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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

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SECTION 1.5200 AIR QUALITY PERMITS

1.5211 APPLICABILITY

(a) The exemptions listed in Paragraphs (f) and (g) do not apply to facilities required to have a permit pursuant to MCAPCO Section 1.5500 - "Title V Procedures".

(b) Except as provided in Subparagraph (c)(1) or unless otherwise exempted in Paragraphs (f) and (g) of this Regulation, an owner or operator shall have received a permit from the Department and shall comply with the conditions of such permit before:

- (1) constructing or operating any air pollution source that emits one or more of the pollutants listed in Paragraph (d) of this Regulation;
 - (2) constructing or operating any equipment which may result in the emission of air pollutants listed in Paragraph (d) of this Regulation;
 - (3) altering or changing the construction or method of operation of any equipment or process from which one or more of the air pollutants listed in Paragraph (d) of this Regulation are or may be emitted;
- or
- (4) constructing, operating, or modifying a facility that has the potential to emit at least 10 tons per year of any hazardous air pollutant or 25 tons per year of all hazardous air pollutants combined, or that are subject to requirements established pursuant to the following sections of the federal Clean Air Act:
 - (A) Section 112(d), emission standards;
 - (B) Section 112(f), standards to protect public health and the environment;
 - (C) Section 112(g), construction and reconstruction;
 - (D) Section 112(h), work practice standards and other requirements;
 - (E) Section 112(i)(5), early reduction;
 - (F) Section 112(j), federal failure to promulgate standards;
 - (G) Section 112(r), accidental releases.

(c) Stationary Source Construction and Operation Permit: With the exception allowed by G.S. 143-215.108A, the owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit pursuant to MCAPCO Section 1.5200 - "Air Quality Permits"; however Title V facilities shall be subject to the Title V procedures pursuant to MCAPCO Section 1.5500 - "Title V Procedures" and the acid rain procedures pursuant to MCAPCO Section 1.5400 - "Acid Rain Procedures". A facility also may be subject to the air toxic procedures pursuant to MCAPCO Section 1.5700 - "Toxic Air Pollutant Procedures".

- (1) The format design of permits issued exclusively pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" shall be determined by the Director.
 - (A) The Director may format and issue permits by source, process, facility or any other method determined appropriate for the situation or circumstances.
 - (B) Permit(s) shall establish conditions, limits, and compliance methodology necessary to ensure construction and operation in accordance with this Ordinance.

- (C) A facility's permit(s) may contain construction and operating conditions which allow:
 - (i) minor equipment and product additions/substitutions, and/or
 - (ii) minor increases in emissions of certain air pollutants, the extent of which shall be stipulated in the permit.
 - (D) Permits may not contain construction and operating conditions which:
 - (i) without prior review and permit approval by the Department, subject the facility to Regulations delineated in Paragraph (e) of this Regulation,
 - (ii) contradict any other Regulation adopted directly by this Ordinance or by reference,
 - (iii) cause the source to be in non-compliance with the permit or this Ordinance.
- (2) Factors the Director shall consider when determining the format design of a permit may include but are not limited to:
- (A) the information supplied in the application, and other information determined relevant by the Department;
 - (B) the type of facility or source;
 - (C) type and amount of emissions;
 - (D) the compliance history of the facility operator and owner; and
 - (E) limitations imposed by other Department regulations, or any applicable local, state or federal rule, regulation or ordinance.

(d) List of regulated pollutants:

- (1) sulfur dioxide;
- (2) total suspended particulates;
- (3) particulate matter (PM10/PM2.5);
- (4) carbon monoxide;
- (5) nitrogen oxides;
- (6) volatile organic compounds;
- (7) lead and lead compounds;
- (8) fluorides;
- (9) total reduced sulfur;
- (10) reduced sulfur compounds;
- (11) hydrogen sulfide;
- (12) sulfuric acid mists;
- (13) asbestos;
- (14) arsenic and arsenic compounds;
- (15) beryllium and beryllium compounds;
- (16) cadmium and cadmium compounds;
- (17) chromium (VI) and chromium (VI) compounds;
- (18) mercury and mercury compounds;
- (19) hydrogen chloride;
- (20) vinyl chloride;

- (21) benzene;
- (22) ethylene oxide;
- (23) dioxins and furans;
- (24) ozone; or
- (25) any toxic air pollutant listed in MCAPCO Regulation 2.1104 - "Toxic Air Pollutant Guidelines".

(e) A source subject to any of the following Regulations is not exempted from the permit requirements, and the exemptions listed in paragraph (f) and (g) of this section do not apply:

- (1) new source performance standards pursuant to MCAPCO Regulation 2.0524 - "New Source Performance Standards" or 40 CFR Part 60, except when the following activities are eligible for exemption pursuant to Paragraphs (f) or (g) of this Regulation:
 - (A) 40 CFR Part 60, Subpart Dc, small industrial, commercial, and institutional steam generating units;
 - (B) 40 CFR Part 60, Subpart Kb, volatile organic liquid storage vessels;
 - (C) 40 CFR Part 60, Subpart AAA, new residential wood heaters;
 - (D) 40 CFR Part 60, Subpart WWW, municipal solid waste landfills;
 - (E) 40 CFR Part 60, Subpart JJJ, petroleum drycleaners;
 - (F) 40 CFR Part 60, Subpart IIII, stationary compressions ignition internal combustion engines; or
 - (G) 40 CFR Part 60, Subpart JJJJ, stationary spark ignition internal combustion engines;
- (2) national emission standards for hazardous air pollutants pursuant to MCAPCO Regulation 2.1110 - "National Emission Standards for Hazardous Air Pollutants" or 40 CFR Part 61, except asbestos demolition and renovation activities which are eligible for exemption pursuant to Paragraphs (f) or (g) of this Regulation;
- (3) prevention of significant deterioration pursuant to MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration";
- (4) new source review pursuant to MCAPCO Regulations 2.0531 - "Sources in Nonattainment Areas" or 2.0532 - "Sources Contributing to an Ambient Violation";
- (5) sources emitting volatile organic compounds subject to the requirements of MCAPCO Section - 2.0900 - "Volatile Organic Compounds" according to MCAPCO Regulation 2.0902 - "Applicability" Paragraph (f);
- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants pursuant to MCAPCO Regulations 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology", 2.1111 - "Maximum Achievable Control Technology", 2.1112 - "112(g) Case-By-Case Maximum Achievable Control Technology" or 40 CFR Part 63; or to apply generally available control technology (GACT) or work practice standards for hazardous air pollutants pursuant to 40 CFR Part 63, except when the following activities are eligible for exemption pursuant to Paragraphs (f) or (g) of this Regulation:
 - (A) 40 CFR 63, Subpart M, dry cleaning facilities;
 - (B) 40 CFR 63, Subpart ZZZZ, stationary reciprocating internal combustion

- engines;
- (C) 40 CFR 63, Subpart BBBBBB, gasoline bulk terminals, bulk plants and pipeline facilities;
- (D) 40 CFR 63, Subpart CCCCCC, gasoline dispensing facilities;
- (E) 40 CFR 63, Subpart HHHHHH, paint stripping and miscellaneous surface coating; or
- (F) 40 CFR 63, Subpart JJJJJJ, industrial, commercial, and institutional boilers;
- (7) sources at facilities subject to MCAPCO Section 2.1100 - "Control of Toxic Air Pollutants". (If a source qualifies for an exemption in Subparagraph (A)(1) through (A)(27) in MCAPCO Regulation 1.5702 - "Exemptions", or does not emit a toxic air pollutant for which the facility at which it is located has been modeled, it shall be exempted from needing a permit if it qualifies for one of the exemptions in Paragraphs (f) or (g) of this Regulation)

(f) A facility does not need a permit or permit modification pursuant to this Article if the facility's uncontrolled potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, or carbon monoxide are each no more than five tons, and uncontrolled potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates; however the Director may require the owner or operator of these activities to register them pursuant to MCAPCO Regulation 2.0202 - "Registration of Air Pollution Sources". A facility permit may be required for equipment with uncontrolled potential emissions greater than five tons for one or more of the aforementioned pollutants, while exempting equipment emitting only pollutants whose facility-wide uncontrolled potential emissions are less than five tons. Emissions from equipment exempted pursuant to Subparagraph (g)(1) shall not be included when determining potential for the purposes of this Paragraph, but emissions from equipment exempted pursuant to Subparagraph (g)(2) shall.

(g) The following activities shall not require a permit or permit modification pursuant to this Article; however the Director may require the owner or operator of these activities to register them pursuant to MCAPCO Regulation 2.0202 - "Registration of Air Pollution Sources":

(1) **activities exempted because of category:**

(A) maintenance, upkeep, and replacement:

- (i) maintenance, structural changes, or repair activities that do not increase the capacity of such process and do not cause any change in the quality or nature or an increase in quantity of an emission of any regulated air pollutant;
- (ii) housekeeping activities or building maintenance procedures, including painting buildings, paving parking lots, resurfacing floors, repairing roofs, washing, using portable vacuum cleaners, sweeping, using and associated storing of janitorial products, or removing insulation;
- (iii) using office supplies, supplies to maintain copying equipment, or blueprint machines;
- (iv) using fire fighting equipment (excluding stationary internal combustion engines); or

- (v) replacing existing equipment with equipment of the same size (or smaller), type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants, does not affect the facility's compliance with any other applicable local or federal requirements, and that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be lawfully operated pursuant to that permit without modifying the permit;
- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (C) laboratory or classroom activities:
 - (i) bench-scale, on-site equipment used for experimentation, chemical or physical analysis for quality control purposes, or for diagnosis of illness, training, or instructional purposes;
 - (ii) research and development activities that produce no commercial product or feedstock material; or
 - (iii) educational activities, including wood working, welding, and automotive repair;
- (D) storage tanks:
 - (i) storage tanks solely used to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooling oils, natural gas or liquefied petroleum gas;
 - (ii) storage tanks used to store gasoline or ethanol-based fuels for which there are no applicable requirements;
 - (iii) storage tanks solely used to store inorganic liquids; or
 - (iv) storage tanks or vessels used for the temporary containment of materials resulting from an emergency response to an unanticipated release of hazardous materials;
- (E) combustion and heat transfer equipment:
 - (i) heating units used for human comfort, excluding space heaters burning used oil, that have a heat input of less than 10 million Btu per hour and that do not provide heat for any manufacturing or other industrial process;
 - (ii) residential wood stoves, heaters, or fireplaces; or
 - (iii) water heaters that are used for domestic purposes only and are not used to heat process water;
- (F) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no local or federal air requirements;
- (G) dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants, or cooling oils;
- (H) solvent recycling: portable solvent distillation systems used for on-site solvent recycling if:
 - (i) the portable solvent distillation system is not:
 - (I) owned by the facility, and
 - (II) operated at the facility for more than seven consecutive days; and

- (ii) the material is recycled at the site of origin;
- (I) processes:
 - (i) electric motor burn-out ovens with secondary combustion chambers or afterburners;
 - (ii) electric motor bake-on ovens;
 - (iii) burn-off ovens with afterburners for paint-line hangers;
 - (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes that do not use bleach or solvent dyes; or
 - (v) woodworking operations processing only green wood;
- (J) solid waste landfills: municipal solid waste landfills (This does not apply to flares and other sources of combustion at solid waste landfills; these flares and other combustion sources are required to be permitted pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" unless they qualify for another exemption pursuant to this Paragraph.)
- (K) miscellaneous:
 - (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
 - (ii) engines regulated pursuant to Title II of the federal Clean Air Act (Emission Standards for Moving Sources);
 - (iii) equipment used for preparing food for direct on-site human consumption;
 - (iv) a source whose emissions are regulated only pursuant to Section 112(r) or Title VI of the federal Clean Air Act;
 - (v) exit gases from in-line process analyzers;
 - (vi) stacks and vents that prevent the escape of sewer gases from domestic waste through plumbing traps;
 - (vii) refrigeration equipment that complies with the regulations set forth in Section 601 through 618 of Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, 40 CFR Part 82, and any other regulations promulgated by EPA pursuant to Title VI for stratospheric ozone protection, except refrigeration equipment used as or in conjunction with air pollution control equipment. Refrigeration equipment used as or in conjunction with air pollution control equipment shall obtain a permit pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" unless it qualifies for another exemption pursuant to this Paragraph;
 - (viii) equipment not vented to the outdoor atmosphere with the exception of equipment that emits volatile organic compounds. Equipment that emits volatile organic compounds shall obtain a permit pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" unless it qualifies for another exemption pursuant to this Paragraph;
 - (ix) equipment that does not emit any regulated air pollutants; or
 - (x) sources for which there are no applicable requirements.
- (2) **activities exempted because of size and production rate**:
 - (A) storage tanks:

- (i) above-ground storage tanks with a storage capacity of no more than 1,100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F; or
 - (ii) underground storage tanks with a storage capacity of no more than 2,500 gallons storing organic liquids with a true vapor pressure of no more than 10.8 psi absolute at 70°F;
- (B) combustion and heat transfer equipment (includes direct-fired equipment that only emit regulated pollutants from fuel combustion):
- (i) fuel combustion equipment, (excluding internal combustion engines) firing exclusively kerosene, No. 1 fuel oil, No. 2 fuel oil, equivalent unadulterated fuels, or a mixture of these fuels or one or more of these fuels mixed with natural gas or liquefied petroleum gas with a heat input of less than:
 - (I) 10 million Btu per hour for which construction, modification, or reconstruction commenced after June 9, 1989; or
 - (II) 30 million Btu per hour for which construction, modification, or reconstruction commenced on or before June 10, 1989; (Internal combustion engines are required to be permitted under MCAPCO Section 1.5200 - “Air Quality Permits” unless they qualify for another exemption under this Paragraph.)
 - (ii) fuel combustion equipment (excluding internal combustion engines) firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels with a heat input rating less than 65 million Btu per hour (Internal combustion engines are required to be permitted pursuant to MCAPCO Section 1.5200 - “Air Quality Permits” unless they qualify for another exemption pursuant to this Paragraph.);
 - (iii) space heaters burning waste oil if:
 - (I) the heater burns only oil that the owner or operator generates or used oil from do-it-yourself oil changers who generate used oil as household wastes; and
 - (II) the heater is designed to have a maximum capacity of not more than 500,000 Btu per hour;
 - (iv) fuel combustion equipment with a heat input rating less than 10 million Btu per hour that is used solely for space heating except:
 - (I) space heaters burning waste oil, or
 - (II) internal combustion engines;
 - (v) emergency use generators and other emergency use internal combustion engines not regulated pursuant to Title II of the federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of not more than:
 - (I) 680 kilowatts (electric) or 1000 horsepower for natural gas-fired engines;
 - (II) 1800 kilowatts (electric) or 2510 horsepower for liquefied petroleum gas-fired engines; or
 - (III) 590 kilowatts (electric) or 900 horsepower for diesel-fired engines or

Subpart M – “National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

- (F) case-by-case exemption: activities that the applicant demonstrates to the Director do not violate any applicable emission control standard.

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

(i) Emissions from stationary source activities identified in Paragraphs (f) and (g) of this Regulation shall be included in determining compliance with the toxic air pollutant requirements pursuant to MCAPCO Section 2.1100 - “Control of Toxic Air Pollutants” or MCAPCO Section 1.5700 - “Toxic Air Pollutant Procedures” according to MCAPCO Regulation 1.5702 - “Exemptions”.

(j) The owner or operator of a facility or source claiming an activity is exempt pursuant to this Regulation shall submit emissions data, documentation of equipment type, or other supporting documents to the Director documentation upon request that the facility or source is qualified for that exemption.

(k) Sources of air pollution for which there is an ambient air quality or emission control standard and which the Director considers likely to contravene the applicable standard shall apply for a permit as required in Paragraph (b) of this Regulation.

(l) If the Director finds that an activity exempted pursuant to Paragraphs (f) or (g) of this Regulation is in violation of or has violated an applicable Regulation in this Ordinance, he shall revoke the permit exemption for that activity and require that activity to be permitted pursuant to Section 1.5200 - “Air Quality Permits”.

MCAQ History Note:

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

1.5212 APPLICATIONS

(a) Application for a permit required under this Regulation shall be made on official forms of the Director and shall include:

- (1) applicable plans and specifications to define the source's operating conditions;
- (2) the nature and amounts of emissions to be emitted by the source or emitted by associated mobile sources;
- (3) the location, design, construction and operation of the facility, building, structure, or installation; and
- (4) any other documents required by the Director to ensure that there will be no violations of the control strategy set forth in the SIP and no interference with the attainment or maintenance of a national ambient air quality standard; and
- (5) Either of the following:
 - (A) Determination letter(s) issued on the letterhead of and signed by the official(s) charged with administering the zoning and subdivision ordinances of the local government(s) having land use jurisdiction over the land on which the facility and its appurtenances are to be located stating whether the proposed facility would be consistent with such ordinances. Such determination letters should describe the facility as it is described in the draft permit application, a copy of Section A, General Information from the application which must be attached to the determination letter(s). Letters stating that the facility would be inconsistent with such ordinances should state the specific reasons for the determination of inconsistency and should have attached a copy of the ordinance or all sections relevant to the determination of inconsistency;
or
 - (B) Evidence, such as the original signed receipt of a certified or hand-delivered letter, indicating that the clerk(s) of the local government(s) having zoning and subdivision jurisdiction over the land on which the facility and its appurtenances are to be located have received from the applicant a copy of the draft permit application and a request for a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility would be consistent with such ordinance(s).

Applicants should make all reasonable efforts to obtain the determination letters referenced in Part (5)(A) above since failure to obtain such letters would delay issuance of permits and in some cases may even result in denial of a permit. The requirement found in this Subparagraph (5) shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 (low-level radioactive waste facilities) or 130A-293 (hazardous waste facilities).

(b) A permit application may be obtained from, and shall be filed in writing with the:

*Director, Mecklenburg County Air Quality
2145 Suttle Avenue
Charlotte, North Carolina 28208.*

A non-refundable permit application processing fee shall accompany each application or group of

applications submitted simultaneously. The permit application and annual administering and monitoring fee rates are set forth in MCAPCO Regulation 1.5231 - "Air Quality Fees". Each permit or renewal application shall be incomplete until the permit application processing fee and the zoning and subdivision determination letter(s) or proof the permit application has been submitted to the local government(s) having zoning and subdivision jurisdiction as described in Subparagraph (a)(5) above has been received.

(c) Before acting on any permit application, the Director may request any information from an applicant and conduct any inquiry or investigation that the Director considers necessary, and may require the submission of plans, specifications, and any other documents, evidence, or information required to define the operating conditions of the air pollution source.

(d) The Director shall have the power to require that an applicant satisfy the Director that the applicant, or any parent or subsidiary corporation if the applicant is a corporation:

- (1) is financially qualified to carry out the activity for which a permit is required under this Ordinance;
and
- (2) has substantially complied with the air quality and emission control standards applicable to any activity in which the applicant previously has engaged, and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment, including but not limited to the provisions of federal and state law incorporated by reference into this Ordinance.

(e) Application for ownership transfer of a permit may be made by letter to the Director if no alteration or modification has been made to the originally permitted facility. The ownership change letter must state that there have been no changes in the permitted facility since the permit was issued. However, the Director may require the applicant for ownership change to submit additional information showing that:

- (1) the applicant is financially qualified to carry out the permitted activities under this Ordinance;
or
- (2) the applicant substantially has complied with the air quality and emissions standards applicable to any activity in which the applicant has engaged previously, and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment, including but not limited to the provisions of federal and State law incorporated by reference into this Ordinance.

The applicant shall file requests for permit name or ownership changes when the applicant is aware of the imminent name or ownership change.

(f) Application for changes in construction or test dates or reporting procedures may be made by letter to the Director. To make changes in construction or test dates or reporting procedures, the letter must be signed by the responsible official as defined in MCAPCO Regulation 1.5102 – "Definitions".

- (g) Permit applicants shall submit copies of the application package as follows:
- (1) 2 copies for sources subject to the requirements of MCAPCO Regulations 2.0530 - “Prevention of Significant Deterioration”, 2.0531 - “Sources in Non-Attainment Areas”,
or
 - (2) 1 copy for sources not subject to the requirements of MCAPCO Regulations 2.0530 - “Prevention of Significant Deterioration” or 2.0531 - “Sources in Non-Attainment Areas”.

If the facility requests that any information be considered confidential, a “Public Record Copy” as described in Paragraph (h) must also be submitted. The Director may at any time during the application process request additional copies of the complete application package from the applicant.

(h) Information considered confidential is governed by North Carolina General Statute (NCGS) 66-152 and MCAPCO Regulation 1.5217 - “Confidential Information”. If the facility believes that any information included in the application constitutes a “trade secret” as defined by NCGS. 66-152, and that it meets the other conditions imposed by NCGS Statute 132-1.2, such information may be designated as “confidential information” or “trade secret” in the application and omitted from the copy marked as the “Public Record Copy”. Every place where confidential information is omitted in the Public Record Copy, it must be indicated as “[Trade Secret Information Deleted]”. If an application with information marked as “confidential” or “trade secret” is submitted without the additional Public Record Copy or if information that is clearly not a trade secret is omitted from the Public Record Copy, the application package may be returned to the applicant without being processed.

(i) Permit applications submitted pursuant to this Regulation must be signed by the responsible official as defined in MCAPCO Regulation 1.5102 – “Definitions”.

MCAQ History Note:

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

1.5213 ACTION ON APPLICATION; ISSUANCE OF PERMIT

(a) Schedule for processing applications

Except as listed in subparagraphs (1) and (2) below, the Director shall review and take final action on all permit applications submitted under MCAPCO Section 1.5200 - "Air Quality Permits" in accordance with MCAPCO Regulation 1.5215 - "Application Processing Schedule". All permits, or decisions denying permits shall be in writing.

- (1) Permit applications submitted in accordance with
 - (A) MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or
 - (B) MCAPCO Regulation 2.0531 - "Sources in Non-Attainment Areas",shall follow the processing, public notice and hearing schedule as set out in those Regulations.
- (2) Permit applications to be issued under:
 - (A) MCAPCO Section 1.5500 - "Title V Procedures" shall follow the schedule found in MCAPCO Regulation 1.5525 - "Application Processing Schedule";
 - (B) MCAPCO Section 2.0800 - "Transportation Facilities" shall follow the schedule found in MCAPCO Regulation 1.5607 - "Application Processing Schedule".

(b) Zoning determination letter

No permits shall be issued until either the determination letter(s) described in MCAPCO Regulation 1.5212 - "Applications" Part (a)(5)(A) or evidence of a request for such letter(s) as described in MCAPCO Regulation 1.5212 - "Applications" Part (a)(5)(B) have been received by the Director. Unless the relevant local government makes a determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Director shall attach as a condition of any permit which is issued, a requirement that the applicant prior to construction or operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of construction or operation of the facility. Unless the determination letter(s) as described in MCAPCO Regulation 1.5212 - "Applications" Part (a)(5)(A) are received by the Director, issuance of a permit cannot occur until fifteen (15) days has passed following the receipt by the clerk(s) of the local government(s) of the request for the determination letter. Issuance of a permit where determination letter(s) stating consistency with the applicable ordinance(s) have not been received is in the discretion of the Director. Even under circumstances where a determination letter is received which states that the proposed facility would be consistent with the applicable ordinances, the Director may include conditions in the permit requiring compliance with all local ordinances prior to construction or operation of the proposed facility.

(c) Public notice

Public notice of action for applications processed and permits to be issued under MCAPCO Section 1.5200 - "Air Quality Permits" is provided as follows:

- (1) Except for permits proposed as in Subparagraph (2) below, the Director shall:
 - (A) advertise proposed permit application approvals or disapprovals by placing

these actions on the agenda of the Commission. Public comment on the proposed action(s) will be received during the meeting and for 15 days thereafter; or

- (B) at the applicant's request and expense, the Director may advertise the proposed permit application approvals or disapprovals in a major local newspaper of general circulation. Public comment on the proposed action(s) will be received for 15 days after the date the notice is published, including during any Commission meeting held during said 15 day period. The Department will provide the notice to the applicant, who will have a notice published in the legal section of the classified advertisements of a major local newspaper of general circulation. The applicant shall provide certified proof of advertisement and pay a \$1,000 fee. All comments will be considered prior to final action.
- (2) Public notice and a 15 day comment period prior to permit issuance will not be required for permit modifications which:
 - (A) are allowed by an existing permit, initiated and reported by the facility as required;
 - or
 - (B) will not result in an increase in emissions.
 - (3) The following permits and activities will be placed on the Commission's agenda:
 - (A) permits which do not require a public notice before issuance; and
 - (B) the Department's acknowledgment of receipt of a "Construction/Operational Change Notification".

Such permits and activities will be subject to an opportunity for a hearing in accordance with Paragraph (f) of this Regulation.

(d) Permit actions initiated by the Director

Subject to the requirements of MCAPCO Regulation 1.5232 - "Issuance, Revocation, and Enforcement of Permits", the Director may:

- (1) issue a permit or renewal containing the conditions necessary to carry out the purposes of this Ordinance and G.S. Chapter 143, Article 21B;
- (2) modify or revoke any permit upon giving 60 days notice to the persons affected;
- (3) deny a permit application when necessary to carry out the purposes of this Ordinance and G.S. Chapter 143, Article 21B.

(e) Permit applicant's right to administrative hearing

- (1) Any person whose application for a permit or renewal is denied by final action of the Director or is granted subject to conditions which are unacceptable, or whose permit is modified or revoked shall have the right to a hearing before the Commission, upon making demand therefor within 30 days following the giving of notice by the Director as to his decision upon such application. A person who seeks to appeal a modified permit may appeal only with respect to:

- (A) any new conditions and limitations
or
- (B) any existing conditions and limitations from the previous permit which are modified.

Unless such demand for a hearing is made, the decision of the Director on the application shall be final and binding. A demand for such hearing shall be filed with the Director, who promptly shall transmit such demand to the Commission.

- (2) Applicants which are denied a permit by the Director's failure to take final action as provided in MCAPCO Regulation 1.5215 - "Application Processing Schedule" may seek judicial review as provided in NCGS 143-215.5 and Article 4 of Chapter 150B of the General Statutes.

(f) Public hearing

The Director may initiate a public hearing in response to permit modifications taken by a facility and which are allowed by an existing permit or before issuing any permit under MCAPCO Section 1.5200 - "Air Quality Permits" when he has determined that significant public interest exists or that the public interest will be served.

- (1) With respect to draft permits, except for permits drafted and proposed in accordance with Subparagraphs (2) and (3) of this Paragraph, where the Director has initiated the public hearing procedure, the Director shall:
 - (A) send the draft to public hearing within 45 days after initiating the public hearing procedure; and
 - (B) take final action within 30 days after the close of the public hearing.
- (2) Permits drafted and proposed in accordance with MCAPCO Regulation 2.1109 - "Case-by-Case Maximum Achievable Control Technology" will follow the schedule found in MCAPCO Regulation 1.5215 - "Application Processing Schedule", Subparagraph (a)(3).
- (3) Permits drafted and proposed in accordance with MCAPCO Regulations 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Non-Attainment Areas" will follow the procedures set out in those Regulations.
- (4) The information submitted by the owner or operator, and the Department's review shall be made available for public inspection at the Department office during the period of public notice.
- (5) Informing the public of the application review and related information, and of hearings scheduled in accordance with Subparagraphs (1) and (2) of Paragraph (f) shall be accomplished by publishing a notice in a major newspaper of general circulation in Mecklenburg County at least 30 days prior to the public hearing.

Confidential material will be handled in accordance with MCAPCO Regulation 1.5217 - "Confidential Information".

(g) Proposed permits submitted to EPA

Proposed permits to be issued pursuant to 2.0530 - "Prevention of Significant Deterioration", or 2.0531 - "Sources in Non-Attainment Areas" shall be submitted by the Director to the EPA for

review. If and when a permit is issued by the Department containing conditions determined by 2.0530 - "Prevention of Significant Deterioration", or 2.0531 - "Sources in Non-Attainment Areas", a copy of the permit shall be sent to EPA.

(h) Stringency of permit requirements

All emission limitations, controls, and other requirements imposed by a permit issued pursuant to this Ordinance shall be at least as stringent as all applicable Regulations contained in this Ordinance. The permit shall not waive or make less stringent any limitation or requirement contained in any applicable Regulation.

(i) Enforceability of permit requirements

Emission limitations, controls and requirements contained in permits issued pursuant to this Ordinance shall be permanent, quantifiable, and otherwise enforceable as a practical matter under G.S. 143-215-114A, 143-215-114B, and 143-215-114C.

(j) Alternative mix of controls

In a permit application for an alternative mix of controls under MCAPCO Regulation 2.0501 - "Compliance With Emission Control Standards" Paragraph (f), the owner or operator of the facility shall demonstrate to the satisfaction of the Director that the proposal is equivalent to the existing requirements of the SIP in total allowed emissions, enforceability, reliability, and environmental impact. A public hearing shall be held before any permit containing alternative emission limitations is issued. The public hearing shall be held before the Mecklenburg County Air Quality Commission and be preceded by a 30-day period of public notice during which the Director's analysis and draft permit shall be available for public inspection and comment in the Department's office. The proposed permit will be submitted by the Director for review to the EPA and if and when a permit containing these conditions is issued, it will be submitted by the Director to EPA for inclusion as part of the federally approved SIP. When a permit containing these conditions is approved by EPA, it will become a part of the SIP as an appendix available for inspection at the Department's offices. Until EPA approves the SIP revision embodying the permit containing an alternative mix of controls, the facility shall continue to meet the otherwise applicable existing SIP requirements. The revision will be approved or disapproved by EPA on the basis of the revision's consistency with EPA's "Policy for Alternative Emission Reduction Options Within State Implementation Plans" as promulgated in the Federal Register of December 11, 1979, pages 71780-71788, and subsequent rulings.

MCAQ History Note: Amended Eff. December 18, 2018

1.5214 COMMENCEMENT OF OPERATION

(a) Upon completion of construction, alteration, or installation of a source, equipment, process or device which required the issuance of a permit under MCAPCO Section 1.5200 - "Air Quality Permits", the holder of such permit shall notify the Director in writing of such completion and of the holder's intent to commence operating the subject source, equipment, process, or device. Upon receipt of the written notification, the Department will bill the facility for the appropriate fee as provided for in MCAPCO Regulation 1.5231 - "Air Quality Fees" unless otherwise exempted under MCAPCO Regulation 1.5231 - "Air Quality Fees" Paragraph (g).

(b) Within 90 days after such notification for:

- (1) a new facility; or
- (2) any source permitted under any of the following MCAPCO Regulations:
 - (A) 1.5516 - "Significant Permit Modification"
 - (B) 2.0524 - "New Source Performance Standards"
 - (C) 2.0530 - "Prevention of Significant Deterioration"
 - (D) 2.0531 - "Sources in Non-Attainment Areas"
 - (E) 2.1110 - "National Emission Standards for Hazardous Air Pollutants"

the Director shall inspect the source, equipment, process, or device in order to determine compliance with permit conditions and limitations.

1.5215 APPLICATION PROCESSING SCHEDULE

(a) The Department shall adhere to the following schedule for processing applications for permits, permit modifications, and permit renewals.

- (1) The Department shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes except for those to which the following is applicable:
 - MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration",
 - MCAPCO Regulation 2.0531 - "Sources in Nonattainment Areas",
 - MCAPCO Regulation 2.1109 - "112(j) Case-by-Case Maximum Achievable Control Technology",
 - MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology".
- (A) The Department shall notify the applicant in writing that:
 - (i) the application as submitted is complete and specifying the completeness date,
 - (ii) the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Department, or
 - (iii) the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Department does not notify the applicant in writing within 45 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the

Director from requesting additional information at a later date if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the date specified in a written request for additional information, the Director shall cease processing the application until additional information is provided. The applicant may request a time extension for submittal of the requested additional information.

- (B) If the draft permit does not go to public hearing, the Director shall issue or deny the permit within 90 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (C) If the draft permit is required to go to public hearing under MCAPCO Regulation 1.5213 - "Action of Application; Issuance of Permit" Subparagraph (c)(2) or Paragraph (f), the Director shall:
 - (i) send the draft permit to public hearing within 45 days after deciding to hold a public hearing; and
 - (ii) take final action on the permit within 30 days after the close of the public hearing.
- (2) Permit applications reviewed with respect to MCAPCO Regulations 2.0530 - "Prevention of Significant Deterioration" or 2.0531 - "Sources in Nonattainment Areas", shall follow the processing schedules as set out in that Regulation.
- (3) With respect to case-by-case maximum achievable control technology pursuant to MCAPCO Regulation 2.1109 - "112(j) Case-by-Case Maximum Achievable Control Technology" or MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology", the Director shall review all permit applications within 45 days of receipt of the application to determine whether the application is complete or incomplete for processing purposes.
 - (A) The Director shall notify the applicant in writing that:
 - (i) the application as submitted is complete and specifying the completeness date,
 - (ii) the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Department, or
 - (iii) the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Department does not notify the applicant in writing within 45 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date if such information is necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information.

- (B) The Director shall:
 - (i) send the draft permit to public notice within 120 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later; and
 - (ii) take final action on the permit within 30 days after the close of the public comment period.
- (C) If the draft permit is required to go to public hearing pursuant to MCAPCO Regulation 1.5213 - “Action on Application; Issuance of Permit”, the Director shall:
 - (i) send the draft permit to public hearing within 45 days after deciding to hold a public hearing; and
 - (ii) take final action on the permit within 30 days after the close of the public hearing.

(b) The number of days between sending a written notification requesting additional information and receiving that additional information shall not be counted in the schedules pursuant to Paragraph (a) of this Regulation.

(c) The Director shall cease processing an application that contains insufficient information to complete the review.

(d) If the Director does not take final action on a permit application within the schedules specified in this Regulation, the failure shall constitute a final agency decision to deny the permit. A permit applicant which has been denied a permit by the Director’s failure to take final action may seek judicial review as provided in GS 143-215.5 and Article 4 of Chapter 150B of the General Statutes.

MCAQ History Note: Amended Eff. December 18, 2018

1.5216 NOTIFICATION IN AREAS WITHOUT ZONING

(a) State and local governments shall be exempt from this Regulation.

(b) Before a person submits a permit application for a new or expanded facility in an area without zoning, he or she shall:

(1) publish a legal notice in a newspaper of general circulation in the area where the source is or will be located at least two weeks before submitting the permit application for the source. The notice shall identify:

- (A) the name of the affected facility;
- (B) the name and address of the permit applicant; and
- (C) the activity or activities involved in the permit action; and

(2) post a sign on the property where the new or expanded source is or will be located.

The sign shall meet the following specifications:

- (A) it shall be at least six square feet in area;
- (B) it shall be set off the road right-of-way, but no more than 10 feet from the road right-of-way;
- (C) the bottom of the sign shall be at least six feet above ground;
- (D) it shall contain the name of the affected facility; the name and address of the permit applicant; and the activity or activities involved in the permit action;
- (E) lettering shall be a size that the sign can be read by a person with 20/20 vision standing in the center of the road;
- (F) the side with the lettering shall face the road, and sign shall be parallel to the road; and
- (G) the sign shall be posted at least 10 days before the permit application is submitted and shall remain posted for at least 30 days after the application is submitted.

(c) The permit applicant shall submit with the permit application an affidavit and proof of publication that the legal notice required pursuant to Paragraph (b) of this Rule was published.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. April 1, 2004;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5217 CONFIDENTIAL INFORMATION

(a) All information required to be submitted to the Director pursuant to this Ordinance shall be disclosed to the public unless the person submitting the information demonstrates that the information is entitled to confidential treatment pursuant to G.S. 143-215.3C.

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

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

(d) Information for which a request has been made pursuant to Paragraph (b) of this Regulation shall be treated as confidential until the Director decides that it is not confidential.

*State History Note: Authority G.S.143-215.3(a)(1); 143-215.3C;
Eff. July 1, 1994;
Amended Eff. April 1, 1999; July 1, 1997;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5218 COMPLIANCE SCHEDULE FOR PREVIOUSLY EXEMPTED ACTIVITIES

(a) If a source has been exempt from permitting but, because of change in permit exemptions, it is now required to have a permit:

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

(b) If a source becomes subject to requirements promulgated under 40 CFR Part 63, the owner or operator of the source shall apply for a permit at least 270 days before the final compliance date of the requirement, unless exempted pursuant to MCAPCO Regulation 1.5211 - "Applicability.

*State History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
Eff. July 1, 1994;
Amended Eff. April 1, 2001; July 1, 1996;*

Readopted Eff. April 1, 2018.

MCAQ History Note: Amended Eff. December 18, 2018

1.5219 RETENTION OF PERMIT AT PERMITTED FACILITY

The permittee shall retain a copy of all active permits issued pursuant to this Article at the facility identified in the permit.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
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

1.5220 APPLICABILITY DETERMINATIONS

Any person may submit a request in writing to the Director requesting a determination as to whether a particular source or facility that the person owns or operates or proposes to own or operate is subject to any of the permitting requirements pursuant to this Article. The request shall contain information sufficient to make the requested determination. The Director may request any additional information that is needed to make the determination.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143-215.109;
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

1.5221 PERMITTING OF NUMEROUS SIMILAR FACILITIES

(a) The Director shall not issue a single permit for more than one facility pursuant to this Regulation unless:

- (1) There is no difference between the facilities that would require special permit conditions for any individual facility; and
- (2) No unique analysis is required for any facility covered by the permit.

(b) A permit issued pursuant to this Regulation shall identify criteria by which facilities or

sources qualify for the permit. The Director shall grant the terms and conditions of the permit to facilities or sources that qualify.

(c) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source is later determined not to qualify for the permit issued pursuant to this Regulation.

(d) The owner or operator of a facility or source that qualifies for a permit issued pursuant to this Regulation shall apply for coverage by the terms of the permit issued pursuant to this Regulation or shall apply for a standard permit for each facility or source pursuant to this Section.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
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

1.5222 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES

(a) The Director shall not issue a single permit authorizing emissions from a facility or source at multiple temporary sites unless the permit includes:

- (1) the identification of each site,
- (2) the conditions that will assure compliance with all applicable requirements at all approved sites,
- (3) a requirement that the permittee notify the Department at least 10 days in advance of each change of site, and
- (4) the conditions that assure compliance with all other provisions of this Section.

*History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or
until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.108; Eff. July 1, 1994;
Amended Eff. July 1, 1996.
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5231 AIR QUALITY FEES

(a) For the purpose of this Regulation, the following definitions apply:

- (1) **“Actual Emissions”** means the actual rate of emissions in tons per year of any air pollutant emitted from the facility over the preceding calendar year. Actual emissions shall be calculated using the source’s or sources’ actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Actual emissions shall include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. For fee applicability and calculation purposes under this Regulation, actual emissions shall not include emissions beyond the normal emissions such as during violations, malfunctions, start-ups and shut downs, and emissions from permit exempt activities listed in MCAPCO Regulations 1.5211 - “Applicability”, Subparagraphs (g)(1) and (g)(2) [for non-Title V facilities] or 1.5503 - “Definitions”, Subparagraph (7) “Insignificant activities because of category” [for Title V facilities].
- (2) **“Administrative Change”** means an ownership transfer, or change to a construction date, test date, monitoring range, or reporting procedure.
- (3) **“B Facility”** means a facility whose potential emissions are equal to or exceed 25 tons per year, but are less than 100 tons per year for any regulated pollutant under MCAPCO Article 2.0000 - “Air Pollution Control Regulations and Procedures”.
- (4) **“Burning Approval Inspection”** means the activity conducted by the Mecklenburg County Fire Marshal to verify information necessary for the issuance of special burning approvals as specified in MCAPCO Regulation 1.5106 - “Open Burning”.
- (5) **“C Facility”** means a facility whose potential emissions are less than 25 tons per year for any regulated pollutant under MCAPCO Article 2.0000 - “Air Pollution Control Regulations and Procedures”.
- (6) **“Fiscal Year”** means the Federal Fiscal Year (FFY). The Federal Fiscal Year runs from October 1 of the prior year through September 30 of the year being described. For example, the 2012 Federal Fiscal Year (FFY2012) is the period from October 1, 2011 through September 30, 2012.
- (7) **“General Facility”** means a facility obtaining a permit under MCAPCO Regulations 1.5221 - “Permitting of Numerous Similar Facilities” or 1.5509 - “Permitting of Numerous Similar Facilities”.
- (8) **“Minor Modification”** means a Title V permit modification made pursuant to MCAPCO Regulation 1.5515 – “Minor Permit Modifications”.
- (9) **“Model”** means a refined modeling demonstration required to be submitted by the facility to determine compliance with MCAPCO Section 2.1100 – “Control of Toxic Air Pollutants”.
- (10) **“NESHAP Facility”** means a facility subject to a national emission standard for hazardous air pollutants in MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”.
- (11) **“NESHAP Amounts of Asbestos”** means amounts of asbestos containing materials that when measured equals or exceeds 160 square feet or 260 linear feet or 35 cubic feet and regulated by MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”, which references 40 CFR 61.141 “Definitions”.

- (12) **“NESHAP Demolition and Renovation”** means a demolition or renovation project which is subject to the national emission standard for hazardous air pollutants in MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”, which references 40 CFR 61.141 “Definitions”.
- (13) **“NESHAP Notification”** means the required information for the renovation/demolition of a facility as defined by MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”.
- (14) **“New or Significant Modification”** means a Title V permit application for a facility not previously required to have a permit under MCAPCO Section 1.5500 – “Title V Procedures” or a Title V permit modification made pursuant to MCAPCO Regulation 1.5516 – “Significant Permit Modification”.
- (15) **“Performance Testing”** means testing required by a facility’s permit, or as requested by the Director.
- (16) **“PSD Facility”** means a plant site having one or more sources subject to the prevention of significant deterioration requirements of MCAPCO Regulation 2.0530 - “Prevention of Significant Deterioration” or a plant site applying for a permit for a major stationary source or a major modification subject to MCAPCO Regulation 2.0530 - “Prevention of Significant Deterioration”.
- (17) **“Registered Facility”** means a facility supplying information as required in MCAPCO Regulation 2.0202 - “Registration of Air Pollution Sources”.
- (18) **“SB (Select B)”** means a B facility as defined in this Regulation, where the potential of pollutant(s) emitted are equal to or exceed 25 tons of either volatile organic compounds (VOCs) or nitrogen oxides (NOx).
- (19) **Stage I Facility** means a permitted facility required under MCAPCO Regulation 2.0928 – “Gasoline Service Stations Stage I” to install Stage I controls as defined in MCAPCO Regulation 2.0901 – “Definitions”.
- (20) **“Synthetic Minor Facility”** means a facility that would be a Title V facility except that the potential emissions are reduced below the thresholds defined in “Title V facility” of this Regulation by one or more physical or operational limitations on the capacity of the facility to emit an air pollutant. Such limitations shall be enforceable by EPA and may include air pollution control equipment, restrictions on hours of operation, and the type or amount of material combusted, stored or processed.
- (21) **“Title V Facility”** means a facility that has or will have potential emissions of:
 - (A) 100 tons per year or more of at least one regulated air pollutant,
 - (B) 10 tons per year or more of at least one hazardous air pollutant, or
 - (C) 25 tons per year or more of all hazardous air pollutants combined.
- (22) **“Variance Request”** means the information submitted subject to MCAPCO Regulation 1.5305 - “Variances”.
- (23) **“112(r) Facility”** means a facility that is required to submit and implement a Risk Management Plan under 40 CFR 68 – “Chemical Accident Prevention Provisions”

(b) Fees shall be charged for processing an application or group of applications submitted simultaneously for an air permit, for administering and monitoring compliance with the terms of a facility’s air permit and for other specified air quality activities conducted by the Department.

For federal fiscal year FY2015 and beyond, the following fees will be in effect as of October 1, 2014, until revised:

Table 1. FFY2015 and Beyond Permit Application and Annual Administering and Compliance Fees

FACILITY CATEGORY	PERMIT APPLICATION FEE		ANNUAL ADMINISTERING AND COMPLIANCE FEES		
			FACILITY FEE	ACTUAL EMISSION FEE/TPY	NON ATTAINMENT
Registered	\$200		N/A	N/A	N/A
Stage I/II	\$200		\$100	\$50	\$200
C	\$250		\$625	\$50	\$200
B	\$250		\$1250	\$50	\$200
SB	\$500		\$1750	\$50	\$500
Synthetic Minor	\$750		\$5400	\$50	\$500
PSD	\$12000		N/A	N/A	N/A
NSR	\$12000		N/A	N/A	N/A
112(r)	NA		\$500	NA	NA
General	50% of the otherwise applicable fees				
	NEW or SIGNIFICANT MODIFICATION	MINOR MODIFICATION			
Title V	\$10000	\$1000	\$9500	\$50	\$500

Table 2. FFY 2015 and Later Fees Specific to Certain Facility Activities or Requests

Performance Testing	\$500	Submitted with the annual administering and compliance fee for each source test conducted the previous calendar year as listed in the fee invoice
Administrative Change Permit Application	\$100	Submitted with the proper documentation for an ownership transfer, or change to a construction date, test date, monitoring range, or reporting procedure
Model Review	\$500	Submitted with the application fee for any permit application that requires review of a model demonstration to determine compliance with MCAPCO Sections 2.1100 – “Control of Toxic Air Pollutants”

Table 3. FFY2015 and Beyond Other Air Quality Fees

Variance Request	\$200	Submitted with the required variance documentation
Burning Approval Inspection	\$25	Submitted with application to designated authority

(c) For the purposes of this Regulation, a single facility is defined to be any contiguous area under one ownership and in which permitted activities occur. If a facility or source belongs to more than one category, the fees shall be those of the applicable category with the highest fees. No fees, except for burning approval inspection fees, are required to be paid under this Regulation by a farmer who submits an application or receives an approval that pertains to his farming operations. The fee paid for tons of emissions excludes the following emissions: carbon monoxide, any pollutant that is regulated solely because it is a Class I or II substance listed pursuant to Section 602 of the federal Clean Air Act (ozone depletors), any pollutant that is regulated solely because it is subject to a regulation or standard pursuant to Section 112(r) of the federal Clean Air Act (accidental releases), and the amount of actual emissions of each pollutant that exceeds 4,000 tons per year.

(d) The appropriate permit application fee listed in Paragraph (b) of this Regulation is required for technical changes such as changing the location of a source; adding additional emission sources, pollutants, or control equipment; or changing a permit condition such that a change in air pollutant emissions could result. An administrative change permit application fee is required for administrative changes such as ownership transfers, construction date changes, test date changes, or reporting procedure changes. With exception of permits modified in accordance with MCAPCO Regulation 1.5232 - "Issuance, Revocation, and Enforcement of Permits", no permit application fee is required for changes to a permit initiated by the Director to correct processing errors, to change permit conditions, or to implement new standards.

(e) Payment of permit application fees and annual administering and compliance monitoring fees shall be by check or money order made payable to Mecklenburg County Air Quality. The payment should refer to the air permit application or permit number.

(f) The payment of the permit application fee required by Paragraphs (b) or (d) of this Regulation shall accompany the permit or permit modification application and is non-refundable. If the permit application fee is not paid when the application is filed, the application shall be considered incomplete until the fee is paid.

(g) Facilities paying the initial administering and compliance monitoring fee will be billed after the facility notifies the Department in accordance with MCAPCO Regulation 1.5214 - “Commencement of Operation”.

(h) A facility which has permanently ceased operations at a site and requests that the permit(s) be voided, will not be required to pay the next annual administering and compliance monitoring fee for said permits. To resume the operation(s) after permit(s) have been voided will require the issuance of a new permit. A facility that is moved to a new site may receive credit for any unused portion of an annual administering and compliance monitoring fee if the permit for the old site is relinquished. Only one annual administering and compliance monitoring fee needs to be paid annually for each facility.

(i) If a permit holder fails to pay an annual administering and compliance monitoring fee within 30 days after being billed, the Director shall rebill and impose a penalty in the amount of 10% of the fee for each month the payment is late. For continued failure to pay past 60 days, the Director may initiate action to revoke the permit.

(j) The fees as determined in Paragraph (b) of this Regulation for Title V facilities may be adjusted as of September 30th of each year for inflation. The inflation adjustment shall be done by the method described in 40 CFR 70.9(b)(2)(iv).

(k) The following fees shall be charged for the processing of a NESHAP demolition & renovation notification. The payment of the demolition & renovation NESHAP notification fee shall be by check or money order made payable to Mecklenburg County.

NESHAP Demolition & Renovation Notification Fees

TYPE OF NOTIFICATION	FEE AMOUNT PER NOTIFICATION	
Renovations subject to notification requirements of MCAPCO 2.1110	\$300	
Moving or relocation of structure (as single unit)	None or < NESHAP amounts of asbestos present	With removal of NESHAP amounts of asbestos
<250 sq. ft.	\$50	\$50
>250 sq. ft.	\$100	\$100
Demolitions subject to notification requirements of MCAPCO 2.1110	None or < NESHAP amounts of asbestos present	With removal of NESHAP amounts of asbestos
Area or Floor Space		

<500 sq.ft.	\$50	\$50
≥500 but <5000 sq.ft.	\$350	\$650
≥5000 but <10,000 sq.ft.	\$450	\$750
≥10,000 sq.ft.	\$650	\$950

Should the NESHAP notification be canceled, the fees paid are refundable upon written request to the Director, except for a \$50 service charge for each notification.

MCAQ History Note: Amended Eff. December 18, 2018

1.5232 ISSUANCE, REVOCATION, AND ENFORCEMENT OF PERMITS

(a) Any permit issued pursuant to MCAPCO Sections 1.5200 - “Air Quality Permits” or 1.5600 - “Transportation Facility Procedures” may be revoked or modified if:

- (1) the information contained in the application for such permit or presented in support thereof is determined to be incorrect;
- (2) the regulations or conditions under which the permit or renewal thereof, was granted have changed including but not limited to changes in surrounding land use, affected population or relevant documented advances in scientific, medical or technical knowledge;
- (3) violations of conditions contained in the permit have occurred;
- (4) the annual review of permits by the Director indicates a permit modification is required to reflect the current operating conditions. Among the factors the Director shall consider during the annual review of permits are:
 - (A) the type of facility or source,
 - (B) regulation applicability,
 - (C) the addition/replacement of equipment or process(es) allowed by the existing permit,
 - (D) recordkeeping and monitoring reports and notifications,
 - (E) increases in emissions that occurred during the previous renewal period,
 - (F) compliance history of the facility operator and owner,
 - and
 - (G) any other applicable requirements of the permit and this Ordinance;
- (5) construction does not commence within 18 months of the date of issuance or once begun, ceases for a period of 18 consecutive months;
- (6) operation of a process or facility ceases permitted activities for a period of 18 consecutive months;
- (7) the permittee refuses to allow the Director or his authorized representative upon presentation of credentials:
 - (A) to enter the permittee’s premises where a source of emissions is located or in

- which any records are required to be kept pursuant to terms and conditions of the permit;
- (B) to have access to records required to be kept pursuant to the terms and conditions of the permit;
 - (C) to inspect any source of emissions, control equipment, and any monitoring equipment or method required in the permit; or
 - (D) to sample any emission source at the facility; or
- (8) the permittee refuses to pay the fee required under MCAPCO Regulation 1.5231- “Air Quality Fees” after being properly notified by the Department.
 - (9) the permittee fails to pay a civil penalty within 20 days after the date that the permittee has been notified that the civil penalty has been finally assessed under MCAPCO Regulation 1.5304.

(b) Failure to apply for and obtain a permit required by MCAPCO Section 1.5200 - “Air Quality Permits” or any violation of or failure to act in accordance with the terms, conditions, or requirements of any permit shall subject the responsible person(s) to the enforcement sanctions of MCAPCO Section 1.5300 - “Enforcement; Variances; Judicial Review” and of Chapter 143, Article 21B of the General Statutes of North Carolina.

(c) The permittee shall furnish the Department, in a timely manner determined by the Director, any information that is requested in writing to determine whether cause exists for revoking or modifying the permit or to determine compliance with the permit.

(d) The filing of a request by a permittee for a permit modification, revocation, reissuance, notification of planned changes, or anticipated noncompliance does not stay any permit term or condition.

(e) Approval of any construction, modification or operation of any source shall not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy set forth in the SIP.

MCAQ History note: Amended Eff. December 18, 2018

1.5233 APPLICATIONS REQUIRING PROFESSIONAL ENGINEER SEAL

(a) If required by G.S. 89C, a professional engineer seal technical portions of air permit applications for new sources and modifications of existing sources as defined in MCAPCO Regulation 1.5102 – “Definition Of Terms” that involve:

- (1) design,
- (2) determination of applicability and appropriateness,
or
- (3) determination and interpretation of performance of air pollution capture and control systems.

- (b) The requirements of Paragraph (a) of this Regulation shall not apply to the following:
- (1) any source with non-optional air pollution control equipment that constitutes an integral part of the process equipment as originally designed and manufactured by the equipment supplier,
 - (2) sources that are permitted pursuant to MCAPCO Regulation 1.5221 - “Permitting of Numerous Similar Facilities” or 1.5509 - “Permitting of Numerous Similar Facilities”,
 - (3) paint spray booths without air pollution capture and control systems for volatile organic compound emissions,
 - (4) particulate emission sources with air flow rates of less than or equal to 10,000 actual cubic feet per minute,
 - (5) nonmetallic mineral processing plants with wet suppression control systems for particulate emissions,
or
 - (6) permit renewal if no modifications are included in the permit renewal application.

*State History Note: Statutory Authority G.S. 143-215.3(a)(1);143-215.108;
Eff. February 1, 1995;
Readopted Eff. April 1, 2018.*

MCAPCO History Note: Amended Eff. December 18, 2018

1.5234 HEARINGS (REPEALED)

1.5235 EXPEDITED APPLICATION PROCESSING SCHEDULE

- (a) Using the procedures contained in this Regulation may result in a permit that EPA does not recognize as a valid permit.
- (b) An applicant may file an application to follow the expedited review for application certified by a professional engineer as set out in G.S. 143-215.108(h) if:
- (1) the applicant specifically requests that the permit application be processed pursuant to the procedures in G.S. 143-215.108(h); and
 - (2) the applicant submits:
 - (A) applications as required pursuant to MCAPCO Regulation 1.5212 - “Applications”;
 - (B) a completeness checklist showing that the permit application is complete;
 - (C) a draft permit;
 - (D) all required dispersion modeling;
 - (E) a certification signed by a professional engineer registered in North Carolina certifying the accuracy and completeness of draft permit and the application, including emissions estimates, applicable standards and requirements, and process specifications;
 - (F) a consistency determination as required pursuant to MCAPCO Regulation

- 1.5212 - “Applications”;
- (G) a written description of current and projected plans to reduce the emissions of air contaminants as required pursuant to MCAPCO Regulation 1.5212 - “Applications”;
 - (H) a financial qualification if required;
 - (I) substantial compliance statement if required;
 - and
 - (J) the application fee as required pursuant to MCAPCO 1.5231 - “Air Quality Fees”

(c) The applicant shall use the official application forms provided by the Department or a facsimile thereof.

(d) The Department shall provide the applicant a checklist of all items of information required to prepare a complete permit application. This checklist shall be used by the Department to determine if the application is complete.

(e) The Department shall provide the applicant a list of permit conditions and terms to include in the draft permit.

(f) Before filing a permit application that includes dispersion modeling analysis submitted in support of the application, the applicant shall submit a modeling protocol and receive approval for the dispersion modeling protocol.

(g) The Department shall follow the procedures set out in G.S. 143-215.108(h) when processing applications filed in accordance with this Regulation.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. July 1, 1998.
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

1.5236 SYNTHETIC MINOR FACILITIES

(a) A synthetic minor facility means a facility whose permit contains terms and conditions to avoid the procedures of MCAPCO Section 1.5500 - “Title V Procedures”.

(b) The owner or operator of a facility to which MCAPCO Section 1.5500 - “Title V Procedures” applies may request to have terms and conditions placed in the facility’s permit to restrict operations, limiting the potential to emit of the facility and making the requirements of MCAPCO Section 1.5500 - “Title V Procedures” inapplicable to the facility. An application for the addition of such terms and conditions shall be processed pursuant to MCAPCO Section 1.5200 - “Air Quality Permits”.

(c) A modification to a permit to remove terms and conditions in the permit that made MCAPCO Section 1.5500 - "Title V Procedures" inapplicable shall be processed pursuant to MCAPCO Section 1.5200 - "Air Quality Permits" or Section 1.5500 - "Title V Procedures". The applicant shall choose which of these procedures to follow. However, if the terms and conditions are removed following the procedures of MCAPCO Section 1.5200 - "Air Quality Permits", the permittee shall submit a permit application pursuant to the procedures of MCAPCO Section 1.5500 - "Title V Procedures" within one year after the limiting terms and conditions are removed.

(d) After a facility is issued a permit that contains terms and conditions that made MCAPCO Section 1.5500 - "Title V Procedures" inapplicable, the facility shall comply with the permitting requirements of MCAPCO Section 1.5200 - "Air Quality Permits".

(e) The Director may require monitoring, recordkeeping, and reporting necessary to assure compliance with the terms and conditions placed in a permit pursuant to this Regulation.

*State History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66;
143-215.107(a)(10); 143-215.108;
Eff. July 1, 1999;
Readopted Eff. April 1, 2018.*

MCAQ History Note: Amended Eff. December 18, 2018

