

**CHAPTER 17 - AIR QUALITY PERMITS PROCEDURES****SECTION .0100 - GENERAL PROVISIONS****.0101 REQUIRED AIR QUALITY PERMITS**

(a) No owner or operator shall do any of the following activities, that is not otherwise exempted, without first applying for and obtaining an air quality permit:

- (1) construct, operate, or modify a source subject to an applicable standard, requirement, or rule that emits any regulated pollutant or one or more of the following:
  - (A) sulfur dioxide,
  - (B) total suspended particulates,
  - (C) particulate matter (PM10),
  - (D) carbon monoxide,
  - (E) nitrogen oxides,
  - (F) volatile organic compounds,
  - (G) lead and lead compounds,
  - (H) fluorides,
  - (I) total reduced sulfur,
  - (J) reduced sulfur compounds,
  - (K) hydrogen sulfide,
  - (L) sulfuric acid mist,
  - (M) asbestos,
  - (N) arsenic and arsenic compounds,
  - (O) beryllium and beryllium compounds,
  - (P) cadmium and cadmium compounds,
  - (Q) chromium(VI) and chromium(VI) compounds,
  - (R) mercury and mercury compounds,
  - (S) hydrogen chloride,
  - (T) vinyl chloride,
  - (U) benzene,
  - (V) ethylene oxide,
  - (W) dioxins and furans,
  - (X) ozone, or
  - (Y) any toxic air pollutant listed in Chapter 4 .1104; or
- (2) construct, operate, or modify a facility that has the potential to emit at least 10 tons per year of any hazardous air pollutant or 25 tons per year of all hazardous air

pollutants combined or that are subject to requirements established under the following sections of the federal Clean Air Act:

- (A) Section 112(d), emissions standards;
  - (B) Section 112(f), standards to protect public health and the environment;
  - (C) Section 112(g), construction and reconstruction;
  - (D) Section 112(h), work practice standards and other requirements;
  - (E) Section 112(i)(5), early reduction;
  - (F) Section 112(j), federal failure to promulgate standards;
  - (G) Section 112(r), accidental releases.
- (b) There are two types of air quality permits:
- (1) Stationary Source Construction and Operation Permit: With the exception allowed by G.S. 143-215.108A, the owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit in accordance with the standard procedures under Section .0300 of this Chapter. Title V facilities are subject to the Title V procedures under Section .0500 of this Chapter including the acid rain procedures under Section .0400 of this Chapter. A facility may also be subject to the air toxic procedures under Chapter 17 .0700.
  - (2) Transportation Facility Construction Permit. The owner or operator of a transportation facility subject to the requirements of Chapter 4 .0800 shall obtain a construction only permit following the procedures under Section .0600 of this Chapter.
- (c) Fees shall be paid in accordance with the requirements of Section .0200 of this Chapter.

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**.0102 ACTIVITIES EXEMPTED FROM PERMIT REQUIREMENTS**

(a) This Rule does not apply to facilities required to have a permit under Section .0500 of this Chapter. This Rule applies only to permits issued under Section .0300 of this Chapter.

(b) If a source is subject to any of the following rules, then the source is not exempted from permit requirements, and the exemptions in Paragraph (c) of this Rule do not apply:

- (1) new source performance standards under Chapter 4 .0524 or 40 CFR Part 60, except when the following activities are eligible for exemption under Paragraph (c) of this Rule:
  - (A) 40 CFR Part 60, Subpart Dc, industrial, commercial, and institutional steam generating units;
  - (B) 40 CFR Part 60, Subparts K, Ka, or Kb, volatile organic liquid storage vessels;
  - (C) 40 CFR Part 60, Subpart AAA, new residential wood heaters; or
  - (D) 40 CFR Part 60, Subpart JJJ, petroleum dry cleaners; or
  - (E) Reserved;
  - (F) 40 CFR Part 60, Subpart IIII, stationary compression ignition internal combustion engines; or
  - (G) 40 CFR Part 60, Subpart JJJJ, stationary spark ignition internal combustion engines;
- (2) national emission standards for hazardous air pollutants under Chapter 4 .1110 or 40 CFR Part 61, which are eligible for exemption under Paragraph (c) of this Rule;
- (3) prevention of significant deterioration under Chapter 4 .0530;
- (4) new source review under Chapter 4 .0531 or .0532;
- (5) Reserved;
- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under Chapter 4 .1109, .1111, .1112, or 40 CFR Part 63 that are required to have a permit under Section .0500 of this Chapter;
- (7) sources at facilities subject to Chapter 4 .1100. (If a source does not emit a toxic air pollutant for which the facility at which it is located has been modeled, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraph (c) of this Rule).

(c) The following activities do not need a permit or permit modification under Section .0300 of this Chapter; however, the Director may require the owner or operator of these activities to register them under Chapter 4 .0200:

- (1) activities exempted because of category:
  - (A) maintenance, upkeep, and replacement:

- (i) maintenance, structural changes, or repairs which do not change the capacity of such process, fuel-burning, refuse-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of regulated air pollutants;
  - (ii) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or non-asbestos insulation removal;
  - (iii) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
  - (iv) use of fire fighting equipment;
  - (v) paving parking lots; or
  - (vi) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants and that does not affect the compliance status, and with replacement equipment that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under that permit without any changes in the permit;
- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (C) laboratory activities:
- (i) bench-scale, on-site equipment used exclusively for chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
  - (ii) bench-scale experimentation, chemical or physical analyses, training or instruction from not-for-profit, non-production educational laboratories;
  - (iii) bench-scale experimentation, chemical or physical analyses, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illness; or
  - (iv) research and development laboratory activities provided the activity produces no commercial product or feedstock material;
- (D) storage tanks:

- (i) storage tanks used solely to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquefied petroleum gas;
  - (ii) storage tanks used to store gasoline or ethanol-based fuels for which there are no applicable requirements;
  - (iii) storage tanks used solely to store inorganic liquids; or
  - (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency response to an unanticipated release of hazardous materials;
- (E) combustion and heat transfer equipment:
- (i) space heaters burning distillate oil, kerosene, natural gas, or liquefied petroleum gas operating by direct heat transfer and used solely for comfort heat;
  - (ii) residential wood stoves, heaters, or fireplaces;
  - (iii) hot water heaters which are used for domestic purposes only and are not used to heat process water;
- (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no applicable requirements;
- (G) Reserved;
- (H) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;
- (I) solvent recycling: portable solvent distillation systems used for on-site solvent recycling if:
- (i) The portable solvent distillation system is not:
    - (I) owned by the facility, and
    - (II) operated at the facility for more than seven consecutive days; and
  - (ii) The material recycled is recycled at the site of origin;
- (J) processes:
- (i) electric motor burn-out ovens with secondary combustion chambers or afterburners;
  - (ii) electric motor bake-on ovens;
  - (iii) burn-off ovens for paint-line hangers with afterburners;
  - (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
  - (v) blade wood planers planing only green wood;

- (K) solid waste landfills: municipal solid waste landfills (This Part does not apply to flares and other sources of combustion at solid waste landfills; these flares and other combustion sources are required to be permitted under Chapter 17.0300 unless they qualify for another exemption under this Paragraph.);
- (L) miscellaneous:
- (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
  - (ii) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the federal Clean Air Act (Generators are required to be permitted under Chapter 17.0300 unless they qualify for another exemption under this Paragraph.);
  - (iii) portable generators regulated by rules adopted under Title II of the Federal Clean Air Act;
  - (iv) equipment used for the preparation of food for direct on-site human consumption;
  - (v) a source whose emissions are regulated only under Section 112(r) or Title VI of the federal Clean Air Act;
  - (vi) exit gases from in-line process analyzers;
  - (vii) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
  - (viii) refrigeration equipment that is consistent with Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA under Title VI for stratospheric ozone protection, except those units used as or in conjunction with air pollution control equipment (A unit used as or in conjunction with air pollution control equipment is required to be permitted under Chapter 17.0300 unless it qualifies for another exemption under this Paragraph.);
  - (ix) equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic compounds (Equipment that emits volatile organic compounds is required to be permitted under Chapter 17.0300 unless it qualifies for another exemption under this Paragraph.);
  - (x) equipment that does not emit any regulated air pollutants;
  - (xi) facilities subject only to a requirement under 40 CFR Part 63 (This Subpart does not apply when a control device is used to meet a MACT

or GACT emission standard; a control device used to meet a MACT or GACT emission standard is required to be permitted under Chapter 17.0300 unless it qualifies for another exemption under this Paragraph.);

- (xii) sources for which there are no applicable requirements
  - (xiii) animal operations not required to have control technology under Chapter 4 .1800 (If an animal operation is required to have control technology, it shall be required to have a permit under this Chapter).
- (2) activities exempted because of size or production rate:
- (A) storage tanks, except those regulated by Chapter 4. 0928, .0953, and .0954:
    - (i) above-ground storage tanks with a storage capacity of no more than 1100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 pounds per square inch absolute at 70°F; or
    - (ii) underground storage tanks with a storage capacity of no more than 2500 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F;
  - (B) combustion and heat transfer equipment:
    - (i) fuel combustion equipment, except for internal combustion engines, firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed with natural gas or liquefied petroleum gas with a heat input of less than:
      - (I) 10 million Btu per hour for which construction, modification, or reconstruction commenced after June 9, 1989; or
      - (II) 30 million Btu per hour for which construction, modification, or reconstruction commenced before June 10, 1989;
 (Internal combustion engines are required to be permitted under Chapter 17.0300 unless they qualify for another exemption under this Paragraph.);
    - (ii) fuel combustion equipment, except for internal combustion engines, firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels with a heat input rating less than 65 million Btu per hour (Internal combustion engines are required to be permitted under Chapter 17.0300 unless they qualify for another exemption under this Paragraph.);
    - (iii) space heaters burning waste oil if:
      - (I) The heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as household wastes;

- (II) The heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; and
  - (III) The combustion gases from the heater are vented to the ambient air;
  - (iv) fuel combustion equipment with a heat input rating less than 10 million Btu per hour that is used solely for space heating except:
    - (I) space heaters burning waste oil, or
    - (II) internal combustion engines;
  - (v) emergency use generators and other internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of no more than:
    - (I) 680 kilowatts (electric) or 1000 horsepower for natural gas-fired engines,
    - (II) 1800 kilowatts (electric) or 2510 horsepower for liquefied petroleum gas-fired engines,
    - (III) 590 kilowatts (electric) or 900 horsepower for diesel-fired or kerosene-fired engines, or
    - (IV) 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines; (Self-propelled vehicles with internal combustion engines are exempted under Subpart (1)(c)(L)(i) of this Paragraph.);
  - (vi) portable generators and other portable equipment with internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that operate at the facility no more than a combined 350 hours for any 365-day period provided the generators or engines have a rated capacity of no more than 750 kilowatt (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation (Self-propelled vehicles with internal combustion engines are exempted under Subpart (1)(c)(L)(i) of this Paragraph.);
  - (vii) peak shaving generators that produce no more than 325,000 kilowatt-hours of electrical energy for any 12-month period provided records are maintained to verify the energy production on a monthly basis and on a 12-month basis;
- (C) gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4000 gallons;
- (D) processes:



- (i) graphic arts operations, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices), and solvent cleaning operations located at a facility whose facility-wide actual emissions of volatile organic compounds are less than five tons per year (Graphic arts operations, coating operations, and solvent cleaning operations are defined in Chapter 17 .0803);
  - (ii) sawmills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;
  - (iii) perchloroethylene dry cleaners that emit less than 13,000 pounds of perchloroethylene per year;
  - (iv) electrostatic dry powder coating operations with filters or powder recovery systems including electrostatic dry powder coating operations equipped with curing ovens with a heat input of less than 10,000,000 Btu per hour;
- (E) miscellaneous:
- (i) any source whose emissions would not violate any applicable emissions standard and whose potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff except:
    - (I) storage tanks,
    - (II) fuel combustion equipment,
    - (III) space heaters burning waste oil,
    - (IV) generators, excluding emergency generators, or other non-self-propelled internal combustion engines,
    - (V) bulk gasoline plants,
    - (VI) printing, paint spray booths, or other painting or coating operations,
    - (VII) sawmills,
    - (VIII) perchloroethylene dry cleaners, or
    - (IX) electrostatic dry powder coating operations,provided that the total potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the facility are each less than 40 tons per year and the total potential emissions of all hazardous air pollutants are below their lesser quantity

cutoff emission rates or provided that the facility has an air quality permit. (A source identified in Sub-subpart (I) through (IX) of this Part is required to be permitted under Chapter 17 .0300 unless it qualifies for another exemption under this Paragraph);

- (ii) any facility whose actual emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., uncontrolled emissions, are each less than five tons per year, whose potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rate, and none of whose sources would violate an applicable emissions standard;
  - (iii) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; or
  - (iv) any incinerator covered under Subparagraph (c)(4) of Chapter 4 .1201;
- (F) case-by-case exemption: activities that the applicant demonstrates to the satisfaction of the Director:
- (i) to be negligible in their air quality impacts,
  - (ii) not to have any air pollution control device, and
  - (iii) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater.

(d) Because an activity is exempted from being required to have a permit does not mean that the activity is exempted from any applicable requirement or that the owner or operator of the source is exempted from demonstrating compliance with any applicable requirement.

(e) Emissions from stationary source activities identified in Paragraph (c) of this Rule shall be included in determining compliance with the toxic air pollutant requirements under Chapter 4 .1100 or Chapter 17.0700 according to Chapter 17 .0702 (exemptions from air toxic permitting).

(f) The owner or operator of a facility or source claiming an exemption under Paragraph (c) of this Rule shall provide the Director documentation upon request that the facility or source is qualified for that exemption.

(g) If the Director finds that an activity exempted under Paragraph (c) of this Rule is in violation of or has violated a rule in Chapter 4, he shall revoke the permit exemption for that activity and require that activity to be permitted under this Chapter if necessary to obtain or maintain compliance.

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### **.0103 DEFINITIONS**

For the purposes of this Chapter, the definitions in G.S. 143-212 and 143-213 and the following definitions apply:

- (1) "Administrator" means when it appears in any Code of Federal Regulation incorporated by reference in this Subchapter, the Director and Board of the Agency unless:
  - (a) a specific rule in this Subchapter specifies otherwise, or
  - (b) the U.S. Environmental Protection Agency in its delegation or approval specifically states that a specific authority of the Administrator of the Environmental Protection Agency is not included in its delegation or approval.
- (2) "Air Pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter which is emitted into or otherwise enters the ambient air. Water vapor is not considered to be an air pollutant.
- (3) "Allowable emissions" mean the maximum emissions allowed by the applicable rules contained in Chapter 4 or by permit conditions if the permit limits emissions to a lesser amount.
- (4) "Alter or change" means to make a modification.
- (5) "Applicable requirements" means:
  - (a) any requirement of Section .0500 of this Chapter;

- (b) any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through rulemaking under Title I of the federal Clean Air Act that implements the relevant requirements of the federal Clean Air Act including any revisions to 40 CFR Part 52;
  - (c) any term or condition of a construction permit for a facility covered under Chapter 4 .0530, .0531, or .0532;
  - (d) any standard or other requirement under Section 111 or 112 of the federal Clean Air Act, but not including the contents of any risk management plan required under Section 112 of the federal Clean Air Act;
  - (e) any standard or other requirement under Title IV;
  - (f) any standard or other requirement governing solid waste incineration under Section 129 of the federal Clean Air Act;
  - (g) any standard or other requirement under Section 183(e), 183(f), or 328 of the federal Clean Air Act;
  - (h) any standard or requirement under Title VI of the federal Clean Air Act unless a permit for such requirement is not required under this Section;
  - (i) any requirement under Section 504(b) or 114(a)(3) of the federal Clean Air Act; or
  - (j) any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to 504(e) of the federal Clean Air Act.
- (6) "Applicant" means the person who is applying for an air quality permit from the Agency.
- (7) "Application package" means all elements or documents needed to make an application complete.
- (8) "CFR" means Code of Federal Regulations.
- (9) "Construction" means change in the method of operation or any physical change (including on-site fabrication, erection, installation, replacement, demolition, or modification of a source) that results in a change in emissions or affects the compliance status. The following activities are not construction:
- (a) clearing and grading;
  - (b) building access roads, driveways, and parking lots, except parking lots required to have a construction permit under Chapter 17.0600;
  - (c) building and installing underground pipe work, including water, sewer, electric, and telecommunications utilities; or

- (d) building ancillary structures, including fences and office buildings that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108.
- (10) "Director" means the Director of the Agency.
- (11) Reserved.
- (12) "EPA" means the United States Environmental Protection Agency or the Administrator of the Environmental Protection Agency.
- (13) "EPA approves" means full approval, interim approval, or partial approval by EPA.
- (14) "Equivalent unadulterated fuels" means used oils that have been refined such that the content of toxic additives or contaminants in the oil are no greater than those in unadulterated fossil fuels.
- (15) "Facility" means all of the pollutant emitting activities, except transportation facilities as defined under Rule .0802 of this Chapter, that are located on one or more adjacent properties under common control.
- (16) "Federally enforceable" or "federal-enforceable" means enforceable by EPA.
- (17) "Fuel combustion equipment" means any fuel burning source covered under Chapter 4 .0503, .0504, .0536, or 40 CFR Part 60 Subpart D, Da, Db, or Dc.
- (18) "Green wood" means wood with a moisture content of 18 percent or more.
- (19) "Hazardous air pollutant" means any pollutant which has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants listed only in Chapter 4 .1104 (Toxic Air Pollutant Guidelines), but not pursuant to Section 112(b), are not included in this definition.
- (20) "Insignificant activities" means activities defined as insignificant activities because of category or as insignificant activities because of size or production rate under Rule .0503 of this Chapter.
- (21) "Lesser quantity cutoff" means:
  - (a) for a source subject to the requirements of Section 112(d) or (j) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which the following are not required:
    - (i) maximum achievable control technology (MACT) or generally available control technology (GACT), including work practice standards, requirement under Section 112(d) of the federal Clean Air Act;
    - (ii) a MACT standard established under Section 112(j) of the federal Clean Air Act; or
    - (iii) substitute MACT or GACT adopted under Section 112(l) of the federal Clean Air Act.

- (b) for modification of a source subject to, or may be subject to, the requirements of Section 112(g) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which MACT is not required to be applied under Section 112(g) of the federal Clean Air Act; or
  - (c) for all other sources, potential emissions of each hazardous air pollutant below 10 tons per year and the aggregate potential emissions of all hazardous air pollutants below 25 tons per year.
- (22) "Major facility" means a major source as defined under 40 CFR 70.2.
  - (23) "Modification" means any physical change or change in method of operation that results in a change in emissions or affects compliance status of the source or facility.
  - (24) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
  - (25) "Peak shaving generator" means a generator that is located at a facility and is used only to serve that facility's on-site electrical load during peak demand periods for the purpose of reducing the cost of electricity; it does not generate electricity for resale. A peak shaving generator may also be used for emergency backup.
  - (26) "Permit" means the legally binding written document, including any revisions thereto, issued pursuant to the Agency Code to the owner or operator of a facility or source that emits one or more air pollutants and that allows that facility or source to operate in compliance with the Agency Code. This document specifies the requirements applicable to the facility or source and to the permittee.
  - (27) "Permittee" means the person who has received an air quality permit from the Agency.
  - (28) "Potential emissions" means the rate of emissions of any air pollutant that would occur at the facility's maximum capacity to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a facility to emit an air pollutant shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations include air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed. Potential emissions include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions do not include a facility's secondary emissions such as those from motor vehicles associated with the facility and do not include emissions from insignificant activities because of category as defined under Rule .0503 of this Section. If a rule in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants covered under that rule.

- (29) "Portable generator" means a generator permanently mounted on a trailer or a frame with wheels.
- (30) "Regulated air pollutant" means:
- (a) nitrogen oxides or any volatile organic compound as defined under 40 CFR 51.100;
  - (b) any pollutant for which there is an ambient air quality standard under 40 CFR Part 50;
  - (c) any pollutant regulated under Chapter 4 .0524, .1110, or .1111 or 40 CFR Part 60, 61, or 63;
  - (d) any pollutant subject to a standard promulgated under Section 112 of the federal Clean Air Act or other requirements established under Section 112 of the federal Clean Air Act, including Section 112(g) (but only for the facility subject to Section 112(g)(2) of the federal Clean Air Act), (j), or (r) of the federal Clean Air Act; or
  - (e) any Class I or II substance listed under Section 602 of the federal Clean Air Act.
- (31) "Sawmill" means a place or operation where logs are sawed into lumber consisting of one or more of these activities: debarking, sawing, and sawdust handling. Activities that are not considered part of a sawmill include chipping, sanding, planing, routing, lathing, and drilling.
- (32) "Source" means any stationary article, machine, process equipment, or other contrivance, or combination thereof, from which air pollutants emanate or are emitted, either directly or indirectly.
- (33) "Toxic air pollutant" means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants that are listed in Chapter 4 .1104.
- (34) "Transportation facility" means a complex source as defined at G.S. 143-213(22) that is subject to the requirements of Chapter 4 .0800.
- (35) "Unadulterated fossil fuel" means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that could result in the emissions of a toxic air pollutant listed under Chapter 4 .1104.

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Amended Eff. March 13, 2006; July 10, 2000.*

#### **.0104 WHERE TO OBTAIN AND FILE PERMIT APPLICATIONS**

(a) Application forms for a permit or permit modification may be obtained from and shall be filed with the Director, Western North Carolina Regional Air Quality Agency, 49 Mt. Carmel Road, Asheville, North Carolina 28806.

(b) The number of copies of applications to be filed are specified in Rules .0305 (construction and operation permit procedures), .0507 (Title V permit procedures), and .0602 (transportation facility construction air permit procedures) of this Chapter.

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*WNCRAQA History Note: Adopted Eff. May 8, 2000;  
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#### **.0105 COPIES OF REFERENCED DOCUMENTS**

(a) Copies of applicable Code of Federal Regulations (CFR) sections referred to in this Chapter are available for public inspection at the Agency office, located at 49 Mt. Carmel Road, Asheville, North Carolina 28806.

(b) Permit applications and permits may be reviewed at the Agency offices, located at 49 Mt. Carmel Road, Asheville, North Carolina 28806, excluding information entitled to confidential treatment under Rule .0107 of this Section.

(c) Copies of CFR, permit applications, and permits can be made for five cents (\$0.05) per page.

*NCDAQ History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner; Statutory Authority G.S. 143-215.3(a)(1); 150B-19(5);*



*Eff. July 1, 1994.*

*WNCRAQA History Note: Adopted Eff. May 8, 2000*

**.0106 INCORPORATION BY REFERENCE**

- (a) Referenced CFR contained in this Chapter are incorporated by reference.
- (b) The CFR incorporated by reference in this Chapter shall automatically include any later amendments thereto unless a specific rule specifies otherwise.
- (c) The CFR may be purchased from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250.

*NCDAQ History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner; Statutory Authority G.S. 143-215.3(a)(1); 150B-21.6; Eff. July 1, 1994.*

*WNCRAQA History Note: Adopted Eff. May 8, 2000*

**.0107 CONFIDENTIAL INFORMATION**

- (a) All information required to be submitted to the Director under this Chapter or Chapter 4 of this Code shall be disclosed to the public unless the person submitting the information can demonstrate that the information is entitled to confidential treatment .
- (b) A request that information be treated as confidential shall be made by the person submitting the information at the time that the information is submitted. The request shall state in writing reasons why the information should be held confidential. Any request not meeting these requirements shall be invalid.
- (c) The Director shall decide which information is entitled to confidential treatment and shall notify the person requesting confidential treatment of his decision within 180 days of receipt of a request to treat information as confidential.
- (d) Information for which a request has been made under Paragraph (b) of this Rule to treat as confidential shall be treated as confidential until the Director decides that it is not confidential.

*NCDAQ History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.3C; Eff. July 1, 1994; Amended Eff. April 1, 1999; July 1, 1997.*

*WNCRAQA History Note: Adopted Eff. May 8, 2000*

**.0108 DELEGATION OF AUTHORITY**

The Board may delegate the processing of permit applications and the issuance of permits to the Director, as it considers appropriate. This delegation shall include the authority to deny a permit application or to revoke or suspend a permit.

*NCDQA History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1), (4); Eff. July 1, 1994; Amended Eff. July 1, 1998.*

*WNCRAQA History Note: Adopted Eff. May 8, 2000*

**.0109 COMPLIANCE SCHEDULE FOR PREVIOUSLY EXEMPTED ACTIVITIES**

(a) If a source has heretofore been exempted from needing a permit, but because of change in permit exemptions, it is now required to have a permit as follows:

- (1) If the source is located at a facility that currently has an air quality permit, the source shall be added to the air quality permit of the facility the next time that permit is revised or renewed, whichever occurs first.
- (2) If the source is located at a facility that currently does not have an air quality permit, the owner or operator of that source shall apply for a permit within six months after the effective date of the change in the permit exemption.

(b) If a source becomes subject to requirements promulgated under 40 CFR Part 63, the owner or operator of the source shall apply for a permit unless exempted by Rule .0102 of this Section at least 270 days before the final compliance requirement.

*NCDQA History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109; Eff. July 1, 1994. Amended Eff. April 1, 2001; July 1, 1996.*

*WNCRAQA History Note: Adopted Eff. May 8, 2000. Amended Eff. April 9, 2001.*

**.0110 RETENTION OF PERMIT AT PERMITTED FACILITY**

The permittee shall retain a copy of all active permits issued under this Chapter at the facility identified in the permit.

*NCDAQ History Note:* Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner; Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109; Eff. July 1, 1994.

*WNCRAQA History Note:* Adopted Eff. May 8, 2000

**.0111 APPLICABILITY DETERMINATIONS**

Any person may submit a request in writing to the Director requesting a determination as to whether a particular source or facility that the person owns or operates or proposes to own or operate is subject to any of the permitting requirements under this Chapter. The request shall contain such information believed to be sufficient for the Director to make the requested determination. The Director may request any additional information that is needed to make the determination.

*NCDAQ History Note:* Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner; Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109; Eff. July 1, 1994.

*WNCRAQA History Note:* Adopted Eff. May 8, 2000

**.0112 APPLICATIONS REQUIRING PROFESSIONAL ENGINEER SEAL (RESERVED).**

*NCDAQ History Note:* Statutory Authority G.S. 143-215.3(a)(1); 143-215.108; RRC Objection Eff. November 17, 1994 due to lack of statutory authority; Eff. February 1, 1995.

**.0113 NOTIFICATION IN AREAS WITHOUT ZONING**

- (a) State and local governments are exempt from this Rule.
- (b) Before a person submits a permit application for a new or expanded facility in an area without zoning, he shall provide public notification as setout in this Rule.
- (c) A person covered under this Rule shall publish a legal notice as specified in Paragraph (d) of this Rule and shall post a sign as specified in Paragraph (f) of this Rule.
- (d) A person covered under this Rule shall publish a legal notice in a newspaper of general circulation in the area where the source is or will be located at least two weeks before submitting the permit application for the source. The notice shall identify:
- (1) the name of the affected facility;
  - (2) the name and address of the permit applicant; and
  - (3) the activity or activities involved in the permit action.
- (e) The permit applicant shall submit with the permit application an affidavit and proof of publication that the legal notice required under Paragraph (d) of this Rule was published.
- (f) A person covered under this Rule shall post a sign on the property where the new or expanded source is or will be located. The sign shall meet the following specifications:
- (1) It shall be at least six square feet in area;
  - (2) It shall be set off the road right-of-way, but no more than 10 feet from the road right-of-way;
  - (3) The bottom of the sign shall be at least six feet above the ground;
  - (4) It shall contain the following information:
    - (A) the name of the affected facility;
    - (B) the name and address of the permit applicant; and
    - (C) the activity or activities involved in the permit action;
  - (5) Lettering shall be a size that the sign can be read by a person with 20/20 vision standing in the center of the road; and
  - (6) The side with the lettering shall face the road, and sign shall be parallel to the road.
- The sign shall be posted at least 10 days before the permit application is submitted and shall remain posted for at least 30 days after the application is submitted.

*NCDQA History Note:* Authority G.S. 143-215.3(a)(1); 143-215.108;  
Eff. April 1, 2004.

*WNCRAQA History Note:* Adopted Eff. May 10, 2004.