

**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 hybrid public hearings on Tuesday, January 24, 2023 at 10:00 a.m. concerning the proposed request for delegation of a federal plan and amendment to Forsyth County's Air Quality Technical Code (FCAQTC).

Hearing 1 is to request public comment on the proposed request by the Forsyth County Office of Environmental Assistance and Protection (FCEAP) to the Environmental Protection Agency (EPA), Region 4 for delegation of Clean Air Act (CAA) Section 111(d) federal plan requirements for Municipal Solid Waste Landfills. The federal plan is at 40 CFR, Part 62 Subpart OOO - Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014. In addition, Section 3D-1700 of the FCAQTC is proposed for repeal because these requirements are obsolete.

Hearing 2 is to request public comment on the adoption of revised rules in the FCAQTC implementing the federal operating permits program (Title V) administered by FCEAP. These changes are in response to recommendations made to the North Carolina Department of Environmental Quality resulting from EPA's most recent program audit.

Any person may appear before the Environmental Assistance and Protection Advisory Board and bring representatives, consultants, and witnesses to be heard relative to the matters for which action by the Board is sought, provided advance notice is given to the Office Director of such matter to be considered. Persons wishing to attend may call this Office at 336-703-2440 or visit our website for more information.

The proposed rule changes are available at http://www.forsyth.cc/EAP/public_notices.aspx and 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 January 24, 2023. Date: December 23, 2022



Minor Barnette, Director

HEARING 1

**PROPOSED REVISIONS TO CHAPTER 3 OF THE
FORSYTH COUNTY CODE AND AIR QUALITY
CONTROL TECHNICAL CODE AND
PROPOSED FEDERAL PLAN DELEGATION REQUEST**

PUBLIC HEARING TIME & DATE
10 AM, January 24, 2023

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

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BACKGROUND

On August 29, 2016, the U.S. Environmental Protection Agency (EPA) finalized changes to the Emission Guideline (EG) for Municipal Solid Waste (MSW) landfills, under 40 CFR Part 60, Subpart Cf, *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*, which applies to existing MSW Landfills that commenced construction or modification on or before July 17, 2014. EPA specified that after the effective date of an EPA-approved state, local, tribal, or federal plan implementing Subpart Cf, owners and operators of MSW landfills subject to the EG must comply with the approved and effective plan implementing Subpart Cf, completely superseding 40 CFR 60, Subpart WWW in concert with the state/federal plan originally implementing the EG under Subpart Cc. The federal plan implementing 40 CFR Part 60, Subpart Cf, 40 CFR Part 62, Subpart OOO, became effective June 21, 2021.

There is currently one MSW landfill in Forsyth County that meets the applicability criteria under 40 CFR Part 60, Subpart Cf, Hanes Mill Road MSW Landfill. The Forsyth County Office of Environmental Assistance and Protection administers a Title V operating permit for this facility and had been implementing and enforcing the requirements for MSW landfills under 40 CFR Part 60 Subpart WWW. However, as of June 21, 2021 the federal plan superseded 40 CFR Part 60 Subpart WWW. As a result, the requirements of the EG are currently administered by the US Environmental Protection Agency (EPA) under the federal plan.

DELEGATION REQUEST AND RULE CHANGES BEING CONSIDERED

The Environmental Assistance and Protection Advisory Board is conducting a public hearing on a proposed request for delegation of the federal plan at 40 CFR Part 60, Subpart OOO to allow the Forsyth County Office of Environmental Assistance and Protection to continue implementing air pollution control requirements for all affected facilities in Forsyth County. The proposed delegation request is an attachment to this hearing package. In addition, Section 3D-1700, Municipal Solid Waste Landfills, of the Forsyth County Air Quality Technical Code is proposed for repeal. These rules were adopted implement the earlier EG, 40 CFR Part 60, Subpart Cc and have become obsolete.

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 to, or during, the public comment period or during the public hearing.
For example:

July 1, 2009~~10, 2009~~

SUBCHAPTER 3D AIR POLLUTION CONTROL REQUIREMENTS

SECTION 3Q-1700. MUNICIPAL SOLID WASTE LANDFILLS REPEALED

Sec. 3D-1701. - Sec. 3D-1710. Repealed

Sec. 3D-1701. Definitions

For the purpose of this Rule the definitions contained in 40 CFR 60.751 shall apply. (9-14-98)

Sec. 3D-1702. Applicability

(a) All existing MSW landfills that meet the following conditions are subject to this Section:

- (1) The landfill has accepted waste at any time since November 8, 1987, or has additional permitted capacity available for future waste deposition and has not been documented as being permanently closed; and
- (2) The landfill was in operation, or construction, reconstruction, or modification was commenced before May 30, 1991.

(b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission standard under this Section are not considered a modification or reconstruction, and do not subject an existing MSW landfill to the requirements of 40 CFR 60, Subpart WWW or Sec. 3D-0524. (9-14-98)

Sec. 3D-1703. Emission standards

(a) Any MSW landfill subject to this Section and meeting the following two conditions shall meet the gas collection and control requirements of Paragraph (b) of this Rule:

- (1) The landfill has a design capacity greater than or equal to 2.75 million tons and 2.5 million cubic meters. The owner or operator of the landfill may calculate the design capacity in either tons or cubic meters for comparison with the exemption values. Any density conversion shall be documented and submitted along with the initial reporting requirements of Sec. 3D-1708 (a); and
- (2) The landfill has a non-methane organic compound (NMOC) emission rate of 55 tons per year or more. The NMOC emission rate shall be calculated by following the procedures outlined in 40 CFR 60.754.

(b) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall:

- (1) submit to the Director a site specific design plan for the gas collection and control system that meets the requirements of 40 CFR 60.752(b)(2)(i);
- (2) install a gas collection system that meets the requirements of 40 CFR 60.752(b)(2)(ii); and

- (3) ~~control the collected emissions of MSW landfill gas through the use of one or more of the following control devices:~~
 - (A) ~~An open flare designed and operated in accordance with the parameters established in 40 CFR 60.18;~~
 - (B) ~~A control system designed and operated to reduce NMOC by 98 weight percent; or~~
 - (C) ~~An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, on a dry basis at three percent oxygen, or less.~~

~~(e) The gas collection and control system required under Paragraph (b) of this Rule may be capped or removed provided that all the conditions of 40 CFR 60.752(b)(2)(v)(A), (B) and (C) are met. (9-14-98, 7-24-00)~~

Sec. 3D-1704. Test methods and procedures

~~The MSW landfill NMOC emission rate shall be calculated by following the procedures in 40 CFR 60.754, as applicable, in order to determine whether the landfill meets the conditions of Sec. 3D-1703 (a)(2). (9-14-98)~~

Sec. 3D-1705. Operational standards

~~The owner and operator of a MSW landfill required to install a landfill gas collection and control system to comply with Sec. 3D-1703 (b) shall:~~

- ~~(1) operate the collection system in accordance with 40 CFR 60.753(a);~~
- ~~(2) operate the collection system with negative pressure at each wellhead in accordance with 40 CFR 60.753(b);~~
- ~~(3) operate each interior wellhead in the collection system in accordance with 40 CFR 60.753(c);~~
- ~~(4) operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner and operator shall follow the procedures given in 40 CFR 60.753(d);~~
- ~~(5) operate the collection system such that all collected gases are vented to a control system designed and operated in compliance with Sec. 3D-1703 (b)(3). In the event that the gas collection and control system is inoperable, measures shall be taken as outlined in 40 CFR 60.753(e);~~
- ~~(6) operate the control system at all times when the collected gas is routed to the control system;~~
- ~~(7) take corrective action as specified in 40 CFR 60.755(e) if monitoring demonstrates that the operation standards and requirements of Paragraphs (2), (3), and (4) of this~~

~~Rule are not met. If the required corrective actions are taken, the emissions monitored shall not be considered a violation of the operational standards of this Rule.~~

Sec. 3D-1706. Compliance provisions

~~(a) — Compliance with Sec. 3D-1703 (b) shall be determined using the provisions of 40 CFR 60.755(a).~~

~~(b) — Compliance with Sec 3D-1705 (1) shall be determined using the provisions of 40 CFR 60.755(b).~~

~~(c) — Compliance with the surface methane operational standards of Sec. 3D-1705 (4) shall be achieved using the procedures of 40 CFR 60.755(c) and (d).~~

~~(d) — The provisions of this Rule apply at all times, except during periods of start up, shutdown, or malfunction, provided that the duration of start up, shutdown, or malfunction shall not exceed five days for collection systems and shall not exceed one hour for treatment or control devices. (9-14-98)~~

Sec. 3D-1707. Monitoring provisions

~~(a) — The owner or operator of a MSW landfill who is required to comply with Sec. 3D-1703 (b)(2) for an active gas collection system shall perform the monitoring requirements as outlined in 40 CFR 60.756(a).~~

~~(b) — The owner or operator of an MSW landfill seeking to comply with the provisions of Sec. 3D-1703 (b)(3)(C) using an enclosed combustor shall perform the monitoring requirements as outlined in 40 CFR 60.756(b).~~

~~(c) — The owner or operator of an MSW landfill seeking to comply with the provisions of Sec. 3D-1703 (b)(3)(A) using an open flare shall perform the monitoring requirements as outlined in 40 CFR 60.756(c).~~

~~(d) — The owner or operator of an MSW landfill seeking to comply with the provisions of Sec. 3D-1703 (b)(3) using a device other than an open flare or an enclosed combustor shall comply with the provisions of 40 CFR 60.756(d).~~

~~(e) — The owner or operator of an MSW landfill seeking to comply with the provisions of Sec. 3D-1703 (b)(3)(B) using an active collection system or seeking to monitor alternative parameters to those required by Sec. 3D-1704 through 1707 shall comply with the provisions of 40 CFR 60.756(e).~~

~~(f) — The owner or operator of an MSW landfill seeking to comply with the provisions of Sec. 3D-1706 (c) shall do so in accordance with 40 CFR 60.756(f). (9-14-98)~~

Sec. 3D-1708. Reporting requirements

~~(a) — The owner or operator of a MSW landfill subject to this Rule according to Sec. 3D-1702 shall submit an initial design capacity report to the Director in accordance with the following:~~

- (1) ~~The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required under 40 CFR 60.7(a)(1) and shall be submitted no later than the earliest of the day from the dates given in 40 CFR 60.757(a)(1)(i) through 40 CFR 60.757(a)(1)(iii);~~
- (2) ~~The initial design capacity report shall contain the information given in 40 CFR 60.757(a)(2)(i) and 40 CFR 60.757(a)(2)(ii); and~~
- (3) ~~An amended design capacity report shall be submitted to the Director in accordance with 40 CFR 60.757(a)(3) whenever an increase in the design capacity of the landfill results in the design capacity of the landfill to exceed 2.5 million cubic meters and 2.75 million tons.~~

(b) ~~The owner or operator of a MSW landfill subject to this Section shall submit a NMOC emission report to the Director initially and annually thereafter, except as provided for in 40 CFR 60.757(b)(1)(ii) or (b)(3). The initial NMOC emission rate report shall be submitted within 90 days of the day waste acceptance commences and may be combined with the initial design capacity report required in Paragraph (a) of this Section. The NMOC emission rate report shall:~~

- (1) ~~contain an annual or five year estimate of the NMOC emission rate calculated using the formula and procedures provided in 40 CFR 60.754(a) or (b), as applicable; and~~
- (2) ~~include all the data, calculations, sample reports and measurements used to estimate the annual or five year emissions.~~

(c) ~~The owner or operator of a MSW landfill subject to Sec. 3D-1703 (b) shall submit a collection and control system design plan to the Director within one year of the first report, required under Paragraph (b) of this Rule, in which the emission rate exceeds 55 tons per year, except as provided for in 40 CFR 60.757(c)(1) and (2).~~

(d) ~~The owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of cessation of waste acceptance. If a closure report has been submitted to the Director, no additional waste shall be placed into the landfill without first filing a notification of modification as described under 40 CFR 60.7(a)(4). The Director may request such additional information as may be necessary to verify that permanent closure of the MSW landfill has taken place in accordance with the requirements of 40 CFR 258.60.~~

(e) ~~The owner or operator of a controlled MSW landfill shall submit an equipment removal report 30 days prior to removal or cessation of operation of the control equipment according to Sec. 3D-1703 (c). The report shall contain the items listed in 40 CFR 60.757(e)(1). The Director may request such additional information as may be reasonably necessary to verify that all the conditions for removal in 40 CFR 60.752(b)(2)(v) have been met.~~

(f) ~~The owner or operator of a MSW landfill seeking to comply with Sec. 3D-1703 (b)(2) using an active collection system designed in accordance with 40 CFR 60.752(b)(2)(ii) shall submit annual reports of the recorded information in 40 CFR 60.757(f)(1) through (f)(6). The initial annual report shall be submitted within 180 days of installation and start up of the collection and control system, and shall include the initial performance test report required under 40 CFR 60.8.~~

~~(g) — The owner or operator of a MSW landfill seeking to comply with Sec. 3D [1703](#) (b)(3) using an enclosed combustion device or flare shall report the excess as defined in 40 CFR 60.758(c)(1).~~

~~(h) — The owner or operator of a MSW landfill required to comply with Sec. 3D [1703](#) (b)(1) shall include the information given in 40 CFR 60.757(g)(1) through (6) with the initial performance test report required under 40 CFR 60.8. (9-14-98, 7-24-00)~~

Sec. 3D-1709. Recordkeeping requirements

~~(a) — The owner or operator of a MSW landfill subject to this Section and having a maximum design capacity equal to or greater than 2.5 million cubic meters and 2.75 million tons shall keep on site for at least five years records of the information listed in 40 CFR 60.758(a). Off site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats of the records shall be acceptable.~~

~~(b) — The owner or operator of a controlled landfill shall keep up to date, readily accessible records for the life of the control equipment of the data listed in 40 CFR 60.757(b)(1) through (b)(4) as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of five years. Records of the control device vendor specifications shall be maintained until removal.~~

~~(c) — Each owner or operator of a MSW landfill subject to this Section shall keep for five years up to date, readily accessible continuous records of the equipment operating parameters specified to be monitored in Sec. 3D [1707](#) and records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The parameter boundaries considered in excess of those established during the performance test are defined in 40 CFR 60.757(c)(1)(i) and (ii) and are also required to be reported under Sec. 3D [1708](#) (g).~~

~~(d) — The owner or operator of a MSW landfill subject to Sec. 3D [1703](#) (b) shall keep for the life of the collection system an up to date, readily accessible plot map showing existing and planned collectors in the system and provide unique identification location labels for each collector. Records of newly installed collectors shall be maintained in accordance with 40 CFR 60.758(d)(1) and documentation of asbestos containing or nondegradable waste excluded from collection shall be kept in accordance with 40 CFR 60.758(d)(2).~~

~~(e) — The owner or operator of a MSW landfill subject to Sec. 3D [1703](#) (b) shall keep for at least five years records of emissions from the collection and control system exceeding the emission standards in accordance with 40 CFR 60.758(e).~~

~~(f) — The owner or operator of MSW landfill subject to Sec. 3D [1703](#) (b) shall keep up to date, readily accessible continuous records of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of ear seals or lock and key configurations used to seal bypass lines, specified under 40 CFR 60.756.~~

~~(g) — The owner or operator of MSW landfill subject to Sec. 3D [1703](#) (b) who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with 40 CFR~~

60.752(b)(2)(iii) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater.

(h) — The owner or operator of MSW landfill seeking to comply with the provisions of Sec. 3D-1703 (b) by use of an open flare shall keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under 40 CFR 60.756(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent. (9-14-98, 7-24-00)

Sec. 3D-1710. Compliance schedules

(a) — Except as provided for in Paragraph (b) of this Rule, the schedule for compliance with the requirements of this Section shall meet the following deadlines:

(1) — Each existing MSW landfill subject to this Section according to Sec. 3D-1702 and exceeding the design capacity limitation of Sec. 3D-1703 (a)(1) shall submit an application for a permit under Section 3Q-0500 by July 1, 1999.

(2) — Each existing MSW landfill subject to this Section according to Sec. 3D-1702 and exceeding the design capacity and NMOC emission rate limitations of Sec. 3D-1703 (a)(1) and (2) shall:

(A) — submit a site-specific design plan for the gas collection and control system to the Director by July 1, 1999; and

(B) — plan, award contracts, and install MSW landfill air emission collection and control system capable of meeting the emission standards established under Sec. 3D-1703 by January 1, 2001. (9-14-98)

(b) — For each existing MSW landfill subject to this Section as specified in Sec. 3D-1702 and meeting the design capacity condition of Sec. 3D-1703 (a)(1) whose NMOC emission rate is less than 55 tons per year on July 1, 1998, shall:

(1) — submit a site-specific design plan for the gas collection and control system to the Director within 12 months of first exceeding the NMOC emission rate of 55 tons per year; and

(2) — plan, award contracts, and install MSW landfill air emission collection and control system capable of meeting the emission standards established under Sec. 3D-1703 within 30 months of the date when the conditions in Sec. 3D-1703 (a)(2) are met. (9-14-98)

Draft
Forsyth County Local Plan

Delegation Request

**40 CFR 62, Subpart OOO - Federal Plan
Requirements for Municipal Solid Waste
Landfills That Commenced Construction On
or Before July 17, 2014 and Have Not Been
Modified or Reconstructed Since July 17,
2014**

**Plan Submittal Pursuant to
Clean Air Act Section 111(d)**

Prepared by:

Forsyth County Office of Environmental Assistance and Protection

(2022)

PREFACE

This document serves as submittal of the Forsyth County, NC Local Implementation Plan for the control of emissions from Municipal Solid Waste (MSW) landfills subject to federal Emission Guidelines (EG). The information in this plan serves to comprehensively demonstrate how the Forsyth County Office of Environmental Assistance & Protection (FCEAP) will ensure and enforce compliance with all applicable requirements of the EG.

DRAFT

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Executive Summary

1.1 Background and Purpose

This document intends to set forth the County of Forsyth, North Carolina proposed Local Plan requesting delegation of the federal plan at Title 40 of the Code of Federal Regulations (40 CFR), Part 62, Subpart OOO to satisfy the requirements of the federal Emissions Guideline (EG) for MSW Landfills under 40 CFR, Part 60, Subpart Cf, and Section 111(d) of the Clean Air Act (CAA). It is intended to run parallel to, but independent of that which has been drafted by the North Carolina Department of Environmental Quality (NCDEQ), with adaptations reflective of the unique and limited jurisdiction of the Forsyth County Office of Environmental Assistance & Protection (FCEAP).

On August 29, 2016, the U.S. Environmental Protection Agency (EPA) finalized changes to the EG for MSW landfills, under 40 CFR Part 60, Subpart Cf, *Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills*, which applies to existing MSW Landfills that commenced construction or modification on or before July 17, 2014.¹

On August 26, 2019, EPA incorporated into 40 CFR Part 60, Subpart Cf the updated implementing regulations under 40 CFR Part 60, Subpart Ba, which were finalized on July 8, 2019.²

On March 26, 2020, EPA revised the EG for MSW Landfills in Subpart Cf and clarified the requirements for owners and operators of MSW landfills after approval of an effective state, tribal, or federal plan implementing Subpart Cf. Specifically, EPA specified that after the effective date of an EPA-approved state, local, tribal, or federal plan implementing Subpart Cf, owners and operators of MSW landfills subject to the EG must comply with the approved and effective plan implementing Subpart Cf, completely superseding 40 CFR 60, Subpart WWW in concert with the state/federal plan originally implementing the EG under Subpart Cc.³

Subpart Cf and Section 111(d) of the CAA require states with one or more designated facilities to submit a State Plan implementing the requirements of the EG. Forsyth

¹ Federal Register, Volume 81, No. 167, 81 FR 59276, August 29, 2016.

² Federal Register, Volume 84, No. 165, 84 FR 44547, August 26, 2019.

³ Federal Register, Volume 85, No. 59, 85 FR 17244, March 26, 2020.

County does not have an approved plan under Subpart Cf. Affected facilities in states that do not have an approved plan are subject to the federal plan at 40 CFR Part 62, Subpart OOO. As Forsyth County, NC has been the designated authority enforcing Subpart WWW and the EG under Cc, a local plan is required independent of the NC state plan for continuity allowing the FCEAP to begin implementing the requirements of federal plan.

Although Section 111(d) of the Clean Air Act and the implementing federal regulations at 40 CFR Part 60 do not specifically provide for delegation to local agencies, the EPA publication “Good Practices Manual for Delegation of NSPS and NESHAPS” states “...common practice has been to delegate to local agencies where they are adequately qualified.” FCEAP has consulted with the State of North Carolina in developing this plan and understands that North Carolina does not have any objections to delegating implementing this EG directly to FCEAP.

This local plan is consistent with the NC State Plan. However, Forsyth County has opted to enter into a Memorandum of Agreement (MOA) with EPA for implementing the federal plan under 40 CFR 62, Subpart OOO, rather than incorporating the EG requirements in the Local Air Quality Control Ordinance through rulemaking.

1.2 Required Elements of the Local Plan

State plans must meet the requirements of 40 CFR Part 60, Subpart Ba. The relevant requirements and contents of this Plan are outlined in this section.

As specified in 84 FR 43745, August 22, 2019, the Plan includes the following elements:

- Identification of legal authority and mechanisms for implementation;
- Inventory of designated facilities;
- Inventory of emissions;
- Emission limits;
- Compliance schedules;
- Process for the State review of design plans for site-specific gas collection and control systems (GCCS);
- Testing, Monitoring, Reporting and Recordkeeping requirements;
- Public hearing requirements; and
- Progress reporting requirements.

Local Plan Elements

The elements identified in Section 1.2 are contained in this Section of the Local Plan.

2.1 Legal Authority

40 CFR §60.26(a) requires each plan to show that the implementing agency has legal authority to carry out the plan, including authority for Items 1 through 4 below. 40 CFR §60.26(b) requires the plan to specifically identify the provisions of law or regulations that provide the authorities required by 40 CFR §60.26, and include copies of such law or regulations. 40 CFR §60.26(c) requires the plan to show that the legal authorities are available to the implementing agency at the time of submission of the plan.

The North Carolina General Statutes (N.C.G.S.) and portions of Forsyth County's Municipal Code, Chapter 3 Air Quality Control FCAQCO and Technical Code FCAQCTC that provide the listed authorities are provided below each required item. The the full text of each identified statute and ordinance is attached in Appendix C of this plan.

1. Adopt emission standards (enforceable conditions) and compliance schedules applicable to designated facilities and designated pollutants;

Legal Authority: N.C.G.S. § 143-215.112(c)(1)(d)
N.C.G.S. § 143-215.112(c)(1)(e)
N.C.G.S. § 143-215.112(c)(4)
FCAQCO Sec. 3-0102

2. Enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief;

Legal Authority: N.C.G.S. § 143-215.112(a)(2)
N.C.G.S. § 143-215.112(c)(1)(a)
N.C.G.S. § 143-215.112(c)(1)(d)
N.C.G.S. § 143-215.112(c)(2)
N.C.G.S. § 143-215.112(c)(2a)

N.C.G.S. § 143-215.112(d)(2)

FCAQCO Sec. 3-0102, 3-0106, 3-0107

3. Obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.

Legal Authority: N.C.G.S. § 143-215.112(c)(1)(c)
N.C.G.S. § 143-215.112(c)(1)(d)
N.C.G.S. § 143-215.112(d)(1)-(d)(2)
FCAQCO Sec. 3-0102

4. Require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the county on the nature and amounts of emissions from such facilities; also authority for the county to make such data available to the public as reported and a correlated with applicable emission standards.

Legal Authority: N.C.G.S. § 143-215.112(c)(1)(b)
N.C.G.S. § 143-215.112(c)(1)(e)
N.C.G.S. § 143-215.112(c)(4)
FCAQCO Sec. 3-0102, FCAQTC Sec. 3Q-0107

2.2 Inventory of Designated Facilities and Emissions

Under 40 CFR § 60.25(a), each state plan must include an inventory of all designated facilities and include emissions data for the designated pollutants. This section contains the inventory of designated facilities, as categorized in Table 1 below.

Table 1: MSW Landfills in Forsyth County, NC subject to 40 CFR Part 60, Subparts WWW or Cc with a Regulatory GCCS and Design capacity Greater than 2.5 Million Megagrams.

Facility/ Operator	Operator	Design Capacity	Year of Last Construction/ Modification	NMOC Mg/ Year
Hanes Mill Road MSW Landfill Facility ID No. 00913	City of Winston-Salem, NC	>2.5 Mg	2012	<50 Mg/Year but controlled
Piedmont Landfill Facility ID No. 00914	Waste Management, Inc.	>2.5 Mg	2016	NA

Hanes Mill Road MSW Landfill is currently the only municipal solid waste landfill operating in Forsyth County. This facility was subject the NSPS, 40 CFR Part 60, Subpart WWW and continues to operate a GCCS as required under the federal plan, 40 CFR Part 62, Subpart OOO. Piedmont Landfill was previously subject to NSPS and stopped accepting waste in July of 2004. The facility continues to operate a GCCS to generate renewable energy, however, the facility demonstrated that it met the requirements under 40 CFR 60.752(b)(2)(v) for removal of the GCCS in 2015. As a result, Piedmont Landfill was not subject to the NSPS after 2015 and is not subject to the EG addressed in this plan.

2.3 Emission Standards and Compliance Schedules

FCEAP has entered into an MOA with EPA Region 4 to implement the federal plan at 40 CFR, Part 62, Subpart OOO. The federal plan was promulgated to address all requirements of the EG. FCEAP believes that implementing the federal plan satisfies all emission standard, compliance schedule and other requirements specified by the EG.

40 CFR §60.24 specifies the requirements for establishing emission standards and compliance schedules in the plan. The relevant requirements of 40 CFR §60.24 that apply to this plan are outlined below.

2.3.1 Emission Standards and Limits

40 CFR §60.24(a) requires the plan to include emission standards and compliance schedules. 40 CFR §60.24(b)(1) specifies that emission standards can either be based on an allowance system or prescribe allowable rates of emissions, except when clearly impracticable as identified in the guidelines. Where the prescribing equipment specification option is used, the plan shall, to the degree possible, set forth the emission reductions achievable by implementation of such specifications, and may permit compliance by the use of equipment determined by the State to be equivalent to that prescribed.

40 CFR §62.16714 incorporates the requirements of 40 CFR §60.33(f) specific to emission collection and control, design capacity reports, and NMOC emission rate calculations and reports.

40 CFR §60.24(b)(3) requires the emission standards to apply to all designated facilities within the State. Emission standards adopted by local jurisdictions are allowable if such standards are enforceable by the State. The NC DEQ rules, 15A NCAC 02D .1702(a) and (b), incorporate the applicability criteria for designated facilities under 40 CFR §60.31f(a) and (b). 15A NCAC 02D .1702(c) incorporates by reference the requirements of 40 CFR §60.31f(c) through (e). These rules would be enforced in Forsyth County if the local air pollution control program was de certified by the NC Environmental Management Commission.

40 CFR §60.24(c) requires emission standards to be no less stringent than the corresponding EG, and final compliance as expeditiously as practicable, but no later than the compliance times specified in 40 CFR Part 60, Subpart C. Implementing the federal plan under the MOA ensures the standards enforced by FCEAP are no less stringent and compliance is achieved as expeditiously as practicable, but no later the the compliance times specified in 40 CFR Part 60, Subpart C.

2.3.2 Operational Standards

40 CFR §62.16716 incorporates the operational standards, monitoring and compliance provisions of 40 CFR §60.34f. The operational standards of 40 CFR §62.16716, the operational standards in 40 CFR §63.1958, or both may be used

as alternative means of compliance for an MSW landfill with a gas collection and control system used to comply with the provisions of §62.168714(b) and (c)

2.3.3 Monitoring Provisions

40 CFR §62.16722 incorporates the monitoring provisions of 40 CFR §60.37f. The plan is required to include the monitoring provisions of 40 CFR §62.16722, 40 CFR §63.1961, or both as alternative means of compliance, for an MSW landfill with a GCCS used to comply with the provisions of 40 CFR §62.168714(b) and (c).

2.3.4 Compliance Provisions

40 CFR §62.16720 incorporate the compliance provisions of 40 CFR §60.36f. The plan is required to include compliance provisions of 40 CFR §62.16720, 40 CFR §63.1960, or both as an alternative means of compliance for an MSW landfill with a GCCS used to comply with the provisions of 40 CFR §62.168714(b) and (c).

2.3.5 Test Methods and Procedures

40 CFR §62.16719 specifies the procedures for calculating the landfill NMOC emission rate or conducting surface emission monitoring demonstration.

2.3.6 Reporting

The plan is required to include the reporting provisions in 40 CFR §60.38f, as applicable, except as provided under 40 CFR §60.24 and §60.38f(d)(2). 40 CFR §62.16724 incorporates the reporting requirements of 40 CFR §60.38f.

2.3.7 Recordkeeping

40 CFR §62.16726 incorporates the recordkeeping requirements specified in 40 CFR §60.39f.

2.3.7 Active Collection Systems

40 CFR §62.16728 contains the specifications for active collection systems of specified in 40 CFR §60.40f.

2.3.8 Compliance Schedules

40 CFR §60.32f specifies compliance items for planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the EG under 40 CFR §60.33f.

40 CFR §62.16712 incorporates the compliance times set forth in 40 CFR §60.32f, and 40 CFR §62.16724(d) specifies the compliance times of for submitting a site-specific GCCS design plan specified by 40 CFR §60.38f(d)(iv)

All of the standards and conditions of 40 CFR Part 60, Subpart Cf, have been incorporated into the federal plan at 40 CFR Part 62, Subpart OOO. Forsyth County has entered in to an MOA with EPA Region 4 for implementation of the federal plan. As such, the emission limitations and test methods implemented by FCEAP will be as protective as the EG at 40 CFR Part 60, Subpart Cf.

2.4 Review Process for Gas Collection and Control System Design Plans

40 CFR 60.38f(d) requires the state plan to include a process for state review and approval of the site-specific design plans of each gas collection and control system (GCCS), which must meet the requirements in 40 CFR 60.38f(d)(1) through (7).

40 CFR §62.16724(d) requires the owner or operator of an existing MSW landfill required to install and startup a GCCS, as specified in 40 CFR §62.16724(d), to submit a GCCS design plan within one year of the first NMOC emission rate report in which the emission rate exceeds 34 megagrams per year, except as provided for in 40 CFR §62.16724(d)(4)(i) through (iii). 40 CFR §62.16724(e) requires a revised design plan at least 90 days before expanding operations to an area not covered by the previously approved design plan, and prior to installing or expanding the GCCS in a way that is not consistent with the design plan that was previously submitted.

40 CFR §62.16724(d)(5) and (6) requires such plans to be reviewed pursuant to the same procedures in 40 CFR 60.38f(d)(5) and (6), as copied below:

40 CFR 60.38f(d):

(5) The landfill owner or operator must notify the Administrator that the design plan is completed and submit a copy of the plan's signature page. The Administrator has 90 days to decide whether the design plan should be submitted for review. If the Administrator chooses to review the plan, the approval process continues as described in paragraph (c)(6) of this section. However, if the Administrator indicates that submission is not required or does not respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner or operator must take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

6) Upon receipt of an initial or revised design plan, the Administrator must review the information submitted under paragraphs (d)(1) through (3) of this section and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems. If the Administrator does not approve or disapprove the design plan, or does not request that additional information be submitted within 90 days of receipt, then the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk.

2.5 Public hearing requirements

40 CFR 60.23a specifies requirements for adoption and submittal of State plans and public hearings. The criteria of 40 CFR 60.23a that apply to States and State plan submittals are outlined in this section.

Subpart Ba Requirements

40 CFR 60.23a(c) and (d) require the State to conduct one or more public hearings on the state plan and provide notification of such hearing at least 30 days in advance. The notification must prominently advertise the date, time, and place of the hearing in each region affected. The proposed plan must be made available for public inspection at the time of the public announcement in at least one location in each region to which it applies. Furthermore, notification must be made to the Administrator, to each local air pollution control in region to which the plan will apply, and to any other states included in an interstate region.

40 CFR 60.23a(f) requires the State to prepare and retain for a minimum of 2 years a record of each hearing for inspection by any interested party, which shall contain, at a minimum, a list of witnesses together with the text of each presentation.

40 CFR 60.23a(g) requires the State to submit with the State Plan, certification that each hearing was held in accordance with the notice required by 40 CFR 60.23a(d), and a list of witnesses and their organizational affiliations, if any, appearing at the hearing and a brief written summary of each presentation or written submission.

Local Plan

FCEAP certifies that a public hearing was held in regard to the plan for MSW Landfills EG on [DATE]. Notice of the public hearing was published in the Winston Salem Journal at least 30 days before the hearing, on [DATE]. The notice complies with the requirements of 40 CFR 60.23a(d). Notice of the hearing was also provided on the FCEAP website at https://www.forsyth.cc/EAP/public_notices.aspx

Notification was provided to the Administrator and the North Carolina Department of Environmental Quality.

Appendix B contains a copy of the public notice and hearing record for this plan, which comply with the requirements of 40 CFR 60.23a. The hearing record will be retained for a minimum of 2 years and made available for public inspection upon request.

2.6 Progress reporting requirements.

Pursuant to 40 CFR §60.25(f), FCEAP will submit annual progress reports to EPA to document implementation and enforcement of the Local Plan. Reporting will commence one year after approval of this Local Plan by EPA.

These reports will include:

1. Status of enforcement actions;
2. Status of increments of progress;
3. Identification of sources that have shut down or started operation;
4. Emissions inventory data for sources that were not in operation at the time of plan development but that began operation during the reporting period;

5. Additional data as necessary to update previously submitted source and emissions information; and
6. Copies of technical reports on all performance testing and monitoring.

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Appendix A – Memorandum of Agreement

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Memorandum of Agreement
Delegation of Authority of the Federal Plan for Existing Municipal Solid Waste Landfills

Between
Forsyth County Office of Environmental Assistance and Protection
and The United States Environmental Protection Agency

I. General

- A.** This Memorandum of Agreement (MoA) between the Forsyth County Office of Environmental Assistance and Protection (FCEAP) and the United States Environmental Protection Agency (EPA) (collectively, the Parties) defines policies, responsibilities, and procedures pursuant to 40 CFR Part 62, Subpart OOO - Federal Plan Requirements for Municipal Solid Waste Landfills (Federal Plan), by which the Federal Plan will be administered by FCEAP. EPA is not delegating the authorities provided in 40 CFR § 62.16710(b). This MoA will remain in effect consistent with the Clean Air Act (the Act) and its implementing regulations, and North Carolina General Statute 143-215.112 Local air pollution control programs and its implementing regulations. The delegation of the Federal Plan to FCEAP will be in effect until there are no Municipal Solid Waste Landfill (MSW) facilities subject to the Federal Plan in Forsyth County, North Carolina, EPA publishes an approval of a State Plan that FCEAP has submitted, or EPA withdraws delegation of the Federal Plan according to the provisions of this MoA, whichever occurs the earliest.
- B.** In a letter dated December 16, 2022 Minor Barnette, Director of the Forsyth County Office of Environmental Assistance and Protection requested from EPA delegation of authority to implement and enforce the Federal Plan. The geographic area covered by this MoA is Forsyth County, North Carolina excluding Indian Country located within the county boundaries.
- C.** Nothing in this MoA shall be construed to constrain in any way EPA's authority to fulfill its oversight and enforcement responsibilities under the Act. Nothing in this MoA shall be construed to contravene any provision of 40 CFR Part 62, Subpart OOO. This MoA does not modify the Federal Plan's requirements that all submissions be made to EPA, except to the extent that this MoA provides that all submissions be made to FCEAP in addition to EPA. This MoA is in addition to, and does not contravene, EPA's other approvals and/or delegations under the Act.
- D.** A Party may terminate its participation in this MoA at any time by providing written notice to the other Party. EPA shall have the authority to revoke all or part of this delegation if EPA determines, at its discretion, that the State has failed to properly implement or enforce the Federal Plan.
- E.** This MoA is effective upon authorized signature by both FCEAP and EPA and shall have an effective date of the last date on which it is signed.
- F.** Unless revoked, this MoA may be modified only after mutual consent of both Parties for any purpose. EPA and FCEAP reserve the right to revisit the MoA if the Federal Plan is revised after the effective date of the delegation of authority. Any revisions or modifications to this MoA must be in writing and must be signed by both FCEAP and EPA.
- G.** This MoA is entered into voluntarily and expresses the good-faith intentions of the Parties, does not create any contractual obligations, and is not enforceable by any Party including, but not limited to the signatories.
- H.** All commitments made by the Parties in this MoA are subject to the availability of appropriated funds. Nothing in this MoA, in and of itself, obligates the Parties to expend

appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with the Parties' budget priorities. The Parties waive any claim for compensation for services rendered to the other Party in connection with any activities it carries out in furtherance of this MoA. Any transaction involving reimbursement or contribution of funds between the Parties will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

II. Policy Statement

- A.** Each Party is responsible, as outlined below, for ensuring that their obligations under 40 CFR Part 62, Subpart OOO are met. Both Parties agree to maintain a high level of communication, cooperation, and coordination between their respective staffs to assure successful and effective administration of the Federal Plan.
- B.** The Parties agree that under this MoA. FCEAP has primary responsibility for:
1. Administering the Federal Plan in accordance with 40 CFR Part 62, Subpart OOO, applicable State/local law, Section 111(d) of the Act, and this MoA.
 2. Making any changes in implementing the delegated Federal Plan, as necessitated by any EPA regulatory changes.
 3. Sharing information with EPA regarding administration of the Federal Plan.
- C.** The Parties agree that under this MoA. EPA has responsibility for:
1. Providing effective oversight of the Federal Plan to ensure consistency with 40 CFR Part 62, Subpart OOO and this MoA, and to promote national consistency in implementation of the Act.
 2. Providing the FCEAP with ongoing technical and other assistance on MSW matters as requested.
 3. Informing the FCEAP as soon as practicable about any new EPA regulations and any related litigation results or settlements, new Federal standards, implementation information and related Federal policies, as related to MSW matters, the effect of these new requirements, and the action needed by the FCEAP.
 4. Informing the FCEAP as soon as practicable about EPA's decisions to revoke any, or all, of the authority granted to the State for delegation purposes.

III. Program Implementation

- A.** Both the EPA and the FCEAP agree to do the following:
1. Maintain a contact list for the implementation of the Federal Plan.
 2. Participate in meetings to discuss program implementation and specific issues that need resolution.
- B.** FCEAP agrees to do the following:
1. Implement and enforce the Federal Plan in accordance with the provisions of 40 CFR Part 62, Subpart OOO, titled "Federal Plan Requirements for MSW Landfills That

Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014.”

2. Require subject facilities to submit all reports to EPA in accordance with 40 CFR § 62.16724 and provide copies to **FCEAP**.
3. Administer and oversee performance testing and monitoring requirements.
4. Administer and oversee compliance reporting and recordkeeping requirements.
5. Inspect all MSW Landfills in accordance with the most recent Compliance Monitoring Strategy (CMS) work plan approved by EPA and report the minimum data requirements to EPA via the ICIS-AIR, or comparable system specified by EPA, with a special emphasis on updating the facility compliance status.
6. Perform follow-up inspections or review of facility records to ensure correction of violations discovered during routine inspections.
7. Review deviation reports, design capacity reports, collection and control system design plans and performance test reports, and closure reports to ascertain compliance and report information concerning federal "High Priority Violations" to EPA via ICIS-AIR with a special emphasis on updating the facility compliance status.
8. Address violations that meet the definition of “High Priority Violations,” in accordance with the most recent version of EPA’s Enforcement Policy (currently the [“Timely and Appropriate Enforcement Response to High Priority Violations – Revised 2014,”](#) August 25, 2014) and Federally-[Reportable Violations policy](#) (currently the [“Guidance on Federally-Reportable Violations under the CAA,”](#) September 23, 2014).
9. Develop and maintain a compliance monitoring and enforcement program as provided in accordance with EPA policies.
10. Update its monitoring and enforcement program in collaboration with EPA, as needed.
11. Submit an annual progress report to EPA Region 4 in accordance with 40 CFR Part 60 Subpart B. An annual progress report shall include each of the items listed below. If any of the required information listed is already submitted to EPA annually through an electronic database, the state may identify the database along with each facility name or ID for easy identification in lieu of providing that information.
 - (1) Enforcement actions initiated against designated facilities during the reporting period, under any emission standard or compliance schedule of the plan.
 - (2) Identification of the achievement of any increment of progress required by the applicable plan during the reporting period.
 - (3) Identification of designated facilities that have ceased operation during the reporting period.
 - (4) Submission of emission inventory data as described in paragraph (a) of 40 CFR § 60.25 for designated facilities that were not in operation at the time of plan development but began operation during the reporting period.
 - (5) Submission of additional data as necessary to update the information submitted under paragraph (a) of 40 CFR § 60.25 or in previous progress reports.

- (6) Submission of copies of technical reports on all performance testing on designated facilities conducted under paragraph (b)(2) of 40 CFR § 60.25, complete with concurrently recorded process data.

The annual progress report shall be sent electronically to EPA Region 4 Air and Radiation Division Director and EPA staff as designated in III(A)(1).

12. Coordinate closely with EPA on enforcement matters related to compliance for applicable facilities in **Forsyth County**.
- C. EPA agrees to do the following:
1. Provide technical support and assistance, and training opportunities for implementation of national regulations, development of technology-based requirements for automated transmission of data to EPA databases, and other areas as requested by **FCEAP**.
 2. Make reasonable efforts to communicate to **FCEAP** when additional legal, technical, and financial resources may be necessary to implement new Clean Air Act Section 111(d) requirements as they become applicable.

IV. Program Overview

- A. To assure that program requirements are met, EPA agrees to do the following:
1. Expeditiously review and respond, as appropriate, to requests for information or assistance by **FCEAP**, in connection with its implementation of the Federal Plan.
 2. Take final action on any modification to this MoA agreed to by **FCEAP** and EPA. Provide for final action in the Federal Register as soon as practicable or within 180 days of the submission of MoA modification.
- B. **FCEAP** and EPA agree that EPA will assess **FCEAP**'s administration of the Federal Plan on an ongoing basis for consistency with 40 CFR Part 62, Subpart OOO.
1. EPA's assessment of **FCEAP**'s administration of the Federal Plan will be accomplished by EPA review of information, including, but not limited to, information submitted by **FCEAP** to EPA for permit review, compliance and enforcement review, and comments received from regulated persons, the public, and Federal, State, and local agencies. Copies of any comments received from such sources, other than **FCEAP**, will be provided to **FCEAP**.
 2. EPA may audit **FCEAP** files and documents at **FCEAP** offices for selected MSW facilities to determine compliance, as applicable, and ensure they are received, processed, and enforced in a manner consistent with federal requirements. Audits may be conducted on an as needed basis, and EPA plans to give reasonable notice to **FCEAP** prior to initiating any audit.
 3. If EPA determines that **FCEAP** is not adequately administering or enforcing the Federal Plan, EPA will notify **FCEAP** of the determination as soon as practicable and provide the reasons for the determination. **FCEAP** and EPA will then determine the process and time frame for correcting the deficiencies in an expeditious manner.

4. **FCEAP** agrees to allow EPA access to all files and other requested information deemed necessary by EPA to assess **FCEAP**'s administration of the delegated Federal Plan as described herein, subject to the confidentiality provisions of this MoA.

V. Responsibilities of FCEAP under delegation of the Federal Plan

A. FCEAP agrees to do the following:

1. Review and maintain records of a facility's design capacity report as stipulated in 40 CFR § 62.16724(a) of the Federal Plan.
2. Review and maintain records of a facility's NMOC emission rate report(s) as stipulated in 40 CFR § 62.16724(c) of the Federal Plan.
3. Review and maintain records of a facility's collection and control system design plan as stipulated in 40 CFR § 62.16724(d) of the Federal Plan.
4. Review and maintain records of remaining facility increments of progress in §62.16712 of the Federal Plan. Regulatory deadlines identified in this section are not extendable.
5. Ensure final compliance with increments of progress of facilities as stipulated in §62.16712 of the Federal Plan.
6. Review and maintain the following records as stipulated in 40 CFR § 62.16724(f) - 40 CFR § 62.16724(h) of the Federal Plan: closure report; equipment removal report; and annual report.

VI. Delegable Authorities

- A. Following execution of this MoA, EPA intends to publish a Federal Register action delegating to the FCEAP the authority to implement and enforce the Federal Plan. However, EPA also retains authority to implement and enforce the Federal Plan.
- B. These authorities are retained by EPA pursuant to 40 CFR § 62.16710:
 1. Authority to approve alternative methods to determine the site-specific nonmethane organic compounds (NMOC) concentration or a site-specific methane generation rate constant (k), pursuant to 40 CFR § 62.16710(b)(1).
 2. Authority to approve alternative emission standards, pursuant to 40 CFR § 62.16710(b)(2).
 3. Authority to approve major alternatives to test or monitoring methods. Major alternatives to test methods or to monitoring are modifications made to a federally enforceable test method or to a federal monitoring requirement. These changes may involve the use of unproven technology or modified procedure or an entirely new method, pursuant to 40 CFR § 62.16710(b)(3).
 4. Authority to approve waivers of recordkeeping, pursuant to 40 CFR § 62.16710(b)(4).
- C. EPA agrees to notify FCEAP as expeditiously as practicable when the authorities retained by EPA are exercised.

VII. Reporting and Transmittal of Information

- A. FCEAP agrees to submit information to EPA Region 4 in accordance with the most recent version of the EPA's CMS Strategy (<https://www.epa.gov/compliance/clean-air-act-stationary-source-compliance-monitoring-strategy>), High Priority Violations Policy (<https://www.epa.gov/enforcement/air-enforcement-policy-guidance-and-publications#Stationary>), Clean Air Act National Stack Testing Guidance

(<https://www.epa.gov/compliance/clean-air-act-national-stack-testing-guidance>), and Title V/NSR Operating Permits Programs and Air Compliance Program Memorandum of Understanding, Implementation Agreement for Forsyth County Title V Operating Permits Program, as applicable. The FCEAP will ensure that all relevant source notification and report information is entered into the EPA’s Integrated Compliance Information System-Air (ICIS-Air) database to meet your recordkeeping/reporting requirements. The ICIS-Air reporting elements for “source information” that the FCEAP is expected to provide include, but are not limited to:

- a.) Identification of source;
 - b.) Pollutants regulated;
 - c.) Applicability of subparts;
 - d.) Permit number for specific source or sub-unit;
 - e.) Dates of most recent NSPS compliance evaluations (inspections); and
 - f.) Compliance status.
- B.** EPA intends to request any additional information needed from the state.
- C.** EPA agrees to submit copies of any transmittal letters for information requests submitted per section 114 of the Act issued to affected MSW facilities to FCEAP, Minor Barnette, Director in accordance with the most recent version of EPA’s CMS Strategy.
- D.** FCEAP and EPA agree to the following procedures with respect to confidentiality of information.
1. Any information obtained or used in the administration of the Federal Plan shall be available to EPA or FCEAP upon the other party’s request, as allowed by applicable federal and state regulations. If the information has been submitted to FCEAP under a claim of confidentiality, FCEAP must submit that claim to EPA when providing the information.
 2. If any information is submitted to FCEAP under a claim of confidentiality for the purposes of the MSW Federal Plan and North Carolina statutes prohibit submitting that information to EPA, FCEAP will require the source to submit the information directly to EPA.
 3. EPA will treat any information obtained from FCEAP or from a source subject to a claim of confidentiality in accordance with the regulations in 40 CFR Part 2.

VIII. Signatures

For the United States,
United States Environmental Protection Agency, Region 4

By: _____/s/_____
Daniel Blackman

Date: _____MM/DD/YY_____

For Forsyth County Office of Environmental Assistance and Protection

By: _____
Minor Barnette, Director

Date: _____ MM/DD/YY

Appendix B – Full Text of Referenced General Statutes and Ordinances

The full text of the North Carolina General Statutes can be found at:

<https://www.ncleg.gov/Laws/GeneralStatutesTOC>

The Forsyth County Air Quality Control Ordinance and Air Quality Control Technical Code can be found at [Environmental Assistance & Protection, North Carolina \(forsyth.cc\)](https://www.forsythcc.com/EnvironmentalAssistance/EnvironmentalAssistance&Protection,NC(forsythcc))

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§ 143-215.112. Local air pollution control programs.

(a) The Commission is authorized and directed to review and have general oversight and supervision over all local air pollution control programs and to this end shall review and certify such programs as being adequate to meet the requirements of this Article and Article 21 of this Chapter and any applicable standards and rules adopted pursuant thereto. The Commission shall certify any local program which:

- (1) Provides by ordinance or local law for requirements compatible with those imposed by the provisions of this Article and Article 21 of this Chapter, and the standards and rules issued pursuant thereto; provided, however, the Commission upon request of a municipality or other local unit may grant special permission for the governing body of such unit to adopt a particular class of air contaminant regulations which would result in more effective air pollution control than applicable standards or rules promulgated by the Commission;
- (2) Provides for the adequate enforcement of such requirements by appropriate administrative and judicial process;
- (3) Provides for an adequate administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its programs; and
- (4) Is approved by the Commission as adequate to meet the requirements of this Article and any applicable rules pursuant thereto.

(b) No municipality, county, local board or commission or group of municipalities and counties may establish and administer an air pollution control program unless such program meets the requirements of this section and is so certified by the Commission.

- (c) (1) The governing body of any county, municipality, or group of counties and municipalities within a designated area of the State, as defined in this Article and Article 21, subject to the approval of the Commission, is hereby authorized to establish, administer, and enforce a local air pollution control program for the county, municipality, or designated area of the State which includes but is not limited to:
 - a. Development of a comprehensive plan for the control and abatement of new and existing sources of air pollution;
 - b. Air quality monitoring to determine existing air quality and to define problem areas, as well as to provide background data to show the effectiveness of a pollution abatement program;
 - c. An emissions inventory to identify specific sources of air contamination and the contaminants emitted, together with the quantity of material discharged into the outdoor atmosphere;
 - d. Adoption, after notice and public hearing, of air quality and emission control standards, or adoption by reference, without public hearing, of any applicable rules and standards duly adopted by the Commission; and administration of such rules and standards in accordance with provisions of this section.
 - e. Provisions for the establishment or approval of time schedules for the control or abatement of existing sources of air pollution and for the review of plans and specifications and issuance of approval documents covering the construction and operation of pollution abatement facilities at existing or new sources;

- f. Provision for adequate administrative staff, including an air pollution control officer and technical personnel, and provision for laboratory and other necessary facilities.
- (2) Subject to the approval of the Commission as provided in this Article and Article 21, the governing body of any county or municipality may establish, administer, and enforce an air pollution control program by any of the following methods:
- a. Establishing a program under the administration of the duly elected governing body of the county or municipality.
 - b. Appointing an air pollution control board consisting of not less than five nor more than seven members who shall serve for terms of six years each and until their successors are appointed and qualified. Two members shall be appointed for two-year terms, two shall be appointed for four-year terms, and the remaining member or members shall be appointed for six-year terms. Where the term "governing body" is referred to in this section, it shall include the air pollution control board. Such board shall have all the powers and authorities granted to any local air pollution control program. The board shall elect a chairman and shall meet at least quarterly or upon the call of the chairman or any two members of the board.
 - c. Appointing an air pollution control board as provided in this subdivision, and by appropriate written agreement designating the local health department or other department of county or municipal government as the administrative agent for the air pollution control board.
 - d. Designating, by appropriate written agreement, the local board of health and the local health department as the air pollution control board and agency.
- (2a) Any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Clean Air Act and any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers shall be adequately disclosed.
- (3) If the Commission finds that the location, character or extent of particular concentrations of population, air contaminant sources, the geographic, topographic or meteorological considerations, or any combinations thereof, are such as to make impracticable the maintenance of appropriate levels of air quality without an area-wide air pollution control program, the Commission may determine the boundaries within which such program is necessary and require such area-wide program as the only acceptable alternative to direct State administration. Subject to the provisions of this section, each governing body of a county or municipality is hereby authorized and empowered to establish by contract, joint resolution, or other agreement with any other governing body of a county or municipality, upon approval by the Commission, an air pollution control region containing any part or all of the geographical area within the jurisdiction of those boards or governing bodies which are parties to such agreement, provided the counties involved in the region are contiguous or lie in a continuous boundary and

comprise the total area contained in any region designated by the Commission for an area-wide program. The participating parties are authorized to appoint a regional air pollution control board which shall consist of at least five members who shall serve for terms of six years and until their successors are appointed and qualified. Two members shall be appointed for two-year terms, two shall be appointed for four-year terms and the remaining member or members shall be appointed for six-year terms. A participant's representation on the board shall be in relation to its population to the total population of the region based on the latest official United States census with each participant in the region having at least one representative; provided, that where the region is comprised of less than five counties, each participant will be entitled to appoint members in relation to its population to that of the region so as to provide a board of at least five members. Where the term "governing body" is used, it shall include the governing board of a region. The regional board is hereby authorized to exercise any and all of the powers provided in this section. The regional air pollution control board shall elect a chairman and shall meet at least quarterly or upon the call of the chairman or any two members of the board. In lieu of employing its own staff, the regional air pollution control board is authorized, through appropriate written agreement, to designate a local health department as its administrative agent.

- (4) Each governing body is authorized to adopt any ordinances, resolutions, rules or regulations which are necessary to establish and maintain an air pollution control program and to prescribe and enforce air quality and emission control standards, a copy of which must be filed with the Commission and with the clerk of court of any county affected. Provisions may be made therein for the registration of air contaminant sources; for the requirement of a permit to do or carry out specified activities relating to the control of air pollution, including procedures for application, issuance, denial and revocation; for notification of violators or potential violators about requirements or conditions for compliance; for procedures to grant temporary permits or variances from requirements or standards; for the declaration of an emergency when it is found that a generalized condition of air pollution is causing imminent danger to the health or safety of the public and the issuance of an order to the responsible person or persons to reduce or discontinue immediately the emission of air contaminants; for notice and hearing procedures for persons aggrieved by any action or order of any authorized agent; for the establishment of an advisory council and for other administrative arrangements; and for other matters necessary to establish and maintain an air pollution control program.
- (5) No permit required by section 305(e) of Title III (42 U.S.C. § 7429(e)) for a solid waste incineration unit combusting municipal waste shall be issued by a local air pollution control program that is administered by the governing body of a unit of local government that is responsible, in whole or in part, for the design, construction, or operation of the unit.
- (6) No local air pollution control program may limit or otherwise regulate any combustion heater, appliance, or fireplace in private dwellings. For purposes of this subdivision, "combustion heater, appliance, or fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but not

- limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating, cooking, drying, or decorative purposes.
- (d) (1) Violation of any ordinances, resolutions, rules or regulations duly adopted by a governing body are punishable as provided in G.S. 143-215.114B.
 - (1a) Each governing body, or its authorized agent, shall have the power to assess civil penalties under G.S. 143-215.114A. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the governing body or its authorized agent within 30 days after receipt of notice, or such longer period not to exceed 180 days as the governing body or its authorized agent may specify, the governing body may institute a civil action in the superior court of the county in which the violation occurred, to recover the amount of the assessment. If any action or failure to act for which a penalty may be assessed under this section is continuous, the governing body or its authorized agent may assess a penalty not to exceed twenty-five thousand dollars (\$25,000) per day for so long as the violation continues. In determining the amount of the penalty, the governing body or its authorized agent shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements.
 - (2) Each governing body, or its duly authorized agent, may institute a civil action in the superior court, brought in the name of the agency having jurisdiction, for injunctive relief to restrain any violation or immediately threatened violation of such ordinances, orders, rules, or regulations and for such other relief as the court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Article and Article 21 for any violation of same.
 - (d1) (1) The governing body responsible for each local air pollution control program shall require that the owner or operator of all air contaminant sources subject to the requirement to obtain a permit under Title V pay an annual fee, or the equivalent over some other period, sufficient to cover costs as provided in section 502(b)(3)(A) of Title V (42 U.S.C. § 7661a(b)(3)(A)) and G.S. 143-215.3(a)(1d). Fees collected pursuant to this subdivision shall be used solely to cover all reasonable direct and indirect costs required to develop and administer the Title V permit program.
 - (2) Each governing body is authorized to expend tax funds, nontax funds, or any other funds available to it to finance an air pollution control program and such expenditures are hereby declared to be for a public purpose and a necessary expense.
 - (d2) (1) Any final administrative decision rendered in an air pollution control program of such governing body shall be subject to judicial review as provided by Article 4 of Chapter 150B of the General Statutes, and "administrative agency" or "agency" as used therein shall mean and include for this purpose the governing body of any county or municipality, regional air pollution control governing board, and any agency created by them in connection with an air pollution control program.

- (2) A local air pollution control program shall inform a permit applicant as to whether or not the application is complete within the time specified in the rules for action on the application. If a local air pollution program fails to act on an application for a permit required by Title V or this Article within the time periods specified by the Commission under G.S. 143-215.108(d)(2), the failure to act on the application constitutes a final agency decision to deny the permit. A permit applicant, permittee, or other person aggrieved, as defined in G.S. 150B-2, may seek judicial review of a failure to act on the application as provided in G.S. 143-215.5 and Article 4 of Chapter 150B of the General Statutes. Notwithstanding the provisions of G.S. 150B-51, upon review of a failure to act on an application for a permit required by Title V or this Article, a court may either: (i) affirm the denial of the permit or (ii) remand the application to the local air pollution control program for action upon the application within a specified time.
- (e) (1) If the Commission has reason to believe that a local air pollution control program certified and in force pursuant to the provisions of this section is inadequate to abate or control air pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirement of this Article, the Commission shall, upon due notice, conduct a hearing on the matter.
- (2) If, after such hearing, the Commission determines that an existing local air pollution control program or one which has been certified by the Commission is inadequate to abate or control air pollution in the municipality, county, or municipalities or counties to which such program relates, or that such program is not accomplishing the purposes of this Article, it shall set forth in its findings the corrective measures necessary for continued certification and shall specify a reasonable period of time, not to exceed one year, in which such measures must be taken if certification is not to be rescinded.
- (3) If the municipality, county, local board or commission or municipalities or counties fail to take such necessary corrective action within the time specified, the Commission shall rescind any certification as may have been issued for such program and shall administer within such municipality, county, or municipalities or counties all of the regulatory provisions of this Article and Article 21. Such air pollution control program shall supersede all municipal, county or local laws, regulations, ordinances and requirements in the affected jurisdiction.
- (4) If the Commission finds that the control of a particular class of air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local air pollution control authorities or may be more efficiently and economically performed at the State level, it may assume and retain jurisdiction over that class of air contaminant source. Classification pursuant to this subdivision may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.
- (5) Any municipality or county in which the Commission administers its air pollution control program pursuant to subdivision (3) of this subsection may, with the approval of the Commission, establish or resume a municipal,

- county, or local air pollution control program which meets the requirements for certification by the Commission.
- (6) Repealed by Session Laws 1993, c. 400, s. 10.
 - (7) Any municipality, county, local board or commission or municipalities or counties or designated area of this State for which a local air pollution control program is established or proposed for establishment may make application for, receive, administer and expend federal grant funds for the control of air pollution or the development and administration of programs related to air pollution control; provided that any such application is first submitted to and approved by the Commission. The Commission shall approve any such application if it is consistent with this Article, Article 21 and other applicable requirements of law.
 - (8) Notwithstanding any other provision of this section, if the Commission determines that an air pollution source or combination of sources is operating in violation of the provisions of this Article and that the appropriate local authorities have not acted to abate such violation, the Commission, upon written notice to the appropriate local governing body, may act on behalf of the State to require any person causing or contributing to the pollution to cease immediately the emission of air pollutants causing or contributing to the violation or may require such other action as it shall deem necessary. (1973, c. 821, s. 6; c. 1262, s. 23; c. 1331, s. 3; 1979, c. 545, s. 7; 1987, c. 748, s. 1; c. 827, ss. 1, 154, 210; 1989, c. 135, s. 7; 1993, c. 400, s. 10; 1997-496, s. 6; 2010-180, s. 6; 2014-120, s. 24(f).)

FORSYTH COUNTY, NC - AIR QUALITY CONTROL

CHAPTER 3 AIR QUALITY CONTROL

SECTION 3-0100. IN GENERAL

Sec. 3-0101. Office established

There is hereby established an Office of the County, under the administration of the County Manager, to be known as the Office of Environmental Assistance and Protection, such Office to administer the County air quality control program, under the direction and supervision of the Forsyth County Board of Commissioners and the Forsyth County Manager. (Res. of 7-6-71; Ord. No. 8-77, ' '1, 2, 8-1-77; Ord. No. 9-94, 12-19-94)

Sec. 3-0102. Enforcement of chapter

The Office of Environmental Assistance and Protection is charged with the duty of investigating, preventing and abating causes of air pollution and enforcing the provisions of the standards and regulations contained in this chapter. Responsibility for the enforcement of these standards and regulations shall rest with the Director. (Ord. of 1-24-72, ' 2.01; Ord. No.8-77, ' '1, 2, 8-1-77; Ord. No. 5-85, 5-13-85; Ord. No. 9-94, 12-19-94)

Sec. 3-0103. General powers and duties of director

- (a) The Director shall have the following powers and duties:
- (1) Supervise the implementation of the standards and regulations contained in this chapter.
 - (2) Issue Notices of Violation and institute actions against any and all persons violating any provision of this chapter and institute necessary criminal and/or civil legal proceedings in the name of the County; prosecute violators of this chapter; compel the prevention and abatement of air pollution or nuisances arising from violations of this chapter; and assure compliance with applicable standards.
 - (3) Examine and approve or disapprove plans for fuel- and refuse-burning equipment, process equipment and control equipment to be installed, constructed, reconstructed, added to or altered, to assure that they are in accordance with the requirements of the standards and regulations contained in this chapter.
 - (4) Gather information for the consideration of the granting of temporary permits for variances from applicable standards and regulations, for the purpose of allowing time for sources to be brought into compliance with such standards and regulations.
 - (5) Make inspections and tests of existing and newly installed, constructed, reconstructed or altered fuel- or refuse-burning equipment, process equipment and control equipment, to determine if there is compliance with applicable standards and regulations.
 - (6) Investigate complaints of violations of this chapter and make inspections and

FORSYTH COUNTY, NC - AIR QUALITY CONTROL

observations of air pollution sources, and record such investigations, complaints, inspections and observations.

- (7) Administer the issuance of certificates of operation, notices or other materials required under the provisions of this chapter.
- (8) Prepare and submit to the Board of County Commissioners for its consideration, through the County Manager and after receiving recommendations of the Advisory Board, proposals, additions or revisions of the standards and regulations prescribed by this chapter or any other regulations pertaining to air pollution abatement.
- (9) Encourage voluntary cooperation by persons or affected groups in air quality control.
- (10) Collect and disseminate information on air quality control to the public, civic groups, community organizations and others, subject to the approval of the County Manager.
- (11) Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this chapter to foster and encourage the best possible management and conservation of the air resources of the County.
- (12) Cooperate and work with federal, State, County, municipal and other agencies concerned with air quality control in regard to aerometric studies, abatement programs, public complaints and other matters to the end that the air resources of the County shall best be conserved and improved.
- (13) Declare an emergency when it is found that a generalized condition of air pollution is causing imminent danger to the health or safety of the public, and issue orders, in the name of the County, to responsible persons to reduce or discontinue immediately the emission of contaminants.
- (14) Adopt required procedural modifications as set forth in the Code of Federal Regulations for evaluating standards contained in this chapter after notice and public hearing before the Environmental Assistance and Protection Advisory Board.
- (15) Perform such other acts which may be necessary for the successful enforcement of and compliance with the standards and regulations contained in this chapter or which may be required by the County Manager on behalf of the Board of Commissioners.

(b) The Board of Commissioners may, by resolution, delegate to the Director such other duties and responsibilities, consistent with the provisions of Article 21 of Chapter 143 of the North Carolina General Statutes, as are deemed appropriate, including but not limited to, the determination of facts based upon standards contained in this chapter. (Ord. of 1-24-72, ' ' 2.02, 2.03; Ord. No. 8-77, ' ' 1, 2, 8-1-77; Ord. No. 7-86, 3-10-86; Ord. No. 9-94, 12-19-94)

Sec. 3-0104. Authority of director to establish administrative procedures

The Director may establish administrative procedures relating to the submission of requests for permits under this chapter, including such information as is needed, and such other procedures deemed necessary in order to fulfill his responsibilities and not inconsistent with this chapter. (Ord. No. 9-94, 12-19-94)

FORSYTH COUNTY, NC - AIR QUALITY CONTROL

Sec. 3-0105. Fees for inspections, permits, and certificates required by chapter

Fees for inspections and the issuance of permits and certificates required by this chapter shall be made payable to the County. The amount of such fees shall be established by the Director, following the review and recommendation of the Environmental Assistance and Protection Advisory Board. The Board of County Commissioners shall be notified and may change or revise the fee schedule. (Ord. of 1-24-72, ' 23.00; Ord. of 9-17-73; Ord. No. 14-88, 12-19-88; Ord. No. 3-92, 4-13-92; Ord. No. 9-94, 12-19-94)

Sec. 3-0106. Penalties for violation of chapter

The violation of this chapter is punishable by fine and imprisonment as follows:

- (1) Civil Penalties.
 - (A) A civil penalty of not more than twenty-five thousand dollars (\$25,000) may be assessed for each violation against any person who:
 - (i) Violates any classification, standard or limitation established pursuant to this Chapter;
 - (ii) Is required but fails to apply for or to secure a permit required by this Chapter or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit;
 - (iii) Violates or fails to act in accordance with the terms, conditions, or requirements of any Special Order or other appropriate document issued pursuant to this Chapter for compliance with pollution control requirements;
 - (iv) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Chapter;
 - (v) Violates any duly adopted regulation of the Forsyth County Commissioners implementing the provisions of this Chapter.
 - (vi) Commits the offenses set out in Subparagraph (2) of this Rule.
 - (B) Each day of continuing violation shall be considered a separate offense.
 - (C) In determining the amount of the penalty, the Director shall consider, but is not limited to, the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements.
 - (D) The Director may assess the penalties provided for in this subsection. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. The assessment may be appealed to the Forsyth County Environmental Assistance and Protection Advisory Board in accordance with Sec. 3-[0205](#). If the person assessed fails to pay the amount of the assessment to the Forsyth County General Fund within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Director may specify, the Director may institute a civil action in

FORSYTH COUNTY, NC - AIR QUALITY CONTROL

- the Superior Court of Forsyth County to recover the amount of the assessment.
- (2) Criminal Penalties.
- (A) Any person who willfully or negligently violates any classification, standard or limitation established pursuant to this Chapter; any term, condition or requirement of a permit or of a Special Order or other appropriate document or any regulation of the Board of Commissioners implementing any of this Chapter; shall be guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000.00) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars (\$200,000.00) for each period of thirty (30) days during which a violation continues, or imprisonment not to exceed six (6) months, or by both.
- (B) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this Chapter, or who falsifies, tampers with or knowingly renders inaccurate any recording or monitoring device or method required to be operated or maintained under the provisions of this Chapter, shall be guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars (\$10,000) or by imprisonment not to exceed six (6) months, or both.
- (C) Any person convicted of an offense under this subsection following a previous conviction there under shall be subject to a fine or imprisonment, or both, not exceeding twice the amount of the fine, or twice the term of imprisonment provided above, under which the second or subsequent conviction occurs. (Ord. of 1-24-72, ' 25.01; Ord. of 9-17-73; Ord. No. 8-77, ' ' 1, 2, 8-1-77; Ord. No. 3-88, 2-22-88; Ord. No. 7-90, 6-11-90; Ord. No. 3-92, 4-13-92; Ord. No. 9-94, 12-19-94, 9-14-98)

Sec. 3-0107. Civil relief for violations of chapter

The Director may, on behalf of the County, institute civil actions for injunctive or other relief to restrain any violation or threatened violation of this Chapter. Whenever the County Office of Environmental Assistance and Protection has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Chapter, the Office, either before or after the institution of any other action or proceeding authorized by this Chapter, may request the County Attorney to institute a civil action for injunctive relief to restrain the violation or threatened violation and for such other and further relief on the premises as the court shall deem proper. Upon a determination by the court that the alleged violation of the provisions of this Chapter has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this Chapter. (Ord. of 1-24-72, ' 25.02; Ord. of 9-17-73; Ord. No. 5-85, 5-13-85; Ord. No. 9-94, 12-19-94)

FORSYTH COUNTY, NC - AIR QUALITY CONTROL**Sec. 3-0108. Chapter does not prohibit private actions for relief**

Nothing contained in this Chapter shall be construed as intended to prohibit any private right of action for damages, injunctive relief, or other appropriate relief by any person who has suffered, or is exposed to the immediate threat of damage or injury by reason of the violation or threatened violation of this Chapter or by reason of the emission into the atmosphere of air contaminants in sufficient quantities as to constitute a nuisance. (Ord. of 1-24-72, '27.01; Ord. No. 9-94, 12-19-94)

Sec. 3-0109. Judicial review of administrative decisions rendered under chapter

Any final administrative decision rendered pursuant to the standards and regulations contained in this Chapter shall be subject to judicial review as provided by Chapter 150B of the North Carolina General Statutes. (Ord. of 1-24-72, '26.00; Ord. No. 4-93, 10-11-93; Ord. No. 9-94, 12-19-94)

Sec. 3-0110. Reserved

(Ord. No. 7-90, 6-11-90; Ord. No. 4-93, 10-11-93; Ord. No. 9-94, 12-19-94, 11-11-96, 7-28-97, 9-14-98, 5-24-99)

Sec. 3-0111. Copies of referenced federal regulations

Copies of applicable Code of Federal Regulations referred to in this Chapter are available for public inspection at the Office of Environmental Assistance and Protection located at Forsyth County Government Center, 201 N. Chestnut Street, Winston-Salem, N.C., 27101-4120. (Ord. No. 3-92, 4-13-92; Ord. No. 9-94, 12-19-94, 11-11-96)

Sec. 3-0112. Reserved

(Ord. No. 9-94, 12-19-94, 7-28-97, 9-14-98, 5-24-99)

FORSYTH COUNTY, NC - AIR QUALITY CONTROL

Sec. 3Q-0107. Confidential information

(a) All information required to be submitted to the Director under this Subchapter, Subchapter 3D or Forsyth County Code, Chapter 3, Air Quality Control shall be disclosed to the public unless the person submitting the information can demonstrate that the information is entitled to confidential treatment under G.S. 143-215.3C.

(b) A request that information be treated as confidential shall be made by the person submitting the information at the time that the information is submitted. The request shall state in writing reasons why the information should be held confidential. Any request not meeting these requirements shall be invalid.

(c) The Director shall decide which information is entitled to confidential treatment and shall notify the person requesting confidential treatment of his decision within 180 days of receipt of a request to treat information as confidential.

(d) Information for which a request has been made under Paragraph (b) of this Rule to treat as confidential shall be treated as confidential until the Director decides that it is not confidential. (Ord. No. 4-94, 5-23-94; 12-19-94, 7-28-97,5-24-99)

Sec. 3Q-0108. Delegation of authority

The Director may delegate the processing of permit applications and the issuance of permits to the Division Managers and senior Environmental Specialist of the Office of Environmental Assistance and Protection staff as he considers appropriate. This delegation shall not include the authority to deny a permit application or to revoke or suspend a permit. (Ord. No. 4-94, 5-23-94)

Sec. 3Q-0109. Compliance schedule for previously exempted activities

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

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

(b) If a source becomes subject to requirements promulgated under 40 CFR Part 63; the owner or operator of the source shall apply for a permit unless exempted by Sec. 3Q-0102 at least 270 days before the final compliance date of the requirement. (Ord. No. 4-94, 5-23-94; 12-19-94, 11-11-96, 05-14-01)

Sec. 3Q-0110. Retention of permit at permitted facility

The permittee shall retain a copy of all active permits issued under this Subchapter at the facility identified in the permit. (Ord. No. 4-94, 5-23-94)

Appendix C – Pre-Hearing Delegation Request and Public Notice

DRAFT



Forsyth County

Office of Environmental Assistance and Protection

Minor Barnette, Director

December 16, 2022

Daniel Blackman
 Regional Administrator
 United States Environmental Protection Agency, Region 4
 61 Forsyth Street
 Atlanta, GA 30303-8960

Subject Pre-hearing Request for Delegation of Federal Plan 40 CFR 62 Subpart OOO –
 Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced
 Construction On or Before July 17, 2014 and Have Not Been Modified or
 Reconstructed Since July 17, 2014

Dear Mr. Blackman:

Please find the enclosed public notice and proposed request for delegation of specific Clean Air Act (CAA) Section 111(d) federal plan requirements for Municipal Solid Waste Landfills with associated supporting documentation to be considered for public comment. The proposed request is the subject of a public hearing scheduled for January 24, 2023. The public notice will be published in the Winston Salem Journal on December 23, 2022 and posted on the Forsyth County Office of Environmental Assistance and Protection's website with the proposed delegation request.

The Environmental Protection Agency published the final Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014 in the Federal Register on May 21, 2021 with an effective date of June 21, 2021 (86 FR 27756). Section 101(a)(3) of the CAA specifies that state and local agencies have primary responsibility for air pollution prevention and control. In order to continue implementing air pollution control requirements for all affected facilities in the county, the Forsyth County Office of Environmental Assistance and Protection requests delegation of authority to implement and enforce the CAA 111(d) Federal Plan, 40 CFR 62, Subpart OOO - Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014.

Forsyth County is committed to enter into a Memorandum of Agreement with EPA Region 4 that sets forth the terms, conditions and effective date, and provides for the transfer of authority.

*Forsyth County Government Center • 201 North Chestnut Street • Winston-Salem, NC 27101-4120
 Phone 336-703-2440 • Fax 336-727-2777*



Daniel Blackman
December, 23, 2022
Page 2

Please contact Peter Lloyd of my staff at 336-703-2430 or lloydpb@forsyth.cc if you have any questions or need additional information.

Sincerely,



Minor Barnette, Director

Enclosures

c: Marion "Tracy" Watson, EPA R4
Peter Lloyd, FCEAP

**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 hybrid public hearings on Tuesday, January 24, 2023 at 10:00 a.m. concerning the proposed request for delegation of a federal plan and amendment to Forsyth County's Air Quality Technical Code (FCAQTC).

Hearing 1 is to request public comment on the proposed request by the Forsyth County Office of Environmental Assistance and Protection (FCEAP) to the Environmental Protection Agency (EPA), Region 4 for delegation of Clean Air Act (CAA) Section 111(d) federal plan requirements for Municipal Solid Waste Landfills. The federal plan is at 40 CFR, Part 62 Subpart OOO - Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014. In addition, Section 3D-1700 of the FCAQTC is proposed for repeal because these requirements are obsolete.

Hearing 2 is to request public comment on the adoption of revised rules in the FCAQTC implementing the federal operating permits program (Title V) administered by FCEAP. These changes are in response to recommendations made to the North Carolina Department of Environmental Quality resulting from EPA's most recent program audit.

Any person may appear before the Environmental Assistance and Protection Advisory Board and bring representatives, consultants, and witnesses to be heard relative to the matters for which action by the Board is sought, provided advance notice is given to the Office Director of such matter to be considered. Persons wishing to attend may call this Office at 336-703-2440 or visit our website for more information.

The proposed rule changes are available at http://www.forsyth.cc/EAP/public_notices.aspx and 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 January 24, 2023. Date: December 23, 2022



Minor Barnette, Director

Appendix D - Public Hearing Record

[This Appendix will contain copy of the hearing record]

DRAFT

HEARING 2

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

PUBLIC HEARING TIME & DATE
10 AM, January 24, 2023

Telephone Number: (336) 703-2440

Fax Number: (336) 703- 2777

Proposed rule revisions are available on our website at:
http://www.forsyth.cc/EAP/public_notices.aspx

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BACKGROUND

The Forsyth County Office of Environmental Assistance and Protection (FCEAP) administers an operating permit program for major stationary sources commonly referred to as the Title V permit program. This program was developed in response to the 1990 Clean Air Act (CAA) Amendments that required permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. Forsyth County's operating permit program (Title V program) received full approval from the EPA, Region 4 effective on August 21, 2000 (65 FR 38744). By necessity, FCEAP's Title V program is similar to the Title V Program administered by the State of North Carolina Division of Air Quality (NCDAQ) for sources in its jurisdiction.

EPA conducts periodic audits of Title V permitting programs as part of its oversight responsibilities. EPA, Region 4 conducted an audit of NCDAQ's Title V program beginning in 2020 and recommended rule changes to align with the requirements of 40 CFR Part 70. FCEAP is proposing to adopt these changes into its Title V program to continue meeting the federal requirements and maintain consistency with NCDAQ.

The implementing regulations for FCEAP's Title V program are contained Section 3Q-0500 of the Forsyth County Air Quality Technical Code (FCAQTC).

RULE CHANGES BEING CONSIDERED

The Environmental Assistance and Protection Advisory Board is conducting a public hearing for proposed adoption of revisions to Chapter 3 of the FCAQTC. This hearing is to receive comments on proposed changes to Section 3Q-0500, Title V Procedures, of the FCAQTC. These rule changes are necessary to ensure Forsyth County's Operating Permit Program continues meeting the federal requirements and maintains consistency with NCDAQ.

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 to, or during, the public comment period or during the public hearing.

For example:

July 1, 2009~~10, 2009~~

SUBCHAPTER 3Q AIR QUALITY PERMITS

SECTION 3Q-0100. GENERAL PROVISIONS

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"~~ "Federally enforceable" means enforceable by ~~EPA~~. EPA, Administrator as defined in Item (1) of this Rule, and citizens under the federal Clean Air Act.
 - (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).
- (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~~)

SUBCHAPTER 3Q AIR QUALITY PERMITS

SECTION 3Q-0500. TITLE V PROCEDURES

Sec. 3Q-0501. Purpose of section and requirement for a permit

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

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

~~(e)~~(b) With the exception in Paragraph ~~(d)~~(c) of this Rule, the owner or operator of an existing facility, new facility, or modification of an existing facility (except for minor modifications under Sec. 3Q-0515), including significant modifications that would not contravene or conflict with a condition in the existing permit, subject to the requirements of this Section shall not begin construction without first obtaining:

- (1) a construction and operation permit following the procedures under this Section (except for Sec. 3Q-0504), or
- (2) a construction and operation permit following the procedures under Sec. 3Q-0504 and filing a complete application within 12 months after commencing operation to modify the construction and operation permit to meet the requirements of this Section.

~~(d)~~(c) If the permittee proposes to make a significant modification under Sec. 3Q-0516 that would contravene or conflict with a condition in the existing permit, he shall not begin construction or make the modification until he has obtained:

- (1) a construction and operation permit following the procedures under this Section (except for Sec. 3Q-0504); or
- (2) a construction and operation permit following the procedures under Sec. 3Q-0504 and, before beginning operation, files an application and obtains a permit modifying the construction and operation permit to meet the requirements of this Section (except for Sec. 3Q-0504).

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

~~(f)~~(e) Except as allowed under Sec. 3Q-0515 (minor modifications), no facility subject to the requirements of this Section may operate after the time that it is required to submit a timely and complete application under this Section except in compliance with a permit issued under this Section. This Paragraph does not apply to initial submittals under Sec. 3Q-0506 or to permit renewals under Sec. 3Q-0513.

~~(g)~~(f) If the conditions of Sec. 3Q-0512 (b) (application shield) are met, the facility's failure to have a permit under this Section shall not be a violation.

~~(h)~~(g) If the owner or operator of a facility subject to the requirements of this Section submits an application for a revision to his permit before receiving the initial permit under this Section, the application for the revision shall be processed under [Section 3Q-0300](#).

~~(i)~~(h) The owner or operator of a facility or source subject to the requirements of this Section may also be subject to the toxic air pollutant procedures under Section [3Q-0700](#).

~~(j)~~(i) The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject to the procedures under [Section 3Q-0400](#).

~~(k)~~(j) The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance with the requirements of [Section 3Q-0200](#). (~~Ord. No. 4-94, 5-23-94, 11-11-96, 9-14-98~~)

Sec. 3Q-0503. Definitions

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

- (1) "Affected States" means all States or local air pollution control agencies whose areas of jurisdiction are:
 - (A) contiguous to Forsyth County and located less than $D=Q/12.5$ from the facility, where:
 - (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per year, and
 - (ii) D = distance from the facility to the contiguous State or local air pollution control agency in miles unless the applicant can demonstrate to the satisfaction of the Director that the ambient impact in the contiguous States or local air pollution control agencies is less than the incremental ambient levels in Sec. 3D-0532 (c)(5); or
 - (B) within 50 miles of the permitted facility.
- (2) "Complete application" means an application that provides all information described under 40 CFR 70.5(c) and such other information that is necessary to determine compliance with all applicable requirements.
- (3) "Draft permit" means the version of a permit that the Office offers public participation under Sec. 3Q-0521 or ~~Affected State~~ affected state review under Sec. 3Q-0522.
- (4) "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject.

- (5) "Final permit" means the version of a permit that the Director issues that has completed all review procedures required under this Section if the permittee does not file a petition under Sec. 3-0109.
- (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (7) "Insignificant activities because of category" means:
 - (A) mobile sources;
 - (B) air-conditioning units used for human comfort that are not subject to applicable requirements under Title VI of the federal Clean Air Act and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (C) ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (D) heating units used for human comfort have a heat input of less than 10,000,000 Btu per hour and that do not provide heat for any manufacturing or other industrial process;
 - (E) noncommercial food preparation;
 - (F) consumer use of office equipment and products;
 - (G) janitorial services and consumer use of janitorial products;
 - (H) internal combustion engines used for landscaping purposes; and
 - (I) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA.
 - (J) reserved.
- (8) "Insignificant activities because of size or production rate" means any activity whose emissions would not violate any applicable emissions standard and whose potential emission of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants before air pollution control devices, are each below 1000 pounds per year.
- (9) "Minor facility" means any facility that is not a major facility.
- (10) "Operation" means the utilization of equipment that emits regulated pollutants.
- (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- (12) "Permit revision" means any permit modification under Sec. 3Q-0515, 0516 or 0517 or any administrative permit amendment under Sec. 3Q-0514.
- (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to EPA for review under Sec. 3Q-0522.
- (14) "Relevant source" means only those sources that are subject to applicable requirements.

- (15) "Responsible official" means a responsible official as defined under 40 CFR 70.2.
- (16) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- (17) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures of this Section except that the potential to emit is restricted by one or more federally enforceable physical or operational limitations, including air pollution control equipment and restrictions on hours or operation, the type or amount of material combusted, stored, or processed, or similar parameters.
- (18) "Timely" means:
- (A) ~~for initial permit submittals under Sec. 3Q-0506, before the end of the time period specified for submittal of an application for the respective Standard Industrial Classification;~~
 - (B)(A) for a new facility or newly subject facility, 12 months from the date that the facility or source becomes subject to the Title V operating permit program pursuant to Section 3Q-0500 ~~one year after commencing operation;~~
 - (C)(B) for renewal of a permit previously issued under this Section, nine months before the expiration of that permit;
 - (D)(C) for a minor modification under Sec. 3Q-0515, before commencing the modification;
 - (E)(D) for a significant modification under Sec. 3Q-0516 where the change would not contravene or conflict with a condition in the existing permit, 12 months after commencing operation;
 - (F)(E) for reopening for cause under Sec. 3Q-0517, as specified by the Director in the request for additional information by the Director; or
 - (G)(F) for requests for additional information, as specified by the Director in the request for additional information by the Director; or
 - (H)(G) for modifications made under Section 112(j) of the federal Clean Air Act, 18 months after EPA fails to promulgate a standard for that category of source under Section 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or (3) of the federal Clean Air Act. ~~(Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 11-11-96, 9-14-98, 10-25-99)~~

Sec. 3Q-0504. Option for obtaining construction and operation permit

(a) Pursuant to Sec. 3Q-0501(b)(2) ~~3Q-0501(e)~~ or (c)(2) ~~(d)(2)~~, the owner or operator of a new or modified facility subject to the requirements of this Section that chooses to obtain a construction

and operation permit before the facility must obtain a permit under this Section may file an application under Section 3Q-0300.

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

~~(e) If the option allowed under Sec. 3Q-0501 (e)(1) is used, then the application processing procedures for prevention of significant deterioration under Sec. 3D-0530 and new source review for nonattainment areas under Sec. 3D-0531 do not apply. If the option allowed under Sec. 3Q-0501 (e)(2) is used, then the application processing procedures in this Section and:~~

~~(1) under Sec. 3D-0530 for prevention of significant deterioration, or~~

~~(2) under Sec. 3D-0531 for new source review for nonattainment areas, shall apply.~~

~~(c)~~ (c) If the procedures under Section 3Q-0300 are followed, the permittee shall have ~~one year~~ 12 months after the facility or source becomes subject to the permit program in 15A NCAC 02Q .0500 if the permittee is applying for a Title V permit for the first time. Otherwise, the permittee shall have from 12 months from the date of beginning operation of the modified facility or source to file an amended application following the procedures of this Section. The Director shall place a condition in the construction and operation permit stating this requirement. (Ord. No. 4-94, 5-23-94)

Sec. 3Q-0505. Application submittal content

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

- (1) for new facilities and modified facilities:
 - (A) an application fee as required under Section 3Q-0200,
 - (B) Reserved,
 - (C) the documentation required under Sec. 3Q-0507 (d)(2),
 - (D) a financial qualification or substantial compliance statement if required, and
 - (E) applications as required under Sec. 3Q-0507 (a) and (e) and signed as required by Sec. 3Q-0520;
- (2) for renewals: applications as required under Sec. 3Q-0507 (a) and (e) and signed as required by Sec. 3Q-0520;
- (3) for a name change: three copies of a letter signed by the a responsible official in accordance with Sec. 3Q-0520 indicating the current facility name, the date on which the name change shall occur, and the new facility name;
- (4) for an ownership change: an application fee as required under Section 3Q-0200, ~~and~~ and three copies of a letter bearing the signature of both the seller and buyer and containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee; and
 - ~~(A) — three copies of a letter sent by each the seller and the buyer indicating the change, or~~
 - ~~(B) — three copies of a letter sent by either bearing the signature of both the seller and buyer, and containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee; and~~
- (5) for corrections of typographical errors; changes name, address, or telephone number of any individual identified in the permit; changes in test dates or construction dates; or similar minor changes: three copies of a letter signed by a responsible official in accordance with Sec. 3Q-0520 describing the proposed change and explaining the need for the proposed change. ~~—(Ord. No. 4-94, 5-23-94)~~

Sec. 3Q-0507. Application

(a) Except for:

- (1) minor permit modifications covered under Sec. 3Q-0515,
- (2) significant modifications covered under Sec. 3Q-0516 (c), or
- (3) ~~renewals submitted pursuant to Sec. 3Q-0513; permit applications submitted under Sec. 3Q-0506, the owner or operator of a source shall have one year from the date of beginning of operation of the source to file a complete application for a permit or permit revision.~~

the owner or operator of a source shall have 12- months after the facility or source becomes subject to the Title V operating permit program pursuant to Section 3Q-0500 to file a complete application for a permit or permit revision. However, the owner or operator of the source shall not begin construction or operation until he has obtained a construction and operation permit pursuant to Sec. ~~3Q-0501 (e) or (d)~~ 3Q-0501(b) or (c) and Sec. 3Q-0504.

(b) The application shall include all the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production rate; but not including insignificant activities because of category. The application form shall be certified by a responsible official for truth, accuracy, and completeness. In the application submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to Section 3Q-0400 or Sec. 3D-0530 or 0531, provided the information in those applications contains information required in this Section and is current, valid, and complete.

(c) Application for a permit, permit revision, or permit renewal shall be made in accordance with Sec. 3Q-0104 on forms of the Office and shall include plans and specifications giving all necessary data and information as required by this rule. Whenever the information provided on these forms does not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air pollution abatement equipment.

(d) Along with filing a complete application form, the applicant shall also file the following:

- (1) Reserved,
- (2) Reserved,
- (3) if required by the Director, information showing that:
 - (A) The applicant is financially qualified to carry out the permitted activities, or
 - (B) The applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and State environmental laws and Rules.

(e) The applicant shall submit copies of the application package as follows:

- (1) for sources subject to the requirements of Sec. 3D-0530, 0531 or Section 3D-1200, six copies plus one additional copy for each Affected State that the Director has to notify;

- (2) for sources not subject to the requirements of Sec. 3D-0530, 0531 or Section 3D-1200, four copies plus one additional copy for each Affected State that the Director has to notify.

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

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

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

(h) The submittal of a complete permit application shall not affect the requirement that any facility have a preconstruction permit under Sec. 3D-0530, 0531 or 0532, or under Section 3Q-0400.

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

(j) With the exceptions specified in Sec. 3Q-0203 (i), a non-refundable permit application processing fee shall accompany each application. The permit application processing fees are defined in Section 3Q-0200. Each permit or renewal application is incomplete until the permit application processing fee is received.

(k) The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package. ~~(Ord. No. 4-94, 5-23-94; 12-19-94, 7-28-97, 10-25-99)~~

Sec. 3Q-0508. Permit content

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

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

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

(d) The permit for sources using an alternative emission limit established under Sec. 3D-0501 (d) or 0952 shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

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

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

- (1) the permittee to submit reports of any required monitoring at least every six months. The permittee shall submit reports:
 - (A) on forms obtained from the Office at the address in Sec. 3Q-0104,
 - (B) in a manner as specified by a permit condition, or
 - (C) on other forms that contain the information required by this Subchapter or as specified by a permit condition;; and
- (2) the permittee to report:
 - (A) malfunctions, emergencies, and other upset conditions as prescribed in Sec. 3D-0524, 0535, 1110 or 1111;
 - (B) deviations quarterly from permit requirements not covered under Sec. 3D-0524, 0535, 1110 or 1111. The permittee shall include the probable cause of such deviation and any corrective actions or preventive measures taken.
- (3) the responsible official to certify all deviations from permit requirements.

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

(h) The permit for facilities covered under Section 3D-2100, Risk Management Program, shall contain:

- (1) a statement listing Section 3D-2100 as an applicable requirement;

- (2) conditions that require the owner or operator of the facility to submit;
 - (A) a compliance schedule for meeting the requirements of Section 3D-2100 by the dates provided in Sec. 3D-2101 (a); or
 - (B) as part of the compliance certification under Paragraph (m) of this Rule, a certification statement that the source is in compliance with all requirements of Section 3D-2100, including the registration and submission of a risk management plan.

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

- (i) The permit shall:
 - (1) contain a condition prohibiting emissions exceeding any allowances that a facility lawfully holds under Title IV; but shall not limit the number of allowances held by a permittee, but the permittee may not use allowances as a defense to noncompliance with any other applicable requirement;
 - (2) contain a severability clause so that various permit requirements will continue to be valid in the event of a challenge to any other portion of the permit;
 - (3) state that noncompliance with any condition of the permit constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;
 - (4) state that the permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit;
 - (5) state that the Director may reopen, modify, revoke and reissue, or terminate the permit for reasons specified in Sec. 3Q-0517 or 0519;
 - (6) state that the filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition;
 - (7) specify the conditions under which the permit shall be reopened before the expiration of the permit;
 - (8) state that the permit does not convey any property rights of any sort, or any exclusive privileges;
 - (9) state that the permittee shall furnish to the Office, in a timely manner:
 - (A) any reasonable information that the Director may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit, and
 - (B) copies of records required to be kept by the permit when such copies are requested by the Director.

~~(For~~ For information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of ~~confidentiality~~ confidentiality.
 - (10) contain a provision to ensure that the permittee pays fees required under Section 3Q-0200.

- (11) contain a condition that authorizes the permittee to make Section 502(b)(10) changes, off-permit changes, or emission trades in accordance with Sec. 3Q-0523;
 - (12) include all applicable requirements for all sources covered under the permit;
 - (13) include fugitive ~~emissions~~ emissions, if regulated, in the same manner as stack emissions;
 - (14) contain a condition requiring annual reporting of actual emissions as required under Sec. 3Q-0207;
 - (15) include all sources including insignificant activities; and
 - (16) contain other provisions the Director considers appropriate.
- (j) The permit shall state the terms and conditions for reasonably anticipated operating scenarios identified by the applicant in the application. These terms and conditions shall:
- (1) require the permittee, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the operating scenario under which it is operating;
 - (2) extend the permit shield described in Sec. 3Q-0512 to all terms and conditions under each such operating scenario; and
 - (3) ensure that each operating scenario meets all applicable requirements of Forsyth County Code, Chapter 3, Air Quality Control and of this Section.
- (k) The permit shall identify which terms and conditions are enforceable ~~by~~ by the Office only.
- ~~(1) both EPA and the Office;~~
 - ~~(2) the Office only;~~
 - ~~(3) EPA only; and~~
 - ~~(4) citizens under the federal Clean Air Act.~~
- (l) The permit shall state that the permittee shall allow personnel of the Office to:
- (1) enter the permittee's premises where the permitted facility is located or emissions-related activity is conducted, or where records are kept under the conditions of the permit;
 - (2) have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
 - (3) inspect at reasonable times and using reasonable safety practices any source, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
 - (4) sample or monitor substances or parameters, using reasonable safety practices, for the purpose of assuring compliance with the permit or applicable requirements at reasonable times.
- (m) When a compliance schedule is required under 40 CFR 70.5(c)(8) or under a Rule contained in Forsyth County Code, Chapter 3, Air Quality Control, the permit shall contain the

compliance schedule and shall state that the permittee shall submit at least semiannually, or more frequently if specified in the applicable requirement, a progress report. The progress report shall contain:

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

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

- (1) the frequency (not less than annually or more frequently as specified in the applicable requirements) of submissions of compliance certifications;
- (2) a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;
- (3) a requirement that the compliance certification include:
 - (A) the identification of each term or condition of the permit that is the basis of the certification;
 - (B) the status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the methods or means designated in 40 CFR 70.6(c)(5)(iii)(B). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR 64 occurred;
 - (C) whether compliance was continuous or intermittent;
 - (D) the identification of the method(s) or other means used by the owner and operator for determining the compliance status with each term and condition during the certification period; these methods shall include the methods and means required under 40 CFR Part ~~70.6(a)(3)~~; 70.6(a)(3). The owner or operator also shall identify any other material information that shall be included in the certification to comply with Section 113(c)(2) of the federal Clean Air Act, which prohibits knowingly making a false certification or omitting material information; and
 - (E) such other facts as the Director may require to determine the compliance status of the source;

(4) that all compliance certifications be submitted to EPA as well as to the Office.

~~(Ord. No. 4 94, 5 23 94; Ord. No. 9 94, 12 19 94, 11 11 96, 10 25 99, 7 24 00, 05 14 01, 5 8 06)~~

Sec. 3Q-0509. Permitting of numerous similar facilities

(a) The Director may issue, after notice and opportunity for public participation provided in Sec. 3Q-0521, a permit to cover numerous similar facilities or sources.

(b) The Director shall not issue a permit under this Rule unless the following conditions are met:

(1) There is no unique difference that would require special permit conditions for any individual facility; and

(2) No unique analysis is required for any facility covered under the permit.

(c) A permit issued under this Rule shall comply with all the requirements of this Section.

(d) A permit issued under this Rule shall identify criteria by which facilities or sources may qualify for the permit. To facilities or sources that qualify, the Director shall grant the terms and conditions of the permit.

(e) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source is later determined not to qualify for the terms and conditions of the permit issued under this Rule.

(f) Sources subject to Title IV shall not be eligible for a permit issued under this Rule.

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

(h) The Office need not repeat the public participation procedures required under Sec. 3Q-0521 when it grants a request by a permit applicant to operate under a permit issued under this ~~Rule~~ Rule, but such a grant shall not be a final permit action for purposes of judicial review. ~~(Ord. No. 4-94, 5-23-94)~~

Sec. 3Q-0514. Administrative permit amendments

- (a) An "administrative permit amendment" means a permit revision and that:
- (1) corrects typographical errors;
 - (2) identifies a change in the name, address or telephone number of any individual identified in the permit, or provides a similar minor administrative change at the facility;
 - (3) requires more frequent monitoring or reporting by the permittee;
 - (4) changes test dates or construction dates provided that no applicable requirements are violated by the change in test dates or construction dates;
 - (5) ~~moves~~ removes designation of State-enforceable only from terms and conditions from the County enforceable only portion of a permit to the County and federal-enforceable portion of the permit provided that the terms and conditions being moved have become federally enforceable through Section 110, 111, or 112 or other parts of the federal Clean Air Act;
 - ~~(6) — moves terms and conditions from the federal enforceable only portion of a permit to the County and federal enforceable portion of the permit; or~~
 - ~~(7)~~(6) changes the permit number without changing any portion of the permit ~~that is federally enforceable~~ that would not otherwise qualify as an administrative amendment, or
 - ~~(7)~~ removes references and non-applicable permit requirements for equipment that has been permanently removed from service.
- (b) In making administrative permit amendments, the Director:
- (1) shall take final action on a request for an administrative permit amendment within 60 days after receiving such request,
 - (2) may make administrative amendments without providing notice to the public or any Affected State(s) provided he designates any such permit revision as having been made pursuant to this Rule, and
 - (3) shall submit a copy of the revised permit to EPA.
- (c) The permittee may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.
- ~~(d) — Upon taking final action granting a request for an administrative permit amendment, the Director shall allow coverage by the permit shield under Sec. 3Q-0512 for the administrative permit amendments made.~~
- ~~(e)~~(d) Administrative amendments for sources covered under Title IV shall be governed by Rules in Section 3Q-0400.
- ~~(f)~~(e) ~~this~~ This Rule shall not be used to make changes to the county-enforceable only part of the Title V permit. For the county-enforceable only part of a Title V permit, ~~Rule Sec.3Q-0318~~ of this Subchapter shall be used for administrative permit amendments. ~~(Ord. No. 4-94, 5-23-94, 7-28-97)~~

Sec. 3Q-0516. Significant permit modification

(a) The procedures set out in this Rule shall be used for applications requesting permit modifications under this Rule or permit modifications that do not qualify for Sec. 3Q-0514, 0515, 0523 or 0524.

(b) Significant modifications include modifications that:

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

(c) An application for a significant permit modification that would contravene or conflict with the existing permit shall be processed following the procedure set out in Sec. 3Q-0501 (d).

(d) An application for a significant permit modification that does not contravene or conflict with the existing permit shall be processed following the procedure set out in Sec. 3Q-0501 (c).

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

(f) Except for the County-enforceable only portion of the permit, the procedures set out in Sec. 3Q-0507, 0521 or 0522 shall be followed to revise a permit under this Rule. If the County-enforceable only portion of the permit is revised, the procedures in Section 3Q-0300 shall be followed. The proceedings shall affect only those parts of the permit related to the significant modification.

(g) Reserved.

(h) Significant permit modifications shall be covered under the permit shield in accordance with Sec. 3Q-0512.

(i) Significant permit modifications shall be processed in accordance with Sec. 3Q-0525.
(~~Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94~~)

Sec. 3Q-0518. Final action

(a) The Director ~~may~~ shall:

- (1) issue a permit, permit revision, or a renewal containing the conditions necessary to carry out the purposes of Chapter 3 of the Forsyth County Code and the federal Clean Air Act;
- (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 and the federal Clean Air Act.

(b) The Director ~~may~~ shall not issue a final permit or permit revision, except administrative permit amendments covered under Sec. ~~3Q-0514~~, 3Q-0514 and 0524 until 15 days after the end of EPA's 45-day review period ~~has expired~~ or until EPA has notified the Director that EPA will not object to issuance of the permit or permit revision, whichever occurs first. ~~The Director shall issue the permit or permit revision within five days of receipt of notification from EPA that it will not object to issuance or of the expiration of EPA's 45-day review period, whichever occurs first.~~

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

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

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

(f) Notwithstanding the application processing schedules set forth in Sec. 3Q-0514, 0515, and 0524, the Office shall take final action on each permit application, including a request for permit modification or renewal, within 18 months of receipt of a complete application.

~~(f)(g)~~ Thirty days after issuing a permit, including a permit issued pursuant to Sec. 3Q-0509, that is not challenged by the applicant, the Director shall notice the issuance of the final permit. The notice shall be issued on the Office of Environmental Assistance and Protection's website. The notice shall include the name and address of the facility and permit number. ~~(Ord. No. 4-94, 5-23-94; 12-19-94, 8-14-95)~~

Sec. 3Q-0521. Public participation

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued under Sec. 3Q-0514, 0515 and 0524. The Director shall give public notice with an opportunity for comments and a hearing on draft permit revisions issued under Sec. 3Q-0514, 0515 and 0524 if the Director finds it is in the best interest of the public.

(b) The notice of any draft permit for an existing facility for which a public hearing is scheduled, or new facility, shall be given by publication in a newspaper of general circulation in the area where the facility is located, posted on the Office of Environmental Assistance and Protection website, and shall be ~~mailed or~~ emailed to persons who are on the Office's ~~mailing or~~ emailing list for air quality permit notices.

(c) The notice for existing facilities for which a public hearing is not scheduled shall be given by posting the draft permit on the Office of Environmental Assistance and Protection web ~~site~~, site for the duration of the public comment period and shall be ~~mailed or~~ emailed to persons who are on the Office's ~~mailing or~~ emailing list for air quality permit notices.

(d) The notice shall identify:

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

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

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

(g) ~~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 any public hearing shall be given at least 30 days before the hearing.

(h) The Office shall keep a record of the public participation process, including the following:

- (1) the names of all commenters;
- (2) the issues raised during the public participation process; and

(3) all written comments submitted during the public participation process

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

(i) The Office shall respond in writing to comments raised during the public participation process, including any written comments submitted during the public comment period and any comments raised during any public hearing on the permit. The response to comments shall be included in the statement of basis and any Hearing Officer's report

(i)(j) ~~Persons who desire to be placed on the Office's mailing or email notification list for air quality permit notices shall send their request to the Director, Office of Environmental Assistance and Protection, Forsyth County Government Center, 201 N. Chestnut Street, Winston Salem, NC 27101-4120 or subscribe to the permits email list serve on the Office of Environmental Assistance and Protection's website. (Ord. No. 4-94, 5-23-94)~~

Sec. 3Q-0522. Review by EPA and affected states

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

(b) The Office shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references for the applicable statutory or regulatory provisions. The Division shall provide this statement to EPA and any other person who requests it

(c) If comments are received during the public participation process, the written responses shall be provided to EPA through submittal of a statement of basis, required pursuant to 15A NCAC 02Q .0521, with an explanation of how those public comments and the Division's responses are available to the public.

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

~~(e)~~(e) The Director shall provide notice to each Affected State of each draft permit at or before the time notice is provided to the public under Sec. 3Q-0521.

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

(g) The information specified in Paragraphs (a) through (c) of this Rule shall be provided to EPA in a computer-readable format compatible with EPA's national database management system. (~~Ord. No. 4-94, 5-23-94~~)

Sec. 3Q-0525. Application processing schedule

(a) Except for permit applications submitted under Sec. 3Q-0506, the Office shall adhere to the following schedule in processing applications for permits, significant permit modifications, and permit renewal:

- (1) The Office shall send written acknowledgment of receipt of the application to the applicant within 10 days of receipt of the application.
- (2) The Office shall review all permit applications within 60 days of receipt of the application to determine whether the application is complete or incomplete. 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 necessary to conduct the technical review of the application, 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 60 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information. A completeness determination shall not be necessary for minor modifications under Sec. 3Q-0514.

- ~~(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 of significant modifications received pursuant to Sec. 3Q-0516 in accordance with 40 CFR 70.7(e)(4)(ii). ~~within 270 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.~~~~
- (4) The Office shall provide for public participation in accordance with Sec 3Q-0521. ~~The Director shall send the public notice for public comment on the draft permit to affected states, to EPA, and to persons on the email list for air quality permit notices within 270 days after receipt of a complete application or 10 days after receipt of~~

~~requested additional information, whichever is later. If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.~~

~~(5) The Office shall provide for public participation in accordance with Sec. 3Q-0521. If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.~~

~~(6)~~(5) The Director shall complete the review of the record and send the proposed permit to EPA: EPA and affected states in accordance with Sec. 3Q-0522.

~~(A) within 30 days after the close of the public comment period if there is no public hearing on the draft permit; or~~

~~(B) within 45 days after the close of the public hearing if there is a public hearing on the draft permit.~~

~~(7) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:~~

~~(A) expiration of EPA 45 day review period; or~~

~~(B) receipt of notice from EPA that it will not object to issuance, whichever comes first.~~

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

(b) The Director may return at any time applications containing insufficient information to complete the review. ~~(8-14-95, 9-14-98)~~

Sec. 3Q-0526. 112(j) case-by-case mact procedures

(a) The owner or operator of a source required to apply maximum achievable control technology (MACT) under Sec. 3D-1109 shall follow the permit procedures set out in this Rule.

(b) For the purposes of this Rule, the definitions in Sec. 3D-1109, 40 CFR 63.51, 40 CFR 63.2, and the following definitions apply:

- (1) "Equivalent emission limitation" means an emission limitation, established under Section 112(j) of the federal Clean Air Act, that is equivalent to the MACT standard that EPA would have promulgated under Section 112(d) or (h) of the federal Clean Air Act.
- (2) "Source category schedule for standards" means the schedule for promulgating MACT standards issued pursuant to Section 112(e) of the federal Clean Air Act.
- (3) "Title V Permit" means a permit issued under this Section.

(c) Except as provided for in Paragraph (d) or (e) of this Rule, the owner or operator of a source required to apply MACT under Sec. 3D-1109 shall submit an application for a permit or for a significant permit revision under this Section, whichever is applicable.

(d) Approval process for new and existing affected sources.

- (1) Sources subject to section 112(j) as of the section 112(j) deadline. The requirements of Subparagraphs (d)(1)(A) and (B) of this Paragraph shall apply to major sources that include, as of the section 112(j) deadline, one or more sources in a category or subcategory for which the EPA has failed to promulgate an emission standard under 40 CFR Part 63 on or before an applicable section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued to the facility pursuant to the requirements of 40 CFR Part 63, Subpart B, shall apply to such sources.
 - (A) The owner or operator shall submit an application for a permit or for a revision to an existing title V permit issued or a pending title V permit meeting the requirements of Subparagraph (m)(1) of this Rule by the section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the facility belong in a category or subcategory subject to Section 112(j) of the federal Clean Air Act.
 - (B) The owner or operator of a source that does not submit an application under Subparagraph ~~(d)(1)(A)~~ (d)(1) of this Rule and that is notified in writing by the Office that one or more sources at the facility belong to a category or subcategory subject to Section 112(j) of the federal Clean Air Act shall submit an application for a title V permit or for a revision to an existing title V permit meeting the requirements of Paragraph (m)(1) of this Rule within 30 days after being notified in writing by the Office. The Office is not required to make such notification.
 - (C) The requirements in Parts (i) and (ii) of this Subparagraph shall apply when the owner or operator has obtained a title V permit that incorporates a section

112(g) case-by-case MACT determination by the Office under Sec. 3D-1112, but has not submitted an application for a title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act.

- (i) When the owner or operator has a title V permit that incorporates a section 112(g) case-by-case MACT determination under Sec. 3D-1112, the owner or operator shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule for a title V permit revision within 30 days of the section 112(j) deadline or within 30 days of being notified that in writing by the Office that one or more sources at the major facility belong in such category or subcategory. The Office shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Office would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Office determines the previously adopted 112(g) emission limitations are substantially as effective, then the Office shall retain the existing limitations in the permit to effectuate Section 112(j) of the federal Clean Air Act. If the Office does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule are satisfied upon issuance of a revised title V permit incorporating any additional section 112 (j) requirements.
- (ii) When the owner or operator that has submitted a title V permit application that incorporates a section 112(g) case-by-case MACT determination by the Office under Sec. 3D-1112, but has not received the permit incorporating the section 112(g) requirements, the owner or operator shall continue to pursue a title V permit that addresses the requirements of Section 112(g) of the federal Clean Air Act. The owner or operator shall submit a permit application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days of issuance of that title V permit. The Office shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Office would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Office determines the previously adopted 112(g) emission limitations are substantially as effective, then the Director shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Office

does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule are satisfied upon issuance of a revised title V permit incorporating any additional section 112 (j) requirements.

(e) Sources that become subject to Section 112(j) of the federal Clean Air Act after the section 112(j) deadline and that do not have a title V permit addressing section 112(j) requirements. The requirements of this Paragraph apply to sources that do not meet the criteria in Paragraph (d) of this Rule on the section 112(j) deadline and are therefore not subject to Section 112(j) of the federal Clean Air Act on that date, but where events occur subsequent to the section 112 (j) deadline that would bring the source under the requirements of this Rule, and the source does not have a title V permit that addresses the requirements of Section 112(j) of the federal Clean Air Act.

- (1) When one or more sources in a category or subcategory subject to the requirements of this rule are installed at a major source, or result in the source becoming a major source due to the installation, and the installation does not invoke section 112(g) requirements in Sec. 3D-1112, the owner or operator shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days of startup of the source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this Rule, shall apply to such sources. The Office shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Office would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Office determines the previously adopted 112(g) emission limitations are substantially as effective, then the Office shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Office does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Rule are satisfied upon issuance of a revised title V permit incorporating any additional section 112 (j) requirements.
- (2) When one or more sources in a category or subcategory subject to 112(j) requirements are installed at a major source or result in the source becoming a major source due to the installation, and the installation requires 112(g) emission limitations to be established and permitted under Sec. 3Q-0528, and the owner or operator has not submitted an application for a title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act, the owner or operator shall apply for and obtain a title V permit that addresses the emission limitation requirements of Section 112(g) of the federal Clean Air Act. Within 30 days of issuance of that title V permit, the owner or operator shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule for a revision to the existing title V permit. The Office shall determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are

substantially as effective as the emission limitations that the Office would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Office determines the previously adopted 112(g) emission limitations are substantially as effective, then the Office shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Office does not retain the previously adopted 112(g) emission limitations, the permit shall be revised to incorporate any additional Section 112(j) requirements.

- (3) The owner or operator of an area source that, due to a relaxation in any federally enforceable emission limitation (such as a restriction on hours of operation), increases its potential to emit hazardous air pollutants such that the source becomes a major source that is subject to this Rule, shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule within 30 days after the date that such source becomes a major source. The Director shall use the procedures in Paragraph (n) of this Rule in reviewing the application. The existing source MACT requirements (including relevant compliance deadlines), shall apply to such sources.
- (4) If EPA establishes a lesser quantity emission rate under section 112(a)(1) of the federal Clean Air Act that results in an area source becoming a major source that is subject to this Rule, then the owner or operator of such a major source shall submit an application meeting the requirements of Paragraph (m)(1) of this Rule on or before the date six months after the date that such source becomes a major source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this Rule, shall apply to such sources.

(f) Sources that have a title V permit addressing section 112(j) requirements. The requirements of this Paragraph apply to major sources that include one or more sources in a category or subcategory for which EPA fails to promulgate an emission standard on or before the section 112(j) deadline, and the owner or operator has a permit meeting the section 112(j) requirements, and where changes occur at the major source to equipment, activities, or both, subsequent to the section 112(j) deadline.

- (1) If the title V permit already provides the requirements that address the events that occur under this Paragraph subsequent to the section 112(j) deadline, then the source shall comply with the applicable new source MACT or existing source MACT requirements as specified in the permit, and the section 112(j) requirements are thus satisfied.
- (2) If the title V permit does not contain the requirements that address the events that occur under this Paragraph subsequent to the section 112(j) deadline, then the owner operator shall submit an application for a revision to the existing title V permit that meets the requirements of Paragraph (m)(1) of this Rule within 30 days of beginning construction. Existing source MACT requirements (including relevant compliance

deadlines), as specified in a title V permit issued pursuant to the requirements of this Rule shall apply to such sources.

(g) Requests for applicability determination. An owner or operator who is unsure of whether one or more sources at a major source belong in a category or subcategory for which EPA has failed to promulgate an emission standard under this 40 CFR Part 63 may, on or before an applicable section 112(j) deadline, request an applicability determination from the Office by submitting an application meeting the requirements of Paragraph (m)(1) of this Rule by the applicable deadlines specified in paragraphs (d), (e), or (f) of this Rule.

(h) An owner or operator who submits a Part 1 MACT application meeting the requirements of Paragraph (m)(1) of this Rule shall submit a Part 2 MACT application meeting the requirements of Paragraph (m)(2) of this Rule no later than the applicable date specified in 40 CFR 63 Subpart B Table 1. The submission date specified in 40 CFR 63 Subpart B Table 1 for Miscellaneous Organic Chemical Manufacturing shall apply to sources in each of the source categories listed in 40 CFR 63 Subpart B Table 2. When an owner or operator is required by Sec. 3D-1109 and this Rule to submit an application meeting the requirements of Paragraph (m)(1) of this Rule by a date that is after the date for a Part 2 MACT application for sources in the category or subcategory in question established by 40 CFR 63 Subpart B Table 1, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Paragraph (m)(2) of this Rule within 60 additional days after the applicable deadline for submission of the Part 1 MACT application. The Part 2 applications shall be reviewed by the Office according to the procedures established in 40 CFR 63.55.

- (1) Any owner or operator who submitted a request for an applicability determination on or before May 15, 2002, that remained pending as of May 30, 2003, and who still wishes to obtain such a determination must resubmit that request by the date that is 60 days after the Administrator publishes in the Federal Register a proposed standard under section 112(d) or 112(h) of the Clean Air Act for the category or subcategory in question. Such a resubmitted request must be supplemented to discuss the relation between the source(s) in question and the applicability provision in the proposed standard for the category or subcategory in question, and to explain why there may still be uncertainties that require a determination of applicability. The Director shall take action on each supplemented and resubmitted request within an additional 60 days after the applicable deadline for the resubmitted request. If more than three years remain on the current title V permit, the owner or operator shall submit an application for a title V permit revision to make any conforming changes in the permit required to adopt the existing emission limitations as the section 112(j) MACT emission limitations. If less than three years remain on the current title V permit, any required conforming changes shall be made when the permit is renewed. If the applicability determination is positive, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Paragraph (m)(2) of this Rule by the date specified for the category or subcategory in question in 40 CFR 63 Subpart B Table 1.

If the applicability determination is negative, no further action by the owner or operator is necessary.

- (2) An owner or operator who has submitted an application meeting the requirements of Paragraph (m)(1) of this Rule may request a determination of whether emission limitations adopted pursuant to a prior case-by-case MACT determination under section 112(g) that apply to one or more sources in a relevant category or subcategory are substantially as effective as the emission limitations that the Office would otherwise adopt pursuant to this Rule for the source in question. Such a request must be submitted by the date for the category or subcategory in question specified in 40 CFR 63 Subpart B Table 1. Each request for a determination under this Paragraph shall be construed as a complete application for an equivalent emission limitation under this Rule. If the Director determines that the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations the Director would otherwise adopt under this Rule, then the Director must adopt the existing emission limitations in the permit as the emission limitations to effectuate section 112(j) for the source in question. If the Director determines that the emission limitations in the prior case-by-case MACT determination under section 112(g) are not substantially as effective as the emission limitations that the Director would otherwise adopt for the source in question under this Rule, the Director must make a new MACT determination and adopt a title V permit incorporating an appropriate equivalent emission limitation under this Rule. The Office shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations which Office would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question.

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

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

(k) The permit shall contain the items specified in 40 CFR 63.52 including:

- (1) specification of the affected source and the new affected source
- (2) an emission limitation (or limitations) or emission standard equivalent to existing source MACT and an emission limitation (or limitations) equivalent to new source MACT for control of emissions of hazardous air pollutants for that category or

subcategory determined by the Director according to 40 CFR 63.55(a) on a case-by-case basis;

- (3) any emission limits, production limits, operational limits or other terms and conditions necessary to ensure practicable enforceability of the MACT emission limitation;
- (4) any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements; and
- (5) a compliance date(s) by which the owner or operator of an existing source shall be in compliance with the MACT emission limitation and all other applicable terms and conditions of the permit not to exceed three years from the date of issuance of the permit (The owner or operator of a new affected source shall comply with a new source MACT level of control immediately upon startup.)

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

(m) A permit application for a MACT determination shall consist of two parts.

- (1) The Part 1 application shall contain the information required under 40 CFR 63.53(a) and shall be submitted by the applicable deadline specified in Paragraph (d), (e), or (f) of this Rule.
- (2) The Part 2 application shall contain the information required under 40 CFR 63.53(b) and shall be submitted no later than the deadline in 40 CFR 63 Subpart B Table 1.

(n) Permit application review. The Director shall follow 40 CFR 63.55(a) in reviewing permit applications for MACT. The resulting MACT determination shall be incorporated into the facility's title V permit according to the procedures established under this Section. Following submittal of a Part 1 or Part 2 MACT application, the Director may request, pursuant to Sec. 3Q-0507 (c) and 0525 (a), additional information from the owner or operator; and the owner or operator shall submit the requested information within 30 days. A Part 2 MACT application is complete if it is sufficient to begin processing the application for a title V permit addressing section 112(j) requirements. If the Office disapproves a permit application or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the objections of the Office within the time period specified by the Office. Such time period shall not exceed six months from the date that the owner or operator is first notified that the application has been disapproved or is incomplete. The Director shall issue a title V permit meeting section 112(j) requirements after receipt of a complete Part 2 MACT application following the schedule in Sec. 3Q-0525.

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

- (1) If EPA promulgates an emission standard that is applicable to one or more sources within a major facility before the date a proposed permit under this Rule is approved, the permit shall contain the promulgated standard rather than the emission limitation determined under Sec. 3D-1109, and the owner or operator of the source shall comply with the promulgated standard by the compliance date in the promulgated standard.

- (2) If EPA promulgates an emission standard that is applicable to a source after the date that a permit is issued under this Rule, the Director shall revise the permit on its next renewal to reflect the promulgated standard. (Subparagraph (a)(1) of Sec. 3Q-0517 does not apply to requirements established under this Rule.) The Director shall establish a compliance date in the revised permit that assures that the owner or operator shall comply with the promulgated standard within a reasonable time, but no longer than eight years after such standard is promulgated or eight years after the date by which the owner or operator was first required to comply with the emission limitation established by permit, whichever is earlier. However, in no event shall the period for compliance for existing sources be shorter than that provided for existing sources in the promulgated standard.
- (3) Notwithstanding the requirements of Subparagraphs (1) or (2) of this Paragraph, if EPA promulgates an emission standard that is applicable to a source after the date a proposed permit is approved, the Director need not change the emission limitation in the permit to reflect the promulgated standard if the level of control required by the emission limitation in the permit is as effective as that required by the promulgated standard. If EPA promulgates an emission standard that is applicable to an affected source after the date a permit application is approved, and the level of control required by the promulgated standard is less stringent than the level of control required by any emission limitation in the prior MACT determination, the Office is not required to incorporate any less stringent emission limitation of the promulgated standard and may consider any more stringent provisions of the MACT determination to be applicable legal requirements when issuing or revising such a title V permit. ~~(11-11-96, 11-22-04)~~