

County of Forsyth



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

The Forsyth County Environmental Assistance and Protection Advisory Board will hold a public hearing on Tuesday, July 19, 2016 at 10:00 a.m. in the board room on the first floor of the Government Center at 201 North Chestnut Street in Winston-Salem, NC. The hearing is for the adoption of revisions to Chapter 3 of the Forsyth County Air Quality Control Code and Air Quality Ordinance and Technical Code to incorporate changes made to North Carolina's State Implementation Plan.

The following rules are proposed for revision: Subchapter 3D-Air Pollution Control Requirements, Section 3D-0100 Definition and References, 0104 Incorporation by reference; Section 3D-0400 Ambient Air Quality Standards, 0410 PM2.5 particulate matter; Section 3D-0500 Emission Control Standards, 0535 Excess emissions reporting and malfunctions; Section 3D-1900 Open Burning, 1902 Definitions, 1903 Permissible open burning, 1904 Air curtain burners; Subchapter 3Q-Air Quality Permits, Section 3Q-0200 Permit Fees, 0203 Permit and application fees, 0206 Payment of fees; Section 3Q-0300 Construction and Operation Permit, 0304 Applications; and Section 3Q-0500 Title V Procedures, 0507 Application. The following new rule is proposed for adoption: Subchapter 3D-Air Pollution Control Requirements, Section 3D-0500 Emission Control Standards, 0545 Treatment for malfunction events and work practices for start-up and shut-down operations. Any person may appear before the Environmental Assistance and Protection Advisory Board and bring representatives, consultants, and witnesses to be heard relative to the matter for which action by the Board is sought, provided advance notice is given to the Office Director of such matter to be considered.

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 July 19, 2016. Date: June 17, 2016

Minor Barnette, Director

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

PUBLIC HEARING TIME & DATES

10 AM, July 19, 2016
First Floor Board Room
Forsyth County Government Center
201 North Chestnut Street
Winston-Salem, NC 27101

Telephone Number: (336) 703-2440

Fax Number: (336) 703- 2777

Proposed rule revision are available on our website at:

http://www.forsyth.cc/EAP/public_notices.aspx

CHANGES TO RULES

INSTRUCTIONS FOR UNDERSTANDING CHANGES

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

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

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

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

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

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

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SUBCHAPTER 3D AIR POLLUTION CONTROL REQUIREMENTS

SECTION 3D-0100 DEFINITION AND REFERENCES

Sec. 3D-0104. Incorporation by reference

(a) Anywhere there is a reference to Rules contained in the Code of Federal Regulations (CFR) or to an American Society for Testing and Materials method (ASTM) in this Subchapter, those Rules and methods are incorporated by reference.

(b) The Code of Federal Regulations and American Society for Testing and Materials methods incorporated by reference in this Subchapter shall automatically include any later amendments thereto unless a specific rule specifies otherwise.

(c) The Code of Federal Regulations may be purchased from the Superintendent of Documents, P. O. Box 371954, Pittsburgh, PA 15250. The cost of the referenced documents are as follows:

- (1) 40 CFR Parts 1 to 51: fifty dollars (\$50.00).
- (2) 40 CFR Part 52: thirty-nine dollars (\$39.00).
- (3) 40 CFR Parts 53 to 59: eleven dollars (\$11.00).
- (4) 40 CFR Part 60: thirty-six dollars (\$36.00).
- (5) 40 CFR Parts 61 to 71: thirty-six dollars (\$36.00).
- (6) 40 CFR Parts 72 to 85: forty-one dollars (\$41.00).
- (7) 40 CFR Part 86: forty dollars (\$40.00).
- (8) 40 CFR Parts 87 to 135: five dollars (\$5.00)
- (9) 40 CFR Parts 260 to 299: forty dollars (\$40.00).
- ~~(9) 40 CFR Parts 64 to 71: eleven dollars (\$11.00).~~

These prices are October 15, 1996 prices.

(d) The American Society for Testing and Materials methods may be purchased from the Air Quality Division, PO Box 29580, Raleigh, North Carolina 27626-0580 at a price of twenty cents (\$0.20) per page.

~~(e) The Code of Federal Regulations and American Society for Testing and Materials methods referenced in Chapter 3 are available for inspection at the Office of Environmental Assistance and Protection at Forsyth County Government Center, 201 N. Chestnut Street, Winston-Salem, NC. (Ord. No. 9-94, 12-19-94; 11-13-95, 9-14-98, 5-24-99)~~

SECTION 3D-0400. AMBIENT AIR QUALITY STANDARDS

Sec. 3D-0410. PM_{2.5} particulate matter

~~(a) The ambient air quality standards for PM_{2.5} particulate matter are:~~

- ~~(1) 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), annual arithmetic mean concentration; and~~
- ~~(2) 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration.~~

~~These standards are attained when the annual arithmetic mean concentration is less than or equal to 15.0 $\mu\text{g}/\text{m}^3$ and when the 98th percentile 24-hour concentration is less than or equal to 35 $\mu\text{g}/\text{m}^3$, as determined according to Appendix N of 40 CFR Part 50.~~

~~(b) For the purpose of determining attainment of the standards in Paragraph (a) of this Rule, particulate matter shall be measured in the ambient air as PM_{2.5} (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:~~

~~(1) a reference method based on Appendix L of 40 CFR Part 50 and designed according to 40 CFR Part 53; or~~

~~(2) an equivalent method designed according to 40 CFR Part 53. (5-24-99)~~

~~(a) The national primary ambient air quality standards for PM_{2.5} are 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) annual arithmetic mean concentration and 35 $\mu\text{g}/\text{m}^3$ 24-hour average Concentration measured in the ambient air as PM_{2.5} (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:~~

~~(1) A reference method based on appendix L to 40 C.F.R. Part 50 and designated in accordance with 40 C.F.R. Part 53; or~~

~~(2) An equivalent method designated in accordance with 40 C.F.R. Part 53.~~

~~(b) The primary annual PM_{2.5} standard is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 C.F.R. Part 50, is less than or equal to 12.0 $\mu\text{g}/\text{m}^3$.~~

~~(c) The primary 24-hour PM_{2.5} standard is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 C.F.R. Part 50, is less than or equal to 35 $\mu\text{g}/\text{m}^3$.~~

SECTION 3D-0500 EMISSION CONTROL STANDARDS

Sec. 3D-0535. Excess emissions reporting and malfunctions

~~(a) Applicability: 15A NCAC 02D .0535 shall not be in effect if 15A NCAC 02D .0545 is valid. This Rule shall not 4 apply to sources to which Rule .0524, .1110, or .1111 of this Subchapter applies. In the event that United States Environmental Protection Agency's regulation, State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, published in the Code of Federal Regulations (CFR) at 40 CFR 52 on June 12, 2015, is:~~

~~(1) declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals for the Fourth Circuit, by the District of Columbia Circuit, or by the United States Supreme Court; or~~

~~(2) withdrawn, repealed, revoked, or otherwise rendered of no force and effect by the United States Environmental Protection Agency, Congress, or Presidential Executive Order;~~

~~such action shall render Rule .0545 of this Subchapter as invalid, void, stayed, or otherwise without force and effect upon the date such action becomes final and effective. At the time of such action, sources that were subject to Rule .0545 of this Subchapter shall be subject to this Rule.~~

~~(a)(b) For the purpose purposes of this Rule Rule, the following definitions apply:~~

- (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or standard allowed by any Rule in Sections 3D-0500, 0900, 1200 or 1400; ~~or~~ by a permit condition; or that exceeds an emission limit established in a permit issued under Forsyth County Code, Section 3Q-0700.
- (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process equipment, or process to operate in a normal and usual manner that results in excess emissions. Excess emissions during periods of routine start-up and shut-down of process equipment ~~are~~ shall not be considered a malfunction. Failures caused entirely or in part by poor maintenance, careless ~~operations~~ operations, or any other upset condition within the control of the emission source are not be considered a malfunction.
- (3) "Start-up" means the initial commencement of operation or subsequent commencement of operation of any source that has shut-down or ceased operation for a period of time sufficient to cause temperature, pressure, process, chemical, or pollution control device imbalance that would result in excess emission.
- (4) "Shut-down" means the cessation of the operation of any source for any purpose.

~~(b) — This Rule does not apply to sources to which Sec. 3D-0524, 1110 or 1111 applies unless excess emissions exceed an emission limit established in a permit issued under Forsyth County Code, Section 3Q-0700 that is more stringent than the emission limit set by Sec. 3D-0524, 1110 or 1111.~~

(c) Any excess emissions that do not occur during start-up or shut-down are considered a violation of the appropriate-applicable rule unless the owner or operator of the source of excess emissions demonstrates to the Director, that the excess emissions are the result of a malfunction. To determine if the excess emissions are the result of a malfunction, the Director shall consider, along with any other pertinent information, the following:

- (1) ~~The~~ the air cleaning device, process equipment, or process has been maintained and operated, to the maximum extent practicable, consistent with good practice for minimizing emissions;
- (2) ~~Repairs~~ repairs have been made expeditiously when the emission limits have been exceeded;
- (3) ~~The~~ the amount and duration of the excess emissions, including any bypass, have been minimized to the maximum extent practicable;
- (4) ~~All~~ all practical steps have been taken to minimize the impact of the excess emissions on ambient air quality;
- (5) ~~The~~ the excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
- (6) ~~The~~ the requirements of Paragraph (f) of this Rule have been met; and
- (7) ~~If~~ if the source is required to have a malfunction abatement plan, it has followed that plan.

All malfunctions shall be repaired as expeditiously as practicable. ~~However, the~~ The Director shall not excuse excess emissions caused by malfunctions from a source for more than 15 percent of the operating time during each calendar year. The Director may require the owner or operator of a facility to maintain records of the time that a source operates when it or its air pollution control equipment is malfunctioning or otherwise has excess emissions.

(d) All electric utility boiler units shall have a malfunction abatement plan approved by the Director satisfying the requirements of Subparagraphs (d)(1) through (d)(3) of this ~~Paragraph~~Rule. In addition, the Director may require any other source to have a malfunction abatement plan approved by the Director satisfying the requirements of Subparagraphs (d)(1) through (d)(3) of this ~~Paragraph~~Rule. If the Director requires a malfunction abatement plan for a source other than an electric utility boiler, the owner or operator of that source shall submit a malfunction abatement plan within 60 days after receipt of the Director's request. The malfunction plans of electric utility boiler units and of other sources required to have them shall be implemented ~~when a malfunction or other breakdown occurs~~at all times. The purpose of the malfunction abatement plan is to prevent, detect, and correct malfunctions or equipment failures that could result in excess emissions. A malfunction abatement plan shall contain:

- (1) a ~~complete~~ preventive maintenance program including:
 - (A) the identification of individuals or positions responsible for inspecting, ~~maintaining~~maintaining, and repairing air cleaning devices;
 - (B) a description of the items or conditions that will be inspected and maintained;
 - (C) the frequency of the inspection, maintenance services, and repairs; and
 - (D) an identification and quantities of the replacement parts that shall be maintained in inventory for quick replacement;
- (2) an identification of the source and air cleaning operating variables and outlet variables, such as opacity, grain loading, and pollutant concentration, that may be monitored to detect a malfunction or failure; the normal operating range of these variables and a description of the method of monitoring or surveillance procedures and of informing operating personnel of any malfunctions, including alarm systems, ~~lights~~lights, or other indicators; and
- (3) a description of the corrective procedures that the owner or operator will take in case of a malfunction or failure to achieve compliance with the applicable rule as expeditiously as ~~practicable~~practicable, but no longer than the next boiler or process outage that would provide for an orderly repair or correction of the malfunction or 15 days, whichever is shorter. If the owner or operator anticipates that the malfunction would continue for more than 15 days, a case-by-case repair schedule shall be established by the Director with the source.

The owner or operator shall maintain logs to show that the operation and maintenance parts of the malfunction abatement plan are implemented. These logs are subject to inspection by the Director ~~or his designee~~ upon request during business hours.

(e) The owner or operator of any source required by the Director to have a malfunction abatement plan shall submit a malfunction abatement plan to the Director within ~~six months~~60 days after it has been required by the Director. The malfunction abatement plan and any amendment to it shall be reviewed by the Director ~~or his designee~~. If the plan includes the objectives described by Paragraph (d) of this Rule, the Director shall approve it. If the plan does not carry out the objectives described by Paragraph (d) of this Rule, the Director shall disapprove the plan. The Director shall state ~~his~~the reasons for ~~his~~the disapproval. The person who submits the plan shall submit an amendment to the plan to satisfy the reasons for the Director's disapproval within 30 days of receipt of the Director's notification of disapproval. Any person having an approved malfunction abatement plan shall submit to the Director for ~~his~~ approval amendments reflecting changes in any element of the plan required by Paragraph (d) of this

Rule or amendments when requested by the Director. The malfunction abatement plan and amendments to it shall be implemented within 90 days upon receipt of written notice of approval.

(f) The owner or operator of a source of excess emissions that last for more than four hours and that results from a malfunction, a breakdown of process or control ~~equipment~~equipment, or any other abnormal conditions, shall:

- (1) notify the Director ~~or his designee~~ of any such occurrence by 9:00 a.m. Eastern time of the Office's next business day of becoming aware of the occurrence and describe:
 - (A) name and location of the ~~facility~~facility;
 - (B) the nature and cause of the malfunction or ~~breakdown~~breakdown;
 - (C) the time when the malfunction or breakdown is first ~~observed~~observed;
 - (D) the expected ~~duration~~duration; and
 - (E) an estimated rate of emissions;
- (2) notify the Director ~~or his designee immediately by 9:00 a.m. Eastern time of the~~ Division's next business day when the corrective measures have been accomplished;
- (3) submit to the Director within 15 days after the ~~request~~notification in Subparagraph (f)(1) of this Rule, a written report that includes:
 - (A) name and location of the ~~facility~~facility;
 - (B) identification or description of the processes and control devices involved in the malfunction or ~~breakdown~~breakdown;
 - (C) the cause and nature of the ~~event~~event;
 - (D) time and duration of the violation or the expected duration of the excess emission if the malfunction or breakdown has not been ~~fixed~~fixed;
 - (E) estimated quantity of pollutant ~~emitted~~emitted;
 - (F) steps taken to control the emissions and to prevent recurrences and if the malfunction or breakdown has not been fixed, steps planned to be ~~taken~~taken; and
 - (G) any other pertinent information requested by the Director.

After the malfunction or breakdown has been corrected, the Director may require the owner or operator of the source to test the source in accordance with Section 3D-2600 to demonstrate compliance.

(g) Start-up and shut-down. Excess emissions during start-up and shut-down are considered a violation of the appropriate rule if the owner or operator cannot demonstrate that the excess emissions are unavoidable. To determine if excess emissions are unavoidable during ~~startup~~start-up or ~~shutdown~~shut-down, the Director shall consider the items listed in ~~Paragraphs~~Subparagraphs (c)(1), (c)(3), (c)(4), (c)(5), and (c)(7) of this Rule along with any other pertinent information. The Director may specify for a particular source the amount, time, and duration of emissions allowed during start-up or shut-down. The owner or operator shall, to the extent practicable, operate the source and any associated air pollution control equipment or monitoring equipment in a manner consistent with best practicable air pollution control practices to minimize emissions during start-up and shut-down. (Ord. No. 9-94, 12-19-94, 11-11-96, 9-14-98, 5-14-01)

Sec. 3D-0545. Treatment for malfunction events and work practices for start-up and shut-down operations

(a) Applicability. In the event that United States Environmental Protection Agency's regulation, State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, published in the Code of Federal Regulations (CFR) at 40 CFR 52 on June 12, 2015, is:

- (1) declared or adjudged to be invalid or unconstitutional or stayed by the United States Court of Appeals for the Fourth Circuit, by the District of Columbia Circuit, or by the United States Supreme Court; or
- (2) withdrawn, repealed, revoked, or otherwise rendered of no force and effect by the United States Environmental Protection Agency, Congress, or Presidential Executive Order;

such action shall render this Rule as invalid, void, stayed, or otherwise without force and effect upon the date such action becomes final and effective. At the time of such action, sources that were subject to this Rule shall be subject to Sec 3D-0535 of this Subchapter. This Rule shall not apply to sources to which Sec 3D-0524, 1110, or 1111 of this Subchapter applies.

(b) For the purposes of this Rule, the following definitions apply:

- (1) "Excess Emissions" means an emission rate that exceeds any applicable emission limitation or standard allowed by any rule in Sections 0500, 0900, 1200, or 1400 of this Subchapter; by a permit condition; or that exceeds an emission limit established in a permit issued pursuant to Section 3Q-0700 of Subchapter 3Q.
- (2) "Malfunction" means any unavoidable failure of air pollution control equipment, process equipment, or process to operate in a normal and usual manner. Failures caused entirely or in part by poor maintenance, careless operations or any other upset condition within the control of the emission source shall not be considered a malfunction.
- (3) "Start-up" means the initial commencement of operation or subsequent commencement of operation of any source that has shut-down or ceased operation for a period sufficient to cause temperature, pressure, process, chemical, or a pollution control device imbalance that would result in excess emissions.
- (4) "Shut-down" means the cessation of the operation of any source for any purpose.

(c) Malfunctions. All facilities subject to this rule shall:

- (1) Comply with the otherwise applicable emissions limits; or
- (2) Comply with the source specific malfunction work practice standard permit condition described in Paragraph (d) of this Rule.

(d) Source Specific Malfunction Work Practice Standard Permit Condition.

- (1) A facility may request a source specific malfunction work practice standard to be included in the state and federal enforceable section of its air permit, after review by EPA and the public.
- (2) The source specific malfunction work practice standard shall minimize emissions during the malfunction event and require the malfunction duration to be minimized.

- (3) Subparagraphs (e)(1) and (e)(5) of this Rule shall be addressed in the source specific malfunction work practice standard. Any facility requesting a source specific malfunction work practice standard shall meet the requirements of Subparagraphs (f)(1) through (f)(3) of this Rule.
- (4) Requests shall be made through the application for a permit, permit modification, or permit renewal pursuant to the permit application requirements in Sections 3Q-0300 or 3Q-0500 of Subchapter 3Q. The public notice requirements specified in Sec. 3Q-0306 and 0307 of Subchapter 3Q shall be followed for all proposed work practice standards in non-Title V permits. Public notice requirements specified in Sec. 3Q-0521 of Subchapter 3Q shall be followed for all proposed work practice standards in Title V permits.
- (5) At all times, the source shall be operated in a manner consistent with good practice for minimizing emissions and the owner or operator shall use their best efforts regarding planning, design, and operating procedures. The owner or operator's actions during malfunction periods shall be documented by properly signed, contemporaneous operating logs or other relevant evidence.
- (6) Failure to implement or follow the Source Specific Malfunction Work Practice Standard Permit Condition shall be a violation of Paragraph (d) of this Rule.
- (7) Facilities that follow a Source Specific Malfunction Work Practice Standard Permit Condition during a malfunction that has been addressed in the Source Specific Malfunction Work Practice Standard Permit Condition shall be deemed in compliance.

(e) The Director shall determine the appropriate enforcement response for excess emissions due to a malfunction. The Director shall consider, along with any other pertinent information, the following:

- (1) The air cleaning device, process equipment, or process has been maintained and operated, to the maximum extent practicable, consistent with good practice for minimizing emissions;
- (2) Repairs have been made expeditiously when the emission limits have been exceeded;
- (3) The amount and duration of the excess emissions, including any bypass, have been minimized to the maximum extent practicable;
- (4) All practical steps have been taken to minimize the impact of the excess emissions on ambient air quality;
- (5) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
- (6) The requirements of Paragraph (h) of this Rule have been met; and
- (7) If the source is required to have a malfunction abatement plan, the source has followed that plan. All malfunctions shall be repaired as expeditiously as practicable. The facility shall maintain records of the time that a source operates when it or its air pollution control equipment is malfunctioning or otherwise has excess emissions.

(f) All electric utility boiler units shall have a malfunction abatement plan approved by the Director as satisfying the requirements of Subparagraphs (f)(1) through (f)(3) of this Rule. In addition, the Director may require any other source to have a malfunction abatement plan approved by the Director as

satisfying the requirements of Subparagraphs (f)(1) through (f)(3) of this Rule. If the Director requires a malfunction abatement plan for a source other than an electric utility boiler, the owner or operator of that source shall submit a malfunction abatement plan within 60 days after receipt of the Director's request. The malfunction abatement plans of electric utility boiler units and of other sources required to have malfunction abatement plans shall be implemented at all times. The purpose of the malfunction abatement plan is to prevent, detect, and correct malfunctions that may result in excess emissions. A malfunction abatement plan shall contain:

- (1) a preventive maintenance program including:
 - (A) the identification of individuals or positions responsible for inspecting, maintaining, and repairing air cleaning devices;
 - (B) a description of the items or conditions that will be inspected and maintained;
 - (C) the frequency of the inspection, maintenance services, and repairs; and
 - (D) an identification and quantities of the replacement parts that shall be maintained in inventory for quick replacement;
- (2) an identification of the source and air cleaning operating variables and outlet variables that may be monitored to detect a malfunction; the normal operating range of these variables and a description of the method of monitoring and of informing operating personnel of any malfunctions; and
- (3) a description of the corrective procedures that the owner or operator will take in case of a malfunction or failure to achieve compliance with the applicable rule as expeditiously as practicable. The owner or operator shall maintain logs to show that the operation and maintenance parts of the malfunction abatement plan are implemented.

(g) The owner or operator of any source required by the Director to have a malfunction abatement plan shall submit a malfunction abatement plan to the Director within 60 days after it has been required by the Director. The malfunction abatement plan and any amendment to it shall be reviewed by the Director. If the plan carries out the objectives described by Paragraph (f) of this Rule, the Director shall approve it. If the plan does not carry out the objectives described by Paragraph (f) of this Rule, the Director shall disapprove the plan. The owner or operator shall submit an amendment to the plan to satisfy the plan requirements within 30 days of receipt of the Director's notification. Any person having an approved malfunction abatement plan shall submit to the Director for approval amendments reflecting changes in any element of the malfunction abatement plan required by Paragraph (f) of this Rule or amendments when requested by the Director. The malfunction abatement plan and amendments to it shall be implemented within 90 days upon receipt of written notice of approval.

(h) The owner or operator of a source of excess emissions that last for more than four hours and that results from a malfunction shall:

- (1) notify the Director of any such occurrence by 9:00 a.m. Eastern time of the Division's next business day of becoming aware of the occurrence and describe:
 - (A) name and location of the facility;
 - (B) the nature and cause of the malfunction;
 - (C) the time when the malfunction is first observed;
 - (D) the expected duration; and
 - (E) an estimated rate of emissions;

- (2) notify the Director by 9:00 a.m. Eastern time of the Division's next business day when the corrective measures have been accomplished;
- (3) submit to the Director, within 15 days after the notification in Subparagraph (h)(1) of this Paragraph, a written report that includes:
 - (A) name and location of the facility;
 - (B) identification or description of the processes and control devices involved in the malfunction;
 - (C) the cause and nature of the event;
 - (D) time and duration of the violation or the expected duration of the excess emission if the malfunction has not been fixed;
 - (E) estimated quantity of pollutant emitted;
 - (F) steps taken to control the emissions and to prevent recurrences and if the malfunction has not been fixed, steps planned to be taken; and
 - (G) any other pertinent information requested by the Director.

After the malfunction has been corrected, the Director may require the owner or operator of the source to test the source in accordance with Section 3D-2600 of this Subchapter to demonstrate compliance.

(i) Start-up and Shut-down: During periods of start-up and shut-down, sources at facilities subject to this Rule shall comply with any one of the following:

- (1) the applicable SIP emission limit in the Subchapter 3D rules, or a permit limit established in a permit issued pursuant to Section 3Q-0700 of Subchapter 3Q;
- (2) the applicable work practice standards in Subparagraphs (j)(1) through (j)(13) of this Rule;
- (3) work practice standards currently in effect for federal rules promulgated since 2009 that address compliance during start-up and shut-down operations for equipment that would be subject to the federal rule except for rule applicability exemptions; or
- (4) source specific start-up and shut-down work practice standard permit conditions described in Paragraph (k) of this Rule.

Excess emissions during start-up and shut-down shall be considered a violation of the applicable rule if the owner or operator cannot demonstrate that the work practice standards in Subparagraphs (i)(2), (i)(3), or (i)(4) of this Rule were followed. Facilities may comply with Subparagraphs (i)(1) or (i)(2) of this Rule during start-up and shut-down without a specific permit condition. Facilities that choose to comply with Subparagraph (i)(3) of this Rule during start-up and shut-down shall apply for and receive a permit condition that indicates the specific federal work practice standard that shall be followed. Failure to implement or follow the work practice standard shall be considered a violation of Subparagraph (i)(3) of this Rule. Facilities that choose to comply with Subparagraph (i)(4) of this Rule during start-up and shut-down shall apply for and receive a permit condition described in Paragraph (k) of this Rule. Failure to implement or follow the work practice standard shall be considered a violation of Subparagraph (i)(4) of this Rule.

(j) Generally Available Work Practices for Start-Up and Shut-Down Operations. The owner or operator shall, to the extent practicable, operate the source and any associated air pollution control equipment or monitoring equipment in a manner consistent with best practicable air pollution control practices to minimize emissions during start-up and shut-down. The following generally available work practice standards shall be followed:

- (1) Periods of start-up and shut-down shall be documented in a permanent form suitable for inspection and submission to the Office. Documentation of start-ups and shut-downs shall include specific identification of each period of start-up or shut-down where a work practice standard is used and information required to demonstrate compliance with the applicable work practices. Start-up and shut-down operations shall occur as expeditiously as possible while minimizing emissions.
- (2) Boilers and other combustion sources. All combustion sources shall commence operations while firing on the cleanest permitted fuel, to the extent practicable. The source shall minimize the start-up and shut-down periods to the extent practicable.
 - (A) For sources for which the manufacturer has established recommended procedures for start-ups and shut-downs, the source shall follow the manufacturer's recommended procedures.
 - (B) For sources for which there is no manufacturer-recommended procedures for start-ups and shut-downs, the source shall follow recommended procedures for a unit of similar design for which manufacturer's recommended procedures are available.
- (3) Baghouses shall be operated upon start-up of emission unit, or when baghouse temperature exceeds the dew point, whichever occurs later, or as specified by manufacturer.
- (4) Cyclones shall be operated at all times, including start-up and shut-down of the emission unit.
- (5) Electrostatic precipitators (ESP) shall be operated upon start-up of emission unit, or when effluent temperature exceeds the dew point, whichever occurs later, or as specified by manufacturer.
- (6) Selective catalytic reduction (SCR) units shall be operated if catalyst bed temperature is greater than 400°F, or as specified by manufacturer.
- (7) Non-selective catalytic reduction (NSCR) units shall be operated when the effluent temperature is between 700°F and 1500°F, or as specified by manufacturer.
- (8) Scrubbers shall be operated at all times from initialization of start-up to completion of shut-down.
- (9) Carbon adsorption shall be operated at all times from initialization of start-up to completion of shut-down.
- (10) Biofilters shall be operated at all times from initialization of start-up to completion of shut-down.
- (11) Sorbent injection shall be operated at all times the gas stream temperature is greater than 300°F, or as specified by manufacturer.
- (12) Regenerative Thermal Oxidizers (RTO), thermal, and catalytic oxidizers shall be operated at all times from initialization of start-up to completion of shut-down.
- (13) Safety and fire protection protocols shall be followed during start-up and shut-down of all sources.

(k) Source Specific Start-Up and Shut-Down Work Practice Standard Permit Condition. A facility may request a source specific start-up and shut-down work practice standard be included in the state and federal enforceable section of their air permit, after review by EPA and the public. Such requests

shall be made through the application for a permit, permit modification, or permit renewal pursuant to the permit application requirements in Section 3Q-0300 or 0500 of Subchapter 3Q. The public notice requirements specified in Sec.3Q-0306 and 0307 of Subchapter 3Q shall be followed for all proposed work practice standards in non-Title V permits. Public notice requirements specified in Sec 3Q-0521 of Subchapter 3Q shall be followed for all proposed work practice standards in Title V permits. Requests for work practice standards for periods of start-up and shut-down shall include the following considerations:

- (1) the work practice standard is specific to a source and the associated control strategy;
- (2) demonstration that the use of the control strategy for the source is technically infeasible during start-up or shut-down periods;
- (3) the work practice standard requires that the frequency and duration of operation in start-up or shut-down mode are minimized to the greatest extent practicable;
- (4) at all times, the source shall be operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures; and
- (5) the owner or operator's actions during start-up and shut-down periods shall be documented by properly signed, contemporaneous operating logs or other relevant evidence.

Any source without a start-up and shut-down work practice standard permit condition shall be required to comply with any applicable emission limit. Facilities that follow a source specific start-up and shut-down work practice standard permit condition during start-up and shut-down shall be deemed in compliance.

SECTION 3D-1900. OPEN BURNING

Sec. 3D-1902. Definitions

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

- (1) "Air Curtain Burner" means a stationary or portable combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit or container with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.
- (2) "Air Quality Action Day Code 'Orange' or above" means an air quality index greater than 100 as defined in 40 CFR Part 58, Appendix G,
- (3) "Air Quality forecast area" means the Triad ozone forecast area, which includes Forsyth County, as well as Alamance, Caswell, Davidson, Davie, Guilford, Randolph, Rockingham, and Stokes Counties.
- (4) "Dangerous materials" means explosives or containers used in the holding or transporting of explosives.
- (5) "Permanent site" means for an air curtain burner, a place where an air curtain burner is operated for more than nine months. Reserved
- (6) "initiated" means start or ignite a fire or reignite or rekindle a fire.
- (7) "Land clearing" means the uprooting or clearing of vegetation in connection with construction for buildings; right-of-way maintenance; agricultural, residential,

commercial, institutional, or industrial development; mining activities; or the initial clearing of vegetation to enhance property value; but does not include routine maintenance or property clean-up activities.

- (8) ~~"Log" means any limb or trunk whose diameter exceeds six inches.~~ Reserved
- (9) "Nonattainment area" means an area identified in 40 CFR 81.334 as nonattainment.
- (10) "Nuisance" means causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.
- (11) "Occupied structure" means a building in which people may live or work or one intended for housing farm or other domestic animals.
- (12) "Off-site" means any area not on the premises of the land-clearing activities.
- (13) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.
- (14) "Operator" as used in Sec. 3D-1904 (b)(6) and 1904 (b)(2)(D), means the person in operational control over the open burning.
- (15) Reserved
- (16) "Person" as used in Sec. 3D-1901 (c), means:
 - (A) the person in operational control over the open burning, or
 - (B) the landowner or person in possession or control of the land when he has directly or indirectly allowed the open burning or has benefited from it.
- (17) "Pile" means a quantity of combustible material assembled together in a mass.
- (18) "Premises of private residences" means the location identified as a residential building which contains one dwelling unit and occupies its own zoning lot.
- (19) "Public pick-up" means the removal of refuse, yard trimmings, limbs, or other plant material from a residence by a governmental agency, private company contracted by a governmental agency or municipal service.
- (20) "Public road" means any road that is part of the State highway system; or any road, street, or right-of-way dedicated or maintained for public use.
- (21) "RACM" means regulated asbestos containing material as defined in 40 CFR 61.141.
- (22) "Refuse" means any garbage, rubbish, or trade waste.
- (23) Reserved.
- (24) "Salvageable items" means any product or material that was first discarded or damaged and then all, or part, was saved for future use, and include insulated wire, electric motors, and electric transformers.
- (25) "Smoke management plan" means the plan developed following the North Carolina Forest Service's smoke management program and approved by the North Carolina Forest Service. The purpose of the smoke management plan is to manage smoke from prescribed burns of public and private forests to minimize the impact of smoke on air quality and visibility.

- (26) "Synthetic material" means man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood.
- (27) Reserved. (11-11-96, 9-14-98, 11-22-04 5-8-06)

Sec. 3D-1903. Permissible open burning

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

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

- (1) open burning of leaves, logs, stumps, tree branches or yard trimmings, ~~excluding logs and stumps~~, if the following conditions are met:
 - (A) The material burned originates on the premises of private residences and is burned on those premises;
 - (B) There are no public pickup services available;
 - (C) Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials are not burned;
 - (D) The burning is initiated no earlier than 8:00 ~~a.m.~~A.M. and no additional combustible material is added to the fire ~~after 4:00 p.m., and the fire is completely out by 6:00 p.m.~~between 6:00P.M. on one day and 8:00 A.M. on the following day;
 - (E) The burning does not create a nuisance; and
 - (F) Material is not burned when the ~~Division of Forest Resources~~North Carolina Forest Service has banned burning for that area;

The burning of logs or stumps of any size shall not be considered to create a nuisance for purposes of the application of the open burning air quality permitting exception described in this subsection.

- (2) open burning for land clearing or right-of-way maintenance if the following conditions are met:
 - (A) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service during the time of the burning are away from any area, including public roads within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning;
 - (B) The location of the burning is at least 1,000 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The Director may grant exceptions to the setback requirements if:
 - (i) a signed, written statement waiving objections to the open burning associated with the land clearing operation is obtained and submitted to

and the exception granted by, the Director before the open burning begins from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within ~~1,000~~500 feet of the open burning site. In the case of a lease or rental agreement, the lessee or renter shall be the person from whom permission shall be gained prior to any burning, or

- (ii) an air curtain burner as described in Sec. 3D-1904, is utilized at the open burning site.

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

- (C) Only land cleared plant growth is burned. Heavy oils, asphaltic materials such as shingles and other roofing materials, items containing natural or synthetic rubber, or any materials other than plant growth shall not be burned; however, kerosene, distillate oil, or diesel fuel may be used to start the fire;
- (D) Initial burning begins only between the hours of 8:00 a.m. and 6:00 p.m., and no combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
- (E) No fires are initiated or vegetation is added to existing fires when the ~~Division of Forest Resources~~North Carolina Forest Service has banned burning for that area; and
- ~~(F) The material to be burned must originate from the land being cleared or the area being maintained.;~~Materials are not carried off-site or transported over public roads for open burning unless the materials are carried or transported to:
 - (i) Facilities permitted in accordance with 15A NCAC 02D .1904 (Air Curtain Burners) for the operation of an air curtain burner at a permanent site; or
 - (ii) A location, where the material is burned not more than four times per year, that meets all of the following criteria:
 - (I) At least 500 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted.
 - (II) There are no more than two piles, each 20 feet in diameter, being burned at one time.
 - (III) The location is not a permitted solid waste management facility.

- (3) camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort and which do not create a nuisance and do not use synthetic materials or refuse or salvageable materials for fuel;
- (4) fires purposely set to public or private forest land for forest management practices for which burning is acceptable to the North Carolina Forest Service and which follows the smoke management plan as outlined in the North Carolina Forest Service's smoke management program;
- (5) fires purposely set to agricultural lands for disease and pest control and fires set for other agricultural or apicultural practices for which burning is currently acceptable to the Department of Agriculture;
- (6) fires purposely set for wildlife management practices for which burning is currently acceptable to the Wildlife Resource Commission;
- (7) fires for the disposal of dangerous materials when it is the safest and most practical method of disposal;
- (8) fires purposely set by manufacturers of fire extinguishing materials or equipment, testing laboratories, or other persons, for the purpose of testing or developing these materials or equipment in accordance with a standard qualification program;
- (9) fires purposely set for the instruction and training of fire-fighting personnel at permanent fire-fighting training facilities;
- (10) fires purposely set for the instruction and training of fire-fighting personnel when conducted under the supervision of or with the cooperation of one or more of the following agencies:
 - (A) the North Carolina Forest Service,
 - (B) the North Carolina Insurance Department,
 - (C) North Carolina technical institutes, or
 - (D) North Carolina community colleges, including:
 - (i) the North Carolina Fire College, or
 - (ii) the North Carolina Rescue College; and
- (11) fires not described in Subparagraphs (9) or (10) of this Paragraph purposely set for the instruction and training of fire-fighting personnel, provided that:
 - (A) The Director has been notified according to the procedures and deadlines contained in the appropriate Forsyth County notification form. This form may be obtained by writing the Office of Environmental Assistance and Protection at the address in Sec. 3D-1905 and requesting it, and
 - (B) The Director has granted permission for the burning. Factors that the Director shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The Director shall not grant permission for the burning of salvageable items, such as insulated wire and electric motors or if the primary purpose of the fire is to dispose of synthetic materials or refuse. The Director shall not consider previously demolished structures as having training value. However, the Director may allow an exercise involving the

burning of motor vehicles burned over a period of time by a training unit or by several related training units. Any deviations from the dates and times of exercises, including additions, postponements, and deletions, submitted in the schedule in the approved plan shall be communicated verbally to the Director at least one hour before the burn is scheduled; and

- (12) fires for the disposal of material generated as a result of a natural disaster, such as tornado, hurricane, or flood, if the Director grants permission for the burning. The person desiring to do the burning shall document and provide written notification to the Director that there is no other practical method of disposal of the waste. Factors that the Director shall consider in granting permission for the burning include type, amount, location of the burning, and nature of combustible substances. The Director shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic materials or refuse or recovery of salvageable materials. Fires authorized under this Subparagraph shall comply with the conditions of Subparagraph (b)(2) of this Rule;

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

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

Sec. 3D-1904. Air curtain burners

(a) Air quality permits are required for air curtain burners subject to 40 CFR 60.2245 through 60.2265, 60.2810 through 60.2870, 60.2970 through 60.2975, or 60.3062 through 60.3069 or located at permanent sites or where materials are transported in from another site. Air permits shall not be required for air curtain burners located at temporary land clearing or right-of-way maintenance sites for less than nine months unless they are subject to 40 CFR 60.2245 through 60.2265, 60.2810 through 60.2870, 60.2970 through 60.2975, or 60.3062 through 60.3069. The operation of air curtain burners in particulate and ozone nonattainment areas shall cease in any area that has been forecasted to be in an Air Quality Action Day Code “Orange” or above during the time period covered by that forecast.

(b) Air curtain burners shall comply with the following conditions and stipulations:

- (1) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the National Weather Service during the time of the burning shall be away from any area, including public roads within 250 feet of the burning as

measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning;

- (2) Only collected land clearing materials may be burned. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, tires, grass clippings, collected leaves, paper products, plastics, general trash, garbage, or any materials containing painted or treated wood materials shall not be burned. Leaves still on trees or brush may be burned;
- (3) No fires shall be started or material added to existing fires when the ~~Division of Forest Resources~~North Carolina Forest Service has banned burning for that area;
- (4) Burning shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m.;
- (5) ~~Reserved~~The air curtain burner shall not be operated more than the maximum source operating hours-per-day and days-per-week. The maximum source operating hours-per-day and days-per-week shall be set to protect the ambient air quality standard and prevention of significant deterioration (PSD) increment for particulate. The maximum source operating hours-per-day and days-per-week shall be determined using the modeling procedures in Rule .1106(b), (c), and (f) of this Subchapter. This Subparagraph shall not apply to temporary air curtain burners;
- (6) ~~Reserved~~An air curtain burner with an air quality permit shall have onsite at all times during operation of the burner a visible emissions reader certified according to 40 CFR Part 60, Method 9 to read visible emissions, and the facility shall test for visible emissions within five days after initial operation and within 90 days before permit expiration;
- (7) Air curtain burners shall meet manufacturer's specifications for operation and upkeep to ensure complete burning of material charged into the pit. Manufacturer's specifications shall be kept on site and be available for inspection by Office staff;
- (8) Except during start-up, visible emissions shall not exceed ten percent opacity when averaged over a six-minute period except that one six-minute period with an average opacity of more than ten percent but no more than 35 percent shall be allowed for any one-hour period. During start-up, the visible emissions shall not exceed 35 percent opacity when averaged over a six-minute period. Start-up shall not last for more than 45 minutes, and there shall be no more than one start-up per day. Instead of complying with the opacity standards in the Subparagraph, air curtain burners subject to:
 - (A) 40 CFR 60.2245 through 60.2265 shall comply with the opacity standards in 40 CFR 60.2250;
 - (B) 40 CFR 60.2810 through 60.2870 shall comply with the opacity standards in 40 CFR 60.2260;
 - (C) 40 CFR 60.2970 through 60.2975 shall comply with the opacity standards in 40 CFR 60.2271; or
 - (D) 40 CFR 60.3062 through 60.3069 shall comply with the opacity standards in 40 CFR 60.3066;
- (9) The owner or operator of an air curtain burner shall not allow ash to build up in the pit to a depth higher than one-third of the depth of the pit or to the point where the ash

begins to impede combustion, whichever occurs first. The owner or operator of an air curtain burner shall allow the ashes to cool and water the ash prior to its removal to prevent the ash from becoming airborne;

- (10) The owner or operator of an air curtain burner shall not load material into the air curtain burner such that it will protrude above the air curtain;
- (11) Only distillate oil, kerosene, diesel fuel, natural gas, or liquefied petroleum gas may be used to start the fire; and
- (12) The location of the burning at temporary sites shall be at least ~~500~~300 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The Director may grant exceptions to the setback requirements if a signed, written statement waiving objections to the air curtain burning is obtained from a resident or an owner of each dwelling, commercial or institutional establishment, or other occupied structure within 300 feet of the burning site. In case of a lease or rental agreement, the lessee or renter, and the property owner shall sign the statement waiving objections to the burning. The statement shall be submitted to and approved by the Director before initiation of the burn. Factors that the Director shall consider in deciding to grant the exception include: all the persons who need to sign the statement waiving the objection have signed it; the location of the burn; and the type, amount, and nature of the combustible substances.
- ~~(13) The material to be burned must originate from the land being cleared or the area being maintained.~~

Compliance with this Rule does not relieve any owner or operator of an air curtain burner from the necessity of complying with other rules in this Section or any other air quality rules.

(c) Recordkeeping Requirements. The owner or operator of an air curtain burner at a permanent site shall keep a daily log of specific materials burned and amounts of material burned in pounds per hour and tons per year. The logs at a permanent air curtain burner site shall be maintained on site for a minimum of two years and shall be available at all times for inspection by the Office of Environmental Assistance and Protection. The owner or operator of an air curtain burner at a temporary site shall keep a log of total number of tons burned per temporary site. Additionally, the owner or operator of an air curtain burners subject to:

- (1) 40 CFR 60.2245 through 60.2265 shall comply with the monitoring, recordkeeping, and reporting requirement in 40 CFR 60.2245 through 60.2265;
- (2) 40 CFR 60.2245 through 60.2265 shall comply with the monitoring, recordkeeping, and reporting requirement in 40 CFR 60.2245 through 60.2265;
- (3) 40 CFR 60.2245 through 60.2265 shall comply with the monitoring, recordkeeping, and reporting requirement in 40 CFR 60.2245 through 60.2265;
- (4) 40 CFR 60.2245 through 60.2265 shall comply with the monitoring, recordkeeping, and reporting requirement in 40 CFR 60.2245 through 60.2265.

(d) Title V Considerations. Burners that have the potential to burn 8,100 tons of material or more per year may be subject to Section 3Q-0500, Title V Procedures.

(e) Prevention of Significant Deterioration Consideration. Burners that burn 16,200 tons per year or more may be subject to Sec. 3D-0530, Prevention of Significant Deterioration.

(f) A person may use a burner using a different technology or method of operation than an air curtain burner as defined under Sec. 3D-1902 if he demonstrates to the Director that the burner is at least as effective as an air curtain burner in reducing emissions and if the Director approves the use of the burner. The Director shall approve the burner if he finds that it is at least as effective as an air curtain burner. This burner shall comply with all the requirements of this Rule.

(g) In addition to complying with the requirements of this rule, an air curtain burner subject to:

- (1) 40 CFR Part 60, Subpart CCCC that commenced construction after November 30, 1999, or that commenced reconstruction or modification on or after June 1, 2001, shall also comply with 40 CFR 60.2245 through 60.2265.
- (2) 40 CFR Part 60, Subpart EEEE that commenced construction after December 9, 2004, or that commenced reconstruction or modification on or after June 16, 2006, shall also comply with 40 CFR 60.2970 through 60.2975. (11-11-96, 10-25-99. 5-8-06)

SUBCHAPTER 3Q - AIR QUALITY PERMITS

SECTION 3Q-0200 PERMIT FEES

Sec. 3Q-0203. Permit and application fees

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

ANNUAL PERMIT FEES
(FEES FOR CALENDAR YEAR 2015)

Facility Category	Tonnage Factor	Basic Permit Fee	Nonattainment Area Added Fee
Title V	\$31.78	\$6,888	\$3,709
Synthetic Minor		\$1,500	
Exclusionary Small		\$250	
Small		\$250	
General	50% of the otherwise applicable fee		

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

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

PERMIT APPLICATION FEES
(FEES FOR CALENDAR YEAR 2015)

Facility Category	New or Modification	New or Significant Modification	Minor Modification	Ownership Change
Title V		\$9,442	\$918	\$60
Title V (PSD or NSR/NAA)	\$14,294			\$60
Title V (PSD and NSR/NAA)	\$27,802			\$60
Synthetic Minor	\$400			\$50
Exclusionary Small	\$50			\$25
Small	\$50			\$25
General	50% of the otherwise applicable fee			\$25

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

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

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

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

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

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

- (1) are in an area designated in 40 CFR 81.334 as nonattainment, or

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

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

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

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

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

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

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

(l) The permit fee for an Asbestos NESHAP. An applicant for an asbestos containing material removal permit must indicate whether the asbestos is to be removed as part of a renovation or a demolition. If the asbestos is to be removed as part of a renovation the permit fee shall be the greater of one percent (1%) of the contract price or the total of \$.10 times the square footage of non-friable asbestos materials that have become friable plus \$.20 times the linear or square footage of friable asbestos containing materials. Friable asbestos materials include pipe insulation, boiler insulation and surfacing material. Non-friable asbestos materials include floor tile, roofing, and cement board panels. Each renovation permit fee shall be submitted with the Asbestos Demolition/Renovation Operations Notification and Permit Application. If the asbestos is to be removed as part of a demolition, the fee is the greater of the following, not to exceed one thousand five hundred dollars (\$1500):

(1) One percent (1%) of the contracted price.

(2) The total of \$.10 times the square footage of non-friable asbestos materials that have become friable plus \$.20 times the linear or square footage of friable asbestos containing materials.

This fee shall be considered a renovation permit fee and shall be submitted with the Asbestos Demolition/Renovation Operations Notification and Permit Application. (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 10-8-96, 8-18-98, 1-26-99, 1-19-2000, 12-12-00, 05-14-01, 11-01-01, 12-18-01, 12-20-02, 7-12-05)

Sec. 3Q-0206. Payment of fees

(a) Payment of fees required under this Section shall be by check or money order made payable to the Forsyth County General Fund. Annual permit fee payments shall refer to the permit number.

(b) If, within 30 days after being billed, the permit holder fails to pay an annual fee required under this Section, the Director may initiate action to terminate the permit under Sec. 3Q-0309 or 0519, as appropriate.

(c) A holder of multiple permits may arrange to consolidate the payment of annual fees into one annual payment.

~~(d) The permit holder shall submit a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling along with the annual permit fee payment. The description shall include a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling.~~

(d) The permit application fee required by this Section shall accompany the application and is non-refundable.

(e) The Office shall annually prepare and make publicly available an accounting showing aggregate fee payments collected under this Section from facilities which have obtained or will obtain permits under Section 3Q-0500 except synthetic minor facilities and showing a summary of reasonable direct and indirect expenditures required to develop and administer the Title V permit program. (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 05-14-01)

SECTION 3Q-0300 CONSTRUCTION AND OPERATION PERMIT

Sec. 3Q-0304. Applications

(a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and shall be filed in writing according to with Sec. 3Q-0104.

(b) Information to accompany application. Along with filing a complete application form, the applicant shall also file the following:

(1) Reserved.

(2) Reserved

~~(3) for a new facility or modification of an existing facility, a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling; the description shall include:~~

~~(A) for an existing facility, a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling; or~~

(B) for a new facility, a summary of activities related to and plans for source reduction and recycling; and

(4)(3) for permit renewal, an emissions inventory that contains the information specified under Sec. 3D-0202, Registration of Air Pollution Sources (the applicant may use emission inventory forms provided by the Office to satisfy this requirement); and

(5)(4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if the Director finds this information necessary to evaluate the source, its air pollution abatement equipment, or the facility.

(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.

(c) When to file application. For sources subject to the requirements of Sec. 3D-0530 (prevention of significant deterioration) or Sec. 3D-0531 (new source review for sources in nonattainment areas), applicants shall file air permit applications at least 180 days before the projected construction date. For all other sources, applicants shall file air permit applications at least 90 days before the projected date of construction of a new source or modification of an existing source.

(d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the originally permitted source, application for permit renewal or ownership change may be made by letter to the Director at the address specified in Sec. 3Q-0104. The renewal, name, or ownership change letter must state that there have been no changes in the permitted facility since the permit was last issued. However, the Director may require the applicant for ownership change to submit additional information, if the Director finds the following information necessary to evaluate the applicant for ownership change, showing that:

(1) The applicant is financially qualified to carry out the permitted activities, or

(2) 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.

To make a name or ownership change, the applicant shall send the Director the number of copies of letters specified in Sec. 3Q-0305 (a)(3) or (4) of this Section signed by a person specified in Paragraph (j) of this Rule.

(e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting procedures may be made by letter to the Director at the address specified in Sec. 3Q-0104. To make changes in construction or test dates or reporting procedures, the applicant shall send the Director the number of copies of letters specified in Sec. 3Q-0305 (a)(5) signed by a person specified in Paragraph (j) of this Rule.

(f) When to file applications for permit renewal. Applicants shall file applications for renewals such that they are mailed to the Director at the address specified in Sec. 3Q-0104 and postmarked at least 90 days before expiration of the permit.

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

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

(i) Requesting additional information. Whenever the information provided on the permit application forms does not adequately describe the source and its air cleaning device, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air cleaning device. Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that he considers necessary to determine compliance with applicable standards.

(j) Signature on application. Permit applications submitted pursuant to this Rule shall be signed as follows:

- (1) for corporations, by a principal executive officer of at least the level of vice-president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the emissions described in the permit application form originates;
- (2) for partnership or limited partnership, by a general partner;
- (3) for a sole proprietorship, by the proprietor;
- (4) for municipal, State, federal, or other public entity, by a principal executive officer, ranking elected official, or other duly authorized employee.

(k) Application fee. 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.

(l) Correcting submittals of incorrect information. An applicant has a continuing obligation to submit relevant facts pertaining to his permit application and to correct incorrect information on his permit application.

(m) Retaining copy of permit application package. 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; Ord. No. 9-94, 12-19-94, 5-24-99, 5-8-06)

SECTION 3Q-0500 TITLE V PROCEDURES

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) 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.

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 (c) or (d) 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) for a new facility or modification of an existing facility, a written description of current and projected plans to reduce the emissions of air contaminants by source reduction and recycling; the description shall include:~~

~~(A) for an existing facility, a summary of activities related to source reduction and recycling and a quantification of air emissions reduced and material recycled during the previous year and a summary of plans for further source reduction and recycling; or~~

~~(B) for a new facility, a summary of activities related to and plans for source reduction and recycling; and~~

(4)(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 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)