

# FORSYTH COUNTY

## BOARD OF COMMISSIONERS

MEETING DATE: OCTOBER 12, 2017

AGENDA ITEM NUMBER: 7

**SUBJECT: ORDINANCE AMENDING CHAPTER 3 OF THE FORSYTH COUNTY CODE ENTITLED, "AIR QUALITY CONTROL", AND AMENDING THE FORSYTH COUNTY AIR QUALITY TECHNICAL CODE (OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION)**

**COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:** Recommend Approval

### SUMMARY OF INFORMATION:

Recent changes to the Code of Federal Regulations (CFR), EPA Region 4 requirements, North Carolina General Statutes and the North Carolina Administrative Code require updating Chapter 3 of the Forsyth County Code entitled, "Air Quality Control", and amendments to the Forsyth County Air Quality Technical Code. This package contains six sets of amendments. The attached changes are necessary to meet minimum requirements and maintain compatibility.

The Environmental Assistance and Protection Advisory Board and Office of Environmental Assistance and Protection staff recommend that the amendments be adopted. All public hearing and comment period requirements have been complied with by the Environmental Assistance and Protection Advisory Board.

ATTACHMENTS:  YES  NO

SIGNATURE: \_\_\_\_\_

*J. Kendrick Watts, Jr. /cdh*  
COUNTY MANAGER

DATE: October 11, 2017

**ORDINANCE AMENDING CHAPTER 3 OF THE FORSYTH COUNTY CODE  
ENTITLED, "AIR QUALITY CONTROL", AND AMENDING THE  
FORSYTH COUNTY AIR QUALITY TECHNICAL CODE  
(OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION)**

**WHEREAS**, amendments to Chapter 3 of the Forsyth County Code entitled, "Air Quality Control", and amendments to the Forsyth County Air Quality Technical Code are recommended by the Forsyth County Environmental Assistance and Protection Advisory Board and Forsyth County Office of Environmental Assistance and Protection Director, after complying with all requirements for public hearings on July 15, 2014, October 21, 2014, July 21, 2015, July 19, 2016, April 25, 2017, and August 31, 2017;

**NOW, THEREFORE, BE IT ORDAINED** by the Forsyth County Board of Commissioners as follows:

1. The Attached sections of Chapter 3 of the Forsyth County Code entitled, "Air Quality Control", and Forsyth County Air Quality Technical Code are hereby amended and adopted as provided therein and are incorporated herein by reference.
2. These amendments shall become effective upon adoption.

Adopted this the 12<sup>th</sup> day of October 2017.

**OFFICE OF ENVIRONMENTAL  
ASSISTANCE AND  
PROTECTION**

**MINOR BARNETTE  
DIRECTOR**



**ENVIRONMENTAL  
ASSISTANCE AND  
PROTECTION ADVISORY  
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**FORSYTH COUNTY**

**FORSYTH COUNTY ENVIRONMENTAL ASSISTANCE AND PROTECTION ADVISORY BOARD  
RESOLUTION**

**RECOMMENDING REVISIONS TO CHAPTER 3 OF THE  
FORSYTH COUNTY CODE ENTITLED, AIR QUALITY CONTROL**

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Environmental Assistance and Protection Advisory Board recommends to the Forsyth County Commissioners that they amend Chapter 3 of the Forsyth County Code entitled, Air Quality Control, and the Forsyth County Air Quality Technical Code by adopting the sections enumerated in the submitted material.

The Forsyth County Environmental Affairs Advisory Board has considered the attached proposed revisions at its August 31, 2017 meeting and finds them to be appropriate for application in Forsyth County.

Dated:

Mr. Peter DeVries, Chairman  
Forsyth County  
Environmental Assistance and Protection Advisory Board

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

PUBLIC HEARING TIME & DATES

10 AM, August 31, 2017  
in the First Floor Board Room at the  
Forsyth County Government Center  
201 North Chestnut Street  
Winston-Salem, NC 27101

Telephone Number: (336) 703-2440

Fax Number: (336) 703- 2777

Proposed rule revision are available on our website at:

[http://www.forsyth.cc/EAP/public\\_notices.aspx](http://www.forsyth.cc/EAP/public_notices.aspx)

# CHANGES TO RULES

## INSTRUCTIONS FOR UNDERSTANDING CHANGES

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

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

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

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

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

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

-Information Sheet-

This version of Chapter 3 of the Forsyth County Code contains the air quality rules and regulations that were modified and adopted on April 9, 2012, by the Forsyth County Board of Commissioners.

The official copy of Chapter 3 of the Forsyth County Code may be viewed at the Forsyth County Clerk of Court's office located in the Hall of Justice, 200 North Main Street, Winston-Salem, NC.

A copy of Chapter 3, Air Quality Control, of the Forsyth County Code may be viewed or printed from the Office of Environmental Assistance and Protection's website ([www.forsyth.cc/EAP/code.aspx](http://www.forsyth.cc/EAP/code.aspx)).

FORSYTH COUNTY, NC - AIR QUALITY CONTROL

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# FORSYTH COUNTY, NC - AIR QUALITY CONTROL

## CHAPTER 3

### AIR QUALITY CONTROL<sup>1</sup>

#### SECTION 3-0100. IN GENERAL

##### **Sec. 3-0101. Office established**

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

##### **Sec. 3-0102. Enforcement of chapter**

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

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

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

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<sup>1</sup>**Cross references**--Buildings and building regulations, Ch. 7; erosion control, Ch. 9; fire prevention and protection, Ch. 10; zoning ordinance, Ch. 23.

**State law references**--Air pollution control, G.S. ' 143-215.105 *et seq.*; authority of Board of County Commissioners to establish, administer, and enforce a local air pollution control program. G.S. ' 143-215.112(c); authority to levy taxes to maintain and administer such program, G.S. ' 153A-149(c)(3).



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

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

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

The Director may establish administrative procedures relating to the submission of requests for

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permits under this chapter, including such information as is needed, and such other procedures deemed necessary in order to fulfill his responsibilities and not inconsistent with this chapter. (Ord. No. 9-94, 12-19-94)

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

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

### **Sec. 3-0106. Penalties for violation of chapter**

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

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

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assessed fails to pay the amount of the assessment to the Forsyth County General Fund within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Director may specify, the Director may institute a civil action in the Superior Court of Forsyth County to recover the amount of the assessment.

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

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

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

## FORSYTH COUNTY, NC - AIR QUALITY CONTROL

94)

### **Sec. 3-0108. Chapter does not prohibit private actions for relief**

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

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

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

### **Sec. 3-0110. Reserved**

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

### **Sec. 3-0111. Copies of referenced federal regulations**

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

### **Sec. 3-0112. Reserved.**

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

## FORSYTH COUNTY, NC - AIR QUALITY CONTROL

### SECTION 3-0200. ADVISORY BOARD

#### **Sec. 3-0201. Established; composition; terms of members**

Under provisions of a resolution adopted by the Board of Commissioners, there is established the Forsyth County Environmental Assistance and Protection Advisory Board, such Board consisting of seven (7) members. The Board is hereinafter referred to as the Advisory Board. The initial terms of the members shall be as indicated in the resolution establishing the Advisory Board, with their successors to be appointed for terms of three (3) years. Each member shall be subject to reappointment and the privilege of serving for successive terms. The Advisory Board shall have such duties and responsibilities as are set forth in the resolution establishing said Board and the Code, including but not limited to air quality matters. (Ord. of 1-24-72, ' 2.041; Ord. No. 7-76, ' 1, 6-7-76; Ord. No. 9-94, 12-19-94)

#### **Sec. 3-0202. Secretary**

The Director of the Office of Environmental Assistance and Protection shall be the secretary of the Advisory Board. (Ord. of 1-24-72, ' 2.041; Ord. No. 7-76, ' 1, 6-7-76; Ord. No. 9-94, 12-19-94)

#### **Sec. 3-0203. Meetings**

The Advisory Board shall meet at the call of its chairman or the Director, or at the written request of four (4) members of such Board. (Ord. of 1-24-72, ' 2.041; Ord. No. 7-76, ' 1, 6-7-76; Ord. No. 9-94, 12-19-94)

#### **Sec. 3-0204. To serve in advisory capacity; general functions**

The Advisory Board shall serve in an advisory capacity to the Board of County Commissioners and the Director. It shall be its function to conduct public hearings on all matters brought before it, and subsequent to such hearings to present recommendations to the Board of County Commissioners or the Director, whichever is appropriate. (Ord. of 1-24-72, ' 2.042; Ord. No. 9-94, 12-19-94)

#### **Sec. 3-0205. Appeals to and other appearances before board**

(a) Any person taking exception to any decision, ruling, violation notice, civil penalty, permit or Special Order issued by the Director may appeal to the Advisory Board. The appeal must be made within 30 days of notice of the decision, ruling, violation notice, civil penalty, permit or Special Order. Any person wishing to bring a matter before the Advisory Board shall notify the Director, in writing, and furnish all facts necessary to enable the Advisory Board to consider the matter. To that end, any person is privileged to appear before the Advisory Board and bring representatives, consultants and witnesses to be heard relative to the matter concerning which he seeks action by the Advisory Board, provided advance notice is given to the Director of the subject matter to be considered.

(b) Any person taking exception to any decision, ruling, violation notice, civil penalty, permit or Special Order issued by the Director, after an appeal to the Advisory Board, may request judicial review of the administrative decision as provided by Sec. [3-0109](#). (Ord. of 1-24-72, ' 2.042; Ord. No. 3-92, 4-13-92; Ord. No. 4-93, 10-11-93; Ord. No. 9-94, 12-19-94)

**FORSYTH COUNTY, NC - AIR QUALITY CONTROL**

**Sec. 3-0206. Opinions not binding**

Opinions rendered by the Advisory Board are not binding, but shall be recommendatory only to the Board of County Commissioners and the Director. (Ord. of 1-24-72, '2.042; Ord. No. 9-94, 12-19-94)

\*This section of the ordinance was intended to be repealed on September 12, 2005 but appears to have been unintentionally omitted from the agenda item at that time:

## ~~SECTION 3-0300. -- REMEDIES FOR ENFORCEMENT OF STANDARDS SPECIAL ORDERS~~

### ~~3-0301. -- Applicability.~~

~~North Carolina's federally approved air quality implementation plan provides that sources must be in compliance with national ambient air quality standards. This section provides for enforcement procedures to be used when point sources and area sources have not complied with the standards provided by this chapter and approved compliance schedules.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

### ~~3-0302. -- Issuance.~~

~~The director of the environmental affairs department is hereby empowered to issue (and from time to time revoke) a special order to any person whom he finds responsible for causing or contributing to any pollution of the air in violation of the standards contained in this chapter. This special order may direct such person to take or refrain from taking action in order to alleviate or eliminate such pollution within a period of time specified in such special order. The director is authorized to enter into consent special orders by negotiation and agreement with the person responsible for the pollution of the air. Neither a special order nor a special order by consent may be issued except after notice and hearing as provided by Rule .0308. The person against whom a special order is used may appeal to the Forsyth County Board of Commissioners by filing a notice of appeal with the county manager within ten (10) days after the date of issuance of said special order.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

### ~~3-0303. -- Definitions.~~

~~The following definitions apply throughout this section:~~

~~(1)~~

~~*Point source* means any source capable of emitting more than one hundred (100) tons per year of any pollutant, should no control be applied.~~

(2)

~~Good faith effort means that positive action has been taken by a person that is specifically intended to achieve compliance with the applicable air quality standards. Verbal assurances of acts done or to be done will not constitute good faith effort. Positive action includes but is not limited to awarding of contracts, application for permits, ordering equipment, installation of equipment, and documented futile attempts to obtain clean fuel when control in the past has not been practical.~~

(3)

~~Area sources means all sources other than point sources.~~

(4)

~~Special order means a writing signed by the director which sets forth the violation of the standard, as provided in this chapter, the findings of fact generated at the public hearing, the control measures required to alleviate or eliminate the violation of the standard, and a time schedule for implementation of the required control measures, and such other information as necessary to inform the person in violation of what is required of him to alleviate or eliminate the violation.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

• ~~3-0304. -- Categories of sources.~~

~~Point sources and area sources will be divided into four (4) categories, as follows:~~

(1)

~~Category A will include sources which have shown good faith, but due to the following types of reasons will be unable to meet their present compliance schedules (the following list is inclusive):~~

(A)

~~Delays in construction, due to the inability to obtain construction materials (example: Steel);~~

(B)

~~Inability to obtain firm contracts for low sulfur fuels;~~

(C)

~~Delays in equipment delivery;~~

(D)

~~Operational problems associated with new control equipment;~~

(E)

~~Sources that have achieved compliance through utilizing by-product markets, but are required to change control strategy;~~

(F)

~~Equipment installation delays beyond the control of the source.~~

(2)



~~Category B will include sources which have shown good faith, but due to the following types of reasons will be unable to meet their present compliance schedules (the following list is inclusive):~~

~~(A)~~

~~Sources that have not established controls due to technological indecision;~~

~~(B)~~

~~Sources that have been identified by the Forsyth County Environmental Affairs Department in the latter part of the compliance period, thus making it impossible to meet the compliance schedule;~~

~~(C)~~

~~Contracts for control equipment were not made in time to allow installation in time to meet compliance schedule.~~

~~(3)~~

~~Category C will include those sources which have made little or no effort to comply with air quality emission standards, compliance schedules, permit conditions, or have failed to apply for or renew a permit.~~

~~(4)~~

~~Category D will include sources, including those in any of the above categories, which if granted an extension of time for compliance, would either singularly or in combination with other sources result in a violation of any national primary ambient air quality standard. The determination that a source would, if granted an extension of time for compliance, result in a violation as stated above must be based on statistical projections which meet the standards of accuracy generally accepted in the air quality regulatory field.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

~~**3-0305. -- Enforcement procedures.**~~

~~(a)~~

~~General enforcement. In general, enforcement procedures will consist of one of the following:~~

~~(1)~~

~~Special order by consent;~~

~~(2)~~

~~Special order;~~

~~(3)~~

~~Criminal action; or~~

~~(4)~~

~~Injunctive relief.~~

~~(b)~~

~~Enforcement procedures for sources in Categories A and B as defined in Rule .0304 of this section. A good faith attempt will be made to negotiate with the source and enter into a special order by consent using the procedures as set forth~~

~~in paragraph .0306(a) of this section. If the source refuses to enter into a special order by consent, then a special order will be entered using the procedures set forth in paragraph .0306(b) of this section.~~

~~(c)~~

~~Enforcement procedures against sources in Category C as defined in Rule .0304 of this section. The enforcement procedure for sources in Category C will be a special order using the procedure as set forth in Rule .0306 of this section. Criminal action and injunctive relief will be reserved for sources which violate special orders by consent, and special orders.~~

~~(d)~~

~~Enforcement procedures against sources in Category D as defined in Rule .0304 of this section. No extension of time for compliance will be approved for sources in Category D unless the source meets the requirements of Section 110(f) of the Clean Air Act Amendments (42 U.S.C. 1857 et seq.). If the source satisfies the Section 110 requirements, enforcement will be by special order by consent, or special order. If the source does not meet the Section 110 requirements, enforcement will be by criminal action or injunctive relief.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

~~**3-0306. – Required procedures for issuance of special orders by consent and special orders.**~~

~~(a)~~

~~Procedure for issuance of special orders by consent:~~

~~(1)~~

~~Notify source by letter of the impending deadline for compliance, probability of violation, and desire to resolve the matter by issuance of a special order by consent.~~

~~(2)~~

~~Negotiate with the source. Negotiations to include, but not be limited to: Compliance schedules, and such special conditions as needed and filing of documentation by source.~~

~~(3)~~

~~Publish notice of the proposed special order and of the public hearing thereon, as provided in Rule .0308 of this section; a public hearing will be held by the Forsyth County Environmental Affairs Board; and, the findings of fact developed at the public hearing will be made a part of the special order by consent.~~

~~(b)~~

~~Procedure for issuance of special orders. The procedure for issuing special orders will be the same as provided in paragraph .0306(a) of this section, provided that the director additionally will issue a letter to the owner or operator of any emission source requiring him to establish and maintain such records; make such reports; install, use and maintain such monitoring equipment or methods as required by~~

~~subchapter 3D, section .0600 and Rule .0307 of this section; and, to provide such information as the director may reasonably require.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

~~**3-0307. Documentation for special orders.**~~

~~Documentation procedures shall consist of the following:~~

- ~~(1)  
Establish five (5) increments of progress for the attainment of control strategies;~~
- ~~(2)  
Contract date made for the installation of control equipment;~~
- ~~(3)  
In cases where delays have occurred, due to nonavailability of control equipment, obtain documentation from supplier;~~
- ~~(4)  
In cases where lack of clean fuel is the cause of noncompliance, show documented proof by at least two (2) fuel suppliers that clean fuel is not available;~~
- ~~(5)  
Evidence that emissions levels will be maintained at, or below present levels, pending completion of control installation;~~
- ~~(6)  
Furnish report on all increments of progress;~~
- ~~(7)  
Conferences with environmental affairs department staff and Forsyth County Environmental Affairs Board concerning adequate schedule to complete the attainment of control concerning each source;~~
- ~~(8)  
Source is to proceed as expeditiously as possible toward obtaining compliance.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

~~**3-0308. Public hearing.**~~

- ~~(a)  
No special order by consent or special order may be issued by the director, except after notice of a public hearing thereon has been published in a newspaper of general circulation in Forsyth County, at least once, no less than thirty (30) days before the date of the scheduled hearing, and the public hearing is held by the Forsyth County Environmental Affairs Board.~~
- ~~(b)  
The notice of public hearing to be published in the newspaper shall contain a notice of intent to issue a special order and the proposed terms of said special~~

~~order. One (1) public notice may be used to publish several notices of public hearing and notices of intent to issue special orders.~~

~~(c)~~

~~In conducting the public hearing as required herein, the Forsyth County Environmental Affairs Board shall act as a fact finding body only, and it shall not ultimately determine if issuance of the special order or special order by consent shall occur. The environmental affairs board shall make its findings of fact, which shall be incorporated into the special order by consent of the special order, based on evidence presented at the hearing by all interested parties. Parties who wish to be heard at the hearing may be represented by counsel and the environmental affairs board may require parties with similar interests to appoint a spokesman to speak for them. The environmental affairs board may set such other rules as they deem necessary for the fair and efficient conduct of the public hearing.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

### ~~3-0309. -- Compliance bonds.~~

~~A special order may provide that a bond or other surety be posted to ensure compliance. In determining the amount of such bond the director shall consider the degree and extent of harm which may result if the person to whom the special order is directed fails to comply with the terms of the order, the cost of rectifying such harm, the economic consequences to the person to whom the special order is directed if the special order is issued as compared to the consequences of a denial, suspension, or revocation of the special order or permit, and the person's history of compliance with pollution control requirements, other special orders, history of payment of any penalties which may have been previously assessed by the director. In the event of noncompliance with the special order or other instrument, the bond shall be forfeited and the entire amount of the bond shall be deposited in the Forsyth County General Fund.~~

~~(Ord. No. 9-94, § 1, 12-19-94)~~

## **FORSYTH COUNTY, NC - AIR QUALITY CONTROL**

### **SECTION 3-0400. FORSYTH COUNTY AIR QUALITY TECHNICAL CODE**

#### **Sec. 3-0401. Adopted.**

The technical standards and regulations relating to air quality control are adopted and published as a technical code which has the force of law in the County. It is entitled "Forsyth County Air Quality Technical Code" and is adopted by reference. This technical ordinance is incorporated herein by reference and published as a separate book or pamphlet. Copies of this published technical Code shall be available for public inspection in the office of the Clerk to the Board, the County Office of Environmental Assistance and Protection, and other offices as provided by law. (Ord. No. 1-84, '3, 1-23-84; Ord. No. 9-94, 12-19-94)

**FORSYTH COUNTY, NC - AIR QUALITY CONTROL**

**SECTION 3-0300. REPEALED**

**Sec. 3-0301. - Sec. 3-0307. Repealed**

**OFFICE OF ENVIRONMENTAL  
ASSISTANCE AND  
PROTECTION**

**MINOR BARNETTE  
DIRECTOR**



**ENVIRONMENTAL  
ASSISTANCE AND  
PROTECTION ADVISORY  
BOARD**

**PETER H. DeVRIES  
CHAIRMAN**

**NATHAN ATKINSON  
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MARY BETH WILLIAMS  
CHARLES E. WILSON**

**FORSYTH COUNTY**

**FORSYTH COUNTY ENVIRONMENTAL ASSISTANCE AND PROTECTION ADVISORY BOARD  
RESOLUTION**

**RECOMMENDING REVISIONS TO CHAPTER 3 OF THE  
FORSYTH COUNTY CODE ENTITLED, AIR QUALITY CONTROL, AND TO  
THE FORSYTH COUNTY AIR QUALITY TECHNICAL CODE**

NOW, THEREFORE, BE IT RESOLVED, that the Forsyth County Environmental Assistance and Protection Advisory Board recommends to the Forsyth County Commissioners that they amend Chapter 3 of the Forsyth County Code entitled, Air Quality Control, and the Forsyth County Air Quality Technical Code by adopting the sections enumerated in the submitted material.

The Forsyth County Environmental Affairs Advisory Board has considered the attached proposed revisions at its April 25 2017, July 19, 2016, July 21, 2015, October 21 2014, and July 31, 2014 meetings and finds them to be appropriate for application in Forsyth County.

Dated:

Mr. Peter DeVries, Chairman  
Forsyth County  
Environmental Assistance and Protection Advisory Board

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

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

PUBLIC HEARING TIME & DATES

10 AM, April 25, 2017

First Floor Board Room

Forsyth County Government Center

201 North Chestnut Street

Winston-Salem, NC 27101

Telephone Number: (336) 703-2440

Fax Number: (336) 703- 2777

Proposed rule revision are available on our website at:

[http://www.forsyth.cc/EAP/public\\_notices.aspx](http://www.forsyth.cc/EAP/public_notices.aspx)



# CHANGES TO RULES

## INSTRUCTIONS FOR UNDERSTANDING CHANGES

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

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

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

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

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

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

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## SUBCHAPTER 3Q - AIR QUALITY PERMITS

### SECTION 3Q-0100 GENERAL PROVISIONS

#### Sec. 3Q-0102. Activities exempted from permit requirements

(a) ~~This Rule does not apply to facilities required to have a permit under [Section 3D-0500](#). This Rule applies only to permits issued under [Section 3D-0300](#).~~

(b) ~~If a source is subject to any of the following Rules, then the source is not exempted from permit requirements, and the exemptions in Paragraph (c) of this Rule do not apply:~~

~~(1) new source performance standards under Sec. [3D-0524](#) or 40 CFR Part 60, except when the following activities are eligible for exemption under Paragraph (c) of this Rule;~~

~~(A) 40 CFR Part 60, Subpart De, industrial, commercial, and institutional steam generating units;~~

~~(B) 40 CFR Part 60, Subparts K, Ka, or Kb, volatile organic liquid storage vessels;~~  
~~or~~

~~(C) 40 CFR Part 60, Subpart AAA, new residential wood heaters;~~

~~(D) 40 CFR Part 60, Subpart JJJ, petroleum dry cleaners; or~~

~~(E) 40 CFR Part 60, Subpart WWW, municipal solid waste landfills;~~

~~(F) 40 CFR Part 60, Subpart IIII, stationary compression 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 under Sec. [3D-1110](#) or 40 CFR Part 61;~~

~~(3) prevention of significant deterioration under Sec. [3D-0530](#);~~

~~(4) new source review under Sec. [3D-0531](#) or [0532](#);~~

~~(5) Reserved;~~

~~(6) sources required to apply maximum achievable control technology (MACT) for hazardous air pollutants under Sec. [3D-1109](#), [1111](#) [1112](#) or 40 CFR Part 63 that are required to have a permit under Section 3Q-0500 of this Subchapter; or~~

~~(7) sources at facilities subject to [Section 3D-1100](#) (If a source qualifies for an exemption in Subparagraphs (a)(1) through (a)(24) of 15A NCAC 02Q .0702, 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 Paragraph (c) of this Rule.);~~

(e) ~~The following activities do not need a permit or permit modification under [Section 3D-0300](#); however, the Director may require the owner or operator of these activities to register them under [Section 3D-0200](#):~~

- ~~(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, refuse 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 and associated storage of janitorial products, or non-asbestos 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 that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;~~
  - ~~(C) laboratory activities:
    - ~~(i) bench scale, on-site equipment used exclusively for 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 analyses, training or instruction from not-for-profit, non-production educational laboratories;~~
    - ~~(iii) bench scale experimentation, chemical or physical analyses, 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 used solely to store fuel oils, kerosene, diesel, crude oil, used motor oil, lubricants, cooking 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 except Stage I controls under Sec. [3D-0928](#);~~
- (iii) ~~storage tanks used solely 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 used solely 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) ~~gasoline distribution: gasoline service stations or gasoline dispensing facilities;~~
- (H) ~~dispensing equipment: equipment used solely to dispense diesel fuel, kerosene, lubricants or cooling oils;~~
- (I) ~~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 recycled is recycled at the site of origin;~~
- (J) ~~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;~~
- (K) ~~solid waste landfills: municipal solid waste landfills (This Part 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 Section [3Q-0300](#) unless they qualify for another exemption under this Paragraph.);~~
- (L) ~~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 Section [3Q-0300](#) unless they qualify for another exemption under this Paragraph.);~~
  - ~~(iii) — portable generators regulated by rules adopted under Title II of the Federal Clean Air Act;~~
  - ~~(iv) — equipment used for the preparation of food for direct on-site human consumption;~~
  - ~~(v) — a source whose emissions are regulated only under Section 112(r) or Title VI of the federal Clean Air Act;~~
  - ~~(vi) — exit gases from in-line process analyzers;~~
  - ~~(vii) — stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;~~
  - ~~(viii) — 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 Section [3Q-0300](#) unless it qualifies for another exemption under this Paragraph.);~~
  - ~~(ix) — 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 Section [3Q-0300](#) unless it qualifies for another exemption under this Paragraph.);~~
  - ~~(x) — equipment that does not emit any regulated air pollutants;~~
  - ~~(xi) — Reserved;~~
  - ~~(xii) — sources for which there are no applicable requirements; or~~
  - ~~(xiii) — animal operations not required to have control technology under Section [3D-1800](#) (If an animal operation is required to have control technology, it shall be required to have a permit under this Subchapter).~~
- ~~(2) — activities exempted because of size or production rate:~~
- ~~(A) — storage tanks:~~
    - ~~(i) — above-ground storage tanks with a storage capacity of no more than 1100 gallons storing organic liquids with a true vapor pressure of no more than 10.8 pounds per square inch absolute at 70°F; or~~
    - ~~(ii) — underground storage tanks with a storage capacity of no more than 2500 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 rating of less;
 
  - (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 before June 10, 1989;~~
 (Internal combustion engines are required to be permitted under Section ~~3Q-0300~~ 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 Section 3Q-0300 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) ~~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 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 no 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,~~
  - (III) ~~590 kilowatts (electric) or 900 horsepower for diesel fired 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 (c)(1)(L)(i) of this Paragraph.)~~

- (vi) ~~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 kilowatt (electric) or 1100 horsepower each and provided records are maintained to verify the hours of operation (Self-propelled vehicles with internal combustion engines are exempted under Subpart (c)(1)(L)(i) of this Paragraph.);~~
- (vii) ~~peak shaving generators that produce no more than 325,000 kilowatt-hours of electrical 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 4000 gallons;~~
- (D) ~~processes:~~
  - (i) ~~graphic arts operations, 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), and solvent cleaning operations located at a facility whose facility-wide actual emissions of volatile organic compounds are less than five tons per year (Graphic arts operations, coating operations, and solvent cleaning operations are defined in Sec. [3Q-0803](#));~~
  - (ii) ~~sawmills that saw no more than 2,000,000 board feet per year provided only green wood is sawed;~~
  - (iii) ~~perchloroethylene dry cleaners that emit less than 13,000 pounds of perchloroethylene per year;~~
  - (iv) ~~electrostatic dry powder coating operations with filters or powder recovery systems including electrostatic dry powder coating operations equipped with curing ovens with a heat input of less than 10,000,000 Btu per hour;~~
- (E) ~~miscellaneous:~~
  - (i) ~~any source whose emissions would not violate any applicable emissions standard and whose potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants are below their lesser quantity cutoff except:
    - (I) ~~storage tanks,~~
    - (II) ~~fuel combustion equipment,~~~~



~~(III) — space heaters burning waste oil,  
(IV) — generators, excluding emergency generators, or other non self-propelled internal combustion engines,  
(V) — bulk gasoline plants,  
(VI) — printing, paint spray booths, or other painting or coating operations,  
(VII) — sawmills,  
(VIII) — perchloroethylene dry cleaners, or  
(IX) — electrostatic dry powder coating operations,~~  
provided that the total potential emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the facility are each less than 40 tons per year and the total potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates or provided that the facility has an air quality permit (A source identified in Sub subpart (I) through (IX) of this Part is required to be permitted under Section [3Q-0300](#) unless it qualifies for another exemption under this Paragraph.);

- ~~(ii) — any facility whose actual emissions of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., uncontrolled emissions, are each less than five tons per year, whose potential emissions of all hazardous air pollutants are below their lesser quantity cutoff emission rates and none of whose sources would violate an applicable emissions standard;~~
- ~~(iii) — 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 quantity cutoff emission rates; or~~
- ~~(iv) — any incinerator covered under Subparagraph (c)(4) of Subchapter Sec. [3D-1201](#).~~

~~(F) — Reserved:~~

~~(d) — An activity that is exempt from the permit or permit modification process is not exempted from other applicable requirements. The owner or operator of the source is not exempt from demonstrating compliance with any applicable requirement.~~

~~(e) — Emissions from stationary source activities identified in Paragraph (c) of this Rule shall be included in determining compliance with the toxic air pollutant requirements under [Section 3D-1100](#) or [Section 3Q-0700](#) according to Sec. [3Q-0702](#) (exemptions from air toxic permitting).~~

~~(f) — The owner or operator of a facility or source claiming an exemption under Paragraph (c) of this Rule shall provide the Director documentation upon request that the facility or source is qualified for that exemption.~~

~~(g) — If the Director finds that an activity exempted under Paragraph (c) of this Rule is in violation of or has violated a rule in [Subchapter 3D](#), he shall revoke the permit exemption for that activity~~

and require that activity to be permitted under this Subchapter if necessary to obtain or maintain compliance.

~~(h) — Activities that the applicant demonstrates to the satisfaction of the Director as meeting the following do not need a permit or permit modification under Section 3Q-0300; however, the Director may require the owner or operator of these activities to register them under Section 3D-0200:~~

- ~~(1) — negligible air quality impacts,~~
- ~~(2) — have no air pollution control device, and~~
- ~~(3) — do not violate any applicable emission control standard when operating at maximum design capacity or maximum operating rate, whichever is greater.~~

~~(Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 7-28-97, 9-14-98, 5-24-99, 10-25-99, 7-24-00, 05-14-01, 7-22-02)~~

(a) For the purposes of this Rule, the definitions listed in Section 3D-0101 and Sec. 3Q-0103 shall apply.

(b) This Rule does not apply to:

- (1) facilities whose potential emissions require a permit under Section 3Q-0500 (Title V Procedures); or
- (2) a source emitting a pollutant that is part of the facility's Section 3D-1100 (Control of Toxic Air Pollutants) modeling demonstration if that source is not exempted under Sec. 3Q-0702.

(c) The owner or operator of an activity exempt from permitting shall not be exempt from demonstrating compliance with any applicable State or federal requirement.

(d) Any facility whose actual emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, carbon monoxide, hazardous air pollutants, and toxic air pollutants are each less than five tons per year and whose actual total aggregate emissions are less than 10 tons per year shall not require a permit under Section 3Q-0300. This Paragraph shall not apply to synthetic minor facilities that are subject to Sec. 0315 of this Subchapter.

(e) Any facility that is not exempted from permitting under Paragraph (d) of this Rule and whose actual total aggregate emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, carbon monoxide, hazardous air pollutants, and toxic air pollutants are greater than or equal to five tons per year and less than 25 tons per year may register their facility under Sec. 3D-0202 instead of obtaining a permit under Section 3Q-0300. This Paragraph shall not apply to any facility as follows:

- (1) synthetic minor facilities that are subject to Sec. 0315 of this Subchapter;
- (2) facilities with a source subject to maximum achievable control technology under 40 CFR Part 63;
- (3) facilities with sources of volatile organic compounds or nitrogen oxides that are located in a nonattainment area; or
- (4) facilities with a source subject to NSPS, unless the source is exempted under Paragraph (g) or (h) of this Rule.

(f) The Director may require the owner or operator of a facility to register them under Section 3D-0200 or obtain a permit under Section 3Q-0300 if necessary to obtain compliance with any other applicable requirement under this Section or Section 3D.

(g) The following activities do not require a permit or permit modification under Section 3Q-0300. These activities shall not be included in determining applicability of any rule or standard that requires facility-wide aggregation of source emissions, including activities subject to Sec. 3D-0530, Sec. 3D-0531, Section 3Q-0500, and Section 3Q-0700 unless specifically noted below:

- (1) maintenance, upkeep, and replacement:
  - (A) maintenance, structural changes, or repair activities which do not increase the capacity of such process and do not involve any change in quality or nature or increase in quantity of emission of any regulated air pollutant;
  - (B) housekeeping activities or building maintenance procedures, including painting buildings, paving parking lots, resurfacing floors, roof repair, washing, portable vacuum cleaners, sweeping, use and associated storage of janitorial products, or insulation removal;
  - (C) use of office supplies, supplies to maintain copying equipment, or blueprint machines;
  - (D) use of firefighting equipment (excluding engines subject to 40 CFR 63, Subpart ZZZZ); or
  - (E) replacement of 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, 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;
- (2) air conditioning or ventilation: comfort air conditioning or comfort ventilating systems that do not transport, remove, or exhaust regulated air pollutants to the atmosphere;
- (3) laboratory or classroom activities:
  - (A) 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;
  - (B) research and development activities that produce no commercial product or feedstock material; or
  - (C) educational activities, including but not limited to wood working, welding, and automotive;
- (4) storage tanks with no applicable requirements other than Stage I controls under Sec. 3D-0928, Gasoline Service Stations Stage I;
- (5) combustion and heat transfer equipment:
  - (A) 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;
  - (B) residential wood stoves, heaters, or fireplaces; or
  - (C) water heaters that are used for domestic purposes only and are not used to heat process water;

- (6) wastewater treatment processes: industrial wastewater treatment processes or municipal wastewater treatment processes for which there are no state or federal air requirements;
- (7) dispensing equipment: equipment used solely to dispense gasoline, diesel fuel, kerosene, lubricants or cooling oils;
- (8) electric motor burn-out ovens with secondary combustion chambers or afterburners;
- (9) electric motor bake-on ovens;
- (10) burn-off ovens with afterburners for paint-line hangers;
- (11) 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;
- (12) woodworking operations processing only green wood;
- (13) 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 Section 3Q-0300, unless they qualify for another exemption under this Paragraph; or
- (14) miscellaneous:
  - (A) equipment that does not emit any regulated air pollutants;
  - (B) sources for which there are no applicable requirements;
  - (C) motor vehicles, aircraft, marine vessels, locomotives, tractors, or other self-propelled vehicles with internal combustion engines;
  - (D) engines subject to Title II of the Federal Clean Air Act (Emission Standards for Moving Sources);
  - (E) equipment used for the preparation of food for direct on-site human consumption;
  - (F) a source whose emissions are regulated only under Section 112(r) or Title VI of the Federal Clean Air Act;
  - (G) exit gases from in-line process analyzers;
  - (H) stacks or vents to prevent escape of sewer gases from domestic waste through plumbing traps;
  - (I) 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 refrigeration equipment used as or in conjunction with air pollution control equipment. A-unit Refrigeration equipment used as or in conjunction with air pollution control equipment is required to be permitted under Section 3Q-0300, unless it qualifies for another exemption under this Paragraph;
  - (J) 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 Section 3Q-0300, unless it qualifies for another exemption under this Paragraph;

(K) animal operations not required to have control technology under Section 3D-1800. If an animal operation is required to have control technology, it shall be required to have a permit under this Subchapter;

(L) any incinerator covered under Sec. 3D-1201(c)(4); or

(M) dry cleaning operations, regardless of NSPS or NESHAP applicability.

(h) The following activities do not require a permit or permit modification under 15A NCAC 02Q-0300-Section 3Q-0300. These activities are included in determining applicability of any rule or standard that requires facility-wide aggregation of source emissions, including activities subject to Sec. 3D-0530, Sec. 3D-0531, Section 3Q-0500, and Section 3Q-0700:

(1) combustion and heat transfer equipment (includes direct-fired units that only emit regulated pollutants from fuel combustion):

(A) fuel combustion equipment (excluding internal combustion engines) not subject to 40 CFR Part 60, NSPS, firing exclusively unadulterated liquid fossil fuel, wood, or approved equivalent unadulterated fuel as defined in Sec. 0103;

(B) fuel combustion equipment (excluding internal combustion engines) firing exclusively natural gas or liquefied petroleum gas or a mixture of these fuels; or

(C) 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;

(2) gasoline distribution: bulk gasoline plants as defined in Sec. 3D-0926(a)(3), with an average daily throughput of less than 4,000 gallons;

(3) paint spray booths or graphic arts operations, coating operations, and solvent cleaning operations as defined in Sec. 0803 located at a facility whose facility-wide actual uncontrolled emissions of volatile organic compounds are less than five tons per year, except that such emission sources whose actual uncontrolled emissions of volatile organic compounds are less than 100 pounds per year shall qualify for this exemption regardless of the facility-wide emissions. For the purpose of this exemption water wash and filters that are an integral part of the paint spray booth are not considered air pollution control devices;

(4) electrostatic dry powder coating operations with filters or powder recovery systems;

(5) miscellaneous: any source whose potential uncontrolled emissions of particulate matter (PM10), sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide shall each be no more than five tons per year; or

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

(i) The owner or operator of a facility or source claiming an activity is exempt under Paragraphs (d), (e), (g) or (h) of this Rule shall submit emissions data, documentation of equipment type, or other supporting documents to the Director upon request that the facility or source is qualified for that exemption.

## SECTION 3Q-0300 CONSTRUCTION AND OPERATION PERMIT

Sec. 3Q-0302 is proposed for repeal as follows

### **Sec. 3Q-0302. Repealed Facilities not likely to contravene demonstration**

(a) ~~This Rule applies only to this Section. It does not apply to [Section 3Q-0500](#) (Title V Procedures).~~

(b) ~~If a facility is subject to any of the following Rules, the facility is not exempted from permit requirements, and the exemptions in Paragraph (c) of this Rule do not apply:~~

- ~~(1) new source performance standards under Sec. [3D-0524](#) or 40 CFR Part 60, except new residential wood heaters;~~
- ~~(2) national emission standards for hazardous air pollutants under Sec. [3D-1110](#) or 40 CFR Part 61;~~
- ~~(3) prevention of significant deterioration under Sec. [3D-0530](#);~~
- ~~(4) new source review under Sec. [3D-0531](#) or [0532](#);~~
- ~~(5) sources of volatile organic compounds subject to the requirements of Section [3D-0900](#) that are located in Mecklenburg and Gaston Counties;~~
- ~~(6) sources required to apply maximum achievable control technology for hazardous air pollutants under Sec. [3D-1109](#), [1112](#) or under 40 CFR Part 63 or to apply generally available control technology (GACT) or work practice standards under 40 CFR Part 63;~~
- ~~(7) sources at facilities subject to Section [3D-1100](#); or~~
- ~~(8) facilities subject to Title V permitting procedures under [Section 3Q-0500](#).~~

(c) ~~The owner or operator of any facility required to have a permit under this Section may request the Director to exempt the facility from the requirement to have a permit. The request shall be in writing. Along with the request, the owner or operator shall submit supporting documentation to show that air quality and emission control standards will not be, nor are likely to be, contravened. This documentation shall include:~~

- ~~(1) documentation that the facility has no air pollution control devices;~~
- ~~(2) documentation that no source at the facility will violate any applicable emissions control standard when operating at maximum design or operating rate, whichever is greater; and~~
- ~~(3) ambient modeling showing that the ambient impact of emissions from the facility will not exceed the levels in Sec. [3D-0532](#) (c)(5) when all sources at the facility are operated at maximum design or operating rate, whichever is greater.~~

~~If the documentation shows to the satisfaction of the Director that air quality and emission control standards will not be, nor are likely to be, contravened, a permit shall not be required. (Ord. No. 4-94, 5-23-94; Ord. No. 9-94, 12-19-94, 11-11-96, 9-14-98)~~

### **Sec. 3Q-0318. Changes not requiring permit revisions**

~~(a) This rule applies to sources that are not exempt under Sec. 0102 of this Subchapter. This rule applies to facilities that have an air quality permit.~~

(b) An owner or operator of a facility may make changes without first modifying their air permit if:

- (1) the change does not violate any existing requirements or new applicable requirements;
- (2) the change does not cause emissions allowed under the current permit to be exceeded;
- (3) the change does not require a modification of a permit term or condition under Sec. 0315 or avoidance condition under Sec. 0317 of this Section;
- (4) the change does not require a permit under Section 3Q-0700, Toxic Air Pollutant Procedures;
- (5) Reserved; and
- (6) the owner or operator shall notify the Director with written notification seven calendar days before the change is made. Within seven calendar days of receipt of the notice, the Director shall notify the owner or operator of its determination that the change meets the requirements of Subparagraphs (b)(1) through (b)(5).

(c) The written notification required under Subparagraph (b)(6) of this Rule shall include:

- (1) a description of the change;
- (2) a date on which the change will occur;
- (3) any change in emissions; and
- (4) any permit terms or conditions of the current permit that may be affected by this change.

(d) A copy of the notification required under Subparagraph (b)(6) of the Rule shall be attached to the current permit until the permit is revised at the next modification, name change, ownership change, or renewal.

## **SECTION 3Q-0900 PERMIT EXEMPTIONS**

### **Sec. 3Q-0903. Emergency generators and stationary reciprocating internal combustion engines**

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

(1) “emergency “Emergency generator” means a an emergency stationary reciprocating internal combustion engine used to generate electricity only during the loss of primary power at the facility that is beyond the control of the owner or operator of the facility or during maintenance as defined in 40 CFR 63.6675. An emergency generator may be operated periodically to ensure that it will operate.

(2) “Stationary reciprocating internal combustion engine” shall be defined as set forth in 40 CFR 63.6675.

(b) This rule applies to emergency generators and stationary reciprocating internal combustion engines at a facility whose only sources that would require a permit are emergency generators and stationary reciprocating internal combustion engines whose emergency generators consume less than:

(1) 322,000 gallons per calendar year of diesel fuel;

- (2) ~~48,000,000 cubic feet per calendar year of natural gas,~~
- (3) ~~1,200,000 gallons per calendar year of liquified petroleum gas,~~
- (4) ~~25,000 gallons per calendar year of gasoline for gasoline powered generators, or~~
- (5) ~~any combination of the fuels listed in this Paragraph provided the facility-wide actual emissions of each regulated air pollutant does not exceed~~ are less than 100 tons per calendar year. year of any regulated pollutant, 10 tons per calendar year of any hazardous air pollutant or 25 tons per calendar year of any combination of hazardous air pollutants.

(c) The owner or operator of emergency generators and stationary reciprocating internal combustion engines covered under this Rule shall comply with Sec. [3D-0516](#), Sec. [3D-0521](#), and Sec. [3D-0524](#), of Subchapter 3D.

(d) The owner or operator of ~~an emergency generator~~ generators and stationary reciprocating internal combustion engines covered under this Rule shall ~~maintain records of the amount of fuel burned in the generator for each calendar year so that the Director can determine upon review of these records~~ provide the Director documentation upon request that the emergency generator generators and stationary reciprocating internal combustion engines qualifies to be covered under this Rule meet the applicability requirements in Paragraph (b) of this Rule.