

1 15A NCAC 02Q .0701 is proposed for amendment as follows:
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3 **SECTION .0700 - TOXIC AIR POLLUTANT PROCEDURES**
4

5 **15A NCAC 02Q .0701 APPLICABILITY**

6 (a) With the exceptions in Rule .0702 of this Section, no person shall cause or allow any toxic air
7 pollutant named in 15A NCAC 02D .1104 to be emitted from any facility into the atmosphere at a rate
8 that exceeds the applicable rate(s) in Rule .0711 of this Section without having received a permit to emit
9 toxic air pollutants as follows:

- 10 (1) new facilities according to Rule .0704 of this Section;
11 (2) existing facilities according to Rule .0705 of this Section;
12 (3) modifications according to Rule .0706 of this Section.

13 (b) The Division shall assess risks from combustion sources using the latest risk assessment
14 methodologies and information every five years starting March 1, 2014. ~~Within one year after~~
15 ~~promulgation of MACT standards for the industrial boilers, commercial/institutional boilers, process~~
16 ~~heaters, stationary combustion turbines and stationary internal combustion engines source categories~~
17 ~~under Section 112 (d) of the Clean Air Act that are applicable to combustion sources as defined in Rule~~
18 ~~.0703 of this Section, the Division shall assess such MACT standards to determine whether additional~~
19 ~~measures are necessary with respect to toxic air pollutant emissions from combustion sources. Upon~~
20 ~~completion of this determination, the Commission shall proceed through normal rulemaking procedures,~~
21 ~~if necessary, to implement additional measures.~~

22 (c) Facilities required to comply with MACT standards under 15A NCAC 02D .1109, .1111, or .1112 or
23 40 CFR Part 63 shall be deemed in compliance with this Subchapter and 15A NCAC 02D .1100 unless
24 the Division determines that modeled emissions result in one or more acceptable ambient levels in 15A
25 NCAC 02D .1104 being exceeded. This review shall be made according to the procedures in 15A NCAC
26 02D .1106. Once a facility demonstrates compliance with the acceptable ambient levels in 15A NCAC
27 02D .1104, future demonstrations shall only be required on a five-year basis. When an acceptable ambient
28 level for a toxic air pollutant in 15A NCAC 02D .1104 is changed, any condition that has previously been
29 put in a permit to protect the previous acceptable ambient level for that toxic air pollutant shall not be
30 changed until the permit is renewed, at which time the owner or operator of the facility shall submit an air
31 toxic evaluation showing that the new acceptable ambient level will not be exceeded.

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33 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S. L. 1989, c. 168, s. 45;*
34 *Rule originally codified as part of 15A NCAC 2H .0610;*

1 *Eff. July 1, 1998;*
2 *Amended Eff. _____; February 1, 2005.*

3
4 15A NCAC 02Q .0702 is proposed for amendment as follows:

5
6 **15A NCAC 02Q .0702 EXEMPTIONS**

7 (a) A permit to emit toxic air pollutants shall not be required under this Section for:

- 8 (1) residential wood stoves, heaters, or fireplaces;
- 9 (2) hot water heaters that are used for domestic purposes only and are not used to heat
10 process water;
- 11 (3) maintenance, structural changes, or repairs that do not change capacity of that process,
12 fuel-burning, refuse-burning, or control equipment, and do not involve any change in
13 quality or nature or increase in quantity of emission of any regulated air pollutant or toxic
14 air pollutant;
- 15 (4) housekeeping activities or building maintenance procedures, including painting buildings,
16 resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and
17 associated storage of janitorial products, or non-asbestos bearing insulation removal;
- 18 (5) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
- 19 (6) paving parking lots;
- 20 (7) replacement of existing equipment with equipment of the same size, type, and function if
21 the new equipment:
 - 22 (A) does not result in an increase to the actual or potential emissions of any regulated
23 air pollutant or toxic air pollutant;
 - 24 (B) does not affect compliance status; and
 - 25 (C) fits the description of the existing equipment in the permit, including the
26 application, such that the replacement equipment can be operated under that
27 permit without any changes to the permit;
- 28 (8) comfort air conditioning or comfort ventilation systems that do not transport, remove, or
29 exhaust regulated air pollutants to the atmosphere;
- 30 (9) equipment used for the preparation of food for direct on-site human consumption;
- 31 (10) non-self-propelled non-road engines, except generators, regulated by rules adopted under
32 Title II of the federal Clean Air Act;
- 33 (11) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing
34 traps;
- 35 (12) use of fire fighting equipment;

- 1 (13) the use for agricultural operations by a farmer of fertilizers, pesticides, or other
2 agricultural chemicals containing one or more of the compounds listed in 15A NCAC
3 02D .1104 if such compounds are applied according to agronomic practices acceptable to
4 the North Carolina Department of Agriculture;
- 5 (14) asbestos demolition and renovation projects that comply with 15A NCAC 02D .1110 and
6 that are being done by persons accredited by the Department of Health and Human
7 Services under the Asbestos Hazard Emergency Response Act;
- 8 (15) incinerators used only to dispose of dead animals or poultry as identified in 15A NCAC
9 02D .1201(c)(4) or incinerators used only to dispose of dead pets as identified in 15A
10 NCAC 02D .1208(a)(2)(A);
- 11 (16) refrigeration equipment that is consistent with Section 601 through 618 of Title VI
12 (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any
13 other regulations promulgated by EPA under Title VI for stratospheric ozone protection,
14 except those units used as or with air pollution control equipment;
- 15 (17) laboratory activities:
- 16 (A) bench-scale, on-site equipment used exclusively for chemical or physical analysis
17 for quality control purposes, staff instruction, water or wastewater analyses, or
18 non-production environmental compliance assessments;
- 19 (B) bench scale experimentation, chemical or physical analyses, training or
20 instruction from nonprofit, non-production educational laboratories;
- 21 (C) bench scale experimentation, chemical or physical analyses, training or
22 instruction from hospital or health laboratories pursuant to the determination or
23 diagnoses of illnesses; and
- 24 (D) research and development laboratory activities that are not required to be
25 permitted under Section .0500 of this Subchapter provided the activity produces
26 no commercial product or feedstock material;
- 27 (18) combustion sources as defined in ~~15A NCAC 02Q .0703~~ 15A NCAC 02Q .0703 except new or modified
28 combustion sources permitted on or after March 1, 2009; until 18 months after
29 promulgation of the MACT or GACT standards for combustion sources. (Within 18
30 months following promulgation of the MACT or GACT standards for combustion
31 sources, the Commission shall decide whether to keep or remove the combustion source
32 exemption. If the Commission decides to remove the exemption, it shall initiate
33 rulemaking procedures to remove this exemption.)
- 34 (19) storage tanks used only to store:

- 1 (A) inorganic liquids with a true vapor pressure less than 1.5 pounds per square inch
2 absolute;
- 3 (B) fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils,
4 natural gas, liquefied petroleum gas, or petroleum products with a true vapor
5 pressure less than 1.5 pounds per square inch absolute;
- 6 (20) dispensing equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling
7 oils;
- 8 (21) portable solvent distillation systems that are exempted under 15A NCAC 02Q
9 .0102(c)(1)(I).
- 10 (22) processes:
- 11 (A) electric motor burn-out ovens with secondary combustion chambers or
12 afterburners;
- 13 (B) electric motor bake-on ovens;
- 14 (C) burn-off ovens for paint-line hangers with afterburners;
- 15 (D) hosiery knitting machines and associated lint screens, hosiery dryers and
16 associated lint screens, and hosiery dyeing processes where bleach or solvent
17 dyes are not used;
- 18 (E) blade wood planers planing only green wood;
- 19 (F) saw mills that saw no more than 2,000,000 board feet per year provided only
20 green wood is sawed;
- 21 (G) perchloroethylene drycleaning processes with 12-month rolling total
22 consumption of:
- 23 (i) less than 1366 gallons of perchloroethylene per year for facilities with
24 dry-to-dry machines only;
- 25 (ii) less than 1171 gallons of perchloroethylene per year for facilities with
26 transfer machines only; or
- 27 (iii) less than 1171 gallons of perchloroethylene per year for facilities with
28 both transfer and dry-to-dry machines;
- 29 (23) wood furniture manufacturing operations as defined in 40 CFR 63.801(a) that comply
30 with the emission limitations and other requirements of 40 CFR Part 63 Subpart JJ,
31 provided that the terms of this exclusion shall not affect the authority of the Director
32 under 15A NCAC 02Q .0712;
- 33 (24) wastewater treatment systems at pulp and paper mills for hydrogen sulfide and methyl
34 mercaptan only;

1 (25) gasoline dispensing facilities or gasoline service station operations that comply with 15A
2 NCAC 02D .0928 and .0932 and that receive gasoline from bulk gasoline plants or bulk
3 gasoline terminals that comply with 15A NCAC 02D .0524, .0925, .0926, .0927, .0932,
4 and .0933 via tank trucks that comply with 15A NCAC 02D .0932;

5 (26) the use of ethylene oxide as a sterilant in the production and subsequent storage of
6 medical devices or the packaging and subsequent storage of medical devices for sale if
7 the emissions from all new and existing sources at the facility described in 15A NCAC
8 02D .0538(d) are controlled at least to the degree described in 15A NCAC 02D .0538(d)
9 and the facility complies with 15A NCAC 02D .0538(e) and (f);

10 (27) bulk gasoline plants, including the storage and handling of fuel oils, kerosenes, and jet
11 fuels but excluding the storage and handling of other organic liquids, that comply with
12 15A NCAC 02D .0524, .0925, .0926, .0932, and .0933; unless the Director finds that a
13 permit to emit toxic air pollutants is required under Paragraph (b) of this Rule or Rule
14 .0712 of this Section for a particular bulk gasoline plant; or

15 (28) bulk gasoline terminals, including the storage and handling of fuel oils, kerosenes, and jet
16 fuels but excluding the storage and handling of other organic liquids, that comply with
17 15A NCAC 02D .0524, .0925, .0927, .0932, and .0933 if the bulk gasoline terminal
18 existed before November 1, 1992; unless:

19 (A) the Director finds that a permit to emit toxic air pollutants is required under
20 Paragraph (b) of this Rule or Rule .0712 of this Section for a particular bulk
21 gasoline terminal, or

22 (B) the owner or operator of the bulk gasoline terminal meets the requirements of
23 15A NCAC 02D .0927(i).

24 (b) Emissions from the activities identified in Subparagraphs (a)(25) through (a)(28) of this Rule shall be
25 included in determining compliance with the toxic air pollutant requirements in this Section and shall be
26 included in the permit if necessary to assure compliance. Emissions from the activities identified in
27 Subparagraphs (a)(1) through (a)(24) of this Rule shall not be included in determining compliance with
28 the toxic air pollutant requirements in this Section.

29 (c) The addition or modification of an activity identified in Paragraph (a) of this Rule shall not cause the
30 source or facility to be evaluated for emissions of toxic air pollutants.

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

1 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;*
2 *Rule originally codified as part of 15A NCAC 02H .0610;*
3 *Eff. July 1, 1998;*
4 *Amended Eff. _____; April 1, 2005; July 1, 2002; July 1, 2000.*
5

6 15A NCAC 02Q .0706 is proposed for amendment as follows:
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8 **15A NCAC 02Q .0706 MODIFICATIONS**

9 (a) For modification of any facility undertaken after September 30, 1993, that:

- 10 (1) is required to have a permit because of applicability of a Section, other than Section
11 .1100, in Subchapter 02D of this Chapter except for facilities whose emissions of toxic
12 air pollutants result only from insignificant activities as defined in 15A NCAC 02Q
13 .0103(20) or sources exempted under Rule .0102 of this Subchapter;
14 (2) has one or more sources subject to a MACT or GACT standard that has previously been
15 promulgated under Section 112(d) of the federal Clean Air Act or established under
16 Section 112(e) or 112(j) of the Clean Air Act; or
17 (3) has a standard industrial classification code that has previously been called under Rule
18 .0705 of this Section;

19 the owner or operator of the facility shall comply with Paragraphs (b) and (c) of this Rule.

20 (b) The owner or operator of the facility shall submit a permit application to comply with 15A NCAC
21 02D .1100 if:

- 22 (1) The modification results in:
23 (A) a net increase in emissions of any toxic air pollutant that the facility was emitting
24 before the modification; or
25 (B) emissions of any toxic air pollutant that the facility was not emitting before the
26 modification if such emissions exceed the levels contained in Rule .0711 of this
27 Section; or
28 (2) The Director finds that the modification of the facility will cause an acceptable ambient
29 level in 15A NCAC 02D .1104 to be exceeded. The Director shall provide the findings to
30 the owner or operator of the facility. The Director may require the owner or operator of a
31 facility subject to this Subparagraph to provide an evaluation showing what the resultant
32 emissions and impacts on ambient levels for air toxics from the modified facility will be.

33 (c) The permit application filed pursuant to this Rule shall include an evaluation for all toxic air
34 pollutants covered under 15A NCAC 02D .1104 for which there is:

- 1 (1) a net increase in emissions of any toxic air pollutant that the facility was emitting before
2 the modification; and
3 (2) emission of any toxic air pollutant that the facility was not emitting before the
4 modification if such emissions exceed the levels contained in Rule .0711 of this Section.

5 All sources at the facility, excluding sources exempt from evaluation in Rule .0702 of this Section,
6 emitting these toxic air pollutants shall be included in the evaluation. Notwithstanding 02Q .0702(a)(18)
7 on and after March 1, 2009, an evaluation of a modification to a combustion source or of a new
8 combustion source shall also include emissions from all combustion sources as defined in 02Q .0703. A
9 permit application filed pursuant to Subparagraph (b)(2) of this Rule shall include an evaluation for all
10 toxic air pollutants identified by the Director as causing an acceptable ambient level in 15A NCAC 02D
11 .1104 to be exceeded. (d) If a source is included in an air toxic evaluation, but is not the source that is
12 being added or modified at the facility, and if the emissions from this source must be reduced in order for
13 the facility to comply with the rules in this Section and 15A NCAC 02D .1100, then the emissions from
14 this source shall be reduced by the time that the new or modified source begins operating such that the
15 facility shall be in compliance with the rules in this Section and 15A NCAC 02D .1100.

16
17 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S. L. 1989, C. 168, S. 45;*
18 *Rule originally codified as part of 15A NCAC 2H .0610;*
19 *Eff. July 1, 1998;*
20 *Amended Eff. _____; December 1, 2005; April 1, 2005.*

21
22 15A NCAC 02Q .0709 is proposed for amendment as follows:
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24 **15A NCAC 02Q .0709 DEMONSTRATIONS**

25 (a) Demonstrations. The owner or operator of a source who is applying for a permit or permit
26 modification to emit toxic air pollutants shall:

- 27 (1) demonstrate to the satisfaction of the Director through dispersion modeling that the
28 emissions of toxic air pollutants from the facility will not cause any acceptable ambient
29 level listed in 15A NCAC 02D .1104 to be exceeded beyond the premises (adjacent
30 property boundary); or
31 (2) demonstrate to the satisfaction of the Commission or its delegate that the ambient
32 concentration beyond the premises (adjacent property boundary) for the subject toxic air
33 pollutant shall not adversely affect human health (e.g., a risk assessment specific to the

1 facility) though the concentration is higher than the acceptable ambient level in 15A
2 NCAC 02D .1104 by providing one of the following demonstrations:

3 (A) the area where the ambient concentrations are expected to exceed the acceptable
4 ambient levels in 15A NCAC 02D .1104 is not inhabitable or occupied for the
5 duration of the averaging time of the pollutant of concern, or

6 (B) new toxicological data that show that the acceptable ambient level in 15A NCAC
7 02D .1104 for the pollutant of concern is too low and the facility's ambient
8 impact is below the level indicated by the new toxicological data.

9 (b) Technical Infeasibility and Economic Hardship. This Paragraph shall not apply to any incinerator
10 covered under 15A NCAC 02D .1200. The owner or operator of any source constructed before May 1,
11 1990, or a perchloroethylene dry cleaning facility subject to a GACT standard under 40 CFR 63.320
12 through 63.325, or a combustion source as defined in Rule 02Q .0703 of this Section permitted before
13 March 1, 2009, who cannot supply a demonstration described in Paragraph (a) of this Rule shall:

14 (1) demonstrate to the satisfaction of the Commission or its delegate that complying with the
15 guidelines in 15A NCAC 02D .1104 is technically infeasible (the technology necessary to
16 reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 02D
17 .1104 from being exceeded does not exist); or

18 (2) demonstrate to the satisfaction of the Commission or its delegate that complying with the
19 guidelines in 15A NCAC 02D .1104 would result in serious economic hardship. (In
20 deciding if a serious economic hardship exists, the Commission or its delegate shall
21 consider market impact; impacts on local, regional and state economy; risk of closure;
22 capital cost of compliance; annual incremental compliance cost; and environmental and
23 health impacts.)

24 If the owner or operator makes a demonstration to the satisfaction of the Commission or its delegate
25 pursuant to Subparagraphs (1) or (2) of this Paragraph, the Director shall require the owner or operator of
26 the source to apply maximum feasible control. Maximum feasible control shall be in place and operating
27 within three years from the date that the permit is issued for the maximum feasible control.

28 (c) Pollution Prevention Plan. The owner or operator of any facility using the provisions of Part
29 (a)(2)(A) or Paragraph (b) of this Rule shall develop and implement a pollution prevention plan consisting
30 of the following minimum elements:

31 (1) statement of corporate and facility commitment to pollution prevention;

32 (2) identification of current and past pollution prevention activities;

33 (3) timeline and strategy for implementation;

34 (4) description of ongoing and planned employee education efforts;

- 1 (5) identification of internal pollution prevention goal selected by the facility and expressed
2 in either qualitative or quantitative terms.

3 The facility shall submit along with the permit application the pollution prevention plan. The pollution
4 prevention plan shall be maintained on site. A progress report on implementation of the plan shall be
5 prepared by the facility annually and be made available to Division personnel for review upon request.

6 (d) Modeling Demonstration. If the owner or operator of a facility demonstrates by modeling that no
7 toxic air pollutant emitted from the facility exceeds the acceptable ambient level values given in 15A
8 NCAC 02D .1104 beyond the facility's premises, further modeling demonstration is not required with the
9 permit application. However, the Commission may still require more stringent emission levels according
10 to its analysis under 15A NCAC 02D .1107.

11 (e) Change in Acceptable Ambient Level. When an acceptable ambient level for a toxic air pollutant in
12 15A NCAC 02D .1104 is changed, any condition that has previously been put in a permit to protect the
13 previous acceptable ambient level for that toxic air pollutant shall not be changed until:

- 14 (1) The permit is renewed, at which time the owner or operator of the facility shall submit an
15 air toxic evaluation showing that the new acceptable ambient level will not be exceeded
16 (If additional time is needed to bring the facility into compliance with the new acceptable
17 ambient level, the owner or operator shall negotiate a compliance schedule with the
18 Director. The compliance schedule shall be written into the facility's permit and final
19 compliance shall not exceed two years from the effective date of the change in the
20 acceptable ambient level.); or

- 21 (2) The owner or operator of the facility requests that the condition be changed and submits
22 along with that request an air toxic evaluation showing that the new acceptable ambient
23 level shall not be exceeded.
24

25 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S.L. 1989, c. 168, s. 45;*
26 *Rule originally codified as part of 15A NCAC 2H .0610;*
27 *Eff. July 1, 1998;*
28 *Amended Eff. _____; February 1, 2005.*