

# County of Forsyth



## PUBLIC HEARING AND OPPORTUNITY FOR PUBLIC COMMENT FORSYTH COUNTY OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION WINSTON-SALEM, NC

The Forsyth County Environmental Assistance and Protection Advisory Board will hold a public hearing on Tuesday, July 21, 2015 at 10:00 a.m. in the board room on the first floor of the Government Center at 201 North Chestnut Street in Winston-Salem, NC. The hearing is for the adoption of revisions to Chapter 3 of the Forsyth County Air Quality Control Code and Air Quality Ordinance and Technical Code to incorporate changes made to North Carolina's State Implementation Plan.

The following rules are proposed for revision: Subchapter 3D-Air Pollution Control Requirements, Section 3D-0100 Definition and References, 0101 Definitions; Section 3D-0500 Emission Control Standards, 3D-0544 Prevention of significant deterioration requirements for greenhouse gases; Section 3D-01200 Control of Emissions from Incinerators, 1206 Hospital, medical, and infectious waste incinerators; Section 3D-1900 Open Burning, 1901 Open burning: purpose: scope, 1902 Definitions, 1903 Permissible open burning; Subchapter 3Q-Air Quality Permits, Section 3Q-0100 General Provisions, 0101 Required air quality permits, 0103 Definitions, 0104 Where to obtain and file permit applications; Section 3Q-0200 Permit Fees, 0203 Permit and application fees; Section 3Q-0300 Construction and Operation Permit, 0308 Final action on permit applications; and Section 3Q-0500 Title V Procedures, 0502 Applicability. The following sections are proposed for repeal: Subchapter 3D-Air Pollution Control Requirements, and Section 3D 0800 Transportation facilities; Subchapter 3Q-Air Quality Permits, Section 3Q 0600 Transportation Facility Procedures. Any person may appear before the Environmental Assistance and Protection Advisory Board and bring representatives, consultants, and witnesses to be heard relative to the matter for which action by the Board is sought, provided advance notice is given to the Office Director of such matter to be considered.

Additional information on these issues is available for public review at the Forsyth County Office of Environmental Assistance and Protection on the fifth floor of the Forsyth County Government Center at 201 North Chestnut Street in Winston-Salem, North Carolina. The public comment period begins today and ends on July 21, 2015. Date: June 19, 2015

  
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Minor Barnette, Director

PROPOSED REVISIONS TO CHAPTER 3 OF THE  
FORSYTH COUNTY CODE AND AIR QUALITY  
CONTROL TECHNICAL CODE

PUBLIC HEARING TIME & DATES

10 AM, July 21, 2015  
First Floor Board Room  
Forsyth County Government Center  
201 North Chestnut Street  
Winston-Salem, NC 27101

Telephone Number: (336) 703-2440

Fax Number: (336) 703- 2777

Proposed rule revision are available on our website at:

[http://www.forsyth.cc/EAP/public\\_notices.aspx](http://www.forsyth.cc/EAP/public_notices.aspx)

# CHANGES TO RULES

## INSTRUCTIONS FOR UNDERSTANDING CHANGES

Additions: Words, sentences, or entire paragraphs to be added are underlined.

For example, Area sources mean all sources other than point sources.

Deletions: Words, sentences, or entire paragraphs to be deleted are struck through.

For example, ~~Area sources mean all sources other than point sources.~~

Additions/Deletions: Words, sentences, or entire paragraphs that have been changed as a result of comments received prior or during the public or during the public hearing.

For example, July ~~1, 2009-10, 2009~~

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## SUBCHAPTER 3D AIR POLLUTION CONTROL REQUIREMENTS

### SECTION 3D-0100 DEFINITION AND REFERENCES

#### Sec. 3D-0101. Definitions

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

- (1) "Act" means "The North Carolina Water and Air Resources Act."
- (2) "Administrator" means when it appears in any Code of Federal Regulations incorporated by reference in this Subchapter, the Director of the Office of Environmental Assistance and Protection unless:
  - (A) a specific rule in this Subchapter specifies otherwise, or
  - (B) the U.S. Environmental Protection Agency in its delegation or approval specifically states that a specific authority of the Administrator of the Environmental Protection Agency is not included in its delegation or approval.
- (3) "Air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter emitted into or otherwise entering the ambient air.
- (4) "Ambient air" means that portion of the atmosphere outside buildings or other enclosed structures, stacks or ducts, and that surrounds human, animal or plant life, or property.
- (5) "Approved" means approved by the Director of the Office of Environmental Assistance and Protection according to these rules..
- (6) "Capture system" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.
- (7) "CFR" means "Code of Federal Regulations."
- (8) "Combustible material" means any substance that, when ignited, will burn in air.
- (9) "Construction" means change in method of operation or any physical change, including on-site fabrication, erection, installation, replacement, demolition, or modification of a source, that results in a change in emissions or affects the compliance status.
- (10) "Control device" means equipment (fume incinerator, adsorber, absorber, scrubber, filter media, cyclone, electrostatic precipitator, or the like) used to destroy or remove air pollutant(s) before discharge to the ambient air.
- (11) "Day" means a 24-hour period beginning at midnight.
- (12) "Director" means the Director of the Forsyth County Office of Environmental Assistance and Protection unless otherwise specified.
- (13) Reserved.
- (14) "Dustfall" means particulate matter which settles out of the air and is expressed in units of grams per square meter per 30-day period.

- (15) "Emission" means the release or discharge, whether directly or indirectly, of any air pollutant into the ambient air from any source.
- (16) "Facility" means all of the pollutant emitting activities, except transportation facilities as defined under Sec. 3D-[0802](#), that are located on one or more adjacent properties under common control.
- (17) "FR" means Federal Register.
- (18) "Fugitive emission" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (19) "Fuel burning equipment" means equipment whose primary purpose is the production of energy or power from the combustion of any fuel. The equipment is generally used for, but not limited to, heating water, generating or circulating steam, heating air as in warm air furnace, or furnishing process heat by transferring energy by fluids or through process vessel walls.
- (20) "Garbage" means any animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.
- (21) "Incinerator" means a device designed to burn solid, liquid, or gaseous waste material.
- (21a) "Office" means Forsyth County Office of Environmental Assistance and Protection.
- (22) "Opacity" means that property of a substance tending to obscure vision and is measured as percent obscuration.
- (23) "Open burning" means any fire whose products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney, approved incinerator, or other similar device.
- (24) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (25) "Particulate matter" means any material except uncombined water that exists in a finely divided form as a liquid or solid at standard conditions.
- (26) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by methods specified in this Subchapter.
- (27) "Permitted" means any source subject to a permit under this Subchapter or Subchapter 3Q.
- (28) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or its legal representative, agent or assigns.
- (29) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by methods specified in this Subchapter.
- (30) "PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods specified in this Subchapter.
- (31) "PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by methods specified in this Subchapter.
- (32) "Refuse" means any garbage, rubbish, or trade waste.

- (33) "Rubbish" means solid or liquid wastes from residences, commercial establishments, or institutions.
- (34) "Rural area" means an area that is primarily devoted to, but not necessarily limited to, the following uses: agriculture, recreation, wildlife management, state park, or any area of natural cover.
- (35) "Salvage operation" means any business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material, including, but not limited to, metal, chemicals, motor vehicles, shipping containers, or drums.
- (36) "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other burned or unburned residue of combustible materials that form a visible plume.
- (37) "Source" means any stationary article, machine, process equipment, or other contrivance; or any combination; or any tank-truck, trailer, or railroad tank car; from which air pollutants emanate or are emitted, either directly or indirectly.
- (38) "Sulfur oxides" means sulfur dioxide, sulfur trioxide, their acids and the salts of their acids. The concentration of sulfur dioxide is measured by the methods specified in this Subchapter.
- (39) "Transportation facility" means a complex source as defined in G.S. 143-213(22).
- (40) "Total suspended particulate" means any finely divided solid or liquid material, except water in uncombined form, that is or has been airborne as measured by methods specified in this Subchapter.
- (4041) "Trade wastes" means all solid, liquid, or gaseous waste materials or rubbish resulting from combustion, salvage operations, building operations, or the operation of any business, trade, or industry including, but not limited to, plastic products, paper, wood, glass, metal, paint, grease, oil and other petroleum products, chemicals, and ashes.
- (4142) "ug" means micrograms. (Ord. No. 9-94, 12-19-94, 11-11-96, 9-14-98, 11-22-04, 5-8-06)

## SECTION 3D-0500 EMISSION CONTROL STANDARDS

### **Sec. 3D-0544. Prevention of significant deterioration requirements for greenhouse gases**

(a) The purpose of this Rule is to implement a program for the prevention of significant deterioration of air quality for greenhouse gases as required by 40 CFR 51.166. For purposes of greenhouse gases, the provisions of this Rule shall apply rather than the provisions of Sec. 3D-0530. For all other regulated NSR pollutants, the provisions of Sec. 3D-0530 apply. A major stationary source or major modification shall not be required to obtain a prevention of significant deterioration (PSD) permit on the sole basis of its greenhouse gases emissions. For all other regulated new source review (NSR) pollutants, the provisions of Sec-3D-0530 of this Section apply.

(b) For the purposes of this Rule, the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions". "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Subparagraphs (1) through (3) of this Paragraph:

- (1) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Office for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Office, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:
  - (A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions;
  - (B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period;
  - (C) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions;
  - (D) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G. S. 143-215.107D and for which cost recovery is sought pursuant to G. S. 62-133.6;
  - (E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant can be used for each regulated NSR pollutant; and
  - (F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Parts (B) and (C) of this Subparagraph;
- (2) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit; and
- (3) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Subparagraph (1) of this Paragraph and for a new emissions

unit in accordance with the procedures contained in Subparagraph (2) of this Paragraph.

- (c) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be seven years.
- (d) The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply.
- (e) Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR 51.166(i) and (a)(7) and by extension in 40 CFR 51.166(j) through (o) and (w). The transition provisions allowed by 40 CFR 52.21 (i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as the requirements to be used under this Rule, except as otherwise provided in this Rule. Wherever the language of the portions of 40 CFR 51.166 referenced in this Paragraph speaks of the "plan," the requirements described therein shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain requirements in certain circumstances, those exemptions and provisions of nonapplicability are also hereby adopted under this Rule. However, this provision shall not be interpreted so as to limit information that may be requested from the owner or operator by the Director as specified in 40 CFR 51.166(n)(2).
- (f) 40 CFR 51.166(w)(10)(iv)(a) is changed to read: "If the emissions level calculated in accordance with Paragraph (w)(6) of this Section is equal to or greater than 80 percent of the PAL [plant wide applicability limit] level, the Director shall renew the PAL at the same level." 40 CFR 51.166(w)(10)(iv)(b) is not incorporated by reference.
- (g) Sec. 3Q-[0102](#) and [0302](#) are not applicable to any source to which this Rule applies. The owner or operator of the sources to which this Rule applies shall apply for and receive a permit as required in Sec. 3Q-[0300](#) or [0500](#).
- (h) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.
- (i) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" is replaced with "Director".
- (j) Permits may be issued based on innovative control technology as set forth in 40 CFR 51.166(s)(1) if the requirements of 40 CFR 51.166(s)(2) have been met, subject to the condition of 40 CFR 51.166(s)(3), and with the allowance set forth in 40 CFR 51.166(s)(4).
- (k) A permit application subject to this Rule shall be processed in accordance with the procedures and requirements of 40 CFR 51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the application is complete as to initial information submitted. Commencement of construction before full prevention of significant deterioration approval is obtained constitutes a violation of this Rule.
- (l) Approval of an application with regard to the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of other rules of this Subchapter or Subchapter [3Q](#) and any other requirements under local, state, or federal law.

(m) If the owner or operator of a source is using projected actual emissions to avoid applicability of prevention of significant deterioration requirements, the owner or operator shall notify the Director of the modification before beginning actual construction. The notification shall include:

- (1) a description of the project;
- (2) identification of sources whose emissions could be affected by the project;
- (3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including identification of emissions excluded by 40 CFR 51.166(b)(40)(ii)(c);
- (4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated; and
- (5) any netting calculations if applicable.

If upon reviewing the notification, the Director finds that the project will cause a prevention of significant deterioration evaluation, then the Director shall notify the owner or operator of his findings. The owner or operator shall not make the modification until it has received a permit issued pursuant to this Rule. If a permit revision is not required pursuant to this Rule, the owner or operator shall maintain records of annual emissions in tons per year, on a calendar year basis related to the modifications for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.166(r)(6)(v)(a) through (c). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(n) The references to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a specific reference states otherwise. The version of the CFR incorporated in this Rule is that as of July 20, 2011 and does not include any subsequent amendments or editions to the referenced material. This Rule is applicable as of its effective date in accordance with 40 CFR 51.166(b)(48) and (b)(49)(iv) and (v).

## **SECTION 3D-0800. ~~REPEALED TRANSPORTATION FACILITIES~~**

### **~~Sec. 3D-0801. – Sec. 3D-0806. Repealed~~**

#### **~~Sec. 3D-0801. Purpose and scope~~**

~~(a) — The purpose of this Section is to set forth requirements of the Forsyth County Board of Commissioners relating to construction or modification of a transportation facility which may result in an ambient air quality standard for carbon monoxide being exceeded.~~

~~(b) — For purposes of this Section any transportation facility that was under construction or was the subject of a contract for construction prior to November 15, 1973, shall not be considered to be a new air pollution source.~~

~~(c) — Approval to construct or modify a transportation facility shall not relieve any owner or developer of the transportation facility of the responsibility to comply with the state control strategy and~~

all local and state regulations which are part of the North Carolina State Implementation Plan for Air Quality. (Ord. No. 9-94, 12-19-94)

**Sec. 3D-0802. Definitions**

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

- (1) ~~"Construction" means any activity following land clearing or grading that engages in a program of construction specifically designed for a transportation facility in preparation for the fabrication, erection, or installation of the building components which are a part of the transportation facility, e.g. curbing, footings, conduit, paving, etc.~~
- (2) ~~"Modify" or "modification" means to alter or change the facility resulting in an increase in parking capacity as defined in Sec. 3Q 0805 or the number of aircraft operations from an airport as defined in Sec. 3Q 0804.~~
- (3) ~~"Peak hour aircraft operation" means the hour during the calendar year when the maximum number of aircraft operations (one operation equals one takeoff or one landing) occur.~~
- (4) ~~"Owner or developer" means any person who owns, leases, develops, or controls a transportation facility.~~
- (5) ~~"Transportation facility" means a complex source (means any facility which is or may be an air pollutant source which will induce or tend to induce development or activities which will or may be air pollution sources, and which shall include, but not be limited to, shopping centers; sports complexes; drive-in theaters; parking lots and garages; residential, commercial, industrial or institutional developments; amusement parks and recreation areas; highways; and any other facilities which will result in increased emissions from motor vehicles or stationary sources) which is subject to the requirements of this Section. (Ord. No. 9-94, 12-19-94)~~

**Sec. 3D-0803. Reserved**

(Ord. No. 9-94, 12-19-94)

**Sec. 3D-0804. Airport facilities**

- (a) ~~This Rule does not apply to military airfields.~~
- (b) ~~Before constructing or modifying any airport facility designed to have at least 100,000 annual aircraft operations, or at least 45 peak hour aircraft operations (one operation equals one takeoff or one landing), the owner or developer of the airport facility shall apply for and have received a permit as described in Forsyth County Code, Section 3Q 0600, and shall comply with all terms and conditions therein. (Ord. No. 9-94, 12-19-94, 11-11-96)~~

**Sec. 3D-0805. Parking facilities**

- (a) ~~The owner or developer of a transportation facility shall not construct or modify a parking area or associated buildings until he has applied for and received a permit under Forsyth County Code, Section 3Q 0600 where the parking area is for:~~

- (1) ~~construction of a new or expansion of an existing parking lot or combination of parking lots resulting in a parking capacity of at least 1500 spaces or a potential open parking area of at least 450,000 square feet (1500 spaces at 300 square feet per stall);~~
- (2) ~~modification of an existing parking lot or combination of parking lots with a parking capacity of at least 1500 spaces that will be expanded by at least 500 spaces beyond the last permitted number of spaces;~~
- (3) ~~construction of a new or expansion of an existing parking deck or garage resulting in a parking capacity of at least 750 spaces or a potential parking area of at least 225,000 square feet (750 spaces at 300 square feet per stall);~~
- (4) ~~modification of an existing parking deck or garage with a parking capacity of at least 750 spaces that will be expanded by at least 250 spaces beyond the last permitted number of spaces;~~
- (5) ~~construction of a new or expansion of an existing combination of parking lots, decks, and garages resulting in a parking capacity of at least 1000 spaces or a potential parking area of at least 300,000 square feet; or~~
- (6) ~~modification of an existing combination of parking lots, decks, and garages with a parking capacity of at least 1000 spaces that will be expanded by at least 500 spaces beyond the last permitted number of spaces.~~

(b) ~~New or modified parking lots, decks, or garages with a parking capacity of 500 or more spaces and existing or proposed parking facilities that:~~

- (1) ~~are directly adjacent to each other and the combined parking capacities are greater than those defined in Paragraph (a) of this Rule, and~~
- (2) ~~use the same public roads or traffic network,~~

~~shall be considered one lot or deck. Transportation facilities shall be considered to be directly adjacent if they are within 100 meters of each other in a suburban or rural area or 50 meters of each other in an urban area and if there are no existing physical barriers, such as, buildings or terrain.~~

(c) ~~Temporary barriers shall not be used to reduce the capacity of an otherwise affected transportation facility to less than the amount which requires permitting. The design and plan shall clearly show the total parking capacity.~~

(d) ~~Phased construction shall be evaluated and permitted for a period not to exceed five years from the date of application. (Ord. No. 9-94, 12-19-94, 11-11-96)~~

**Sec. 3D-0806. Ambient monitoring and modeling analysis**

(a) ~~The Director may require the owner or developer of a transportation facility subject to the requirements of this Section to conduct ambient air quality monitoring if dispersion modeling, traffic analysis, or other ambient air quality monitoring data indicates that there is a potential for the ambient air quality standard for carbon monoxide to be exceeded. If ambient air quality monitoring is required, the permit shall specify the duration of such monitoring.~~

(b) ~~The Director may require the owner or developer of a transportation facility subject to the requirements of this Section to perform dispersion modeling analyses to predict the impact of proposed construction or modification of a transportation facility on ambient air quality if ambient air quality monitoring, traffic analysis, or other dispersion modeling analysis indicates that there is a potential for the ambient air quality standard for carbon monoxide to be exceeded. (Ord. No. 9-94, 12-19-94)~~

## SECTION 3D-01200 CONTROL OF EMISSIONS FROM INCINERATORS

### Sec. 3D-1206. Hospital, medical, and infectious waste incinerators

- (a) Applicability. This Rule applies to any hospital, medical, and infectious waste incinerator (HMIWI), except:
- (1) any HMIWI required to have a permit under Section 3005 of the Solid Waste Disposal Act;
  - (2) any pyrolysis unit;
  - (3) any cement kiln firing hospital waste or medical and infectious waste;
  - (4) any physical or operational change made to an existing HMIWI solely for the purpose of complying with the emission standards for HMIWIs in this Rule. These physical or operational changes are not considered a modification and do not result in an existing HMIWI becoming subject to the provisions of 40 CFR Part 60, Subpart Ec;
  - (5) any HMIWI during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned, provided that the owner or operator of the HMIWI:
    - (A) notifies the Director of an exemption claim; and
    - (B) keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste is burned; or
  - (6) any co-fired HMIWI, if the owner or operator of the co-fired HMIWI:
    - (A) notifies the Director of an exemption claim;
    - (B) provides an estimate of the relative weight of hospital, medical and infectious waste, and other fuels or wastes to be combusted; and
    - (C) keeps records on a calendar quarter basis of the weight of hospital, medical and infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired HMIWI.
- (b) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.51c shall apply in addition to the definitions in Sec. 3D-[1202](#).
- (c) Emission Standards.
- (1) The emission standards in this Paragraph apply to all HMIWIs subject to this Rule except where Sec. 3D-[0524](#), [1110](#) or [1111](#) applies. However, when Subparagraph (7) or (8) of this Paragraph and Sec. 3D-[0524](#), [1110](#) or [1111](#) regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of Sec. 3D-[0524](#), [1110](#) or [1111](#) to the contrary;
  - (2) Prior to July 1, 2013, each HMIWI for which construction was commenced on or before June 20, 1996, or for which modification is commenced on or before March 16, 1998, shall not exceed the requirements listed in Table 1A of Subpart Ce of 40 CFR Part 60;
  - (3) On or after July 1, 2013, each HMIWI for which construction was commenced on or before June 20, 1996, or for which modification is commenced on or before March 16,

- 1998, shall not exceed the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60;
- (4) Each HMIWI for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010, shall not exceed the more stringent of the requirements listed in Table 1B of Subpart Ce and Table 1A of Subpart Ec of 40 CFR Part 60;
  - (5) Each small remote HMIWI for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and which burns less than 2,000 pounds per week of hospital waste and medical or infectious waste shall not exceed emission standards listed in Table 2A of Subpart Ce of 40 CFR Part 60 before July 1, 2013. On or after July 1, 2013, each small remote HMIWI shall not exceed emission standards listed in Table 2B of Subpart Ce of 40 CFR Part 60;
  - (6) Visible Emissions. Prior to July 1, 2013, the owner or operator of any HMIWI shall not cause to be discharged into the atmosphere from the stack of the HMIWI any gases that exhibit greater than 10 percent opacity (6-minute block average). On or after July 1, 2013, the owner or operator of any HMIWI shall not cause to be discharged into the atmosphere from the stack of the HMIWI any gases that exhibit greater than six percent opacity six-minute block average);
  - (7) Toxic Emissions. The owner or operator of any HMIWI subject to this Rule shall demonstrate compliance with Section 3D-[1100](#) according to Section [3Q-0700](#); and
  - (8) Ambient Standards.
    - (A) In addition to the ambient air quality standards in [Section 3D-0400](#), the following ambient air quality standards, which are an annual average, in milligrams per cubic meter at 77°F (25°C) and 29.92 inches (760 mm) of mercury pressure, and which are increments above background concentrations, shall apply aggregately to all HMIWIs at a facility subject to this Rule:
 

(i) arsenic and its compounds	$2.3 \times 10^{-7}$
(ii) beryllium and its compounds	$4.1 \times 10^{-6}$
(iii) cadmium and its compounds	$5.5 \times 10^{-6}$
(iv) chromium (VI) and its compounds	$8.3 \times 10^{-8}$ ;
    - (B) The owner or operator of a facility with HMIWIs subject to this Rule shall demonstrate compliance with the ambient standards in Subparts (i) through (iv) of Part (A) of this Subparagraph by following the procedures set out in Sec. 3D-[1106](#). Modeling demonstrations shall comply with the requirements of Sec. 3D-[0533](#); and
    - (C) The emission rates computed or used under Part (B) of this Subparagraph that demonstrate compliance with the ambient standards under Part (A) of this Subparagraph shall be specified as a permit condition for the facility with HMIWIs subject to this Rule as their allowable emission limits unless Sec. 3D-[0524](#), [1110](#) or [1111](#) requires more restrictive rates.
- (d) Operational Standards.

- (1) The operational standards in this Rule do not apply to any HMIWI subject to this Rule when applicable operational standards in Sec. 3D-[0524](#), [1110](#) or [1111](#) apply;
- (2) Annual Equipment Inspection.
  - (A) Each HMIWI shall undergo an equipment inspection initially within 6 months upon this Rule's effective date and an annual equipment inspection (no more than 12 months following the previous annual equipment inspection);
  - (B) The equipment inspection shall include all the elements listed in 40 CFR 60.36e(a)(1)(i) through (xvii);
  - (C) Any necessary repairs found during the inspection shall be completed within 10 operating days of the inspection unless the owner or operator submits a written request to the Director for an extension of the 10 operating day period; and
  - (D) The Director shall grant the extension if the owner or operator submits a written request to the Director for an extension of the 10 operating day period if the owner or operator of the small remote HMIWI demonstrates that achieving compliance by the time allowed under this Part is not feasible, and the Director does not extend the time allowed for compliance by more than 30 days following the receipt of the written request, and the Director concludes that the emission control standards would not be exceeded if the repairs were delayed;
- (3) Air Pollution Control Device Inspection.
  - (A) Each HMIWI shall undergo air pollution control device inspections, as applicable, initially within six months upon this Rule's effective date and annually (no more than 12 months following the previous annual air pollution control device inspection) to inspect air pollution control device(s) for proper operation, if applicable: ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment; and generally observe that the equipment is maintained in good operating condition. Any necessary repairs found during the inspection shall be completed within 10 operating days of the inspection unless the owner or operator submits a written request to the Director for an extension of the 10 operating day period; and
  - (B) The Director shall grant the extension if the owner or operator of the HMIWI demonstrates that achieving compliance by the 10 operating day period is not feasible, the Director does not extend the time allowed for compliance by more than 30 days following the receipt of the written request, and the Director concludes that the emission control standards would not be exceeded if the repairs were delayed;
- (4) Any HMIWI, except for a small HMIWI for which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and subject to the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60, shall comply with 40 CFR 60.56c except for:
  - (A) Before July 1, 2013, the test methods listed in Paragraphs 60.56c(b)(7) and (8), the fugitive emissions testing requirements under 40 CFR 60.56c(b)(14) and (c)(3), the CO CEMS requirements under 40 CFR 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5)(ii)

through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h); and

(B) On or after July 1, 2013, sources subject to the emissions limits under Table 1B of Subject Ce of 40 CFR Part 60 or more stringent of the requirements listed in Table 1B of Subpart 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60 may, however, elect to use CO CEMS as specified under 40 CFR 60.56c(c)(4) or bag detection systems as specified under 40 CFR 60.57c(h):

- (5) Prior to July 1, 2013, the owner or operator of any small remote HMIWI shall comply with the following compliance and performance testing requirements:
  - (A) conduct the performance testing requirements in 40 CFR 60.56c(a), (b)(1) through (b)(9), (b)(11)(mercury only), and (c)(1). The 2,000 pound per week limitation does not apply during performance tests;
  - (B) establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits; and
  - (C) following the date on which the initial performance test is completed, ensure that the HMIWI does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three hour rolling averages, calculated each hour as the average of all previous three operating hours, at all times except during periods of start-up, shut-down and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters;
- (6) On or after July 1, 2013, any small remote HMIWI constructed on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, is subject to the requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60. The owner or operator shall comply with the compliance and performance testing requirements of 40 CFR 60.56c, excluding test methods listed in 40 CFR 60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14), the annual PM, CO, and HCl emissions testing requirements under 40 CFR 60.56c(c)(2), the annual fugitive emissions testing requirements under 40 CFR 60.56c(c)(3), the CO CEMS requirements under 40 CFR 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5) through (7), and (d) through (k);
- (7) On or after July 1, 2013, any small remote HMIWI For which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, subject to the requirements listed in Table 2A or 2B of Subpart Ce of 40 CFR Part 60, and not equipped with an air pollution control device shall meet the following compliance and performance testing requirements:
  - (A) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to

- determine compliance with applicable emission limits. The 2,000 pounds per week limitation does not apply during performance tests;
- (B) The owner or operator shall not operate the HMIWI above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times. Operating parameter limits shall not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s); and
  - (C) Operation of an HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emissions limits. The owner or operator of an HMIWI may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emissions limit(s). Repeat performance tests conducted shall be conducted under process and control device operating conditions duplicating as nearly as possible those that indicated during the violation;
- (8) On or after July 1, 2013, any small HMIWI constructed commenced emissions guidelines as promulgated on September 15, 1997, meeting all requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60, which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital, medical and infectious waste and is subject to the requirements listed in Table 2B of Subpart Ce of 40 CFR Part 60. The 2,000 pounds per week limitation does not apply during performance tests. The owner or operator shall comply with the compliance and performance testing requirements of 40 CFR 60.56c, excluding the annual fugitive emissions testing requirements under 40 CFR 60.56c(c)(3), the CO CEMS requirements under 40 CFR 60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR 60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10). The owner or operator may elect to use CO CEMS as specified under 40 CFR 60.56c(c)(4) or bag leak detection systems as specified under 40 CFR 60.57c(h); and
- (9) On or after July 1, 2013, the owner or operator of any HMIWI equipped with selective noncatalytic reduction technology shall:
- (A) Establish the maximum charge rate, the minimum secondary chamber temperature, and the minimum reagent flow rate as site specific operating parameters during the initial performance test to determine compliance with the emissions limits;
  - (B) Ensure that the affected facility does not operate above the maximum charge rate, or below the minimum secondary chamber temperature or the minimum reagent flow rate measured as three-hour rolling averages (calculated each hour

- as the average of the previous three operating hours) at all times. Operating parameter limits shall not apply during performance tests; and
- (C) Operation of any HMIWI above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum reagent flow rate simultaneously shall constitute a violation of the NO<sub>x</sub> emissions limit. The owner or operator may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the affected facility is not in violation of the applicable emissions limit(s). Repeat performance tests conducted pursuant to this paragraph shall be conducted using the identical operating parameters that indicated a violation.
- (e) Test Methods and Procedures.
- (1) The test methods and procedures described in [Section 3D-2600](#) and in 40 CFR Part 60 Appendix A and 40 CFR Part 61 Appendix B shall be used to determine compliance with emission rates. Method 29 of 40 CFR Part 60 shall be used to determine emission rates for metals. However, Method 29 shall be used to sample for chromium (VI), and SW 846 Method 0060 shall be used for the analysis; and
  - (2) The Director may require the owner or operator to test the HMIWI to demonstrate compliance with the emission standards listed in Paragraph (c) of this Rule.
- (f) Monitoring, Recordkeeping, and Reporting.
- (1) The owner or operator of a HMIWI subject to the requirements of this Rule shall comply with the monitoring, recordkeeping, and reporting requirements in [Section 3D-0600](#);
  - (2) The owner or operator of a HMIWI subject to the requirements of this Rule shall maintain and operate a continuous temperature monitoring and recording device for the primary chamber and, where there is a secondary chamber, for the secondary chamber. The owner or operator of a HMIWI that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure pH for wet scrubber systems and rate of alkaline injection for dry scrubber systems. The Director shall require the owner or operator of a HMIWI with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the HMIWI. The Director may require the owner or operator of a HMIWI with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the HMIWI;
  - (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, the owner or operator of a HMIWI shall comply with the reporting and recordkeeping requirements listed in 40 CFR 60.58c(b), (c), (d), (e), and (f), excluding 40 CFR 60.58c(b)(2)(ii) and (b)(7);
  - (4) In addition to the requirements of Subparagraphs (1), (2) and (3) of this Paragraph, the owner or operator of a small remote HMIWI shall:

- (A) maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection;
  - (B) submit an annual report containing information recorded in Part (A) of this Subparagraph to the Director no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report. The report shall be signed by the HMIWI manager; and
  - (C) submit the reports required by Parts (A) and (B) of this Subparagraph to the Director semiannually once the HMIWI is subject to the permitting procedures of Section [3Q-0500](#), Title V Procedures;
- (5) Waste Management Guidelines. The owner or operator of a HMIWI shall comply with the requirements of 40 CFR 60.55c for the preparation and submittal of a waste management plan;
- (6) Except as provided in Subparagraph (7) of this Paragraph, the owner or operator of any HMIWI shall comply with the monitoring requirements in 40 CFR 60.57c;
- (7) The owner or operator of any small remote HMIWI shall:
- (A) install, calibrate, maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;
  - (B) install, calibrate, maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI;
  - (C) obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating hours per calendar quarter that the HMIWI is combusting hospital, medical, and infectious waste;
- (8) On or after July 1, 2013, any HMIWI, except for small remote HMIWI not equipped with an air pollution control device, subject to the emissions requirements in Table 1B or Table 2B of Subpart Ce of 40 CFR Part 60, or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60, shall perform the monitoring requirements listed in 40 CFR 60.57c;
- (9) On or after July 1, 2013, the owner or operator of a small remote HMIWI, not equipped with an air pollution control device and subject to the emissions requirements in Table 2B of Subpart Ce of 40 CFR Part 60 shall:
- (A) install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;
  - (B) install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and

- (C) obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital, medical and infectious waste;
- (10) On or after July 1, 2013, any HMIWI for which construction commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998, and is subject to requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60; or any HMIWI which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010, and subject to the requirements of Table 1B of this Subpart and Table 1A of Subpart Ec of 40 CFR Part 60, may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that:
    - (A) Previous emissions tests had been conducted using the applicable procedures and test methods listed in 40 CFR 60.56c(b);
    - (B) The HMIWI is currently operated in a manner that would be expected to result in the same or lower emissions than observed during the previous emissions test and not modified such that emissions would be expected to exceed; and
    - (C) The previous emissions test(s) had been conducted in 1996 or later;
  - (11) On or after July 1, 2013, any HMIWI, (with the exception of small remote HMIWI and HMIWIs for which construction was commenced no later than December 1, 2008, or for which modification is commenced no later than April 6, 2010, and subject to the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec), shall include the reporting and recordkeeping requirements listed in 40 CFR 60.58c(b); and
  - (12) On or after July 1, 2013, any HMIWI for which construction was commenced no later than December 1, 2008, or for which modification is commenced no later than April 6, 2010, and subject to the requirements listed in Table 1B or the more stringent of the requirements listed in Table 1B of Subpart Ce of 40 CFR Part 60 and Table 1A of Subpart Ec of 40 CFR Part 60, is not required to maintain records required in 40 CFR 60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

(g) Excess Emissions and Start-up and Shut-down. All HMIWIs subject to this Rule shall comply with Sec. 3D-[0535](#), Excess Emissions Reporting and Malfunctions, of this Subchapter. Emissions from bypass conditions shall not be exempted as provided under Paragraphs (c) and (g) of Sec. 3D-[0535](#).

(h) Operator Training and Certification.

- (1) The owner or operator of a HMIWI shall not allow the HMIWI to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility

or available within one hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators;

- (2) Operator training and qualification shall be obtained by completing the requirements of 40 CFR 60.53c(c) through (g);
- (3) The owner or operator of a HMIWI shall maintain, at the facility, all items required by 40 CFR 60.53c(h)(1) through (h)(10);
- (4) The owner or operator of a HMIWI shall establish a program for reviewing the information required by Subparagraph (3) of this Paragraph annually with each HMIWI operator. The reviews of the information shall be conducted annually; and
- (5) The information required by Subparagraph (3) of this Paragraph shall be kept in a readily accessible location for all HMIWI operators. This information, along with records of training shall be available for inspection by Division personnel upon request.

(7-24-00, 7-22-02)

## **SECTION 3D-1900 OPEN BURNING**

### **Sec. 3D-1901. Open burning: purpose: scope**

- (a) **Open Burning Prohibited.** A person shall not cause, allow, or permit open burning of combustible material except as allowed by Sec. 3D-[1903](#) and Sec. 3D-[1904](#)
- (b) **Purpose.** The purpose of this Section is to control air pollution resulting from the open burning of combustible materials and to protect the air quality in the immediate area of the open burning.
- (c) **Scope.** This Section applies to all operations involving open burning. This Section does not authorize any open burning which is a crime under G.S. 14-136 through G.S. 14-140.1, or affect the authority of the ~~North Carolina Forest Service~~[Division of Forest Resources](#) to issue or deny permits for open burning in or adjacent to woodlands as provided in G.S. 113-60.21 through G.S. 113-60.31. This Section does not affect the authority of any local government to regulate open burning through its fire codes or other ordinances. The issuance of any open burning permit by the Division of Forest Resources or any local government does not relieve any person from the necessity of complying with this Section or any other air quality rule. (11-11-96, 11-22-04)

### **Sec. 3D-1902. Definitions**

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

- (1) "Air Curtain Burner" means a stationary or portable combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit or container with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.
- (2) "Air Quality Action Day Code 'Orange' or above" means an air quality index greater than 100 as defined in 40 CFR Part 58, Appendix G,
- (3) "Air Quality forecast area" means the Triad ozone forecast area, which includes Forsyth County, as well as Alamance, Caswell, Davidson, Davie, Guilford, Randolph, Rockingham, and Stokes Counties.

~~(4) “Smoke management plan” means the plan developed following the North Carolina Division of Forest Resources’ smoke management program and approved by the North Carolina Division of Forest Resources. The purpose of the smoke management plan is to manage smoke from prescribed burns of public and private forests to minimize the impact of smoke on air quality and visibility.~~

(54) "Dangerous materials" means explosives or containers used in the holding or transporting of explosives.

(65) Reserved

(76) “Initiated” means start or ignite a fire or reignite or rekindle a fire.

(87) "Land clearing" means the uprooting or clearing of vegetation in connection with construction for buildings; right-of-way maintenance; agricultural, residential, commercial, institutional, or industrial development; mining activities; or the initial clearing of vegetation to enhance property value; but does not include routine maintenance or property clean-up activities.

(98) "Log" means any limb or trunk whose diameter exceeds six inches.

(109) “Nonattainment area” means an area identified in 40 CFR 81.334 as nonattainment.

(110) "Nuisance" means causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.

(121) “Occupied structure” means a building in which people may live or work or one intended for housing farm or other domestic animals.

(132) “Off-site” means any area not on the premises of the land-clearing activities.

(143) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.

(1514) “Operator” as used in Sec. [3D-1904](#) (b)(6) and [1904](#) (b)(2)(D), means the person in operational control over the open burning.

(15) Reserved

(16) "Person" as used in Sec. [3D-1901](#) (c), means:

- (A) the person in operational control over the open burning, or
- (B) the landowner or person in possession or control of the land when he has directly or indirectly allowed the open burning or has benefited from it.

(17) “Pile” means a quantity of combustible material assembled together in a mass.

(18) “Premises of private residences” means the location identified as a residential building which contains one dwelling unit and occupies its own zoning lot.

(19) "Public pick-up" means the removal of refuse, yard trimmings, limbs, or other plant material from a residence by a governmental agency, private company contracted by a governmental agency or municipal service.

(20) "Public road" means any road that is part of the State highway system; or any road, street, or right-of-way dedicated or maintained for public use.

(21) "RACM" means regulated asbestos containing material as defined in 40 CFR 61.141.

- (22) "Refuse" means any garbage, rubbish, or trade waste.
- (23) Reserved.
- (24) "Salvageable items" means any product or material that was first discarded or damaged and then all, or part, was saved for future use, and include insulated wire, electric motors, and electric transformers.
- (4) "Smoke management plan" means the plan developed following the North Carolina Division of Forest Resources' smoke management program and approved by the North Carolina Division of Forest Resources. The purpose of the smoke management plan is to manage smoke from prescribed burns of public and private forests to minimize the impact of smoke on air quality and visibility.
- (25) "Synthetic material" means man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood.
- (26) Reserved. (11-11-96, 9-14-98,11-22-04 5-8-06)

**Sec. 3D-1903. Permissible open burning**

(a) All open burning is prohibited except open burning allowed under Paragraphs (b) and (d) of this Rule or Sec. 3D-1904. Except as allowed under Paragraphs (b)(3) through (b)(9) of this Rule, open burning shall not be initiated when the Office of Environmental Assistance and Protection has forecasted an Air Quality Action Day Code "Orange" or above during the time period covered by that forecast.

(b) The following types of open burning are permissible without an air quality permit:

- (1) open burning of leaves, tree branches or yard trimmings, excluding logs and stumps, if the following conditions are met:
  - (A) The material burned originates on the premises of private residences and is burned on those premises;
  - (B) There are no public pickup services available;
  - (C) Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials are not burned;
  - (D) The burning is initiated no earlier than 8:00 a.m. and no additional combustible material is added to the fire after 4:00 p.m., and the fire is completely out by 6:00 p.m. ;
  - (E) The burning does not create a nuisance; and
  - (F) Material is not burned when the Division of Forest Resources has banned burning for that area;
- (2) open burning for land clearing or right-of-way maintenance if the following conditions are met:
  - (A) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service during the time of the burning are away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning;

- (B) The location of the burning is at least 1,000 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The Director may grant exceptions to the setback requirements if:
  - (i) a signed, written statement waiving objections to the open burning associated with the land clearing operation is obtained and submitted to and the exception granted by, the Director before the open burning begins from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within 1,000 feet of the open burning site. In the case of a lease or rental agreement, the lessee or renter shall be the person from whom permission shall be gained prior to any burning, or
  - (ii) an air curtain burner as described in Sec. 3D-1904, is utilized at the open burning site.

Factors that the Director shall consider in deciding to grant the exception include all the persons who need to sign the statement waiving the objection have signed it, the location of the burn, and the type, amount and nature of the combustible substances. The Director shall not grant a waiver if a college, school, licensed day care, hospital, licensed rest home, or other similar institution is less than 1000 feet from the proposed burn site when such institution is occupied.

- (C) Only land cleared plant growth is burned. Heavy oils, asphaltic materials such as shingles and other roofing materials, items containing natural or synthetic rubber, or any materials other than plant growth shall not be burned; however, kerosene, distillate oil, or diesel fuel may be used to start the fire;
  - (D) Initial burning begins only between the hours of 8:00 a.m. and 6:00 p.m., and no combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
  - (E) No fires are initiated or vegetation is added to existing fires when the Division of Forest Resources has banned burning for that area; and
  - (F) The material to be burned must originate from the land being cleared or the area being maintained.;
- (3) camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort and which do not create a nuisance and do not use synthetic materials or refuse or salvageable materials for fuel;
  - (4) fires purposely set to public or private forest land for forest management practices for which burning is acceptable to the ~~Division of Forest Resources~~North Carolina Forest Service and which follows the smoke management plan as outlined in the ~~Division of Forest Resources'~~North Carolina Forest Service's smoke management program;

- (5) fires purposely set to agricultural lands for disease and pest control and fires set for other agricultural or apicultural practices for which burning is currently acceptable to the Department of Agriculture;
- (6) fires purposely set for wildlife management practices for which burning is currently acceptable to the Wildlife Resource Commission;
- (7) fires for the disposal of dangerous materials when it is the safest and most practical method of disposal;
- (8) fires purposely set by manufacturers of fire extinguishing materials or equipment, testing laboratories, or other persons, for the purpose of testing or developing these materials or equipment in accordance with a standard qualification program;
- (9) fires purposely set for the instruction and training of fire-fighting personnel at permanent fire-fighting training facilities;
- (10) fires purposely set for the instruction and training of fire-fighting personnel when conducted under the supervision of or with the cooperation of one or more of the following agencies:
  - (A) the ~~North Carolina Forest Service~~ ~~Division of Forest Resources~~,
  - (B) the North Carolina Insurance Department,
  - (C) North Carolina technical institutes, or
  - (D) North Carolina community colleges, including:
    - (i) the North Carolina Fire College, or
    - (ii) the North Carolina Rescue College; and
- (11) fires not described in Subparagraphs (9) or (10) of this Paragraph purposely set for the instruction and training of fire-fighting personnel, provided that:
  - (A) The Director has been notified according to the procedures and deadlines contained in the appropriate Forsyth County notification form. This form may be obtained by writing the Office of Environmental Assistance and Protection at the address in Sec. 3D-[1905](#) and requesting it, and
  - (B) The Director has granted permission for the burning. Factors that the Director shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The Director shall not grant permission for the burning of salvageable items, such as insulated wire and electric motors or if the primary purpose of the fire is to dispose of synthetic materials or refuse. The Director shall not consider previously demolished structures as having training value. However, the Director may allow an exercise involving the burning of motor vehicles burned over a period of time by a training unit or by several related training units. Any deviations from the dates and times of exercises, including additions, postponements, and deletions, submitted in the schedule in the approved plan shall be communicated verbally to the Director at least one hour before the burn is scheduled; and
- (12) fires for the disposal of material generated as a result of a natural disaster, such as tornado, hurricane, or flood, if the Director grants permission for the burning. The person desiring to do the burning shall document and provide written notification to

the Director that there is no other practical method of disposal of the waste. Factors that the Director shall consider in granting permission for the burning include type, amount, location of the burning, and nature of combustible substances. The Director shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic materials or refuse or recovery of salvageable materials. Fires authorized under this Subparagraph shall comply with the conditions of Subparagraph (b)(2) of this Rule;

(c) The authority to conduct open burning under this Section does not exempt or excuse any person from the consequences, damages or injuries that may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even though the open burning is conducted in compliance with this Section.

(d) In Forsyth County a Burning Permit shall be obtained for intentional burning of any institutional, commercial, public, industrial, or residential structure, installation, or building, for the instruction and training of fire-fighting personnel. A permit application may be obtained from the Office of Environmental Assistance and Protection, at the address noted under Sec. 3D-1905. The permit shall be obtained prior to burning. Burning shall take place within the dates specified by the permit, or the Office shall be notified and the permit shall be revised, if necessary, prior to burning. (11-11-96, 7-28-97, 10-25-99, 11-22-04, 5-8-06)

## **SUBCHAPTER 3Q - AIR QUALITY PERMITS**

### **SECTION 3Q-0100. GENERAL PROVISIONS**

#### **Sec. 3Q-0101. Required air quality permits**

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

- (1) construct, operate, or modify a source subject to an applicable standard, requirement, or Rule that emits any regulated pollutant or one or more of the following:
  - (A) sulfur dioxide,
  - (B) total suspended particulates,
  - (C) particulate matter (PM10),
  - (D) carbon monoxide,
  - (E) nitrogen oxides,
  - (F) volatile organic compounds,
  - (G) lead and lead compounds,
  - (H) fluorides,
  - (I) total reduced sulfur,
  - (J) reduced sulfur compounds,
  - (K) hydrogen sulfide,
  - (L) sulfuric acid mist,
  - (M) asbestos,

- (N) arsenic and arsenic compounds,
  - (O) beryllium and beryllium compounds,
  - (P) cadmium and cadmium compounds,
  - (Q) chromium (VI) and chromium (VI) compounds,
  - (R) mercury and mercury compounds,
  - (S) hydrogen chloride,
  - (T) vinyl chloride,
  - (U) benzene,
  - (V) ethylene oxide,
  - (W) dioxins and furans,
  - (X) ozone, or
  - (Y) any toxic air pollutant listed in Subchapter 3D-1104;
- (2) construct, operate, or modify a facility that has the potential to emit at least 10 tons per year of any hazardous air pollutant or 25 tons per year of all hazardous air pollutants combined or that are subject to requirements established under the following sections of the federal Clean Air Act:
- (A) Section 112(d), emissions standards;
  - (B) Section 112(f), standards to protect public health and the environment;
  - (C) Section 112(g), construction and reconstruction;
  - (D) Section 112(h), work practice standards and other requirements;
  - (E) Section 112(i)(5), early reduction;
  - (F) Section 112(j), federal failure to promulgate standards;
  - (G) Section 112(r), accidental releases.

(b) Stationary Source Construction and Operation Permit: With the exception allowed by G.S. 143-215.108A, the owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit in accordance with the standard procedures under Section .0300 of this Subchapter. Title V facilities shall be subject to the Title V procedures under Section .0500 of this Subchapter including the acid rain procedures under Section .0400 of this Subchapter. A facility may also be subject to the air toxic procedures under 15A NCAC 02Q .0700.

~~(b) — There are two types of air quality permits:~~

- ~~(1) — Stationary Source Construction and Operation Permit: The owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit in accordance with the standard procedures under Section 3D-0300. Title V facilities are subject to the Title V procedures under Section 3D-0500 including the acid rain procedures under Section 3D-0400. A facility may also be subject to the air toxic procedures under Subchapter 3Q-0700.~~
- ~~(2) — Transportation Facility Construction Permit. The owner or operator of a transportation facility subject to the requirements of Section 3D-0800 shall obtain a construction only permit following the procedures under Section 3D-0600.~~

(c) Fees shall be paid in accordance with the requirements of [Section 3D-0200](#). (Ord. No. 4-94, 5-23-94, 9-14-98, 5-8-06)

### **Sec. 3Q-0103. Definitions**

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

- (1) "Administrator" means when it appears in any Code of Federal Regulation incorporated by reference in this Subchapter, the Director of the Office of Environmental Assistance and Protection:
  - (a) a specific rule in this Subchapter specifies otherwise, or
  - (b) the U.S. Environmental Protection Agency in its delegation or approval specifically states that a specific authority of the Administrator of the Environmental Protection Agency is not included in its delegation or approval.
- (2) "Air Pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter that is emitted into or that otherwise enters the ambient air. Water vapor is not considered air pollutant.
- (3) "Allowable emissions" mean the maximum emissions allowed by the applicable Rules contained in Forsyth County Code, [Subchapter 3D](#), Air Quality Control or by permit conditions if the permit limits emissions to a lesser amount.
- (4) "Alter or change" means to make a modification.
- (5) "Applicable requirements" means:
  - (A) any requirement of [Section 3Q-0500](#) of this Subchapter;
  - (B) any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through Rule making under Title I of the federal Clean Air Act that implements the relevant requirements of the federal Clean Air Act including any revisions to 40 CFR Part 52;
  - (C) any term or condition of a construction permit for a facility covered under Subchapter Sec. [3D-0530](#), [0531](#) or [0532](#);
  - (D) any standard or other requirement under Section 111 or 112 of the federal Clean Air Act, but not including the contents of any risk management plan required under Section 112 of the federal Clean Air Act;
  - (E) any standard or other requirement under Title IV;
  - (F) any standard or other requirement governing solid waste incineration under Section 129 of the federal Clean Air Act;
  - (G) any standard or other requirement under Section 183(e), 183(f), or 328 of the federal Clean Air Act;
  - (H) any standard or requirement under Title VI of the federal Clean Air Act unless a permit for such requirement is not required under this Section;
  - (I) any requirement under Section 504(b) or 114(a)(3) of the federal Clean Air Act;or

- (J) any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to 504(e) of the federal Clean Air Act.
- (6) "Applicant" means the person who is applying for an air quality permit from the Office of Environmental Assistance and Protection.
- (7) "Application package" means all elements or documents needed to make an application complete.
- (8) "CFR" means Code of Federal Regulations.
- (9) "Construction" means change in the method of operation or any physical change (including on-site fabrication, erection, installation, replacement, demolition, or modification of a source) that results in a change in emissions or affects the compliance status. The following activities are not construction:
- (a) clearing and grading;
  - (b) building access roads, driveways, and parking lots, except parking lots required to have a construction permit under Section [3Q-0600](#);
  - (c) building and installing underground pipe work, including water, sewer, electric, and telecommunications utilities; or
  - (d) building ancillary structures, including fences and office buildings that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108.
- (10) "Director" means the Director of the Office of Environmental Assistance and Protection.
- (11) Reserved.
- (12) "EPA" means the United States Environmental Protection Agency or the Administrator of the Environmental Protection Agency.
- (13) "EPA approves" or means full approval, interim approval, or partial approval by EPA.
- (14) "Equivalent unadulterated fuels" means used oils that have been refined such that the content of toxic additives or contaminants in the oil are no greater than those in unadulterated fossil fuels.
- (15) "Facility" means all of the pollutant emitting activities, except transportation facilities as defined under Sec. [3Q-0802](#), that are located on one or more adjacent properties under common control.
- (16) "Federally enforceable" or "federal-enforceable" means enforceable by EPA.
- (17) "Fuel combustion equipment" means any fuel burning source covered under Sec. [3D-0503](#), [0504](#), [0536](#), or 40 CFR Part 60 Subpart D, Da, Db, or Dc.
- (18) "Green wood" means wood with a moisture content of 18 percent or more.
- (19) "Hazardous air pollutant" means any pollutant that has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants that are listed only in Sec. [3D-1104](#) (Toxic Air Pollutant Guidelines), but not pursuant to Section 112(b), are not included in this definition.

- (20) "Insignificant activities" means activities defined as insignificant activities because of category or as insignificant activities because of size or production rate under Sec. [3Q-0503](#).
- (21) "Irrevocable contract" means a contract that cannot be revoked without substantial penalty.
- (22) "Lesser quantity cutoff" means:
  - (A) for a source subject to the requirements of Section 112(d) or (j) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which the following are not required:
    - (i) maximum achievable control technology (MACT) or generally available control technology (GACT), including work practice standards, requirement under Section 112(d) of the federal Clean Air Act;
    - (ii) a MACT standard established under Section 112(j) of the federal Clean Air Act;
    - (iii) substitute MACT or GACT adopted under Section 112(l) of the federal Clean Air Act; or
  - (B) for modification of a source subject to, or may be subject to, the requirements of Section 112(g) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which MACT is not required to be applied under Section 112(g) of the federal Clean Air Act; or
  - (C) for all other sources, potential emissions of each hazardous air pollutant below 10 tons per year and the aggregate potential emissions of all hazardous air pollutants below 25 tons per year.
- (23) "Major facility" means a major source as defined under 40 CFR 70.2.
- (24) "Modification" means any physical change or change in method of operation that results in a change in emissions or affects compliance status of the source or facility.
- (24a) "Office" means the Forsyth County Office of Environmental Assistance and Protection.
- (25) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (26) "Peak shaving generator" means a generator that is located at a facility and is used only to serve that facility's on-site electrical load during peak demand periods for the purpose of reducing the cost of electricity; it does not generate electricity for resale. A peak shaving generator may also be used for emergency backup.
- (27) "Permit" means the legally binding written document, including any revisions thereto, issued pursuant to Chapter 3 of the Forsyth County Code to the owner or operator of a facility or source that emits one or more air pollutants and that allows that facility or source to operate in compliance with Chapter 3 of the Forsyth County Code. This document specifies the requirements applicable to the facility or source and to the permittee.
- (28) "Permittee" means the person who has received an air quality permit from the Office.

- (29) "Potential emissions" means the rate of emissions of any air pollutant that would occur at the facility's maximum capacity to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a facility to emit an air pollutant shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations include air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed. Potential emissions include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions do not include a facility's secondary emissions such as those from motor vehicles associated with the facility and do not include emissions from insignificant activities because of category as defined under Sec. 3Q-0503. If a rule in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants covered under that rule.
- (30) "Portable generator" means a generator permanently mounted on a trailer or a frame with wheels.
- (31) "Regulated air pollutant" means:
- (A) nitrogen oxides or any volatile organic compound as defined under 40 CFR 51.100;
  - (B) any pollutant for which there is an ambient air quality standard under 40 CFR Part 50;
  - (C) any pollutant regulated under Sec. 3D-0524, 1110 or 1111 or 40 CFR Part 60, 61, or 63;
  - (D) any pollutant subject to a standard promulgated under Section 112 of the federal Clean Air Act or other requirements established under Section 112 of the federal Clean Air Act, including Section 112(g) (but only for the facility subject to Section 112(g)(2) of the federal Clean Air Act), (j), or (r) of the federal Clean Air Act; or
  - (E) any Class I or II substance listed under Section 602 of the federal Clean Air Act.
- (32) "Sawmill" means a place or operation where logs are sawed into lumber consisting of one or more of these activities: debarking, sawing, and sawdust handling. Activities that are not considered part of a sawmill include chipping, sanding, planing, routing, lathing, and drilling.
- (33) "Source" means any stationary article, machine, process equipment, or other contrivance, or combination thereof, from which air pollutants emanate or are emitted, either directly or indirectly.
- (34) "Toxic air pollutant" means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in Sec. 3D-1104.
- (35) "Transportation facility" means a complex source as ~~defined in G.S. 143-213(22): "any facility which is or may be an air pollution source or which will induce or tend to induce development or activities which will or may be air pollution sources, and which shall include, but not be limited to, shopping centers; sports complexes; drive-~~

~~in theaters; parking lots and garages; residential, commercial, industrial or institutional developments; amusement parks and recreation areas; highways; and any other facilities which will result in increased emissions from motor vehicles or stationary sources." that is subject to the requirements of Section 3D-0800.~~

- (36) "Unadulterated fossil fuel" means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that could result in the emissions of a toxic air pollutant listed under Sec. 3D-1104. (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 11-11-96, 9-14-98, 5-24-99, 10-25-99, 5-8-06)

**Sec. 3Q-0104. Where to obtain and file permit applications**

(a) Application forms for a permit or permit modification may be obtained from and shall be filed with the Director, Office of Environmental Assistance and Protection, Forsyth County Government Center, 201 N. Chestnut Street, Winston-Salem, NC 27101-4120.

(b) The number of copies of applications to be filed are specified in Sec. 3Q-0305 (construction and operation permit procedures); and 0507 (Title V permit procedures); ~~and 0603 (transportation facility construction air permit procedures).~~ (Ord. No. 4-94, 5-23-94, 11-11-96, 7-28-97)

**SECTION 3Q-0200 PERMIT FEES**

**Sec. 3Q-0203. Permit and application fees**

(a) The owner or operator of any facility holding a permit shall pay the following permit fees:

**ANNUAL PERMIT FEES**  
**(FEES FOR CALENDAR YEAR 2015)**

Facility Category	Tonnage Factor	Basic Permit Fee	Nonattainment Area Added Fee
Title V	<del>\$31.78</del> <del>\$22.50</del> <del>\$25.00 on 1/1/2009</del> <del>\$27.50 on 1/1/2010</del> <del>\$30.00 on 1/1/2011</del>	<del>\$6,888</del> <del>\$6,500</del>	<del>\$3,709</del> <del>\$3,500</del>
Synthetic Minor		\$1,500	
Exclusionary Small		\$250	
Small		\$250	
<b>Transportation</b>		<b>\$0</b>	
General	50% of the otherwise applicable fee		

Annual permit fees for Title V facilities shall be adjusted as described in Sec. 3Q-0204. Annual permit fees for Title V facilities consist of the sum of the applicable fee elements.

(b) In addition to the annual permit fee, a permit applicant shall pay a non-refundable permit application fee as follows:

PERMIT APPLICATION FEES  
(FEES FOR CALENDAR YEAR 2015)

Facility Category	New or Modification	New or Significant Modification	Minor Modification	Ownership Change
Title V		<del>\$9,442</del> \$8910	<del>\$918</del> \$867	<del>\$60</del> \$62
Title V (PSD or NSR/NAA)	<del>\$14,294</del> \$1348 8			<del>\$60</del> \$62
Title V (PSD and NSR/NAA)	<del>\$27,802</del> \$2623 5			<del>\$60</del> \$62
Synthetic Minor	\$400			\$50
Exclusionary Small	\$50			\$25
Small	\$50			\$25
<del>Transportation</del>	<del>\$400</del>			<del>\$50</del>
General	50% of the otherwise applicable fee			\$25

Permit application fees for Title V facilities shall be adjusted as described in Sec. 3Q-0204.

(c) If a facility, other than a general facility, belongs to more than one facility category, the fees shall be those of the applicable category with the highest fees. If a permit application belongs to more than one type of application, the fee shall be that of the applicable permit application type with the highest fee.

(d) The tonnage factor fee shall be applicable only to Title V facilities. It shall be computed by multiplying the tonnage factor indicated in the table in Paragraph (a) of this Rule by the facility's combined total actual emissions of all regulated air pollutants, rounded to the nearest ton contained in the latest emissions inventory that has been completed by the Office. The calculation shall not include:

- (1) Carbon monoxide;
- (2) any pollutant that is regulated solely because it is a Class I or II substance listed under Section 602 of the federal Clean Air Act (ozone depleters);
- (3) any pollutant that is regulated solely because it is subject to a regulation or standard under Section 112(r) of the federal Clean Air Act (accidental releases); and
- (4) the amount of actual emissions of each pollutant that exceeds 4,000 tons per year.

Even though a pollutant may be classified in more than one pollutant category, the amount of pollutant emitted shall be counted only once for tonnage factor fee purposes and in a pollutant category chosen by the permittee. If a facility has more than one permit, the tonnage factor fee for the facility's combined total actual emissions as described in this Paragraph shall be paid only on the permit whose anniversary date first occurs on or after July 1.

(e) The nonattainment area added fee shall be applicable only to Title V facilities required to comply with Sec. [3D-0531](#), Sec. [3D-0900](#) (Volatile Organic Compounds) or Sec. [3D-1400](#) (Nitrogen Oxides) and either:

- (1) are in an area designated in 40 CFR 81.334 as nonattainment, or
- (2) are covered by a nonattainment or maintenance State Implementation Plan submitted for approval or approved as part of 40 CFR Part 52, Subpart II.

(f) A Title V (PSD or NSR/NAA) facility is a facility whose application is subject to review under Sec. [3D-0530](#) (Prevention of Significant Deterioration) or Sec. [3D-0531](#) (Sources in Nonattainment Areas).

(g) A Title V (PSD and NSR/NAA) facility is a facility whose application is subject to review under Sec. [3D-0530](#) (Prevention of Significant Deterioration) and Sec. [3D-0531](#) (Sources in Nonattainment Areas).

(h) Minor modification permit applications that are group processed require the payment of only one permit application fee per facility included in the group.

(i) No permit application fee is required for renewal of an existing permit, for changes to an unexpired permit when the only reason for the changes is initiated by the Director, for a name change with no ownership change, for a change under Sec. [3Q-0523](#) (Changes Not Requiring Permit Revisions) or for a construction date change, a test date change, a reporting procedure change, or a similar change.

(j) The permit application fee paid for modifications under Section [3Q-0400](#), Acid Rain Procedures, shall be the fee for the same modification if it were under Section [3Q-0500](#), Title V Procedures.

(k) An applicant who files permit applications pursuant to Sec. [3Q-0504](#) shall pay an application fee as would be determined by the application fee for the permit required under [Section 3Q-0500](#); this fee will cover both applications provided that the second application covers only what is covered under the first application. If permit terms or conditions in an existing or future permit issued under [Section 3Q-0500](#) will be established or modified by an application for a modification and if these terms or conditions are enforceable by the County only, then the applicant shall pay the fee under the column entitled "3Q 0300 Only or Minor Modification" in the table in Paragraph (b) of this Rule.

(l) The permit fee for an Asbestos NESHAP renovation permit shall be the greater of one percent (1%) of the contract price or the total of \$.10 times the square footage of non-friable asbestos materials that have become friable plus \$.20 times the linear or square footage of friable asbestos containing materials. Friable asbestos materials include pipe insulation, boiler insulation and surfacing material. Non-friable asbestos materials include floor tile, roofing, and cement board panels. Each renovation permit fee shall be submitted with the Asbestos Demolition/Renovation Operations Notification and Permit Application. (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 10-8-96, 8-18-98, 1-26-99, 1-19-2000, 12-12-00, 05-14-01, 11-01-01, 12-18-01, 12-20-02, 7-12-05)

## **SECTION 3Q-0300 CONSTRUCTION AND OPERATION PERMIT**

### **Sec. 3Q-0308. Final action on permit applications**

- (a) The Director may:

- (1) issue a permit, permit modification, or a renewal containing the conditions necessary to carry out the purposes of Chapter 3 of the Forsyth County Code;
- (2) rescind a permit upon request by the permittee;
- (3) deny a permit application when necessary to carry out the purposes of Chapter 3 of the Forsyth County Code;

(b) Any person whose application for a permit, permit modification, renewal or letter requesting change in name or ownership, construction or test date, or reporting procedure, is denied or is granted subject to conditions which are unacceptable to him shall have the right to appeal the Director's decision under Sec. [0109](#) of Chapter 3. The person shall have 30 days following receipt of the notice of the Director's decision on the application or permit in which to appeal the Director's decision. The permit becomes final if the applicant does not contest the permit within this 30-day period.

(c) ~~The Director shall issue or renew a permit for a term of eight years. The Director shall issue or renew a permit for a period of time that the Director considers reasonable, but such period shall not exceed five years.~~ (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94)

## SECTION 3Q-0500 TITLE V PROCEDURES

### Sec. 3Q-0502. Applicability

(a) Except as provided in Paragraph (b) 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 Sec. [3D-0524](#) or 40 CFR Part 60, except new residential wood heaters;
- (3) facilities with a source subject to Sec. [3D-1110](#) or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (4) facilities with a source subject to Sec. [3D-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 Sec. 3D-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 Sec. [3D-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~~

(c) 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. (Ord. No. 4-94, 5-23-94, 11-11-96, 10-25-99)

## SECTION 3Q-0600. ~~REPEALED TRANSPORTATION FACILITY PROCEDURES~~

### ~~Sec. 3Q-0601 – 3Q-0607 Repealed~~

#### ~~Sec. 3Q-0601. Purpose of section and requirement for a permit~~

~~(a) — The purpose of this Section is to describe the procedures to be followed in applying for and issuing a permit for a transportation facility.~~

~~(b) — The owner or developer of a transportation facility subject to the requirements of Section 3D-0800 shall obtain a construction only permit following the procedures in this Section. An operation permit is not needed.~~

~~(c) — The owner or developer of a transportation facility required to have a permit under this Section shall not commence construction or modification of a transportation facility until he has applied for and received a construction permit. (Ord. No. 4-94, 5-23-94)~~

#### ~~Sec. 3Q-0602. Definitions~~

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

- ~~(1) — "Construction" means any activity following land-clearing or grading that engages in a program of construction specifically designed for a transportation facility in preparation for the fabrication, erection, or installation of the building components associated with the transportation facility, e.g. curbing, footings, conduit, paving, etc.~~
- ~~(2) — "Level of service" means a qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.~~
- ~~(3) — "Owner or developer" means any person who owns, leases, develops, or controls a transportation facility.~~
- ~~(4) — "Transportation facility" means a complex source "any facility which is or may be an air pollution source or which will induce or tend to induce development or activities which will or may be air pollution sources, and which shall include, but not be limited to, shopping centers; sports complexes; drive-in theaters; parking lots and garages; residential, commercial, industrial or institutional developments; amusement parks and recreation areas; highways; and any other facilities which will result in increased emissions from motor vehicles or stationary sources" and subject to the requirements of Section 3D-0800. (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94)~~

#### ~~Sec. 3Q-0603. Applications~~

~~(a) — A transportation facility permit application may be obtained from and shall be filed in writing in accordance with Sec. 3Q-0104.~~

~~(b) — Applicants shall file transportation facility permit applications at least 90 days before projected date of construction of a new transportation facility or modification of an existing transportation facility.~~

~~(c) — The permittee shall file requests for permit name or ownership changes as soon as the permittee is aware of the imminent name or ownership change.~~

~~(d) — A transportation facility permit application shall be made in triplicate on forms from the Office and shall include plans and specifications giving all data and information as required by this Rule and Section 3D-0800, Transportation Facilities.~~

~~(e) — A transportation facility permit application containing dispersion modeling analyses that demonstrate compliance with ambient air quality standards for carbon monoxide or traffic analyses showing a level of service of A, B, C, or D as defined in the Highway Capacity Manual, using planned roadway and intersection improvements shall include approval for the improvements from the appropriate State or city Office of transportation. The Highway Capacity Manual is hereby incorporated by reference and shall include any later amendments and editions. This manual may be obtained from the Institute of Transportation Engineers, 1099 14<sup>th</sup> Street, NW, Suite 300 West, Washington, D. C. 20005-3438.~~

~~(f) — Whenever the information provided on the permit application forms does not describe the transportation facility to the extent necessary to evaluate the application, the Director may request that the applicant provide any other information as allowed or required by this Rule and Section 3D-0800 and necessary to evaluate the transportation facility. Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that he considers necessary to determine compliance with applicable standards including traffic level of service.~~

~~(g) — A non-refundable permit application fee shall accompany each transportation facility permit application. The permit application fee is described in Section 3Q-0200. (Ord. No. 4-94, 5-23-94, 7-28-97)~~

#### **Sec. 3Q-0604. Public participation**

~~(a) — Before approving or disapproving a permit to construct or modify a transportation facility, the Director shall provide public notice for comments with an opportunity to request a public hearing on the draft permit.~~

~~(b) — The public notice shall be given by publication in a newspaper of general circulation in the area where the transportation facility is located.~~

~~(c) — The public 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 comments and requests for public hearing are to be sent;~~
- ~~(4) — the name, address, and telephone number of Office staff from whom interested persons may obtain additional information, including copies of the draft permit, the application, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to Office that are relevant to the permit decision;~~
- ~~(5) — a brief description of the proposed project;~~
- ~~(6) — a brief description of the public comment procedures;~~
- ~~(7) — the procedures to follow to request a public hearing unless a public hearing has already been scheduled; and~~
- ~~(8) — the time and place of any hearing that has already been scheduled.~~

~~(d) — The public notice shall allow at least 30 days for public comments.~~

~~(e) 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 public hearing.~~

~~(f) The Director shall make available for public inspection in at least one location in the region affected, the information submitted by the permit applicant and the Office's analysis of that application.~~

~~(g) Any persons requesting copies of material identified in Subparagraph (c)(4) of this Rule shall pay ten cents (\$0.10) a page for each page copied. Confidential material shall be handled in accordance with Rule .0107 of this Subchapter. (Ord. No. 4-94, 5-23-94)~~

### **Sec. 3Q-0605. Final action on permit applications**

~~(a) The Director may:~~

- ~~(1) issue a permit containing the conditions necessary to carry out the purposes of Chapter 3 of the Forsyth County Code;~~
- ~~(2) rescind a permit upon request by the permittee; or~~
- ~~(3) deny a permit application when necessary to carry out the purposes of Chapter 3 of the Forsyth County Code.~~

~~(b) The Director shall issue a permit for the construction or modification of a transportation facility subject to the Rules in Section 3D-0800 if the permit applicant submits a complete application and demonstrates to the satisfaction of the Director that the ambient air quality standard for carbon monoxide shall not be exceeded.~~

~~(c) The Director shall issue a permit for a period of time necessary to complete construction, but such period shall not exceed five years.~~

~~(d) The Director shall not approve a permit for a transportation facility that:~~

- ~~(1) interferes with the attainment or maintenance of the ambient air quality standard for carbon monoxide,~~
- ~~(2) results in a contravention of applicable portions of the implementation plan control strategy, or~~
- ~~(3) is demonstrated with dispersion modeling to exceed the ambient air quality standard for carbon monoxide. (Ord. No. 4-94, 5-23-94; 12-19-94)~~

### **Sec. 3Q-0606. Termination, modification and revocation of permits**

~~(a) The Director may terminate, modify, or revoke and reissue any 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 was granted have changed;~~
- ~~(3) Violations of conditions contained in the permit have occurred;~~
- ~~(4) 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 where the transportation facility is located or where 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, the transportation facility and any monitoring equipment or monitoring procedures required in the permit; or~~
- ~~(D) to sample, at reasonable times and using reasonable safety practices, emissions from the facility; or~~

~~(5) The Director finds that modification or revocation of a permit is necessary to carry out the purpose of Chapter 3 of the Forsyth County Code.~~

~~(b) The construction or continuation of construction of a transportation facility after its permit has been revoked is a violation of this Section. (Ord. No. 4 94, 5 23 94; 12 19 94)~~

### **Sec. 3Q-0607. Application processing schedule**

~~(a) The Office shall adhere to the following schedule in processing applications for transportation source permits:~~

- ~~(1) The Office shall send written acknowledgment of receipt of the permit application to the applicant within 10 days of receipt of the application.~~
- ~~(2) The Office shall review all permit applications within 30 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes. The Office 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 Office, or~~
  - ~~(C) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application.~~~~

~~If the Office does not notify the applicant by letter dated within 30 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.~~

- ~~(3) The Office 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 Office shall complete the technical review within 90 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 draft permit to public notice within 60 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.~~

~~(5) If the draft permit is not required to go to public hearing, the Director shall complete the review of the record and take final action on the permit within 30 days after the close of the public comment period.~~

~~(6) If the draft permit is required to go to public hearing as a result of a request for public hearing under Sec. 3Q-0604 (e), the Director shall:~~

~~(A) send the draft permit to public hearing within 45 days after approving the request for the public hearing, and~~

~~(B) complete the review of the record and take final action on the permit within 30 days after the close of the public hearing.~~

~~(b) The days that fall between the sending out a letter requesting additional information and receiving that additional information shall not be counted in the schedules under Paragraph (a) of this Rule.~~

~~(e) The Director may return at any time applications containing insufficient information to complete the review. (8-14-94, 9-14-98)~~