

## **15A NCAC 02Q .0709 DEMONSTRATIONS**

(a) Demonstrations. The owner or operator of a source that is applying for a permit or permit modification to emit toxic air pollutants shall:

- (1) demonstrate to the Director through dispersion modeling conducted pursuant to 15A NCAC 02D .1106 that the emissions of toxic air pollutants from the facility will not cause any acceptable ambient level listed in 15A NCAC 02D .1104 to be exceeded beyond the facility's premises with such exceptions as may be allowed pursuant to 15A NCAC 02Q .0700; or
- (2) demonstrate to the Commission or its delegate that the ambient concentration beyond the premises (adjacent property boundary) for the subject toxic air pollutant will not adversely affect human health (e.g., with a risk assessment specific to the facility) though the concentration is higher than the acceptable ambient level in 15A NCAC 02D .1104 by providing one of the following demonstrations:
  - (A) the area where the ambient concentrations are expected to exceed the acceptable ambient levels in 15A NCAC 02D .1104 is not inhabitable or occupied for the duration of the averaging time of the pollutant of concern; or
  - (B) new toxicological data that show that the acceptable ambient level in 15A NCAC 02D .1104 for the pollutant of concern is too low and the facility's ambient impact is below the level indicated by the new toxicological data.

(b) Technical Infeasibility and Economic Hardship. This Paragraph shall not apply to any incinerator governed by 15A NCAC 02D .1200. The owner or operator of any source constructed before May 1, 1990, or a combustion source as defined in 15A NCAC 02Q .0703 permitted before July 10, 2010, that cannot supply a demonstration described in Paragraph (a) of this Rule shall:

- (1) demonstrate to the Commission or its delegate that complying with the guidelines in 15A NCAC 02D .1104 is technically infeasible, because the technology necessary to reduce emissions to a level to prevent the acceptable ambient levels in 15A NCAC 02D .1104 from being exceeded does not exist; or
- (2) demonstrate to the Commission or its delegate that complying with the guidelines in 15A NCAC 02D .1104 would result in serious economic hardship. In deciding if a serious economic hardship exists, the Commission or its delegate shall consider market impact; impacts on local, regional, and state economy; risk of closure; capital cost of compliance; annual incremental compliance cost; and environmental and health impacts.

If the owner or operator makes a demonstration pursuant to Subparagraphs (1) or (2) of this Paragraph, the Director shall require the owner or operator of the source to apply maximum feasible control. Maximum feasible control shall be in place and operating within three years from the date that the permit is issued for the maximum feasible control.

(c) Pollution Prevention Plan. The owner or operator of any facility using the provisions of Part (a)(2)(A) or Paragraph (b) of this Rule shall develop and implement a pollution prevention plan consisting of the following elements:

- (1) a statement of corporate and facility commitment to pollution prevention;
- (2) an identification of current and past pollution prevention activities;
- (3) a timeline and strategy for implementation;
- (4) a description of ongoing and planned employee education efforts; and
- (5) an identification of internal pollution prevention goals selected by the facility and expressed in either qualitative or quantitative terms.

The facility shall submit the plan along with the permit application. The plan shall be maintained on site. A progress report on implementation of the plan shall be prepared by the facility annually and be made available to Division personnel for review upon request.

(d) Modeling Demonstration. If the owner or operator of a facility demonstrates by modeling that no toxic air pollutant emitted from the facility exceeds the acceptable ambient level values set out in 15A NCAC 02D .1104 beyond the facility's premises, further modeling demonstration shall not be required with the permit application. However, the Commission may still require more stringent emission levels based on its analysis pursuant to 15A NCAC 02D .1107.

(e) Change in Acceptable Ambient Level. When an acceptable ambient level for a toxic air pollutant in 15A NCAC 02D .1104 is changed, any condition that has previously been put in a permit to ensure compliance with the previous acceptable ambient level for that toxic air pollutant shall not be changed until:

- (1) The permit is renewed, at which time the owner or operator of the facility shall submit an air toxic evaluation, excluding sources exempt from evaluation in 15A NCAC 02Q .0702, showing that the

new acceptable ambient level will not be exceeded. If additional time is needed to bring the facility into compliance with the new acceptable ambient level, the owner or operator shall negotiate a compliance schedule with the Director to protect public health as demonstrated pursuant to this Rule. The compliance schedule shall be written into the facility's permit and final compliance shall not exceed two years from the effective date of the change in the acceptable ambient level; or

- (2) The owner or operator of the facility requests that the condition be changed and submits along with that request an air toxic evaluation, excluding sources exempt from evaluation in 15A NCAC 02Q .0702, showing that the new acceptable ambient level shall not be exceeded.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107; 143-215.108; 143B-282;  
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