

CHAPTER 3 - RELATIONSHIP TO STATE CODE**.0101 IN GENERAL**

(a) It is the intention of the Western North Carolina Regional Air Quality Agency and Board (hereinafter, Agency) to establish rules and regulations that follow the requirements of the Air Quality Code of the State of North Carolina, found in 15A NCAC 2D and 2Q. Necessary localization and minimum modifications and deviations from the State Code will be included. Should the Agency adopt a provision that differs from the State's Rule, then such a departure from the State Code will be noted. Discussion in this chapter of differences between the State Code and the Agency's Code is intended to facilitate comparison. Nothing in this chapter should be construed as altering the intent, meaning or scope of any Agency Code provision.

(b) Reserved.

(c) 15A NCAC 2D, 2H, and 2Q contain numerous references to the Division of Air Quality, the Director of that Division, and to other Rules of 15A NCAC 2D, 2H, and 2Q, which would be inappropriate in the Agency Code. The following changes in words, phrases, and references have been and will be made to State Code provisions as a matter of course. These deviations from the State Code will not be further noted:

- (1) References to the "Director", "Regional Supervisor", "Regional Air Quality Supervisor", or "Regional Office Supervisor", which refer to the State official, or wording with the same intended meaning in State Code provisions have been changed to "Director" and refer to the Director of the Western North Carolina Regional Air Quality Agency;
- (2) "Division", "Air Quality Division", "air quality section", "North Carolina Division of Air Quality", "regional" (meaning regional office of the DAQ), "local air pollution agency" or "Division of Air Quality", or wording with the same intended meaning has been changed to the "Western North Carolina Regional Air Quality Agency " or "Agency";
- (3) "Environmental Management Commission" or "Commission", or wording with the same intended meaning has been changed to the Western North Carolina Regional Air Quality Agency Board" or "Board";
- (4) "State" and "North Carolina" has been changed to "Agency", except where the reference is to "State court", "Affected States" or "areas of the State";
- (5) References to "15A NCAC 2D" or "Subchapter 2D" or to regulations contained therein have been changed to refer to the appropriate provision(s) of the Agency Code, Chapter 4, Air Pollution Control Requirements;
- (6) Reserved;

- (7) References to "15A NCAC 2Q" or "Subchapter 2Q" or to regulations contained therein have been changed to refer to the appropriate provision(s) of the Agency Code, Chapter 17, Air Quality Permit Procedures;
- (8) References to "North Carolina Division of Air Quality" or "Department of Environment and Natural Resources regional offices" and their physical address/es have been changed to refer to the "Western North Carolina Regional Air Quality Agency office located at 49 Mt. Carmel Road, Asheville, NC 28806"; and,
- (9) When rules are repealed by the State, with rule number remaining, the rule number shall be retained, but the title (if present) shall be deleted and the word "Repealed" shall remain in the Agency Code.

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.0102 AIR POLLUTION CONTROL REQUIREMENTS of CHAPTER 4

(a) The following Agency Code provisions differ from the corresponding State provisions in the manner described:

- (1) .0501(g) - "office of the Agency" is substituted for "department's regional offices".
- (2) Reserved.
- (3) Reserved.
- (4) Reserved.
- (5) Reserved.
- (6) .0524(c); .1110(b); .1111(c) - The State Code provides for variance in the rules. The Agency Code must be compatible with the state rules and therefore cannot change these standards without approval from the N.C. Environmental Management Commission; therefore the Agency did not adopt this rule.
- (7) Reserved.
- (8) .0531, .0902, (b), (c), (d), (e), (f), and (g); .0909; .0953; .1300; .1400 ; .1600 .2000 - Wording changes or sections not adopted because these apply to area(s) outside the jurisdiction of Agency.
- (9) Reserved.
- (10) .0533(a)(7) - The State Rule refers to local air quality programs certified by the Commission. The Agency is certified by the N.C. Environmental Management Commission, thus this reference is not adopted in the Agency Code.

- (11) Reserved.
- (12) .0615 - The State Code allows the director to delegate the administration and/or approval functions to the regional supervisor, Deputy Director, Regional Air Quality Supervisor or any other supervisor in the Permitting, Ambient Monitoring or Technical Services Section of the Division. The Agency Code provides for this delegation to the Director's immediate subordinates, as the Director considers appropriate.
- (13) Reserved.
- (14) .0927(k) - The state rule refers to Commission. The Agency Code clarifies this as the North Carolina Environmental Management Commission. The Agency code also adds a reference to the Board.
- (15) .1110(d); .1902(3); .1903(b)(11)(A) - The state asbestos NESHAP program has been transferred to the Division of Epidemiology, which issues permits and charges fees. The EPA has delegated NESHAP authority to the Agency for asbestos renovation and demolition enforcement within the Agency's region.
- (16) Reserved.
- (17) .1903(a) - The Agency issues permits for some types of burning; therefore the title and first sentence was changed. Also, open burning is banned during designated "Orange" Ozone Alert Days.
- (18) Reserved.
- (19) Reserved.
- (20) Reserved.
- (21) Reserved.
- (22) .1906 - The State Code contains a section for "Delegation to County Governments". This Rule is not needed in the Agency Code.
- (23) Reserved
- (24) Reserved
- (25) The Agency's region - Reserved
- (26) .1902(17) - Language for Agency Rule .1902(b) approved by the Board in May of 1999, regarding Criteria For Determining Open Burning Days, is included, but was indefinitely suspended, as approved by the Board on July 12, 1999.
- (26) .0540 - The State Rule allows a time period to lapse before the Agency can mandate compliance with this rule. The Agency Rule eliminates that waiting period.
- (27) Reserved.

- (27) .1110(g) & (h) - Neither the NC Division of Air Quality nor the NC Division of Epidemiology regulates non-NESHAP asbestos renovations and demolitions. The Agency Code contains regulations for such actions.
- (28) .0953 and Sections .1000, .1300, .1400, .1600, and .2000 were not adopted because these regulations regard ozone nonattainment areas, and Buncombe County is not presently in nonattainment.
- (29) .1906 - The State Code delegates authority to other local programs. The Agency has no such power.

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.0103 AIR QUALITY PERMITS of CHAPTER 17

- (a) The following Agency Code provisions differ from the corresponding State Rules in the manner described:
 - (1) .0102(b)(2); .0102(c)(1)(A)(ii); .0302(b)(2) - The State asbestos NESHAP program has been transferred to the Division of Epidemiology, which issues permits and charges fees. The EPA has delegated NESHAP authority to the Agency for asbestos renovation and demolition enforcement in the Agency's region.
 - (2) .0102(c)(1)(D)(ii) & (c)(1)(G) - The Agency enforces a Stage I Vapor Recovery Program pursuant to Chapter 4 .0928. Stage I controls are considered an applicable requirement in the Agency's region, therefore gasoline storage tanks, gasoline service stations or gasoline dispensing facilities are not exempted by category from permitting requirements in the Agency's region. These facilities are subject to permitting in The Agency's region under the Stage I Vapor Recovery Program.
 - (3) .0102(c)(2)(A) - The Agency provision excludes storage tanks regulated by Section 4 .0928 from the list of activities exempted because of size or production rate. This difference from the State Rule is a result of the Agency's Stage I Vapor Recovery Program. The State Code exempts all storage tanks that meet the requirements of .0102(b)(2)(A)(i) and (ii).
 - (4) Reserved.
 - (5) .0103(25); .0519(a)(7) - The General Statute reference changed to reference Chapter 4 of the Agency Code, or the Agency Code.
 - (6) Reserved.
 - (7) Reserved.
 - (8) .0107(a) - Confidential information is submitted to the Director.

- (9) .0313; .0527 - The N.C. provisions have expedited application processing schedules for permits that are sealed by professional engineers. This provision is not adopted in the Agency Code.
- (10) .0108 - The Board delegates powers to the Director. These powers include the authority to deny a permit application, or revoke or suspend a permit.
- (11) .0112 - The N.C. provisions require that a professional engineer seal technical portions of air permit applications. This provision is not adopted in the Agency Code.
- (12) .0203 - The State and Agency have differing fee systems.
- (13) .0205(a) - The State Code provides for a 25 percent discount of annual permit fees to a facility that has demonstrated compliance with all air quality requirements by not receiving a Notice of Violation or Notice of Non-compliance during the previous calendar year. The Agency gives no such discount.
- (14) .0203(a) & (b); .0204 - The corresponding State regulation provides for an inflation adjustment each year. The Agency Code provides that a fee adjustment be made each year, based on the direct and indirect costs of the Title V program.
- (15) .0206(a) - The Agency Code provides for payment of fees "by check or money order made payable to the Agency." The State Rule directs that payment be made to the Department of Environment and Natural Resources.
- (16) .0107(a); .0206(d); .0519(b) - The General Statute reference is not adopted in the Agency Code.
- (17) .0102(b)(5); .0207(b); .0302(b)(5) - Wording changed or not adopted because it applies to an area(s) outside of the jurisdiction of the Agency.
- (18) Reserved.
- (19) Reserved.
- (20) Reserved.
- (21) Reserved.
- (22) Reserved.
- (23) .0102(b)(1)(D) - The State added paragraph (D), which reads "40 CFR 60, Subpart WWW, municipal solid waste landfills not permitted under Section .0500 of this Section." The Agency did not adopt this statement because the Agency permits municipal solid waste landfills that are NSPS and Title V sources.
- (24) Reserved.
- (25) Reserved.

(26) Reserved.

(27) Reserved.

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