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**ARTICLE 1.0000**

**PERMITTING PROVISIONS FOR AIR POLLUTION SOURCES, RULES AND  
OPERATING REGULATIONS FOR ACID RAIN SOURCES, TITLE V AND TOXIC AIR  
POLLUTANTS**

**Section 1.5100 GENERAL PROVISIONS AND ADMINISTRATION**

**1.5101 DECLARATION OF POLICY**

This Ordinance is designed to conserve, protect, and improve the air resources of Mecklenburg County by providing for the establishment of the office and prescribing the duties of the Director of Mecklenburg Air Quality and empowering investigation and abatement by the Director of violations of this Ordinance; for the establishment and enforcement of rules and regulations; for permits for the installation, construction, addition to, alteration and use of process, fuel-burning, refuse-burning, and control equipment; for inspections and tests for process, fuel-burning, refuse-burning, and control equipment, and for the issuance of permits; establishing limitations upon the emissions of air contaminants, declaring emissions which do not meet such limitations to be unlawful, prohibiting certain acts causing air pollution, providing for fines and penalties for violations of the provisions of this Ordinance; and for just and adequate means by which the provisions of this Ordinance may be executed.

## 1.5102 DEFINITION OF TERMS

The following words and phrases when used in this Ordinance shall, for the purpose of this Ordinance, have the meanings respectively ascribed to them in this Regulation, unless a different meaning clearly is indicated. Provided further that to the extent that any definition in MCAPCO Regulation 1.5102 - "Definition of Terms" conflicts with any definition(s) included in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures", such MCAPCO Article 2.0000 definition(s) shall control.

- (1) "**Administrator**" means the Director of Mecklenburg County Air Quality when it appears in any Code of Federal Regulation incorporated by reference in this Ordinance, unless:
  - (a) a specific Regulation in this Ordinance specifies otherwise, or
  - (b) the U.S. Environmental Protection Agency in its delegation or approval states that a specific authority of the Administrator of the Environmental Protection Agency is not included in its delegation or approval.
- (2) "**Aerosol**" means a dispersion or suspension of small solid or liquid particles or any combination thereof in the air or other gaseous medium.
- (3) "**Air Contaminant**" means any smoke, soot, dust, fly ash, cinders, dirt, noxious or obnoxious acid, fumes, oxides, gases, vapors, odors, toxic or radioactive substance, waste particulate, solid, liquid, or gaseous matter or any other materials in the outdoor atmosphere.
- (4) "**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 otherwise enters the ambient air. Water vapor shall not be considered an air pollutant.
- (5) "**Air Pollution**" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human or animal life, or to the property of others, or that interfere with the comfortable enjoyment of life or property or the conducting of business.
- (6) "**Allowable Emissions**" means the maximum emissions allowed by the applicable Regulations set forth in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures" or by permit conditions, if the permit limits emissions to a lesser amount.
- (7) "**Alteration**" means any modification which could change the emission characteristics.
- (8) "**Applicable Requirements**" means:
  - (A) any requirement listed in this Ordinance;
  - (B) any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through rulemaking pursuant to 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 permit for a facility pursuant to this Ordinance;
  - (D) any standard or other requirement pursuant to Section 111 or 112 of the federal Clean Air Act, but not including the contents of any risk management plan required pursuant to Section 112 of the federal Clean Air Act;
  - (E) any standard or other requirement pursuant to Title IV of the federal Clean Air Act;
  - (F) any standard or other requirement governing solid waste incineration pursuant to Section 129 of the federal Clean Air Act;
  - (G) any standard or other requirement pursuant to Section 183(e), 183(f), or 328 of the federal Clean Air Act;
  - (H) any standard or requirement pursuant to Title VI of the federal Clean Air Act unless a

- permit for such requirement is not required pursuant to this Section;
- (I) any requirement pursuant to 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 pursuant to Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal Clean Air Act.
- (9) **“Applicant”** means any person who is applying for an air quality permit from the Department.
  - (10) **“Application Package”** means all elements or documents required to make an application complete.
  - (11) **“Ashes”** means cinders, fly ash, or any other solid material resulting from combustion, and may include unburned combustibles.
  - (12) **“A.S.M.E.”** means the American Society of Mechanical Engineers.
  - (13) **“A.S.T.M.”** means the American Society for Testing Materials.
  - (14) **“Atmosphere”** means the air that envelops or surrounds the earth.
  - (15) **“Board”** means the Mecklenburg County Board of County Commissioners.
  - (16) **“Btu Hour Input”** means the gross calorific value of fuel fired per hour in fuel-burning equipment. (Gross calorific value shall be determined by standard procedures of A.S.T.M.)
  - (17) **“CFR”** means the Code of Federal Regulations.
  - (18) **“Cinders”** means particles not ordinarily considered as fly ash or dust because of their greater size, consisting mainly of fused ash and/or burned matter.
  - (19) **“Combustible Material”** means any substance that, when ignited, will burn in the air.
  - (20) **“Combustible Refuse”** means any combustible waste material containing carbon in a free or combined state other than liquids or gases.
  - (21) **“Combustion Contaminants”** means particulate matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.
  - (22) **“Commission”** means the Mecklenburg County Air Quality Commission.
  - (23) **“Construction”** means change in the method of operation or any 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 shall not be considered construction:
    - (a) clearing and grading;
    - (b) building access roads, driveways, and parking lots;
    - (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 pursuant to G.S. 143-215.108.
  - (24) **“Control Equipment”** means any equipment which has the function of controlling process, fuel-burning, or refuse-burning equipment and thus reduces the creation of, or the emission of, air contaminants to the atmosphere, or both.
  - (25) **“County”** means Mecklenburg County, North Carolina.
  - (26) **“Department”** means Mecklenburg County Air Quality which may also be identified using the acronym (“MCAQ”).
  - (27) **“Director”** means the Director of Mecklenburg County Air Quality or his duly authorized

representatives.

- (28) **“Dust”** means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, etc.
- (29) **“Emission”** means the release into the outdoor atmosphere of air contaminants.
- (30) **“EPA”** means the United States Environmental Protection Agency or the administrator of the Environmental Protection Agency.
- (31) **“EPA Approves”** means full approval, interim approval, or partial approval by EPA.
- (32) **“Equivalent Unadulterated Fuels”** means used oils that have been refined such that the content of toxic additives or contaminants in the oils are no greater than those in unadulterated fossil fuels.
- (33) **“Facility”** means all of the pollutant-emitting activities, except transportation facilities, that are located on one or more contiguous or adjacent properties under common control.
- (34) **“Federally Enforceable”** or **“Federal Enforceable”** means enforceable by the EPA.
- (35) **“Fly Ash”** means particulate matter capable of being air-borne or gas-borne and consisting essentially of fused ash and/or unburned material.
- (36) **“Fuel”** means any form of combustible matter - solid, liquid, or gas, excluding combustible refuse.
- (37) **“Fuel Burning Operation”** means use of furnace, boiler, device, or mechanism used principally, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.
- (38) **“Fuel Combustion Equipment”** means any fuel burning source covered pursuant to MCAPCO Regulations 2.0503 - “Particulates from Fuel Burning Indirect Heat Exchangers”, 2.0504 - “Particulates from Wood Burning Indirect Heat Exchangers” or 40 CFR Part 60 Subparts D - “Fossil fuel-fired steam generators”, Da - “Electric utility steam generating units”, Db - “Industrial - commercial - institutional steam generating units”, or Dc - “Small industrial - commercial - institutional steam generating units”.
- (39) **“Furnace”** means an enclosed space provided for the ignition and/or combustion of fuel.
- (40) **“Green Wood”** means wood with a moisture content of 18 percent or more.
- (41) **“Hazardous Air Pollutant”** means any pollutant that has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants listed only in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”, but not pursuant to Section 112(b), shall not be included in this definition.
- (42) **“Insignificant Activities”** means activities defined as insignificant activities because of category or as insignificant activities because of size or production rate pursuant to MCAPCO Regulation 1.5503 - “Definitions”.
- (43) **“Lesser Quantity Cutoff”** means:
  - (A) for a source subject to the requirements of Section 112(d) or 112(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, pursuant to Section 112(d) of the federal Clean Air Act;
    - (ii) a MACT standard established pursuant to Section 112(j) of the federal Clean Air

- Act; or
- (iii) substitute MACT or GACT adopted pursuant to Section 112(l) of the federal Clean Air Act.
- (B) for modification of a source subject to, or that 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 pursuant to 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.
- (44) **“Major Facility”** means a major source as defined pursuant to 40 CFR 70.2.
- (45) **“Mass Emission Rate”** means the weight discharged per unit of time.
- (46) **“Mist”** means a suspension of any finely-divided liquid in any gas or atmosphere.
- (47) **“Modification”** means any physical change or change in operation that results in a change in emissions or affects the compliance status of the source or the facility.
- (48) **“Modified Facility”** means the modification of an existing facility or source and:
- (A) the permitted facility or source is being modified in such a manner to require a new or reissued permit pursuant to this Article; or
- (B) a new source is being added in such a manner as to require a new or reissued permit pursuant to this Article.
- A modified facility does not include a facility or source that requests to change name or ownership, construction or test dates, or reporting procedures.
- (49) **“New Facility”** means a facility that is receiving a permit from the Department for construction and operation of an air pollution source and the facility is not currently permitted by the Department.
- (50) **“Odor”** means that property of an air contaminant that affects the sense of smell.
- (51) **“Open Fire”** means any combustion process from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.
- (52) **“Owner or Operator”** means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (53) **“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 also may be used for emergency backup.
- (54) **“Permit”** means the binding written document, including any revisions thereto, issued pursuant to G.S. 143-215.108 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 G.S. 143-215.108. This document shall specify the requirements applicable to the facility or source and to the permittee.
- (55) **“Permittee”** means the person who has been issued an air quality permit from the Department.
- (56) **“Person”** means any individual natural person, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations, or other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

- (57) **“Plans and Specifications”** means the completed application and any other documents required to define the operating conditions of the air pollution source.
- (58) **“Portable Generator”** means a generator permanently mounted on a trailer or a frame with wheels.
- (59) **“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 shall include the air pollution control equipment, restriction on hours of operation or the type or amount of material combusted, stored or processed. Potential emissions shall include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions shall not include a facility’s secondary emissions such as those from motor vehicles associated with the facility and shall not include emissions from insignificant activities because of category as defined in MCAPCO Regulation 1.5503 - “Definitions”. If MCAPCO Regulation 1.5211 - “Applicability” or a Rule or Regulation in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants regulated pursuant to that Regulation.
- (60) **“Private Residence”** means containing fewer than three dwelling units.
- (61) **“Process Equipment”** means any equipment, device, or contrivance for changing any materials or for storage or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use of which may cause any discharge of an air contaminant into the outdoor atmosphere but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this Ordinance.
- (62) **“Refuse”** means any garbage, rubbish, or trade waste.
- (63) **“Refuse-Burning Equipment”** means any equipment, device, or contrivance used for the destruction of garbage, rubbish, and/or other wastes by burning, and all appurtenances thereto.
- (64) **“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 as defined pursuant to 40 CFR Part 50;
  - (C) any pollutant that is regulated pursuant to MCAPCO Regulation 2.0524 - “New Source Performance Standards” or MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”, or MCAPCO Regulation 2.1111 - “Maximum Achievable Control Technology”; or 40 CFR Parts 60, 61, or 63;
  - (D) any pollutant subject to a standard promulgated pursuant to Section 112 of the federal Clean Air Act or other requirements established pursuant to 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), Section 112 (j) or (r) of the federal Clean Air Act;
  - (E) any Class I or II substance listed pursuant to Section 602 of the federal Clean Air Act; or
  - (F) any toxic air pollutant listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.

- (65) **“Respondent”** means the person against whom a penalty has been assessed.
- (66) **“Responsible official”** means one of the following:
- (A) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who is in charge of a principal business function; any other person who performs similar policy or decision-making functions for the corporation; or a duly-authorized representative of such a person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either;
    - (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or
    - (ii) the delegation of authority to such representatives is approved in advance by the permitting authority;
  - (B) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or
  - (C) for a municipality, State, federal, or other public agency: either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).
- (67) **“Saw Mill”** 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 shall not be considered part of a saw mill include chipping, sanding, planning, routing, lathing, and drilling.
- (68) **“SIP”** means the North Carolina State Implementation Plan for Air Quality and the Mecklenburg County portion thereof.
- (69) **“Solid Fuel”** means a fuel which is fired as a solid such as coal, lignite, and wood.
- (70) **“Soot”** means agglomerated particles consisting mainly of carbonaceous material.
- (71) **“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.
- (72) **“Stack”** means any chimney, flue, conduit, or opening arranged for the emission of solids, liquids, gases, or aerosols into the outdoor atmosphere.
- (73) **“Stack Height”** means the vertical distance measured in feet between the point of discharge from the stack or chimney into the outdoor atmosphere and the elevation of the land thereunder.
- (74) **“Standard Conditions”** means a gas temperature of 70 degrees Fahrenheit and a gas pressure of 29.92 inches of mercury.
- (75) **“Title IV Source”** means a source that is required to be permitted following the procedures under MCAPCO Section 1.5400 - “Acid Rain Procedures”.
- (76) **“Title V Source”** means a source that is required to be permitted following the procedures under MCAPCO Section 1.5500 - “Title V Procedures”.
- (77) **“Toxic Air Pollutants”** means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.
- (78) **“Trade Secret”** means business or technical information, which in accordance with N.C.



G.S. 66-152 includes but is not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- (A) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
  - (B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (79) **“Transportation Facility”** shall be considered a complex source as defined in G.S. 143-213(22).
- (80) **“Unadulterated Fossil Fuel”** means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that may result in the emissions of a toxic air pollutant listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.
- (81) **“Vapor”** means the gaseous form of a substance which normally exists in the solid or liquid state.
- (82) **“Volatile or Volatile Matter”** means the gaseous constituents of solid fuels as determined by procedures defined in current A.S.T.M. Methods.

*MCAQ History Note:*

*Amended Eff. December 18, 2018; December 15, 2015*

### **1.5103 ENFORCEMENT AGENCY**

The Director of Mecklenburg County Air Quality shall have primary responsibility for administration of these Regulations, and he shall appoint an adequate administrative and technical staff within the Department. The Director is authorized to use laboratory and other facilities and personnel of the Department to assist him in the administration of this Ordinance.

### **1.5104 GENERAL DUTIES AND POWERS OF THE DIRECTOR, WITH THE APPROVAL OF THE BOARD**

The powers and duties of the Director include, but are not limited to, the following:

- (a) Encourage the making of agreements and compacts among neighboring counties and states for the prevention and control of air pollution;
- (b) Investigate and evaluate the air resources of the County so as to identify sources and problems unique to the County, determine the degree of need for planning and action for air pollution control, scientifically define air pollution problems unique to the County, and obtain scientific information for the design, operation, and evaluation of the effectiveness of an air pollution control program tailored to the needs of the County, including,
  - (1) Emission inventories,
  - (2) Source registration,
  - (3) Receptor and effects inventories,
  - (4) Meteorological surveys,
  - (5) Air quality surveys,

and  
(6) Odor surveys;

(c) Administer and enforce rules and Regulations adopted by the Board controlling air pollution including but not limited to, issuing permits pursuant to this Ordinance as necessary to protect the public health and environment;

(d) Require immediate discontinuance of discharges of air contaminants into the atmosphere;

(e) Maintain and operate laboratory facilities with capabilities appropriate for air pollution studies, research, analytical determination and essential instrumentation;

(f) Prepare and develop a comprehensive plan for prevention, abatement, and control of air pollution;

(g) Collect and disseminate appropriate information and conduct such educational and training programs as may appear appropriate;

(h) Encourage voluntary cooperation by persons or groups to achieve the purposes of this Ordinance;

(i) Advise, consult, and cooperate with all levels of official governmental representatives and agencies, with industrial and commercial enterprises, with educational institutions, with associations, and with other interested persons or groups;

(j) Investigate complaints and issue such orders as may be required to effectuate the purposes of this Ordinance and enforce them by all appropriate administrative and judicial proceedings;

(k) Make such recommendations to the Board as may be required or appropriate to keep this Ordinance abreast of modern technology and scientific developments;

(l) Make inspections of any air pollution source and conduct tests as deemed necessary by the Director; and

(m) Require the facility to conduct tests and gather information to document compliance with emission standards and effectuate the purposes of this Ordinance.

#### **1.5105 DELEGATION OF AUTHORITY**

(a) The Director may delegate the processing of permit applications, the issuance of permits, the modification of permits, and the renewal of permits to the supervisory level that he or she considers appropriate, provided this delegation shall not include the authority to deny a permit or permit renewal or to revoke, or suspend a permit. The Director shall appoint adequate administrative and technical staff within the Department to assure the efficient administration of this section.

(b) The Director may delegate the issuance, modification, revocation, denial and enforcement of Special Open Burning Permits and approvals of training fires to the supervisory level he considers appropriate.

(c) The Director may delegate the administration and enforcement of MCAPCO Regulation 1.5106 - "Open Burning" to the County Fire Marshal.

*MCAQ History Note: Amended Eff. December 18, 2018*

### **1.5106 OPEN BURNING**

(a) Unless otherwise specified in this Regulation, no person shall ignite, cause to be ignited, permit to be ignited, allow, or maintain any open fire.

(b) Exception to Prohibition Against Open Fires:

- (1) Fires used only for the non-commercial cooking of food for human consumption or for recreational purposes;
- (2) Smokeless flares or safety flares for the combustion of waste gases;
- (3) Fires for training purposes when certified by the Fire Official's office and approved by the Director;
- (4) Small hand warming fires at construction sites, if the fire is small, uses clean wood, is non-smoking, does not create a nuisance and is confined to a container no larger than a 55 gallon drum; and
- (5) Special Burning Permits: An open burning permit is not a right but may be issued under extenuating circumstances or for agricultural purposes in accordance with the following restrictions:
  - (i) permits shall be issued for the specified day or days only;
  - (ii) permits shall specify the location, the material to be burned, and the hour or hours of the day during which the burning will take place;
  - (iii) Permits will be issued only for periods during which it is anticipated that ground level wind velocity will be five to fifteen (5-15) miles per hour inclusive, and either no inversion conditions or at least a 3,000-foot ceiling to the lower level of inversion; calculations of such weather conditions will be based upon information provided by the U.S. Weather Bureau; and
  - (iv) Permits shall specify the type of material to be burned. Notwithstanding any exceptions or special written burning permits otherwise provided for in this Regulation, under no circumstances will the open burning of tires, synthetic material, household waste, industrial waste, wire coating, garbage, trash, construction waste, except clean wood for hand warming fires or land clearing waste be allowed.
  - (v) The Director may delegate the issuance, modification, revocation, denial and enforcement of Special Open Burning Permits and approval of training fires to the supervisory level he considers appropriate.

(c) Whenever an open fire is found upon public or private property upon which construction work is underway by a contractor or recently has been completed by a contractor without the debris therefrom having been removed, the fact of the open fire shall constitute prima-facie evidence that the fire was set by the contractor in charge of the construction on said property, unless the contractor shall have engaged a sub-contractor to remove the debris in which case the fact of the fire together with evidence that the sub-contractor was so engaged to remove the debris shall constitute prima-facie evidence that the fire was set by said sub-contractor.

(d) Whenever an open fire is found upon private property upon which construction work is not underway by a contractor and upon which construction work has not been recently completed by a contractor, the fact of the open fire shall constitute prima-facie evidence that the fire was set by the owner of the property, unless the private property be leased to another in which cases the facts of the open fire and lease shall constitute prima-facie evidence that the fire was set by the lessee.

(e) The Director may delegate the administration and enforcement of this Regulation to the County Fire Marshal as provided in MCAPCO Regulation 1.5105 - "Delegation of Authority" Paragraph (c).

#### **1.5107 CONTROL AND PROHIBITION OF VISIBLE EMISSIONS**

(a) Purpose and Scope: The intent of this Regulation is to promulgate rules pertaining to the prevention, abatement, and control of emissions generated as a result of fuel burning operations and other industrial processes where an emission reasonably can be expected to occur. This Regulation shall apply to all fuel burning installations and such other processes as may cause a visible emission incident to the conduct of their operations.

(b) Restrictions Applicable to All Installations: no person shall cause, suffer, allow, or permit emissions from any installation which are of a shade or density darker than that designated as 20% opacity for an aggregate of more than six (6) minutes in any one hour or more than twenty (20) minutes in any 24-hour period. Where the presence of combined water is the only reason for failure of an emission to meet the limitations of MCAPCO Regulation 1.5107 - "Control and Prohibition of Visible Emissions", those requirements shall not apply.

(c) Special Requirements for Certain Sources: Sources subject to MCAPCO Regulations 2.0508 - "Particulates from Pulp and Paper Mills", 2.0524 - "New Source Performance Standards", 2.1110 - "National Emission Standards for Hazardous Air Pollutants" or 2.1111 - "Maximum Achievable Control Technology", shall comply with the visible emissions standards specified in those Regulations. In no case shall any such source's visible emissions be allowed to exceed 20% opacity.

### **1.5108 DUST AND RELATED MATERIAL**

(a) No person shall discharge into the atmosphere dust in such quantities or of such toxic or corrosive nature that may be injurious to humans or animals or may cause damage to the property of others.

(b) Fugitive dust shall not be discharged from an industrial establishment in such a manner and in such quantity that the ambient air quality standards are exceeded at the property line.

(c) No owner or lessee of a storage lot, parking lot, automotive sales lot, access roadway, or any other place shall permit dust or other material readily scattered by wind to leave such property unless the owner or lessee shall have first taken reasonable precautions or otherwise have maintained such property in such a manner as to minimize air pollution.

(d) No person shall operate any vehicle in such a manner that particulate matter loaded thereon is discharged onto a public highway, street, road, or right-of-way, except public employees in the exercise of their duties, or contractors and their employees building, paving, or repairing the section of highway, street, road, or right-of-way in question.

### **1.5109 NUISANCE**

No person shall cause, suffer, allow, or permit the discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any number of persons or to the public or which endanger the comfort, repose, health, or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property.

### **1.5110 CONTROL AND PROHIBITION OF ODOROUS EMISSIONS**

(a) Purpose. The purpose of this Regulation is to provide for the control and prohibition of objectionable odorous emissions.

(b) Definitions. For the purpose of this Regulation the following definitions shall apply:

- (1) Commercial purposes means activities that require a state or local business license to operate;
- (2) Temporary activities or operations means activities or operations that are less than 30 days in duration during the course of a calendar year and do not require an air quality permit.

(c) Applicability. With the exceptions in Paragraph (d) of this Regulation, this Regulation shall apply to all operations that may produce odorous emissions that can cause or contribute to objectionable odors beyond the facility's boundaries.

(d) Exemptions. The requirements of this Regulation do not apply to:

- (1) processes at kraft pulp mills identified in MCAPCO Regulation 2.0528 - "Total Reduced Sulfur from Kraft Pulp Mills", and covered under MCAPCO Regulation

- 2.0524 - New Source Performance Standards” or 2.0528 - “Total Reduced Sulfur from Kraft Pulp Mills”;
- (2) processes at facilities that produce feed-grade animal proteins or feed-grade animal fats and oils identified in and covered under Regulation 2.0539 - “Odor Control of Feed Ingredient Manufacturing Plants”;
  - (3) motor vehicles and transportation facilities;
  - (4) all on-farm animal and agricultural operations, including dry litter operations; (*state reg. exempts sources subject to NCAC 15A 2D.1804 - which was not adopted*);
  - (5) municipal wastewater treatment plants and municipal wastewater handling systems;
  - (6) restaurants and food preparation facilities that prepare and serve food on site;
  - (7) single family dwellings not used for commercial purposes;
  - (8) materials odorized for safety purposes;
  - (9) painting operations that do not require a business license; or
  - (10) all temporary activities or operations.

(e) Control Requirements. The owner or operator of a facility subject to this Regulation shall not operate the facility without implementing management practices or installing and operating odor control equipment sufficient to prevent odorous emissions from the facility from causing or contributing to objectionable odors beyond the facility’s boundary.

(f) Maximum feasible controls. If the Director determines that a source or facility subject to this Regulation is emitting an objectionable odor by the procedures described in Paragraph (g) of this Regulation, the Director shall require the owner or operator to implement maximum feasible controls for the control of odorous emissions. (Maximum feasible controls shall be determined according to the procedures in MCAPCO Regulation 1.5113 - “Determination of Maximum Feasible Controls for Odorous Emissions”.) The owner or operator shall:

- (1) within 180 days of receipt of written notification from the Director of the requirement to implement maximum feasible controls, complete the determination process outlined in MCAPCO Regulation 1.5113 - “Determination of Maximum Feasible Controls for Odorous Emissions” and submit the completed maximum feasible control determination process along with a permit application for maximum feasible controls and a compliance schedule to the Department; the compliance schedule shall contain the following increments of progress:
  - (A) a date by which contracts for the odorous emission control systems and equipment shall be awarded or orders shall be issued for purchase of component parts;
  - (B) a date by which on-site construction or installation of the odorous emission control systems and equipment shall begin;
  - (C) a date by which on-site construction or installation of the odorous emission control systems and equipment shall be completed, and
  - (D) a date by which final compliance shall be achieved.
- (2) within 18 months after receiving written notification from the Director of the requirement to implement maximum feasible controls, have installed and begun operating maximum feasible controls.

The owner or operator shall certify to the Director within five days after the deadline for each

increment of progress in this Paragraph whether the required increment of progress has been met.

(g) Determination of the existence of an objectionable odor. A source or facility is causing or contributing to an objectionable odor when:

- (1) A member of the Department staff determines by field investigation that an objectionable odor is present by taking into account nature, intensity, pervasiveness, duration, and source of the odor and other pertinent factors;
- (2) The source or facility emits known odor causing compounds such as ammonia, total volatile organics, hydrogen sulfide, or other sulfur compounds at levels that cause objectionable odors beyond the property line of that source or facility; or
- (3) The Department receives epidemiological studies associating health problems with odors from the source or facility or evidence of documented health problems associated with odors from the source or facility provided by the State Health Director.

*History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);  
Eff. April 1, 2001.*

#### **1.5111 GENERAL RECORDKEEPING, REPORTING AND MONITORING REQUIREMENTS**

(a) This Regulation applies to all regulated sources of air pollution located in Mecklenburg County and is in addition to those to which the provisions of MCAPCO Section 2.0900 - "Volatile Organic Compounds" are applicable.

(b) Notwithstanding Paragraph (a), Subparagraph (c)(5) of this Regulation is applicable to those sources to which the provisions of MCAPCO Section 2.0900 - "Volatile Organic Compounds" are applicable.

(c) The owner or operator of any air pollution emission source or control equipment shall maintain:

- (1) records detailing all activities relating to any compliance schedule entered into with Mecklenburg County Air Quality,
- (2) records detailing all malfunctions of air pollution control equipment,
- (3) records of all testing conducted to demonstrate compliance with emission limits derived through application of this Ordinance,
- (4) records of all monitoring conducted under Paragraph (h) of this Regulation.
- (5) For sources to which MCAPCO Regulations 2.0524 - "New Source Performance Standards", 2.1110 - "National Emission Standards for Hazardous Air Pollutants", 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Non-Attainment Areas" are applicable, records that demonstrate that the principles and practices of pollution prevention to reduce or eliminate air pollutants produced or created at the source are actively and routinely considered and are being practiced at the facility.

(d) The owner or operator of any air pollution emission source or control equipment shall submit

reports detailing the nature, specific sources, total annual quantities of air pollutant emissions or sufficient information to estimate the quantities of air pollutant emissions as required by air quality permits and as required for registration of an air pollution source. Other pertinent information shall be supplied to the Director when requested.

(e) Title V facilities that have emissions of the regulated pollutants listed below shall report actual and potential emissions by April 30th of each year for the previous calendar year.

- (1) volatile organic compounds;
- (2) nitrogen oxides;
- (3) total suspended particulates;
- (4) sulfur dioxide;
- (5) fluorine;
- (6) hydrogen chloride;
- (7) hydrogen fluoride;
- (8) hydrogen sulfide;
- (9) methyl chloroform;
- (10) methylene chloride;
- (11) ozone;
- (12) chlorine;
- (13) hydrazine;
- (14) phosphine;
- (15) particulate matter (PM10);
- (16) carbon monoxide;
- (17) lead; and
- (18) perchloroethylene.

(f) Facilities, other than Title V, that have potential emissions of 5 tons per year or more of any pollutant shown in Paragraph (e) of this Regulation, shall report actual and potential emissions by April 30th of each year for the previous calendar year.

(g) The accuracy of reports required by Paragraphs (e) and (f) of this Regulation shall be certified by a responsible official of the facility as defined pursuant to 40 CFR 70.2. Reporting may be required for other facilities by permit condition or pursuant to MCAPCO Regulation 2.0202 - "Registration of Air Pollution Sources".

(h) The owner or operator of any air pollution emission source or control equipment shall:

- (1) install, operate, and maintain process and/or control equipment monitoring instruments or procedures as necessary to comply with Paragraphs (c) and (d) of this Regulation; and
- (2) maintain, in writing, data and/or reports relating to monitoring instruments or procedures which will, upon review, document the compliance status of the air pollution emission source or control equipment to the satisfaction of the Director.

(i) Copies of all records and reports required under Paragraphs (c), (d), (e) and (h) of this



Regulation shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted. However, the Director may extend the retention period in particular instances.

(j) Copies of all records and reports required under this Section shall be made available within a reasonable time to the Director upon written request.

*MCAQ History Note:*

*Amended Eff. December 18, 2018; December 15, 2015*

### **1.5112 INCORPORATION BY REFERENCE**

(a) The Code of Federal Regulations and American Society for Testing and Materials methods referenced in this Ordinance shall be incorporated by reference and shall include subsequent amendments unless a regulation specifies otherwise.

(c) The Code of Federal Regulations may be obtained free of charge online at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

*State History Note:*

*Authority G.S. 143-215.3(a)(1); 150B-21.6;*

*Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Eff. July 1, 1994;*

*Readopted Eff. April 1, 2018.*

*MCAQ History Note: Amended Eff. December 18, 2018*

### **1.5113 DETERMINATION OF MAXIMUM FEASIBLE CONTROLS FOR ODOROUS EMISSIONS**

(a) Scope. This Regulation sets out procedures for determining maximum feasible controls for odorous emissions. The owner or operator of the facility shall be responsible for providing the maximum feasible control determination.

(b) Process for maximum feasible control determinations. The following sequential process shall be used on a case-by-case basis to determine maximum feasible controls:

- (1) Identify all available control technologies. In the first step, all available options for the control of odorous emissions shall be listed. Available options include all possible control technologies or techniques with a practical potential to control, reduce, or minimize odorous emissions. For the purposes of this document, in some specific cases a comprehensive, effective odor control plan can be listed among the possible odor control technologies as a viable and satisfactory maximum feasible control technology option. All available control technologies shall be included on this list regardless of their technical feasibility or potential energy, human health, economic, or environmental impacts.
- (2) Eliminate technically infeasible options. In the second step, the technical feasibility of all the control options identified under Subparagraph (b)(1) of this Regulation shall be evaluated with respect to source specific factors. A demonstration of technical infeasibility shall be clearly documented and shall show, based on physical, chemical, or engineering principles, that technical difficulties preclude the successful use of the control option under review. Technically infeasible control options shall then be eliminated from further consideration as maximum feasible controls.
- (3) Rank remaining control technologies by control effectiveness. All the remaining control technologies, which have not been eliminated under Subparagraph (b)(2) of this Regulation, shall be ranked and then listed in order of their ability to control odorous emissions, with the most effective control option at the top of the list. The list shall present all the control technologies that have not been previously eliminated and shall include the following information:
  - (A) control effectiveness,
  - (B) economic impacts (cost effectiveness),
  - (C) environmental impacts: this shall include any significant or unusual other media impacts (for example, water or solid waste), and, at a minimum, the impact of each control alternative on emissions of toxic or hazardous air pollutants;
  - (D) human health impacts,
  - (E) energy impacts.

However, an owner or operator proposing to implement the most stringent alternative, in terms of control effectiveness, need not provide detailed information concerning the other control options. In such cases, the owner or operator shall only document, to the satisfaction of the Director, that the proposed control option is indeed the most efficient, in terms of control effectiveness, and provide a review of collateral environmental impacts.

- (4) Evaluate most effective controls and document results. Following the delineation of

all available and technically feasible control technology options under Subparagraph (b)(3) of this Regulation, the energy, human health, environmental, and economic impacts shall be considered in order to arrive at the maximum feasible controls. An analysis of the associated impacts for each option shall be conducted. The owner or operator shall present an objective evaluation of the impacts of each alternative. Beneficial and adverse impacts shall be analyzed and, if possible, quantified. If the owner or operator has proposed to select the most stringent alternative, in terms of control effectiveness, as maximum feasible controls, he shall evaluate whether impacts of unregulated air pollutants or environmental impacts in other media would justify selection of an alternative control technology. If there are no concerns regarding collateral environmental impacts, the analysis is ended and this proposed option is selected as maximum feasible controls. In the event the most stringent alternative is inappropriate, due to energy, human health, environmental, or economic impacts, the justification for this conclusion shall be fully documented; and the next most stringent option, in terms of control effectiveness, becomes the primary alternative and is similarly evaluated. This process shall continue until the control technology evaluated can not be eliminated due to source-specific environmental, human health, energy, or economic impacts.

- (5) Select maximum feasible controls. The most stringent option, in terms of control effectiveness, not eliminated under Subparagraph (b)(4) of this Regulation shall be selected as maximum feasible controls.

*History Note:* Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);  
Eff. April 1, 2001.

