

SECTION .0500 - TITLE V PROCEDURES**.0501 PURPOSE OF SECTION AND REQUIREMENT FOR A PERMIT**

(a) The purpose of this Section is to establish an air quality permitting program as required under Title V and 40 CFR Part 70.

(b) The procedures and requirements under this Section do not apply until EPA approves this Section.

(c) With the exception in Paragraph (d) of this Rule, the owner or operator of an existing facility, new facility, or modification of an existing facility (except for minor modifications under Rule .0515 of this Section), including significant modifications that would not contravene or conflict with a condition in the existing permit, subject to the requirements of this Section shall not begin construction without first obtaining:

- (1) a construction and operation permit following the procedures under this Section (except for Rule .0504), or
- (2) a construction and operation permit following the procedures under Rule .0504 and filing a complete application within 12 months after commencing operation to modify the construction and operation permit to meet the requirements of this Section.

(d) If the permittee proposes to make a significant modification under Rule .0516 of this Section that would contravene or conflict with a condition in the existing permit, he shall not begin construction or make the modification until he has obtained:

- (1) a construction and operation permit following the procedures under this Section (except for Rule .0504 of this Section); or
- (2) a construction and operation permit following the procedures under Rule .0504 of this Section and, before beginning operation, files an application and obtains a permit modifying the construction and operation permit to meet the requirements of this Section (except for Rule .0504 of this Section).

(e) All facilities subject to this Section must have a permit to operate that assures compliance with 40 CFR Part 70 and all applicable requirements.

(f) Except as allowed under Rule .0515 (minor modifications) of this Section, no facility subject to the requirements of this Section may operate after the time that it is required to submit a timely and complete application under this Section except in compliance with a permit issued under this Section. This Paragraph does not apply to initial submittals under Rule .0506 of this Section or to permit renewals under Rule .0513 of this Section.

(g) If the conditions of Rule .0512(b) (application shield) of this Section are met, the facility's failure to have a permit under this Section shall not be a violation.

(h) If the owner or operator of a facility subject to the requirements of this Section submits an application for a revision to his permit before receiving the initial permit under this Section, the application for the revision shall be processed under Section .0300 of this Chapter.

(i) The owner or operator of a facility or source subject to the requirements of this Section may also be subject to the toxic air pollutant procedures under Chapter 17 .0700.

(j) The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject to the procedures under Section .0400 of this Chapter.

(k) The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance with the requirements of Section .0200 of this Chapter.

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

.0502 APPLICABILITY

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

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

(b) This Section does not apply to minor facilities with sources subject to requirements of Chapter 4.0524, .1110, or .1111 or 40 CFR Part 60, 61, or 63 until EPA requires these facilities to have a permit under 40 CFR Part 70.

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

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

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.0503 DEFINITIONS

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

- (1) "Affected States" means all states or local air pollution control agencies whose areas of jurisdiction are:
 - (a) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
 - (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per year, and
 - (ii) D = distance from the facility to the contiguous state or local air pollution control agency in miles
 unless the applicant can demonstrate to the satisfaction of the Director that the ambient impact in the contiguous states or local air pollution control

- agencies is less than the incremental ambient levels in Chapter 4 .0532(c)(5); or
- (b) within 50 miles of the permitted facility.
- (2) "Complete application" means an application that provides all information described under 40 CFR 70.5(c) and such other information that is necessary to determine compliance with all applicable requirements.
 - (3) "Draft permit" means the version of a permit that the Agency offers public participation under Rule .0521 of this Section or affected State review under Rule .0522 of this Section.
 - (4) "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject.
 - (5) "Final permit" means the version of a permit that the Director issues that has completed all review procedures required under this Section if the permittee does not file a petition under Article 3 of G.S. 150B.
 - (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
 - (7) "Insignificant activities because of category" means:
 - (a) mobile sources;
 - (b) air-conditioning units used for human comfort that are not subject to applicable requirements under Title VI of the federal Clean Air Act and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (c) ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (d) heating units used for human comfort that have a heat input of less than 10,000,000 Btu per hour and that do not provide heat for any manufacturing or other industrial process;
 - (e) noncommercial food preparation;
 - (f) consumer use of office equipment and products;
 - (g) janitorial services and consumer use of janitorial products;
 - (h) internal combustion engines used for landscaping purposes;
 - (i) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
 - (j) demolition and renovation activities covered solely under 40 CFR Part 61, Subpart M.

- (8) "Insignificant activities because of size or production rate" means any activity whose emissions would not violate any applicable emissions standard and whose potential emission 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 before air pollution control devices, are each below 1000 pounds per year.
- (9) "Minor facility" means any facility that is not a major facility.
- (10) "Operation" means the utilization of equipment that emits regulated pollutants.
- (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- (12) "Permit revision" means any permit modification under Rule .0515, .0516, or .0517 of this Section or any administrative permit amendment under Rule .0514 of this Section.
- (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to EPA for review under Rule .0522 of this Section.
- (14) "Relevant source" means only those sources that are subject to applicable requirements.
- (15) "Responsible official" means a responsible official as defined under 40 CFR 70.2.
- (16) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- (17) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures of this Section except that the potential to emit is restricted by one or more federally enforceable physical or operational limitations, including air pollution control equipment and restrictions on hours or operation, the type or amount of material combusted, stored, or processed, or similar parameters.
- (18) "Timely" means:
- (a) for initial permit submittals under Rule .0506 of this Section, before the end of the time period specified for submittal of an application for the respective Standard Industrial Classification;
 - (b) for a new facility, one year after commencing operation;
 - (c) for renewal of a permit previously issued under this Section, nine months before the expiration of that permit;

- (d) for a minor modification under Rule .0515 of this Section, before commencing the modification;
- (e) for a significant modification under Rule .0516 of this Section where the change would not contravene or conflict with a condition in the existing permit, 12 months after commencing operation;
- (f) for reopening for cause under Rule .0517 of this Section, as specified by the Director in the request for additional information by the Director;
- (g) for requests for additional information, as specified by the Director in the request for additional information by the Director; or
- (h) for modifications made under Section 112(j) of the federal Clean Air Act, 18 months after EPA fails to promulgate a standard for that category of source under Section 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or (3) of the federal Clean Air Act.

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.0504 OPTION FOR OBTAINING CONSTRUCTION AND OPERATION PERMIT

(a) Pursuant to Rule .0501(c) or (d)(2) of this Section, the owner or operator of a new or modified facility subject to the requirements of this Section that chooses to obtain a construction and operation permit before the facility must obtain a permit under this Section may file an application under Section .0300 of this Chapter.

(b) The applicant shall state in his permit application that he wishes to follow the procedures under this Rule.

(c) If the option allowed under Rule .0501(c)(1) of this Section is used, then the application processing procedures for prevention of significant deterioration under Chapter 4 .0530 and new source review for nonattainment areas under Chapter 4 .0531 do not apply. If the option allowed under Rule .0501(c)(2) of this Section is used, then the application processing procedures in this Section and:

- (1) under Chapter 4 .0530 for prevention of significant deterioration, or
 - (2) under Chapter 4 .0531 for new source review for nonattainment areas,
- shall apply.

(d) If the procedures under Section .0300 of this Chapter are followed, the permittee shall have one year from the date of beginning operation of the facility or source to file an amended application following the procedures of this Section. The Director shall place a condition in the construction and operation permit stating this requirement.

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WNCRAQA History Note: Adopted Eff. May 8, 2000

.0505 APPLICATION SUBMITTAL CONTENT

If an applicant does not submit, at a minimum, the following information with is application package, the application package shall be returned:

- (1) for new facilities and modified facilities:
 - (a) an application fee as required under Section .0200 of this Chapter,
 - (b) a consistency determination as required under Rule .0507(d)(1) of this Section,
 - (c) the documentation required under Rule .0507(d)(2) of this Section,
 - (d) a financial qualification or substantial compliance statement if required, and
 - (e) applications as required under Rule .0507(a) and (e) of this Section and signed as required by Rule .0520 of this Section;
- (2) for renewals: applications as required under Rule .0507(a) and (e) of this Section and signed as required by Rule .0520 of this Section;
- (3) for a name change: three copies of a letter signed by the a responsible official in accordance with Rule .0520 indicating the current facility name, the date on which the name change shall occur, and the new facility name;
- (4) for an ownership change: an application fee as required under Section .0200 of this Chapter, and:
 - (a) three copies of a letter sent by each the seller and the buyer indicating the change, or

- (b) three copies of a letter sent by either bearing the signature of both the seller and buyer, and containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee; and
- (5) for corrections of typographical errors; changes name, address, or telephone number of any individual identified in the permit; changes in test dates or construction dates; or similar minor changes: three copies of a letter signed by a responsible official in accordance with Rule .0520 of this Section describing the proposed change and explaining the need for the proposed change.

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WNCRAQA History Note: Adopted Eff. May 8, 2000; Amended Eff. May 10, 2004.

.0506 INITIAL PERMIT APPLICATION SUBMITTAL (REPEALED)

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WNCRAQA History Note: Adopted Eff. May 8, 2000
Repealed Eff. September 10, 2007.

.0507 APPLICATION

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

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

(b) The application shall include all the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production rate; but not including insignificant activities because of category. The application form shall be certified by a responsible official for truth, accuracy, and completeness. In the application submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to Section .0400 of this Chapter or Chapter 4 .0530 or .0531, provided the information in those applications contains information required in this Section and is current, valid, and complete.

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

- (d) Along with filing a complete application form, the applicant shall also file the following:
- (1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government, or
 - (B) consists of a letter from the local government indicating that all zoning or subdivision ordinances are met by the facility;
 - (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and proof of publication of a legal notice as required under Rule .0113 of this Chapter, and
 - (3) if required by the Director, information showing that:
 - (A) The applicant is financially qualified to carry out the permitted activities, or
 - (B) The applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and state environmental laws and rules.
- (e) The applicant shall submit copies of the application package as follows:
- (1) for sources subject to the requirements of Chapter 4 .0530, .0531, or .1200, six copies plus one additional copy for each affected state that the Director has to notify;

- (2) for sources not subject to the requirements of Chapter 4 .0530, .0531, or .1200, four copies plus one additional copy for each affected state that the Director has to notify.

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

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

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

(h) The submittal of a complete permit application shall not affect the requirement that any facility have a preconstruction permit under Chapter 4 .0530, .0531, or .0532 or under Section .0400 of this Chapter.

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

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

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

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.0508 PERMIT CONTENT

(a) The permit shall specify and reference the origin and authority for each term or condition and shall identify any differences in form as compared to the applicable requirement on which the term or condition is based.

(b) The permit shall specify emission limitations and standards, including operational requirements and limitations, that assure compliance with all applicable requirements at the time of permit issuance.

(c) Where an applicable requirement of the federal Clean Air Act is more stringent than an applicable requirement of rules promulgated pursuant to Title IV, both provisions shall be placed in the permit. The permit shall state that both provisions are enforceable by EPA.

(d) The permit for sources using an alternative emission limit established under Chapter 4 .0501 (d) or Chapter 4 .0952 shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(e) The expiration date contained in the permit shall be for a fixed term of five years for sources covered under Title IV and for a term of no more than five years from the date of issuance for all other sources including solid waste incineration units combusting municipal waste subject to standards under Section 129(e) of the federal Clean Air Act.

(f) The permit shall contain monitoring and related recordkeeping and reporting requirements as specified in 40 CFR 70.6(a)(3) and 70.6(c)(1) including conditions requiring:

(1) the permittee to submit reports of any required monitoring at least every six months.

The permittee shall submit reports:

(A) on forms obtained from the Agency at the address in Rule .0104 of this Chapter,

(B) in a manner as specified by a permit condition, or

(C) on other forms that contain the information required by this Chapter or as specified by a permit condition; and

(2) the permittee to report:

(A) malfunctions, emergencies, and other upset conditions as prescribed in Chapter 4 .0524, .0535, .1110, or .1111.

(B) deviations quarterly from permit requirements not covered under Chapter 4 .0524, .0535, .1110, or .1111. The permittee shall include the probable cause of such deviation and any corrective actions or preventive measures taken.

(3) the responsible official to certify all deviations from permit requirements.

(g) At the request of the permittee, the Director shall allow records to be maintained in computerized form in lieu of maintaining paper records if computerized records contain the same information as the paper records would contain.

(h) The permit for facilities covered under Chapter 4 .2100, Risk Management Program, shall contain:

- (1) a statement listing Chapter 4 .2100 as an applicable requirement;
- (2) conditions that require the owner or operator of the facility to submit:
 - (A) a compliance schedule for meeting the requirements of Chapter 4 .2100 by the dates provided in Chapter 4 .2101(a); or
 - (B) as part of the compliance certification under Paragraph (m) of this Rule, a certification statement that the source is in compliance with all requirements of Chapter 4 .2100, including the registration and submission of the risk management plan.

The content of the risk management plan need not itself be incorporated as a permit term or condition.

(i) The permit shall:

- (1) contain a condition prohibiting emissions exceeding any allowances that a facility lawfully holds under Title IV; but shall not limit the number of allowances held by a permittee, but the permittee may not use allowances as a defense to noncompliance with any other applicable requirement;
- (2) contain a severability clause so that various permit requirements will continue to be valid in the event of a challenge to any other portion of the permit;
- (3) state that noncompliance with any condition of the permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;
- (4) state that the permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit;
- (5) state that the Director may reopen, modify, revoke and reissue, or terminate the permit for reasons specified in Rule .0517 or .0519 of this Section;
- (6) state that the filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition;
- (7) specify the conditions under which the permit shall be reopened before the expiration of the permit;
- (8) state that the permit does not convey any property rights of any sort, or any exclusive privileges;

- (9) state that the permittee shall furnish to the Agency, in a timely manner:
 - (A) any reasonable information that the Director may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit, and
 - (B) copies of records required to be kept by the permit when such copies are requested by the Director.

(For information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.)

- (10) contain a provision to ensure that the permittee pays fees required under Section .0200 of this Chapter;
 - (11) contain a condition that authorizes the permittee to make Section 502(b)(10) changes, off-permit changes, or emission trades in accordance with Rule .0523 of this Section;
 - (12) include all applicable requirements for all sources covered under the permit;
 - (13) include fugitive emissions, if regulated, in the same manner as stack emissions;
 - (14) contain a condition requiring annual reporting of actual emissions as required under Rule .0207 of this Chapter;
 - (15) include all sources including insignificant activities; and
 - (16) contain other provisions the Director considers appropriate.
- (j) The permit shall state the terms and conditions for reasonably anticipated operating scenarios identified by the applicant in the application. These terms and conditions shall:
- (1) require the permittee, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the operating scenario under which it is operating;
 - (2) extend the permit shield described in Rule .0512 of this Section to all terms and conditions under each such operating scenario; and
 - (3) ensure that each operating scenario meets all applicable requirements of Chapter 4 and of this Section.
- (k) The permit shall identify which terms and conditions are enforceable by:
- (1) both EPA and the Agency;
 - (2) the Agency only;
 - (3) EPA only; and
 - (4) citizens under the federal Clean Air Act.
- (l) The permit shall state that the permittee shall allow personnel of the Agency to:
- (1) enter the permittee's premises where the permitted facility is located or emissions-related activity is conducted, or where records are kept under the conditions of the permit;

- (2) have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
- (3) inspect at reasonable times and using reasonable safety practices any source, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
- (4) sample or monitor substances or parameters, using reasonable safety practices, for the purpose of assuring compliance with the permit or applicable requirements at reasonable times.

(m) When a compliance schedule is required under 40 CFR 70.5(c)(8) or under a rule contained in Chapter 4, the permit shall contain the compliance schedule and shall state that the permittee shall submit at least semiannually, or more frequently if specified in the applicable requirement, a progress report. The progress report shall contain:

- (1) dates for achieving the activities, milestones, or compliance required in the compliance schedule, and dates when such activities, milestones, or compliance were achieved; and
- (2) an explanation of why any dates in the compliance schedule were not or will not be met, and any preventive or corrective measures adopted.

(n) The permit shall contain requirements for compliance certification with the terms and conditions in the permit that are enforceable by EPA under Title V of the federal Clean Air Act, including emissions limitations, standards, or work practices. The permit shall specify:

- (1) the frequency (not less than annually or more frequently as specified in the applicable requirements) of submissions of compliance certifications;
- (2) a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices; and
- (3) a requirement that the compliance certification include:
 - (A) the identification of each term or condition of the permit that is the basis of the certification;
 - (B) the status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the methods or means designated in 40 CFR 70.6(c)(5)(iii)(B). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR 64 occurred;
 - (C) whether compliance was continuous or intermittent;
 - (D) the identification of the method(s) or other means used by the owner and operator for determining the compliance status with each term and condition

during the certification period; these methods shall include the methods and means required under 40 CFR Part 70.6(a)(3); and

- (E) such other facts as the Director may require to determine the compliance status of the source; and
- (4) that all compliance certifications be submitted to EPA as well as to the Agency.

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.0509 PERMITTING OF NUMEROUS SIMILAR FACILITIES

- (a) The Director may issue, after notice and opportunity for public participation provided in Rule .0521 of this Section, a permit to cover numerous similar facilities or sources.
- (b) The Director shall not issue a permit under this Rule unless the following conditions are met:
 - (1) There is no unique difference that would require special permit conditions for any individual facility; and
 - (2) No unique analysis is required for any facility covered under the permit.
- (c) A permit issued under this Rule shall comply with all the requirements of this Section.
- (d) A permit issued under this Rule shall identify criteria by which facilities or sources may qualify for the permit. To facilities or sources that qualify, the Director shall grant the terms and conditions of the permit.
- (e) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source is later determined not to qualify for the terms and conditions of the permit issued under this Rule.
- (f) Sources subject to Title IV shall not be eligible for a permit issued under this Rule.

(g) The owner or operator of a facility or source that qualifies for a permit issued under this Rule shall apply for coverage under the terms of the permit issued under this Rule or shall apply for a regular permit under this Section.

(h) The Agency need not repeat the public participation procedures required under Rule .0521 of this Section when it grants a request by a permit applicant to operate under a permit issued under this Rule.

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; Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0510 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES

(a) The Director may issue a single permit authorizing emissions from similar operations by the same facility owner or operator at multiple temporary sites.

(b) In order for a facility to qualify for a permit for multiple temporary site under this Rule, the operation must involve at least one change of site during the term of the permit.

(c) Sources subject to Title IV shall not be eligible for a permit under this Section.

(d) Permits for facilities at multiple temporary sites shall include:

- (1) identification of each site;
- (2) conditions that will assure compliance with all applicable requirements at all authorized locations;
- (3) requirements that the permittee notify the Agency at least 10 days in advance of each change of location; and
- (4) conditions that assure compliance with all other provisions of this Section.

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; Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0511 SYNTHETIC MINOR FACILITIES (REPEALED)

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; Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Repealed Eff. July 1, 1999.

.0512 PERMIT SHIELD AND APPLICATION SHIELD

(a) Permit Shield:

- (1) The Director shall place in a permit issued under this Section a permit term or condition (a permit shield) stating that compliance with the conditions of the permit shall be deemed compliance with applicable requirements specifically identified in the permit in effect as of the date of permit issuance, provided that:
 - (A) Such applicable requirements are included and are specifically identified in the permit; or
 - (B) The Director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.
- (2) A permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
- (3) A permit shield shall not alter or affect:
 - (A) the power of the Board, Secretary of the Department, or Governor under G.S. 143-215.3(a)(12) or EPA under Section 303 of the federal Clean Air Act;
 - (B) the liability of an owner or operator of a facility for any violation of applicable requirements prior to the effective date of the permit or at the time of permit issuance;
 - (C) the applicable requirements under Title IV; or
 - (D) the ability of the Director (or EPA under Section 114 of the federal Clean Air Act) to obtain information to determine compliance of the facility with its permit, this Section, or Chapter 4.
- (4) A permit shield shall not apply to any change made at a facility that does not require a permit revision.
- (5) A permit shield shall not extend to minor permit modifications made under Rule .0515 of this Section.

- (b) Application Shield.
- (1) Except as provided in Subparagraph (b)(2) of this Rule, if the applicant submits a timely and complete application for permit issuance (including for renewal), the facility's failure to have a permit under this Section shall not be a violation:
 - (A) unless the delay in final action is due to the failure of the applicant's timely submission of information as required or requested by the Director, or
 - (B) until the Director takes final action on the permit application.
 - (2) Subparagraph (b)(1) of this Rule shall cease to apply if, subsequent to the completeness determination made under Rule .0507 of this Section, the applicant fails to submit by the deadline specified in writing by the Director, any additional information identified as being needed to process the application.

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); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, 1997.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0513 PERMIT RENEWAL AND EXPIRATION

- (a) Permits being renewed are subject to the procedural requirements of this Section, including those for public participation and affected State and EPA review.
- (b) Permit expiration terminates the facility's right to operate unless a complete renewal application has been submitted at least nine months before the date of permit expiration.
- (c) If the permittee or applicant has complied with Rule .0512(b)(1) of this Section, the existing permit shall not expire until the renewal permit has been issued or denied. All terms and conditions of the existing permit shall remain in effect until the renewal permit has been issued or denied.

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 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0514 ADMINISTRATIVE PERMIT AMENDMENTS

- (a) An "administrative permit amendment" means a permit revision that:
 - (1) corrects typographical errors;
 - (2) identifies a change in the name, address or telephone number of any individual identified in the permit, or provides a similar minor administrative change at the facility;
 - (3) requires more frequent monitoring or reporting by the permittee;
 - (4) changes test dates or construction dates provided that no applicable requirements are violated by the change in test dates or construction dates;
 - (5) moves terms and conditions from the Local-enforceable only portion of a permit to the Local-and-federal- enforceable portion of the permit provided that terms and conditions being moved have become federally enforceable through Section 110, 111, or 112 or other parts of the federal Clean Air Act;
 - (6) moves terms and conditions from the federal-enforceable only portion of a permit to the Local-and-federal-enforceable portion of the permit; or
 - (7) changes the permit number without changing any portion of the permit that is federally enforceable that would not otherwise qualify as an administrative amendment.
- (b) In making administrative permit amendments, the Director:
 - (1) shall take final action on a request for an administrative permit amendment within 60 days after receiving such request,
 - (2) may make administrative amendments without providing notice to the public or any affected State(s) provided he designates any such permit revision as having been made pursuant to this Rule, and
 - (3) shall submit a copy of the revised permit to EPA.
- (c) The permittee may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.
- (d) Upon taking final action granting a request for an administrative permit amendment, the Director shall allow coverage by the permit shield under Rule .0512 of this Section for the administrative permit amendments made.
- (e) Administrative amendments for sources covered under Title IV shall be governed by rules in Section .0400 of this Chapter.
- (f) This Rule shall not be used to make changes to the state-enforceable only part of a Title V permit. For the state-enforceable only part of a Title V permit, Rule .0316 of this Subchapter shall be used for administrative permit amendments.

NCDQA 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); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. January 1, 2007; July 1, 1997.*

WNCRAQA History Note: *Adopted Eff. March 19, 2007; May 8, 2000*

.0515 MINOR PERMIT MODIFICATIONS

(a) The procedures set out in this Rule may be used for permit modifications when the modifications:

- (1) do not violate any applicable requirement;
- (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- (3) do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (4) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject.

Such terms and conditions include:

- (A) a federally enforceable emissions cap assumed to avoid an applicable requirement under any provision of Title I of the federal Clean Air Act; or
- (B) an alternative emissions limit approved as part of an early reduction plan submitted pursuant to Section 112(i)(5) of the federal Clean Air Act;
- (5) are not modifications under any provision of Title I of the federal Clean Air Act; and
- (6) are not required to be processed as a significant modification under Rule .0516 of this Section.

(b) In addition to the items required under Rule .0505 of this Section, an application requesting the use of the procedures set out in this Rule shall include:

- (1) an application form including:
 - (A) a description of the change,
 - (B) the emissions resulting from the change, and
 - (C) identification of any new applicable requirements that will apply if the change occurs;

- (2) a list of the facility's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the thresholds set out under Subparagraphs (c)(1) through (3) of this Rule;
- (3) the applicant's suggested draft permit;
- (4) certification by a responsible official that the proposed modification meets the criteria for using the procedures set out in this Rule and a request that these procedures be used; and
- (5) complete information for the Director to use to notify EPA and affected States.

(c) The Director shall use group processing for minor permit modifications processed under this Rule. The Director shall notify EPA and affected States of the requested permit revisions under this Rule and shall provide the information specified in Rule .0522 of this Section on a quarterly basis. If the aggregated emissions from all pending minor permit modifications equal or exceed:

- (1) 10 percent of the emissions allowed for the source for which the change is requested,
- (2) 20 percent of the applicable definition of major facility, or
- (3) five tons per year,

then the Director shall notify EPA and affected States within five business days of the requested permit revision under this Rule and provide the information specified in Rule .0522 of this Section.

(d) Within 90 days after receiving a complete application that causes the thresholds in Paragraphs (c)(1), (2), or (3) of this Rule to be exceeded or 15 days after the end of EPA's 45-day review period, whichever is later, the Director shall:

- (1) issue the permit modification as proposed;
- (2) deny the permit modification application;
- (3) determine that the requested modification does not qualify for the procedures set out in this Rule and should therefore, be processed under Rule .0516 of this Section;
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

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

- (1) issue the permit modification as proposed;
- (2) deny the permit modification application;
- (3) determine that the requested modification does not qualify for the procedures set out in this Rule and should therefore, be processed under Rule .0516 of this Section;
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

(f) The permit applicant may make the change proposed in his minor permit modification application immediately after filing the completed application with the Agency. After the applicant

makes the change, the facility shall comply with both the applicable requirements governing the change and the proposed permit terms and conditions until the Director takes one of the final actions specified in Paragraph (d)(1) through (d)(4) of this Rule. Between the filing of the permit modification application and the Director's final action, the facility need not comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions of the existing permit that the applicant seeks to modify.

(g) The permit shield allowed under Rule .0512 of this Section shall not extend to minor permit modifications.

(h) If the Local-enforceable only portion of the permit is revised, the procedures in Section .0300 of this Chapter shall be followed.

(i) The proceedings shall affect only those parts of the permit related to the modification.

NCDQA 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); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, 1997.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0516 SIGNIFICANT PERMIT MODIFICATION

(a) The procedures set out in this Rule shall be used for applications requesting permit modifications under this Rule or permit modifications that do not qualify for Rule .0514, .0515, .0523, or .0524 of this Section.

(b) Significant modifications include modifications that:

- (1) involve a significant change in existing monitoring permit terms or conditions or relax any reporting or recordkeeping permit terms or conditions;
- (2) require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (3) seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject; or
- (4) are modifications under any provision of Chapter 4 or 17 or Title I of the federal Clean Air Act not processed under Rule .0514, .0515, .0523, or .0524 of this Section.

(c) An application for a significant permit modification that would contravene or conflict with the existing permit shall be processed following the procedure set out in Rule .0501(d) of this Section.

(d) An application for a significant permit modification that does not contravene or conflict with the existing permit shall be processed following the procedure set out in Rule .0501(c) of this Section.

(e) This Rule shall not preclude the permittee from making changes consistent with this Section that would render existing permit compliance terms and conditions irrelevant.

(f) Except for the Local-enforceable only portion of the permit, the procedures set out in Rule .0507, .0521, or .0522 of this Section shall be followed to revise a permit under this Rule. If the Local-enforceable only portion of the permit is revised, the procedures in Section .0300 of this Chapter shall be followed. The proceedings shall affect only those parts of the permit related to the significant modification.

(g) Not Used.

(h) Significant permit modifications shall be covered under the permit shield in accordance with Rule .0512 of this Section.

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; Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0517 REOPENING FOR CAUSE

- (a) A permit shall be reopened and revised under the following circumstances:
- (1) Additional applicable requirements become applicable to a facility with remaining permit term of three or more years;
 - (2) Additional requirements (including excess emissions requirements) become applicable to a source covered by Title IV (Upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.);
 - (3) The Director or EPA finds that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or
 - (4) The Director or EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Any permit reopening under Subparagraph (a)(1) of this Rule shall be completed or a revised permit issued within 18 months after the applicable requirement is promulgated. No reopening is required if the effective date of the requirement is after the expiration of the permit term unless the term of the permit was extended pursuant to Rule .0513(c) of this Section.

(c) Except for the Local-enforceable only portion of the permit, the procedures set out in Rule .0507, .0521, or .0522 of this Section shall be followed to reissue a permit that has been reopened under this Rule. If the Local-enforceable only portion of the permit is reopened, the procedures in Section .0300 of this Chapter shall be followed. The proceedings shall affect only those parts of the permit for which cause to reopen exists.

(d) The Director shall notify the permittee at least 60 days in advance of the date that the permit is to be reopened, except in cases of imminent threat to public health or safety the Director may notify the permittee less than 60 days before reopening the permit. The notice shall explain why the permit is being reopened.

(e) Within 90 days, or 180 days if EPA extends the response period, after receiving notification from EPA that it finds that a permit needs to be terminated, modified, or revoked and reissued, the Director shall send to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate.

NCDQA 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); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, 1997.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0518 FINAL ACTION

(a) The Director may:

- (1) issue a permit, permit revision, or a renewal containing the conditions necessary to carry out the purposes of the Agency Code and the federal Clean Air Act; or
- (2) rescind a permit upon request by the permittee; or
- (3) deny a permit application when necessary to carry out the purposes of the Agency Code and the federal Clean Air Act.

(b) The Director may not issue a final permit or permit revision, except administrative permit amendments covered under Rule .0514 of this Section, until EPA's 45-day review period has expired or until EPA has notified the Director that EPA will not object to issuance of the permit or

permit revision, whichever occurs first. The Director shall issue the permit or permit revision within five days of receipt of notification from EPA that it will not object to issuance or of the expiration of EPA's 45-day review period, whichever occurs first.

(c) If EPA objects to a proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objection. The Director shall not issue a permit under this Section over EPA's objection.

(d) If EPA does not object in writing to the issuance of a permit, any person may petition EPA to make such objections by following the procedures and meeting the requirements under 40 CFR 70.8(d).

(e) No permit shall be issued, revised, or renewed under this Section unless all the procedures set out in this Section have been followed and all the requirements of this Section have been met. Default issuance of a permit, permit revision, or permit renewal by the Director is prohibited.

(f) Thirty days after issuing a permit, including a permit issued pursuant to Rule .0509 of this Section, that is not challenged by the applicant, the Director shall notice the issuance of the final permit. The notice shall be issued on the Western North Carolina Regional Air Quality Agency website at <http://www.wncairquality.org>. The notice shall include the name and address of the facility and permit number.

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); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. January 1, 2010; February 1, 1995.*

WNCRAQA History Note: *Adopted Eff. May 8, 2000. Amended Eff. January 11, 2010.*

.0519 TERMINATION, MODIFICATION, REVOCATION OF PERMITS

(a) The Director may terminate, modify, or revoke and reissue a permit issued under this Section if:

- (1) The information contained in the application or presented in support thereof is determined to be incorrect;
- (2) The conditions under which the permit or permit renewal was granted have changed;
- (3) Violations of conditions contained in the permit have occurred;

- (4) The permit holder fails to pay fees required under Section .0200 of this Chapter within 30 days after being billed;
 - (5) The permittee refuses to allow the Director or his authorized representative upon presentation of credentials:
 - (A) to enter, at reasonable times and using reasonable safety practices, the permittee's premises in which a source of emissions is located or in which any records are required to be kept under terms and conditions of the permit;
 - (B) to have access, at reasonable times, to any copy or records required to be kept under terms and conditions of the permit;
 - (C) to inspect, at reasonable times and using reasonable safety practices, any source of emissions, control equipment, and any monitoring equipment or method required in the permit; or
 - (D) to sample, at reasonable times and using reasonable safety practices, any emission source at the facility;
 - (6) EPA requests that the permit be revoked under 40 CFR 70.7(g) or 70.8(d); or
 - (7) The Director finds that termination, modification or revocation and reissuance of a permit is necessary to carry out the purpose of the Agency Code.
- (b) To operate a facility or source after its permit has been revoked is a violation of this Section.

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; Statutory Authority G.S. 143-215.3(a)(1), (1a),(1b); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0520 CERTIFICATION BY RESPONSIBLE OFFICIAL

- (a) A responsible official shall certify the truth, accuracy, and completeness of any application form, report, or compliance certification required under this Section or by a term or condition in a permit issued under this Section.
- (b) This certification shall state that, based on information and belief formed after reasonable inquiry, the statement and information in the document are true, accurate, and complete.

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; Statutory Authority G.S. 143-215.3(a)(1), (2); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0521 PUBLIC PARTICIPATION

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued under Rules .0514, .0515, .0524 of this Section. The Director may give public notice with an opportunity for comments and a hearing on draft permit revisions issued under Rule .0514, .0515, .0524 of this Section.

(b) The notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Agency's mailing list for air quality permit notices.

(c) The notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of Agency staff from whom interested persons may obtain additional information, including copies of the permit draft, the application, compliance plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to Agency that are relevant to the permit decision;
- (5) the activity or activities involved in the permit action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the comment procedures;
- (8) the procedures to follow to request a hearing unless a hearing has already been scheduled; and
- (9) the time and place of any hearing that has already been scheduled.

(d) The Director shall send a copy of the notice to affected States and EPA.

(e) The notice shall allow 30 days for public comments.

(f) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.

(g) If EPA requests a record of the comments and of the issues raised during the public participation process, the Director shall provide EPA this record.

(h) Persons who desire to be placed on the Agency's mailing list for air quality permit notices shall send their request to the Director, Western North Carolina Regional Air Quality Agency, 49 Mt. Carmel Road Asheville, NC 28806 and shall pay an annual fee of thirty dollars (\$30.00).

(i) Any persons requesting copies of material identified in Subparagraph (c)(4) of this Rule shall pay ten cents (\$0.10) a page for every page copied. Confidential material shall be handled in accordance with Rule .0107 of this Chapter.

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), (3); 143-215.107(a)(10); 143-215.108; 143-215.111(4); Eff. July 1, 1994; Amended Eff. July 1, 1998.*

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

.0522 REVIEW BY EPA AND AFFECTED STATES

(a) The Director shall provide EPA a copy of each permit application, including any application for permit revision, each proposed permit, and each final permit issued under this Section. If EPA has informed the Director that a permit application summary and relevant portion of the permit application and compliance plan are all it needs, the Director may provide this abridgement in place of the complete application.

(b) The Agency shall retain for five years a copy of all permit applications, permits, and other related material submitted to or issued by the Agency under this Section.

(c) The Director shall provide notice to each affected State of each draft permit at or before the time notice is provided to the public under Rule .0521 of this Section.

(d) The Director, in writing, shall notify EPA and any affected State of any refusal by the Agency to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period and shall state the reasons for not accepting any such recommendations.

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; Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; 143-215.111(5); Eff. July 1, 1994.*

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0523 CHANGES NOT REQUIRING PERMIT REVISIONS

- (a) Section 502(b)(10) changes:
- (1) The permittee may make Section 502(b)(10) changes without having his permit revised if:
 - (A) The changes are not a modification under Chapter 4 or Title I of the federal Clean Air Act;
 - (B) The changes do not cause the emissions allowed under the permit to be exceeded;
 - (C) The permittee notifies the Director and EPA with written notification at least seven days before the change is made; and
 - (D) The permittee attaches the notice to the relevant permit.
 - (2) The written notification required under Part (a)(1)(C) of this Rule shall include:
 - (A) a description of the change,
 - (B) the date on which the change will occur,
 - (C) any change in emissions, and
 - (D) any permit term or conditions that is no longer applicable as a result of the change.
 - (3) Section 502(b)(10) changes shall be made in the permit the next time that the permit is revised or renewed, whichever comes first.
- (b) Off-permit changes. A permittee may make changes in his operation or emissions without revising his permit if:
- (1) The change affects only insignificant activities and the activities remain insignificant after the change, or
 - (2) The change is not covered under any applicable requirement.
- (c) Emissions trading.
- (1) To the extent that emissions trading is allowed under Chapter 4, including subsequently adopted maximum achievable control technology standards, emissions trading is allowed without permit revisions provided that:
 - (A) All applicable requirements are met;
 - (B) The permittee complies with all terms and conditions of the permit in making the emissions trade; and
 - (C) The permittee notifies the Director and EPA with written notification at least seven days before the trade is made; this notification requirement does not apply to trades made under Chapter 4.1419, Nitrogen Oxide Budget Trading

Program, Chapter 4.2408, Trading Program and Banking (CAIR), or Chapter 4.2510, Trading and Banking (CAMR).

- (2) If an emissions cap has been established by a permit condition for the purposes of limiting emissions below that allowed by an otherwise applicable requirement, emissions trading is allowed to the extent allowed by the permit if:
- (A) An emissions cap is established in the permit to limit emissions;
 - (B) The permit specifies the emissions limits with which each source shall comply under any applicable requirement;
 - (C) The permittee complies with all permit terms that ensure the emissions trades are enforceable, accountable, and quantifiable;
 - (D) The permittee complies with all applicable requirements;
 - (E) The permittee complies with the emissions trading procedures in the permit;
 - (F) The permittee notifies the Director and EPA with written notification at least seven days before the trade is made.

- (3) The written notification required under Subparagraph (1) of this Paragraph shall include:

- (A) a description of the change,
- (B) the date on when the change will occur,
- (C) any change in emissions,
- (D) the permit requirement with which the facility or source will comply using the emissions trading provision of the applicable provision of Chapter 4, and
- (E) the pollutants emitted subject to the emissions trade.

This Subparagraph does not apply to trades made under Chapter 4.1419, Nitrogen Oxide Budget Trading Program, Chapter 4.2408 Trading Program and Banking, or Chapter 4.2510, Trading and Banking.

- (4) The written notification required under Subparagraph (2) of this Paragraph shall include:
- (A) a description of the change,
 - (B) the date on when the change will occur,
 - (C) changes in emissions that will result and how the increases and decrease in emissions will comply with the terms and conditions of the permit.

(d) The permit shield allowed under Rule .0512 of this Section does not apply to changes made under Paragraphs (a), (b), or (c) of this Rule.

NCDAQ History Note:

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Eff. July 1, 1994;
Amended Eff. June 1, 2008; December 1, 2005.*

*WNCRAQA History Note: Adopted Eff. May 8, 2000.
Amended Eff. November 17, 2008; March 13, 2006.*

.0524 OWNERSHIP CHANGE

- (a) Applications for ownership changes shall:
- (1) contain the information required under Rule .0505(4) of this Chapter, and
 - (2) follow the procedures under Section .0300 of this Chapter.
- (b) When the Director permits an ownership change, he shall submit a copy of the permit to EPA as an administrative amendment.

*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); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994.*

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0525 APPLICATION PROCESSING SCHEDULE

- (a) Except for permit applications submitted under Rule .0506 of this Chapter, the Agency shall adhere to the following schedule in processing applications for permits, significant permit modifications, and permit renewal:
- (1) The Agency shall send written acknowledgment of receipt of the application to the applicant within 10 days of receipt of the application.
 - (2) The Agency shall review all permit applications within 60 days of receipt of the application to determine whether the application is complete or incomplete. The Agency shall notify the applicant by letter:
 - (A) stating that the application as submitted is complete and specifying the completeness date,
 - (B) stating that the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Agency, or

- (C) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Agency does not notify the applicant by letter dated within 60 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information. A completeness determination shall not be necessary for minor modifications under Rule .0514 of this Section.

- (3) The Agency shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment or the facility. The Agency shall complete the technical review within 270 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (4) The Director shall send the public notice for public comment on the draft permit to affected states, to EPA, and to persons on the mailing list within 270 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (5) If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.
- (6) The Director shall complete the review of the record and send the proposed permit to EPA:
 - (A) within 30 days after the close of the public comment period if there is no public hearing on the draft permit; or
 - (B) within 45 days after the close of the public hearing if there is a public hearing on the draft permit.
- (7) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:
 - (A) expiration of EPA 45-day review period; or
 - (B) receipt of notice from EPA that it will not object to issuance,

whichever comes first.

- (8) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objections.

(b) The Director may return at any time applications containing insufficient information to complete the review.

NCDAQ History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. February 1, 1995;
Amended Eff. July 1, 1998.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0526 CASE-BY-CASE MACT PROCEDURES

(a) The owner or operator of a source required to apply maximum achievable control technology (MACT) under Chapter 4 .1109 shall follow the permit procedures set out in this Rule.

(b) For the purposes of this Rule, the definitions in Chapter 4 .1109 and the following definitions apply:

- (1) "Equivalent emission limitation" means an emission limitation, established under Section 112(j) of the federal Clean Air Act, which is at least as stringent as the MACT standard that EPA would have promulgated under Section 112(d) or (h) of the federal Clean Air Act.
- (2) "Source category schedule for standards" means the schedule for promulgating MACT standards issued pursuant to Section 112(e) of the federal Clean Air Act.

(c) Except as provided for in Paragraph (d) or (e) of this Rule, the owner or operator of a source required to apply MACT under Chapter 4 .1109 shall submit an application for a permit or for a significant permit revision under this Section, whichever is applicable.

(d) The owner or operator of an existing source required to apply MACT under Chapter 4 .1109 that already has received a permit under this Section requiring compliance with a limit that would meet the requirements of Chapter 4 .1109 shall submit an application for an administrative permit amendment.

(e) The owner or operator of a new source required to apply MACT under Chapter 4 .1109 that currently complies with a federally enforceable alternative emission limitation, or has received a permit under this Section that already contains emission limitations substantively meeting the requirements of Chapter 4 .1109, shall submit an application for an administrative permit amendment confirming compliance with the requirements of Chapter 4 .1109 within 30 days after the date construction or reconstruction is commenced.

(f) If the Director disapproves a permit application submitted under this Rule or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the Director's objections not later than six months after first receiving notification that the application has been disapproved or is incomplete.

(g) If the owner or operator of a source subject to this Rule has submitted a timely and complete application for a permit, significant permit revision, or administrative amendment required by this Rule, any failure to have this permit will not be a violation of the requirements of this Rule unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application.

(h) The permit shall contain:

- (1) an equivalent emission limitation (or limitations) to control the emissions of hazardous air pollutant for that category or subcategory determined on a case-by-case basis;
- (2) any emission limits, production limits, operational limits or other terms and conditions necessary to ensure federal enforceability of the MACT emission limitation;
- (3) any notification, performance testing, monitoring, reporting, and recordkeeping requirements; and
- (4) a compliance date(s) by which the owner or operator of an existing source shall be in compliance with the MACT emission limitation not to exceed three years from the date of issuance of the permit (The owner or operator of a new source shall comply with a new source MACT level of control immediately upon issuance of a permit under this Section).

(i) Early reductions made pursuant to Section 112(i)(5)(A) of the federal Clean Air Act shall be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(j) A permit application for a MACT determination shall demonstrate how the source will obtain the degree of emission reduction that would have been obtained had the relevant emission standard been promulgated according to the source category schedule for standards for the source category of which the source is a member and all the other pertinent information required under 40 CFR 63.53.

(k) The Director shall follow 40 CFR 63.55(b) in reviewing permit applications for MACT.

(l) The following requirements apply to case-by-case determinations of equivalent emission limitations when a MACT standard is subsequently promulgated:

- (1) If EPA promulgates an emission standard that is applicable to one or more sources within a major facility before the date a proposed permit under this Rule is approved, the permit shall contain the promulgated standard rather than the emission limitation determined under Chapter 4 .1109, and the owner or operator of the source shall

comply with the promulgated standard by the compliance date in the promulgated standard.

- (2) If EPA promulgates an emission standard that is applicable to a source after the date that a permit is issued under this Rule, the Director shall revise the permit on its next renewal to reflect the promulgated standard. (Subparagraph (a)(1) of Rule .0517 of this Section does not apply to requirements established under this Rule.) The Director shall establish a compliance date in the revised permit that assures that the owner or operator shall comply with the promulgated standard within a reasonable time, but no longer than eight years after such standard is promulgated or eight years after the date by which the owner or operator was first required to comply with the emission limitation established by permit, whichever is earlier.
- (3) Notwithstanding the requirements of Subparagraphs (1) or (2) of this Paragraph, if EPA promulgates an emission standard that is applicable to a source after the date a proposed permit is approved, the Director need not change the emission limitation in the permit to reflect the promulgated standard if the level of control required by the emission limitation in the permit is at least as stringent as that required by the promulgated standard.

NCDQA History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1996.

WNCRAQA History Note: Adopted Eff. May 8, 2000

.0527 EXPEDITED APPLICATION PROCESSING SCHEDULE (RESERVED)

NCDQA History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. July 1, 1998.

.0528 112(g) CASE-BY-CASE MACT PROCEDURES

(a) **Applicability.** The owner or operator of a source required to apply maximum achievable control technology (MACT) under Chapter 4 .1112 shall follow the permit procedures set out in this Rule.

(b) **Construction prohibition.** After July 1, 1998 a person shall not begin actual construction or reconstruction of a major source of hazardous air pollutants unless:

- (1) The major source has been specifically regulated or exempted from regulation under:

- (A) Chapter 4 .1109 or .1111, or
- (B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act under 40 CFR Part 63,
and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in 40 CFR Part 63, Subpart A; or
- (2) The Agency has made a final and effective case-by-case determination under Chapter 4 .1112 such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.
 - (b) Requirements for constructed and reconstructed major sources. When a case-by-case determination of MACT is required by Chapter 4 .1112, the owner and operator shall submit a permit application to the Agency and the Agency shall process the application following the procedures of Rule .0501(c) of this Section.
 - (c) Alternative operating scenarios. When applying for a permit, the owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such determinations satisfies the requirements of Section 112(g) of the federal Clean Air Act for each such scenario.
 - (d) Not Used.
 - (e) Application requirements for a case-by-case MACT determination. The owner or operator of a source required to apply MACT under Rule Chapter 4 .1112 shall submit a permit application that contains all the information required under 40 CFR 63.43(e).
 - (f) Reporting to the EPA. Within 60 days of the issuance of a permit under this Section or Section .0300 of this Chapter incorporating a MACT determination, the Director shall provide a copy of such permit to EPA, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

NCDQA History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10);
Eff. July 1, 1998.

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