

**Article 1.0000 Permitting Provisions for Air Pollution Sources, Rules and  
Operating Regulations for Acid Rain Sources, Title V and Toxic Air Pollutants**

**Section 1.5200 Air Quality Permits**

**Subsection 1.5210 Purpose and Scope**

**Section 1.5211 Applicability**

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

(b) Except as provided in Part (c)(1)(A) 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;
- (4) entering into an irrevocable contract to construct or install any air cleaning device or allowing or causing such device to be constructed, installed, or operated;  
or
- (5) 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 under 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) There are two types of air quality permits, (1) stationary source and (2) transportation source:

- (1) **Stationary Source Construction and Operation Permit:**  
The owner or operator of a new, modified, or existing facility or source shall not begin construction or operation without first obtaining a construction and operation permit in accordance with the standard procedures under MCAPCO Section 1.5200 - "Air Quality Permits"; however Title V facilities are subject to the Title V procedures under MCAPCO Section 1.5500 - "Title V Procedures"

and the acid rain procedures under MCAPCO Section 1.5400 - "Acid Rain Procedures". A facility also may be subject to the air toxic procedures under MCAPCO Section 1.5700 - "Toxic Air Pollutant Procedures".

- (A) The format design of permits issued exclusively under MCAPCO Section 1.5200 - "Air Quality Permits" shall be determined by the Director.
  - (i) The Director may format and issue permits by source, process, facility or any other method determined appropriate for the situation or circumstances.
  - (ii) Permit(s) shall establish conditions, limits, and compliance methodology necessary to ensure construction and operation in accordance with this Ordinance.
  - (iii) 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.
  - (iv) 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.
- (B) Factors the Director shall consider when determining the format design of a permit may include but are not limited to:
  - (i) the information supplied in the application, and other information determined relevant by the Department;
  - (ii) the type of facility or source;
  - (iii) type and amount of emissions;
  - (iv) the compliance history of the facility operator and owner; and
  - (v) limitations imposed by other Department regulations, or any applicable local, state or federal rule, regulation or ordinance.
- (2) Transportation Facility Construction Permit: The owner or operator of a transportation facility subject to the requirements of MCAPCO Section 2.0800 - "Transportation Facilities" shall obtain only a construction permit following only the procedures under MCAPCO Section 1.5600 - "Transportation Facility Procedures".
- (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 under MCAPCO Regulation 2.0524 - "New Source Performance Standards" or 40 CFR Part 60, except when the following activities are eligible for exemption under 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; or
  - (D) 40 CFR Part 60, Subpart WWW, municipal solid waste landfills;
- (2) national emission standards for hazardous air pollutants under 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 under Paragraphs (f) of (g) of this Regulation;
- (3) prevention of significant deterioration under MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration";
- (4) new source review under MCAPCO Regulations 2.0531 - "Sources in Nonattainment Areas" or 2.0532 - "Sources Contributing to an Ambient Violation";
- (5) sources of volatile organic compounds subject to the requirements of MCAPCO Section 2.0900 - "Volatile Organic Compounds";
- (6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under 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 under 40 CFR Part 63; or

- (7) sources at facilities subject to MCAPCO Section 2.1100 - “Control of Toxic Air Pollutants”.

(f) A facility whose uncontrolled potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, or carbon monoxide are each no more than five tons, and whose uncontrolled potential emissions of hazardous air pollutants are below their lesser quantity cutoff emission rates does not need a permit or permit modification under this Article; however the Director may require the owner or operator of these activities to register them under 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 under Subparagraph (g)(1) shall not be included when determining potential for the purposes of this Paragraph, but emissions from equipment exempted under Subparagraph (g)(2) shall.

(g) The following activities do not need a permit or permit modification under this Article; however the Director may require the owner or operator of these activities to register them under 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 repairs which do not change the capacity of such process, fuel-burning, or control equipment, and do not involve any change in quality or nature or increase in quantity of emission of regulated air pollutants;
- (ii) housekeeping activities or building maintenance procedures, including painting buildings, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use of janitorial products and associated storage of janitorial products, or insulation removal;
- (iii) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
- (iv) use of fire fighting equipment;
- (v) paving parking lots; or
- (vi) replacement of existing equipment with equipment of the same size, type, and function that does not result in an increase to the actual or potential emission of regulated air pollutants and that does not affect the compliance status, and with replacement equipment that fits the description of the existing equipment in the permit, including the application, such that the replacement equipment can be operated under

- that permit without any changes in the permit;
- (B) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems which do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
  - (C) laboratory activities:
    - (i) bench-scale, on-site equipment used exclusively for the chemical or physical analysis for quality control purposes, staff instruction, water or wastewater analyses, or non-production environmental compliance assessments;
    - (ii) bench-scale experimentation, chemical or physical analysis, training or instruction from not-for-profit, non-production educational laboratories;
    - (iii) bench-scale experimentation, chemical or physical analysis, training or instruction from hospitals or health laboratories pursuant to the determination or diagnoses of illnesses; or
    - (iv) research and development laboratory activities provided the activity produces no commercial product or feedstock material;
  - (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 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) space heaters burning distillate oil, kerosene, natural gas, or liquefied petroleum gas operating by direct heat transfer and solely used for comfort heat;
    - (ii) residential wood stoves, heaters, or fireplaces;
    - (iii) hot water heaters which 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 applicable 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:
      - (I) recycled at the site of origin,

- (II) the original material is non-photochemically reactive according to MCAPCO Regulation 2.0518 – “Miscellaneous Volatile Organic Compound Emissions”, and
  - (III) all make up material is non-photochemically reactive according to MCAPCO Regulation 2.0518 – “Miscellaneous Volatile Organic Compound Emissions”;
- (I) processes:
- (i) electric motor burn-out ovens with secondary combustion chambers or afterburners;
  - (ii) electric motor bake-on ovens;
  - (iii) burn-off ovens for paint-line hangers with afterburners;
  - (iv) hosiery knitting machines and associated lint screens, hosiery dryers and associated lint screens, and hosiery dyeing processes where bleach or solvent dyes are not used;
  - (v) blade wood planers planing 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 under MCAPCO Section 1.5200 - “Air Quality Permits” unless they qualify for another exemption under this Paragraph.)
- (K) miscellaneous:
- (i) motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines;
  - (ii) non-self-propelled non-road engines, except generators, regulated by rules adopted under Title II of the federal Clean Air Act (Generators are required to be permitted under MCAPCO Section 1.5200 - “Air Quality Permits” unless they qualify for another exemption under this Paragraph.);
  - (iii) equipment used for the preparation of food for direct on-site human consumption;
  - (iv) a source whose emissions are regulated only under Section 112(r) or Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act;
  - (v) exit gases from in-line process analyzers;
  - (vi) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
  - (vii) refrigeration equipment that is consistent with 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 under Title VI for stratospheric ozone protection, except those units used as or in conjunction with air pollution control equipment (A unit used as or in conjunction with air pollution control equipment is required to be permitted under MCAPCO Section 1.5200 - “Air Quality Permits” unless it qualifies for another exemption under 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 is required to be permitted under MCAPCO Section 1.5200 - "Air Quality Permits" unless it qualifies for another exemption under this Paragraph.);

- (ix) equipment that does not emit any regulated air pollutants;
- (x) sources for which there are no applicable requirements.
- (xi) facilities subject only to a requirement under 40 CFR Part 63 (This Subpart does not apply when a control device is used to meet a MACT or GACT emission standard; a control device used to meet a MACT or GACT emission standard is required to be permitted under MCAPCO Section 1.5200 - "Air Quality Permits" unless it qualifies for another exemption under this Paragraph.);

(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:

- (i) fuel combustion equipment, except for 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, except for 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 under MCAPCO Section 1.5200 - "Air Quality Permits" unless they qualify for another exemption under 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;
  - (II) the heater is designed to have a maximum capacity of not more than 500,000 Btu per hour; and

- (III) the combustion gases from the heater are vented to the ambient air;
- (iv) emergency use generators and other internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, except self-propelled vehicles, that have a rated capacity of not more than:
  - (I) 310 kilowatts (electric) or 460 horsepower for natural gas-fired engines;
  - (II) 830 kilowatts (electric) or 1150 horsepower for liquefied petroleum gas-fired engines; or
  - (III) 270 kilowatts (electric) or 410 horsepower for diesel-fired engines or kerosene-fired engines; or
  - (IV) 21 kilowatts (electric) or 31 horsepower for gasoline-fired engines (Self-propelled vehicles with internal combustion engines are exempted under Subpart (g)(1)(K)(i) of this Paragraph.);
- (v) portable generators and other portable equipment with internal combustion engines not regulated by rules adopted under Title II of the federal Clean Air Act, (except self-propelled vehicles), that operate at the facility no more than a combined 350 hours for any 365-day period, provided the generators or engines have a rated capacity of no more than 750 kilowatts (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation;
- (vi) peak-shaving generators that produce no more than 325,000 kilowatt-hours of electric energy for any 12-month period provided records are maintained to verify the energy production on a monthly basis and on a 12-month basis;
- (C) gasoline distribution: bulk gasoline plants with an average daily throughput of less than 4,000 gallons;
- (D) processes:
  - (i) printing, paint spray booths or other painting or coating operations without air pollution control devices (water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices) located at a facility whose facility-wide emissions of volatile organic compounds are less than five tons per year potential.  
For the processes listed in this Subpart (Subpart (D)(i) only), maximum capacity shall be determined in the following manner:
    - (I) for processes operating less than five years the maximum capacity shall be determined using the projected greatest hourly emission rate multiplied by 8760 hours;
    - (II) for processes operating five years or longer the maximum capacity shall be determined using the greatest actual hourly emission rate occurring during the previous five years of operation multiplied by 8760 hours.
  - (ii) sawmills that saw no more than 2,000,000 board feet per year provided that only green wood is sawed;
  - (iii) electrostatic dry powder coating operations with filters or powder recovery



systems including dry powder coating operations equipped with curing ovens with a heat input of less than 10,000,000 Btu/hour;

- (E) miscellaneous:
  - (i) any source that only emits hazardous air pollutants that are not also a particulate or a volatile organic compound and whose potential emissions of hazardous air pollutants are below their lesser cutoff emission rates; or
  - (ii) any incinerator covered under Subparagraph (c)(4) of MCAPCO Regulation 2.1201 - "Purpose and Scope".
- (F) case-by-case exemption: activities that the applicant demonstrates to the satisfaction of the Director:
  - (i) to be negligible in their air quality impacts,
  - (ii) not to have any air pollution control device, and
  - (iii) not to violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater.

(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 under 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 exemption under this Regulation shall provide 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 under Paragraphs (f) or (g) of this Regulation is in violation of or has violated an applicable Regulation in this Ordinance, he may revoke the permit exemption for that activity and require that activity to be permitted under Section 1.5200 - "Air Quality Permits".

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Date Submitted  
to EPA

Date Approved  
by EPA

Federal Register

Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2 <sup>nd</sup> Revision	MAY 25, 2001	OCT 22, 2002	67 FR 64999
3 <sup>rd</sup> Revision	SEP 24, 1997	JUN 30, 2003	68 FR 38631

**Section 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 is 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.

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

*MCAC History Note:*

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

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2 <sup>nd</sup> Revision	SEP 24, 1997	JUN 30, 2003	68 FR 38631
3 <sup>rd</sup> Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

## **Section 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 and are not sources to which the following is applicable:
    - (i) MCAPCO Regulation 2.0524 - "New Source Performance Standards";
    - (ii) MCAPCO Regulation 2.0525 - "National Emission Standards for Hazardous Air Pollutants";
    - (iii) MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration"; or
    - (iv) MCAPCO Regulation 2.0531 - "Sources in NonAttainment Areas".
- (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;

Article 1.5200-15

- (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 MCAPCO Regulations 1.5236 - "Synthetic Minor Facilities", 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 MCAPCO Regulations 1.5236 - "Synthetic Minor Facilities", 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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2 <sup>nd</sup> Revision	SEP 24, 1997	JUN 30, 2003	68 FR 38631
3 <sup>rd</sup> Revision	JUN 19, 2020	DEC 2, 2021	86 FR68411

**Section 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.

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2 <sup>nd</sup> Revision	SEP 24, 1997	JUN 30, 2003	68 FR 38631
3 <sup>rd</sup> Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

## **Section 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) that 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 - “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 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

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	SEP 24, 1997	JUN 30, 2003	68 FR 38631
1st Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68413

**Section 1.5216      Incorporation by Reference**

- (a) Referenced CFR contained in this Article are incorporated by reference.
- (b) The CFR incorporated by reference in the Article shall automatically include any later amendments thereto unless a specific regulation specifies otherwise.
- (c) The CFR may be purchased from the Superintendent of Documents. P.O. Box 371954, Pittsburgh, PA 15250. The cost of the 40 CFR Parts 61 to 80 is fourteen dollars (\$14.00) as of January 1992 price.

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715

**Section 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 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.

*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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1st Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411



**Section 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”.

*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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1st Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

**Section 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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2nd Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

**Section 1.5220      Applicability Determination**

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 such 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

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1st Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

**Section 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 of the permit issued pursuant 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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2nd Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

**Section 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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2nd Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

## Subsection 1.5230 Permitting Rules and Procedures

### Section 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 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 do 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 (e)(1) and (e)(2).
  - (2) **“B”** 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”.
  - (3) **“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”.
  - (4) **“C”** 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”.
  - (5) **“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”.
  - (6) **“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”.
  - (7) **“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”.
  - (8) **“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”.

- (9) **“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”.
- (10) **“Potential Emissions”** means the emissions at maximum capacity. This would be 8760 hours per year unless designed otherwise or restricted by the air quality permit. When a new source is added to an existing facility, the potential emissions for the facility shall be the sum of the new and existing sources.
- (11) **“Process ID”** means the unique identifier assigned to a process, emission point(s), or operational unit within the facility.
- (12) **“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”.
- (13) **“Registered Facility”** means a facility supplying information as required in MCAPCO Regulation 2.0202 - “Registration of Air Pollution Sources”.
- (14) **“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 (NO<sub>x</sub>).
- (15) **“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 must be enforceable by EPA and may include air pollution control equipment, restrictions on hours of operation, or the type or amount of material combusted, stored or processed.
- (16) **“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.
- (17) **“Transportation Facility”** means a facility requiring a permit under MCAPCO Section 2.0800 - “Transportation Facilities”.
- (18) **“Truck Tank Decal”** means the sticker that is placed on a gasoline truck tank to provide information relative to the vapor tightness test certification required by MCAPCO Regulation 2.0932 - “Gasoline Truck Tanks and Vapor Collection Systems”.
- (19) **“Truck Tank Test Facility”** means a facility certified by the Department to conduct test methods detailed in MCAPCO Regulations 2.0940 - “Determination of Leak Tightness and Vapor Leaks” and 2.0941 - “Alternative Method for Leak Tightness”.
- (20) **“Variance Request”** means the information submitted subject to MCAPCO Regulation 1.5305 - “Variances”.

(b) The following 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.

1.

FACILITY CATEGORY	PERMIT PROCESSING FEE		ANNUAL ADMINISTERING AND COMPLIANCE FEES		
	NEW or SIGNIFICANT MODIFICATION	MINOR MODIFICATION	FACILITY FEE	EMISSION FEE/ACTIVITY	NON ATTAINMENT
Registered	\$100	N/A	N/A	N/A	N/A
Stage I/II	\$100	N/A	\$200	N/A	N/A
C	\$100	N/A	\$500	N/A	N/A
B	\$100	N/A	\$1000	N/A	N/A
SB	\$300	N/A	\$1400	\$32	\$500
Synthetic	\$400	N/A	\$4100	\$32	\$500
Title V	\$9000	\$800	\$6000	\$32	\$500
PSD	\$12000	N/A	N/A	N/A	N/A
NSR	\$12000	N/A	N/A	N/A	N/A
Transportation	\$1500	\$400	N/A	N/A	N/A
General	<b>50% of the otherwise applicable fees</b>				

Persons who have permits with source testing requirements shall pay the amounts indicated below in addition to all other fees required in this Subparagraph:

Source Testing: **\$200 fee/test conducted the previous year**

- 2. Variance Request **\$100**
- 3. Burning Approval Inspection **\$25**
- 4. Certification for Truck Tank Test Facility **\$200**
- 5. Truck Tank Decal **\$5**

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 under Section 602 of the federal Clean Air Act (ozone depleters), any pollutant that is regulated solely because it is subject to a regulation or standard under Section 112(r) of the federal Clean Air Act (accidental releases), and the amount of actual emissions of each pollutant that exceeds 4,000 tons per year.

(c) The appropriate permit application processing 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. A \$50 permit processing 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 processing fee is required for changes to an unexpired permit initiated by the Director to correct processing errors, to change permit conditions, or to implement new standards.

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

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

(f) 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". For transportation facilities, only a permit processing fee is required and no subsequent annual administering and compliance monitoring fee is necessary.

(g) 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.

(h) If a permit holder fails to pay an annual administering and compliance monitoring fee within 30 days after being billed, the Director shall rebill using certified mail 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.

(i) A penalty of \$50.00 may be assessed a truck tank test facility for a certification that requires the Director's authorized representative to:

- (A) be on-site more than two hours; or
- (B) make a second visit to observe the certification.

This amount is in addition to the certification fee stipulated in Paragraph (b) of this Regulation.

(j) Beginning in 1994 for the coming fiscal year (October-September), 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	
<b>Renovations subject to notification requirements of MCAPCO 2.1110</b>	<b>\$300</b>	
<b>Moving or relocation of structure (as single unit)</b>	<b>None or &lt; NESHAP amounts of asbestos present</b>	<b>With removal of NESHAP amounts of asbestos</b>
<250 sq. ft.	\$50	\$50
≥250 sq. ft.	\$100	\$100
<b>Demolitions subject to notification requirements of MCAPCO 2.1110</b>	<b>None or &lt; NESHAP amounts of asbestos present</b>	<b>With removal of NESHAP amounts of asbestos</b>
<b>Area or Floor Space</b>		
<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.

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	SEP 24, 1997	JUN 30, 2003	68 FR 38631

**Section 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 1.534.

(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*

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140
1 <sup>st</sup> Revision	NOV 24, 1993	JUL 28, 1995	60 FR 38715
2 <sup>nd</sup> Revision	SEP 24, 1997	JUN 30, 2003	68 FR 38631
3 <sup>rd</sup> Revision	JUN 19, 2020	DEC 2, 2021	86 FR 68411

**Section 1.5234        Hearings**

(a) All hearings under this Article shall be conducted in accordance with Regulation 1.5306 of this Ordinance.

(b) Notwithstanding any provisions of this Regulation to the contrary, an appeal hearing before the Environmental Protection Commission under Regulation 1.5213 (d) shall not be required if the Director and the applicant agree to bypass such hearing. In such case, the decision of the Director as in effect at the time of such agreement shall be considered final administrative action subject to judicial review under Regulation 1.5307 of this Ordinance. Provided, however, this paragraph shall not apply to public hearings under Regulations 1.5213 (e), (f) and (g) of this Ordinance.

(c) Any decision of the Environmental Protection Commission after a hearing under this regulation shall be subject to judicial review under Regulation 1.5307 of this Ordinance.

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Date Submitted  
to EPA

Date Approved  
by EPA

Federal Register

Original Reg  
1<sup>st</sup> Revision

JUN 14, 1990  
NOV 24, 1993

MAY 2, 1991  
JUL 28, 1995

56 FR 20140  
60 FR 38715

### **Section 1.5235      Delegation of Authority**

- (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 under the procedures in G.S. 143-215.108(h); and
  - (2) The applicant submits:
    - (A) applications as required under MCAPCO Regulation 1.5212 - “Applications”;
    - (B) a completeness checklist showing that the permit application is complete;
    - (C) a draft permit;
    - (D) any 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 under MCAPCO Regulation 1.5212 - “Applications”;

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

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JUN 14, 1990	MAY 2, 1991	56 FR 20140