5	15A NCAC 02	D .0401 PURPOSE	
6	(a) The purpos	e of the ambient air quality standards set out in this Section is to establish certain maximum limits on	
7	parameters of a	ir quality considered desirable for the preservation and enhancement of the quality of the state's air	
8	resources. Furt	hermore, the objective of the Commission, consistent with the North Carolina Air Pollution Control	
9	Law, shall be to	prevent significant deterioration in ambient air quality in any substantial portion of the state where	
10	existing air qua	ality is better than the standards. An atmosphere in which these standards are not exceeded should	
11	provide for the	protection of the public health, plant and animal life, and property.	
12	(b) Ground lev	el concentrations of pollutants will be determined by sampling at fixed locations in areas beyond the	
13	premises on wh	ich a source is located. The standards are applicable at each such sampling location in the state.	
14	(c) No facility or source of air pollution shall cause any ambient air quality standard in this Section to be exceeded or		
15	contribute to a violation of any ambient air quality standard in this Section except as allowed by Rules 15A NCAC		
16	<u>02D</u> .0531 or <del>.0</del>	532 of this Subchapter0532.	
17			
18	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);	
19		Eff. February 1, 1976;	
20		Amended Eff. December 1, 1992; October 1, 1989; July 1, <del>1984.<u>1</u>984;</del>	
21		Readopted Eff	
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### Appendix A – Proposed Rules

1	15A NCAC 02D	.0402 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02E	0.0402 SULFUR OXIDES
4	(a) The ambient	air quality standards for sulfur oxides measured as sulfur dioxide are:
5	(1)	80 micrograms per cubic meter (0.03 ppm) annual arithmetic mean,
6	(2)	365 micrograms per cubic meter (0.14 ppm) maximum 24-hour concentration not to be exceeded
7		more than once per year, and
8	(3)	1300 micrograms per cubic meter (0.5 ppm) maximum three-hour concentration not to be exceeded
9		more than once per year.
10	(b) Sampling ar	nd analysis shall be in accordance with procedures in Appendix A or A-1 of 40 CFR Part 50 or by a
11	Federal Equivale	ent Method (FEM) designated in accordance with 40 CFR Part 53.
12	(c) Applicability	y of the standards listed in Subparagraph (a)(1) and (2) of this Rule is shall be in effect until one year
13	after the effective	e date of initial designations under Section 107(d) of the Clean Air Act for the sulfur dioxide standard
14	in Paragraph (d)	of this Rule.
15	(d) The primary	one-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which
16	is 1 part in 1,000	0,000,000), measured in the ambient air as sulfur dioxide.
17	(e) The one-hour	r primary standard <del>is</del> s <u>hall be</u> met at an ambient air quality monitoring site when the three-year average
18	of the annual (99	oth percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb,
19	as determined in	accordance with Appendix T of 40 CFR Part 50.
20		
21	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
22		Eff. February 1, 1976;
23		Amended Eff. September 1, 2011; July 1, 1984; December 1, <del>1976.</del> <u>1976</u> ;
24		Readopted Eff

25

1	15A NCAC 021	D .0404 is proposed for readoption without substantive change as follows:	
2			
3	15A NCAC 02	D .0404 CARBON MONOXIDE	
4	(a) The ambier	at air quality standards for carbon monoxide are:	
5	(1)	9 parts per million (10 milligrams per cubic meter) maximum eight-hour average concentration not	
6		to be exceeded more than once per year, and	
7	(2)	35 parts per million (40 milligrams per cubic meter) maximum one-hour average concentration not	
8		to be exceeded more than once per year.	
9	(b) Sampling a	and analysis shall be in accordance with procedures in Appendix C of 40 CFR Part 50 or equivalent	
10	methods establi	shed under 40 CFR Part 53.	
11	(c) An eight-he	our average shall be considered valid if at least 75 percent of the hourly averages for the eight-hour	
12	period are avail	able. In the event that only six or seven hourly averages are available, the eight-hour average shall be	
13	computed on the basis of the hours available using six or seven as the divisor.		
14	(d) When summarizing data for comparison with the standards, averages shall be stated to one decimal place		
15	Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with		
16	fractional parts of 0.5 or greater rounding up.		
17			
18	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);	
19		Eff. February 1, 1976;	
20		Amended Eff. October 1, 1989; July 1, 1984; December 1, <del>1976.</del> 1976;	
21		Readopted Eff	
22			
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25			

### Appendix A – Proposed Rules

1	15A NCAC 02D .0407 is proposed for readoption without substantive change as follows:
2	
3	15A NCAC 02D .0407 NITROGEN DIOXIDE
4	(a) The primary annual ambient air quality standard for oxides of nitrogen is 53 parts per billion annual average
5	concentration measured in the ambient air as nitrogen dioxide.
6	(b) The primary one hour ambient air quality standard for oxides of nitrogen is 100 parts per billion one hour annua
7	average concentration measured in the ambient air as nitrogen dioxide.
8	(c) The secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per
9	cubic meter) annual arithmetic mean concentration.
10	(d) Sampling and analysis shall be in accordance with:
11	(1) procedures in Appendix F of 40 CFR Part 50; or
12	(2) by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR Part 53.
13	(e) The annual primary standard isshall be attained when the annual average concentration in a calendar year is less
14	than or equal to 53 parts per billion, as determined in accordance with Appendix S of 40 CFR Part 50 for the annual
15	standard.
16	(f) The one hour primary standard is shall be attained when the three-year average of the annual 98th percentile of the
17	daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with
18	Appendix S of 40 CFR Part 50 for one hour standard.
19	(g) The secondary standard isshall be attained when the annual arithmetic mean concentration in a calendar year is
20	less than or equal to 0.053 parts per million, rounded to three decimal places (fractional parts equal to or greater than
21	0.0005 parts per million are rounded up). To demonstrate attainment, an annual mean mustshall be based on hourly
22	data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent complete
23	for the scheduled sampling days in each calendar quarter.
24	
25	History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
26	Eff. February 1, 1976;
27	Amended Eff. September 1, 2011; October 1, 1989; July 1, 1984; December 1, <del>1976.</del> 1976;
28	Readopted Eff

29 30

1	15A NCAC 02I	0.0408 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02I	D.0408 LEAD
4	The ambient air	quality standard for lead and its compounds, measured as elemental lead by a reference method based
5	on Appendix G	of 40 CFR Part 50 or by an equivalent method established under 40 CFR Part 53, is 0.15 micrograms
6	per cubic meter	. The standard isshall be met when the maximum arithmetic three month mean concentration for a
7	three year perio	d, as determined in accordance with Appendix R of 40 CFR Part 50, is less than or equal to 0.15
8	micrograms per	cubic meter.
9		
10	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
11		Eff. June 1, 1980;
12		Amended Eff. January 1, 2010; July 1, <del>1984.<u>1984</u>;</del>
13		Readopted Eff
14		
15		

1	15A NCAC 021	D .0409 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02	D .0409 PM10 PARTICULATE MATTER
4	(a) The ambien	t air quality standard for PM10 particulate matter is 150 micrograms per cubic meter <del>(ug/m3),</del> (µg/m³),
5	24-hour average	e concentration. This standard is shall be attained when 150 (ug/m3), (µg/m³), as determined according
6	to Appendix N of 40 CFR Part 50, is not exceeded more than once per year on average over a three-year period.	
7	(b) For the purpose of determining attainment of the standards in Paragraph (a) of this Rule, particulate matter sha	
8	be measured in the ambient air as PM10 (particles with an aerodynamic diameter less than or equal to a nominal 10	
9	micrometers) by either:	
10	(1)	a reference method based on Appendix M of 40 CFR Part 50 and designated according to 40 CFR
11		Part 53; or
12	(2)	an equivalent method designated according to 40 CFR Part 53.
13		
14	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
15		Eff. July 1, 1988;
16		Amended Eff. January 1, 2010; April 1, <del>1999.<u>1</u>999;</del>
17		Readopted Eff
18		
19		

1	15A NCAC 021	O .0410 is proposed for readoption without substantive change as follows:
2		
3	15A NCAC 02	D .0410 PM2.5 PARTICULATE MATTER
4	(a) The nationa	l primary ambient air quality standards for PM2.5 are 12.0 micrograms per cubic meter ( $\mu g/m^3$ ) annual
5	arithmetic mean	n concentration and 35 $\mu g/m^3$ 24-hour average Concentration measured in the ambient air as PM2.5
6	(particles with a	an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:
7	(1)	A reference method based on appendix L to 40 C.F.R.CFR Part 50 and designated in accordance
8		with 40 <del>C.F.R.</del> CFR Part 53; or
9	(2)	An equivalent method designated in accordance with 40 C.F.R.CFR Part 53.
10	(b) The primary	y annual PM2.5 standard isshall be met when the annual arithmetic mean concentration, as determined
11	in accordance v	vith appendix Appendix N of 40 C.F.R. CFR Part 50, is less than or equal to 12.0 μg/m <sup>3</sup> .
12	(c) The primary	24-hour PM2.5 standard isshall be met when the 98th percentile 24-hour concentration, as determined
13	in accordance v	vith appendix Appendix N of 40 C.F.R. CFR Part 50, is less than or equal to 35 μg/m <sup>3</sup> .
14		
15	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
16		Eff. April 1, 1999;
17		Amended Eff. September 1, 2015; January 1, <del>2010.</del> 2010;
18		Readopted Eff
19		
20		

1	15A NCAC 02.	D.1301 is proposed for readoption as a repeal as follows:
2		
3		SECTION .1300 - OXYGENATED GASOLINE STANDARD
4		
5	15A NCAC 02	D.1301 PURPOSE
6	This Section set	s forth oxygenated gasoline standards in areas where an oxygenated gasoline program is implemented
7	pursuant to Stat	e law for all gasoline sold wholesale for use or for all gasoline sold retail, offered for use, dispensed
8	or otherwise pro	ovided for use in any spark ignition engine other than aircraft in the areas defined in Rule .1302 of this
9	Section during	he time periods defined in Rule .1302(c) of this Section.
LO		
l1	History Note:	Filed as a Temporary Amendment Eff. October 23, 1995 for a period of 180 days or until the
L2		permanent rule becomes effective, whichever is sooner;
L3		Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7);
L4		Eff. September 1, 1992;
L5		Amended Eff. September 1, 1996; November 1, <del>1994.<u>1</u>994;</del>
L6		Repealed Eff
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### Appendix A – Proposed Rules

1	15A NCAC 02	D.1302 is proposed for readoption as a repeal as follows:	
2			
3	15A NCAC 02	D.1302 APPLICABILITY	
4	(a) This Section	n shall apply to gasoline identified in Rule .1301 of this Section during the time period described in	
5	Paragraph (c) o	f this Rule in any of the following areas, and in that area only, when the Director notices in accordance	
6	with Paragraph	(b) of this Rule in the North Carolina Register that oxygenated gasoline is needed in that area to attain	
7	and maintain th	e ambient air quality standard for carbon monoxide:	
8	(1)	the Greensboro/Winston Salem/High Point Metropolitan Statistical Area consisting of Davie,	
9		Davidson, Forsyth, Guilford, Randolph, Stokes, and Yadkin Counties;	
10	(2)	the Charlotte/Gastonia/Rock Hill Metropolitan Statistical Area consisting of Cabarrus, Gaston,	
11		Mecklenburg, and Union Counties; and	
12	(3)	the Raleigh/Durham Metropolitan Statistical Area consisting of Durham, Franklin, Orange, and	
13		Wake Counties.	
14	(b) If a violati	on of the ambient air quality standard for carbon monoxide is measured in accordance with 40 CFR	
15	50.8 in one of	the areas named in Paragraph (a) of this Rule, the Director shall initiate analyses to determine if	
16	additional meas	sures are needed to attain and maintain the ambient air quality standards in that area. If the Director	
17	finds that 2.7 percent oxygen by weight oxygenated gasoline is needed, the Director shall notice in the North Carolin		
18	Register by the following September 1 that only oxygenated gasoline shall be sold in that area beginning on the		
19	following Nove	ember 1. The notice shall identify the area in which oxygenated gasoline shall be sold. Also by the	
20	following July	I, the Director shall notify the Gasoline and Oil Inspection Board and the primary gasoline distributors	
21	that only oxygenated gasoline shall be sold in the area beginning on the following November 1.		
22	(c) This Section	n applies to gasoline identified in Rule .1301 of this Section and in the counties identified in Paragraph	
23	(a) of this Rule for the four month period beginning November 1 and running through the last day of February of the		
24	following year.		
25	(d) Gasoline in	storage within the counties identified in Paragraph (a) of this Rule prior to November 1 of the year in	
26	which this Sect	ion goes into effect at a dispensing facility having total gasoline tank capacity of less than 550 gallons	
27	or a total weekly dispensing rate of less than 550 gallons is exempted from Rule .1304 of this Section, but any gasolir		
28	supplied to the facility during the period identified in Paragraph (c) of this Rule shall comply with Rule .1304 of th		
29	Section.		
30			
31	History Note:	Filed as a Temporary Amendment Eff. October 23, 1995 for a period of 180 days or until the	
32		permanent rule becomes effective, whichever is sooner;	
33		Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7);	
34		Eff. September 1, 1992;	
35		Amended Eff. September 1, 1996; November 1, <del>1994.</del> 1994;	
36		Repealed Eff.	

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### Appendix A – Proposed Rules

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1	15A NCAC 02I	O .1303 is proposed for readoption as a repeal as follows:
2		
3	15A NCAC 021	D.1303 DEFINITIONS
4	For the purpose	of this Section, "oxygenated gasoline" means any gasoline which contains a substance or substance
5	to raise the oxy	gen content of the gasoline to conform with Rule .1304 of this Section.
6		
7	History Note:	Authority G.S. 143-213; 143-215.3(a)(1); 143-215.108(c)(7);
8		Eff. September 1, <del>1992.</del> 1992;
9		Repealed Eff
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1	15A NCAC 02I	0.1304 is proposed for readoption as a repeal as follows:
2		
3	15A NCAC 021	D.1304 OXYGEN CONTENT STANDARD
4	Gasoline to whi	ch this Section applies in accordance with Rule .1302(a) of this Section shall have an oxygen conten
5	of not less than	2.7 percent by weight during the period defined in Rule .1302(c) of this Section.
6		
7	History Note:	Filed as a Temporary Amendment Eff. October 23, 1995 for a period of 180 days or until the
8		permanent rule becomes effective, whichever is sooner;
9		Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(7);
10		Eff. September 1, 1992;
11		Amended Eff. September 1, 1996; November 1, <del>1994.</del> <u>1994;</u>
12		Repealed Eff
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1	15A NCAC 021	D .1305 is proposed for readoption as a repeal as follows:
2		
3	15A NCAC 02	D .1305 MEASUREMENT AND ENFORCEMENT
4	(a) Gasoline sa	mples shall be taken and handled by methods approved by the Gasoline and Oil Inspection Board.
5	(b) Gasoline s	amples shall be analyzed by the American Society for Testing and Materials (ASTM) standard test
6	method, design	ation D 4815 89 or by other methods approved by the Gasoline and Oil Inspection Board and the
7	United States E	nvironmental Protection Agency.
8	(c) Enforcemen	nt shall be in accordance with procedures adopted by the Gasoline and Oil Inspection Board in 2 NCAC
9	<del>42 .0100.</del>	
10		
11	History Note:	Authority G.S. 119-26; 143-215.3(a)(1); 143-215.107(a)(3),(7); 150B-21.6;
12		Eff. September 1, 1992;
13		Amended Eff. July 1, <del>1998.</del> 1998;
14		Repealed Eff
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1	15A NCAC 02D .2001 is proposed for readoption with substantive changes as follows:
2	
3	SECTION .2000 - TRANSPORTATION CONFORMITY
4	
5	15A NCAC 02D .2001 PURPOSE, SCOPE AND APPLICABILITY
6	(a) The purpose of this Section is to assure the conformity of transportation plans, programs, and projects that are
7	developed, funded, or approved by the United States Department of Transportation and by metropolitan planning
8	organizations or other recipients of funds under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.), or
9	State or Local only sources of funds, with all plans required of areas designated as nonattainment or maintenance
10	under 40 CFR 81.334 for the pollutants specified therein or listed in Paragraph (b), (c), or (d) (c) of this Rule.
11	(b) This Section applies to the emissions of volatile organic compounds and nitrogen oxides in the following areas:
12	(1) Davidson County,
13	(2) Durham County,
14 15	(3) Forsyth County, (4) Gaston County,
16	(5) Guilford County,
17	(6) Mecklenburg County,
18	(7) Wake County,
19	(8) Dutchville Township in Granville County, and
20	(9) that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway
21	801, Fulton Creek, and back to the Yadkin River.
22	(1) townships of Central Cabarrus, Concord, Georgeville, Harrisburg, Kannapolis, Midland, Mount
23	Pleasant, New Gilead, Odell, Poplar Tent, and Rimertown in Cabarrus County
24	(2) townships of Crowders Mountain, Dallas, Gastonia, Riverbend, and South Point in Gaston County
25	(3) townships of Davidson and Coddle Creek in Iredell County
26	(4) townships of Catawba Springs, Lincolnton, and Ironton in Lincoln County
27	(5) all townships in Mecklenburg County;
28	(6) townships of Atwell, China Grove, Franklin, Gold Hill, Litaker, Locke, Providence, Salisbury,
29	Steele, and Unity in Rowan County
30	(7) townships of Goose Creek, Marshville, Monroe, Sandy Ridge, and Vance in Union County.
31	(c) This Section applies to the emissions of carbon monoxide in the following areas:
32	(1) Durham County,
33	(2) Forsyth County,
34	(3) Mecklenburg County, and
35	(4) Wake County.
36	(d)(c) This Section applies to the emissions of:

### Appendix A – Proposed Rules

1	(1)	particulate matter in areas identified in 40 CFR 81.334 as nonattainment or that have been
2		redesignated attainment and are current maintenance areas for fine particulate (PM2.5), or
3	(2)	volatile organic compounds or nitrogen oxides in areas identified in 40 CFR 81.334 as
4		nonattainment or that have been redesignated attainment and are current maintenance areas for
5		ozone.
6	(e)(d) This Section	on applies to FHWA/FTA projects or regionally significant State or local projects. For FHWA/FTA
7	projects or regio	nally significant State or local projects in the areas identified in Paragraph (b), (e), or (d)(b) of this
8	Rule and for the	pollutants identified in Paragraph (b), (c), or (d)(c) of this Rule, this Section applies to:
9	(1)	the adoption, acceptance, approval, or support of transportation plans and transportation plan
10		amendments developed pursuant to 23 CFR Part $450$ or $49$ CFR Part $613$ by a metropolitan planning
11		organization or the United States Department of Transportation;
12	(2)	the adoption, acceptance, approval, or support of transportation improvement programs or
13		amendments to transportation improvement programs pursuant to 23 CFR Part 450 or 49 CFR Part
14		613 by a metropolitan planning organization or the United States Department of Transportation; or
15	(3)	the approval, funding, or implementation of FHWA/FTA projects.
16	Conformity dete	erminations are not required under this Section for individual projects that are not FHWA/FTA
17	projects. However	ver, 40 CFR 93.121 shall apply to these projects if they are regionally significant projects.
18	(f)(e) This Section	on applies to maintenance areas for 20 years from the date the Environment Environmental Protection
19	Agency approv	es the area's request under Section 107(d) of the Clean Air Act for redesignation to
20	attainment.attain	ment or until the effective date of revocation of the conformity requirements for the NAAQS by EPA.
21		
22	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
23		Eff. April 1, 1999;
24		Amended Eff. December 1, <del>2005.</del> 2005:
25		Readopted Eff
26		

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1 2	15A NCAC 02D	.2002 is proposed for readoption without change as follows:
3	15A NCAC 02D	2.2002 DEFINITIONS
4		of this Section, the definitions contained in 40 CFR 93.101 and the following definitions apply:
5	(1)	"Consultation" means that one party confers with another identified party, provides all information
6		necessary to that party needed for meaningful input, and considers and responds to the views of tha
7		party in a timely, substantive written manner prior to any final decision.
8	(2)	"Regionally significant project" means a transportation project (other than an exempt project under
9		40 CFR 93.126) that is on a facility that serves regional transportation needs (such as access to and
LO		from the area outside of the region, major activity centers in the region, major planned developments
L1		such as new retail malls and sports complexes, or transportation terminals as well as most terminals
L2		themselves) and would normally be included in the modeling of a metropolitan area's transportation
L3		network, including at a minimum all principal arterial highways and all fixed guide way transi
L4		facilities that offer an alternative to regional highway travel.
L5	(3)	"Regionally significant State or local project" means any highway or transit project that is a
L6		regionally significant project and that is proposed to receive only funding assistance (receives no
L7		federal funding) or approval through the State or any local program.
L8		
L9	History Note:	Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);
20		Eff. April 1, <del>1999.</del> 1999:
21		Readopted Eff
22		
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#### Appendix A – Proposed Rules

1 15A NCAC 02D .2003 is proposed for readoption without substantive change as follows:

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#### 15A NCAC 02D .2003 TRANSPORTATION CONFORMITY DETERMINATION

- (a) Conformity analyses, determinations, and redeterminations for transportation plans, transportation improvement programs, FHWA/FTA projects, and State or local regionally significant projects shall be made according to the requirements of 40 CFR 93.104 and shall comply with the applicable requirements of 40 CFR 93.119, 93.120, 93.124, 93.125, and 93.126. For the purposes of this Rule, regionally significant State or local projects shall be subject to the same requirements under 40 CFR Part 93 as FHWA/FTA projects except that State Environmental Policy Act procedures and requirements shall be substituted for National Environmental Policy Act procedures and requirements. Regionally significant State or local projects subject to this Section for which the State Environmental Policy Act process and a conformity determination have been completed may proceed toward implementation without further conformity determination unless more than three years have elapsed since the most recent major step (State Environmental Policy Act process completion, start of final design, acquisition of a significant portion of the right-ofway, or approval of the plans, specifications, and estimates) occurred. All phases of these projects considered in the conformity determination are also included if these phases were for the purpose of funding final design, right-of-way acquisition, construction, or any combination of these phases. (b) Before making a conformity determination, the metropolitan planning organizations, local transportation departments, North Carolina Department of Transportation, United States Department of Transportation, the Division of Air Quality, local air pollution control agencies, and United States Environmental Protection Agency shall consult with each other on matters described in 15A NCAC 2D02D .2005. Consultation shall begin as early as possible in the development of the emissions analysis used to support a conformity determination. The agency that performs the emissions analysis shall make the analysis available to the Division of Air Quality and at least 21 days shall be allowed for review and comment on the emissions analysis. The 21-day review period shall begin upon receipt of the analysis by the Director of the Division of Air Quality. After review by the Division of Air Quality the approving agency shall seek public comments in accordance with its public participation policy. The agency making the conformity determination shall address all written comments received prior to close of the public comment period, and these comments and responses thereto shall be included in the final document. If the Division of Air Quality disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall be resolved in
- 31 (c) The agency that performs the conformity analysis shall notify the Division of Air Quality of:

of Air Quality of the metropolitan planning organization's resolution that determines conformity.

(1) any changes in planning or analysis assumptions [including land use and vehicle miles traveled (VMT) forecasts], and

accordance with 40 CFR 93.105(d). The 14-day appeal period shall begin upon receipt by the Director of the Division

(2) any revisions to transportation plans or transportation improvement plans that add, delete, or change projects that require a new emissions analysis (including design scope and dates that change the transportation network existing in a horizon year).

# Appendix A – Proposed Rules

1	Comments made by the Division of Air Quality and responses thereto made by the agency shall become part of the				
2	final planning document.				
3	(d) Transportation plans shall satisfy the requirements of 40 CFR 93.106. Transportation plans and transportation				
4	improvement programs shall satisfy the fiscal constraints specified in 40 CFR 93.108. Transportation plans, programs,				
5	and FHWA/FTA projects shall satisfy the applicable requirements of 40 CFR 93.109 through 93.118.93.119.				
6	(e) Written commitments to implement control measures that are not included in the transportation plan and				
7	transportation improvement program (TIP) shall be obtained before a conformity determination and these				
8	commitments shall be fulfilled. Written commitments to implement mitigation measures shall be obtained before a				
9	positive conformity determination, and project sponsors shall comply with these commitments.				
LO	(f) A recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall not adopt or approve				
l1	a regionally significant highway or transit project, regardless of funding source, unless the requirements of 40 CFR				
<b>L</b> 2	Part 93 are fully complied with.				
L3	(g) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality				
L4	modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969				
<b>L</b> 5	process, in accordance with 40 CFR 93.107.				
L6	(h) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration				
L7	and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation				
L8	of those transportation portions of an applicable implementation plan prepared to attain and maintain the national				
L9	ambient air quality standards as provided under 40 CFR 93.103. This priority shall be consistent with statutory				
20	requirements for allocation of funds among states or other jurisdictions.				
21					
22	History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10);				
23	Eff. April 1, <del>1999.<u>1</u>999;</del>				
24	Readopted Eff				
25					

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1	15A NCAC 02I	2004 is j	proposed for readoption without change as follows:
2			
3	15A NCAC 021	D .2004	DETERMINING TRANSPORTATION-RELATED EMISSIONS
4	(a) The procedu	ures in 40 (	CFR 93.122 shall be used to determine regional transportation-related emissions.
5	(b) The procedu	ures in 40 (	CFR 93.123 shall be used to determine localized carbon monoxide concentrations (hot-spot
6	analysis).		
7			
8	History Note:	Authorit	ty G.S. 143-215.3(a)(1); 143-215.107(a)(10);
9		Eff. Apri	il 1, <del>1999.</del> <u>1999.</u>
LO		Readopt	ted Eff
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1	15A NCAC 02I	.2005 i	s proposed for readoption without substantive change as follows:
2			
3	15A NCAC 02I	2005	MEMORANDUM OF AGREEMENT
4	(a) The Division	on of Air	Quality shall develop and maintain a memorandum of agreement with the North Carolina
5	Department of T	ransport	tation, the metropolitan planning organizations of the areas identified in 15A NCAC 02D Rule
6	.2001 <del>(b), (c), o</del>	r (d) of t	his Section, and the United States Department of Transportation to describe the participation
7	and responsibili	ties of ea	ach of these agencies in implementing the requirements of this Section and 40 CFR Part 93.
8	For those areas	identifi	ed in Rule 15A NCAC 02D .2001(b), (c), or (d) of this Section for which there is no
9	metropolitan pla	anning of	rganization, the North Carolina Department of Transportation shall represent those areas for
10	the purposes of	the mem	orandum of agreement. The memorandum of agreement shall include:
11	(1)	consul	tation procedures described under 40 CFR 93.105;
12	(2)	the pro	ojected time allotted for each agency to review and comment on or to respond to comments
13		on trar	asportation improvement programs, transportation plans, and transportation projects; and
14	(3)	consul	tation procedures for the development of State Implementation Plans that relate to
15		transpo	ortation.
16	The contents of	the Mer	morandum of Agreement shall comply with the criteria and procedures in the federal Clean
17	Air Act Section	176(c)	[42 U.S.C. 7401-7671q] and 40 CFR Part 51, Subpart T, 40 CFR Part 93, Subpart A, and
18	Rules 15A NCA	<u>C 02D</u> .2	2001 through <del>.2004 of this Section.</del> .2004.
19	(b) No recipient	of feder	al funds (as defined at 40 CFR 93.101) designated under Title 23 U.S.C. or the Federal Transit
20	Act shall adopt or approve or take any action to develop or implement a regionally significant highway or transfer		
21	project unless such recipient has signed the Memorandum of Agreement established under this Rule. This		
22	Memorandum o	f Agreen	nent shall bind the recipient to adhere to the conformity criteria and procedures of this Section.
23	(c) No agency	y shall a	adopt or approve or take any action to implement or develop any transportation plan,
24	transportation in	nprovem	nent program, or federally funded or approved FHWA/FTA highway or transit project unless
25	the agency has signed the Memorandum of Agreement established under this Rule. This Memorandum of Agreement		
26	shall bind the re	cipient to	o adhere to the conformity criteria and procedures of this Section.
27	(d) Each federa	ıl agency	that participates in determinations of conformity to state and federal implementation plans
28	shall sign the Memorandum of Agreement established under this Rule. This Memorandum of Agreement shall bin		
29	the recipient to a	adhere to	the conformity criteria and procedures of this Section.
30			
31	History Note:	Author	rity G.S. 143-215.3(a)(1); 143-215.107(a)(10);
32		Eff. Ap	oril 1, <del>1999.<u>1</u>999;</del>
33		<u>Reado</u>	pted Eff
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Appendix A – Proposed Rules

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1	15A NCAC 02D .2201 is proposed for readoption without change as follows:		
2			
3	SECTION .2200 – SPECIAL ORDERS		
4			
5	15A NCAC 02D .2201 PURPOSE		
6	The purpose of this Section is to implement the provisions of G.S. 143-215.110 pertaining to the issuance of air quali		
7	Special Orders by the Environmental Management Commission.		
8			
9	History Note: Authority G.S. 143-215.3(a)(1); 143-215.110;		
10	Eff. April 1, <del>2004.</del> 2004;		
11	Readopted Eff		
12			
13			

1	15A NCAC 02D	2.2202 is proposed for readoption without change as follows:
2		
3	15A NCAC 02I	D.2202 DEFINITIONS
4	For the purposes	s of this Section, the following definitions apply:
5	(1)	"Special Order" means a directive of the Commission to any person whom it finds responsible for
6		causing or contributing to any pollution of the air of the State. The term includes all orders or
7		instruments issued by the Commission pursuant to G.S. 143-215.110.
8	(2)	"Consent Order" means a Special Order into which the Commission enters with the consent of the
9		person who is subject to the order.
10	(3)	"Special Order by Consent" means "Consent Order."
11		
12	History Note:	Authority G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.110;
13		Eff. April 1, <del>2004.</del> 2004;
14		Readopted Eff
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#### Appendix A – Proposed Rules

1 15A NCAC 02D .2203 is proposed for readoption with substantive change as follows: 2 3 15A NCAC 02D .2203 PUBLIC NOTICE 4 (a) The requirements of this Rule for public notice and public hearing apply to Consent Orders. The Commission may 5 specify other conditions for Special Orders issued without consent if it finds such conditions are necessary to achieve 6 or demonstrate compliance with a requirement under this Subchapter or 15A NCAC 02Q. 7 (b) Notice of proposed Consent Order: 8 (1) The Director shall give notice pursuant to G.S. 143-215.110(a1). 9 (2) The Director shall give notice of a proposed Consent Order at least 30 days prior to any final action 10 regarding the Consent Order. 11 (3) The notice shall be posted on the North Carolina Division of Air Quality web site at 12 http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent 13 and provided to those persons specified in G.S. 143-215.110(a1)(1) for air quality special orders. 14  $\frac{(2)(4)}{(4)}$ The notice shall include at least the following: 15 name, address, and telephone number of the Division; (A) 16 (B) name and address of the person to whom the proposed order is directed; 17 a brief summary of the conditions of the proposed order including the period of time in (C) 18 which action shall be taken to achieve compliance and the major permit conditions or 19 emission standards that the source will be allowed to exceed during the pendency of the 20 order; 21 (D) a brief description of the procedures to be followed by the Commission or Director in 22 reaching a final decision on the proposed order, which shall include descriptions of the 23 process for submitting comments and requesting a public hearing. The description shall 24 specify that comments and requests for a public hearing are to be received by the Division 25 within 30 days following the date of public notice; and 26 (E) a description of the information available for public review, where it can be found, and 27 procedures for obtaining copies of pertinent documents. 28 (c) Notice of public hearing for proposed Consent Order: 29 The Director shall consider all requests for a public hearing, and if he determines significant public (1) 30 interest for a public hearing exists, then he shall hold a public hearing. 31 (2) The Director shall give notice of the public hearing at least 30 days before the hearing. 32 (3) The notice shall be advertised in a local newspaper posted on the North Carolina Division of Air 33 Quality web site at http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-34 orders-by-consent and provided to those persons specified in G.S. 143-215.110(a1)(2) for air quality 35 special orders. 36 (4) The notice shall include the information specified in Subparagraph (b)(2)(b)(4) of this Rule. It shall 37 also state the time and location for the hearing along with procedures for providing comment.

1	(5)	The Chairman of the Commission or the Director shall appoint one or more hearing officers to	
2		preside over the public hearing and to receive written and oral comments. The hearing officer shall	
3		provide the Commission a written report of the hearing, which shall include:	
4		(A) a copy of the public notice published in the newspaper; notice;	
5		(B) a copy of all the written comments and supporting documentation received;	
6		(C) a summary of all the oral comments received;	
7		(D) recommendations of the hearing officer to the Commission; and	
8		(E) a proposed Consent Order for the Commission's consideration.	
9	(d) Any person	may request to receive copies of all notices required by this Rule, and the Director shall mail copies	
10	of notices to those who have submitted a request.		
11	(e) The Director may satisfy the requirements in Paragraphs (b) and (c) of this Rule by issuing a notice that complie		
12	with both Parag	raphs.	
13	(f) Any Conser	nt Order may be amended by the Director to incorporate minor modifications, such as modification of	
14	standard condit	ions to reflect updated versions, correction of typographical errors, or interim date extensions, in a	
15	consent order w	rithout public notice provided that the modifications do not extend the final compliance date by more	
16	than four month	is.	
17			
18	History Note:	Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110;	
19		Eff. April 1, <del>2004.</del> 2004;	
20		Readopted Eff/	
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1	15A NCAC 021	2204 is proposed for readoption as follows:	
2			
3	15A NCAC 02	D .2204 FINAL ACTION ON CONSENT ORDERS	
4	(a) The Direct	or shall take final action for the Commission on Consent Orders for which a public hearing has not	
5	been held as provided in Rule .2203 of this Section.15A NCAC 02D .2203. The final action on the proposed order		
6	shall be taken no later than 60 days following publication of the notice.		
7	(b) The Commission shall take final action on Consent Orders for which a public hearing has been held as provided		
8	in Rule .2203 of this Section. 15A NCAC 02D .2203. The final action on the proposed order shall be taken no late		
9	than 90 days fo	llowing the hearing.	
10			
11	History Note:	Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4); 143-215.110;	
12		Eff. April 1, <del>2004.</del> 2004;	
13		Readopted Eff	
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1	15A NCAC 02I	2.2205 is proposed for readoption without change as follows:
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3	15A NCAC 02	D .2205 NOTIFICATION OF RIGHT TO CONTEST SPECIAL ORDERS ISSUED
4		WITHOUT CONSENT
5	For any Special	Orders other than Consent Orders, the Commission shall notify the person subject to the order of the
6	procedure set or	at in G.S. 150B-23 to contest the Special Order.
7		
8	History Note:	Authority G.S. 143-215.2(b); 143-215.3(a)(1); 143-215.110(b);
9		Eff. April 1, <del>2004.</del> 2004;
10		Readopted Eff
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### 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 31, Issue 24, pages 2463-2478.
- 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
- 8. Letter notifying EPA of hearing.
- 9. Letter transmitting hearing record to EPA.

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