

Pre-Hearing Draft

North Carolina State Plan

Sewage Sludge Incinerator Emission Guidelines 40 CFR Part 60, Subpart M pursuant to Clean Air Act Section 129/111(d)

**Prepared by
North Carolina Department of Environmental Quality
Division of Air Quality**

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PREFACE

This document serves as submittal of the North Carolina State Plan regarding emissions from Sewage Sludge Incinerator (SSI) units affected by 40 CFR Part 60, Subpart M. It serves to demonstrate the methods by which North Carolina will ensure and enforce compliance with the applicable Emission Guidelines.

Table of Contents

PREFACE	ii
1.0 EXECUTIVE SUMMARY	1
1.1 Background and Purpose	1
1.2 Required Elements of State Plan.....	1
2.0 Inventory of Affected SSI Units	2
3.0 Inventory of Emissions from Affected SSI Units	4
3.1 Stack Test Results with Comparison to Emission Guidelines Limits	4
3.2 Mass Emission Rates from Affected SSI Units.....	10
4.0 Compliance Schedules	12
5.0 Emission Limits and Standards, Operator Training and Qualification, and Operating Limits.....	12
5.1 Emission Limits and Standards.....	12
5.2 Operator Training and Qualifications	13
5.3 Operating Limits.....	14
6.0 Performance Testing, Recordkeeping, and Reporting	15
6.1 Initial Compliance.....	15
6.2 Continuous Compliance	16
6.3 Performance Testing, Monitoring and Calibration	17
6.4 Recordkeeping and Reporting.....	18
7.0 Certification of Hearing	18
8.0 Provisions for State Progress Reports to EPA	18
9.0 Enforceable State Mechanisms for Implementation	19
10.0 Demonstration of Legal Authority	19
Appendix A – Copy of 15A NCAC 02D .1204	23
Appendix B – Hearing Record for State Plan.....	27
Appendix C – Full Text of Referenced General Statutes	28

1.0 EXECUTIVE SUMMARY

1.1 Background and Purpose

The Clean Air Act (CAA) Amendments, Sections 111(d) and 129(b) require regulation of existing Sewage Sludge Incineration (SSI) units. On March 21, 2011, the United States Environmental Protection Agency (EPA) promulgated revised New Source Performance Standards (NSPS) and Emissions Guidelines (EG) for SSI Units, codified at 40 CFR Part 60, Subparts LLLL and MMMM, respectively. While North Carolina automatically adopts the NSPS, rulemaking is necessary to incorporate the EG into the state rules. CAA Section 129 requires states with affected SSI units to submit a State Plan that is equally protective to implement and enforce the EG. On April 29, 2016, the EPA published the final Federal Plan, codified at 40 CFR Part 62, Subpart LLL, which applies to affected SSI units in states that have not submitted a state plan to EPA. On December 9, 2016, the NCDEQ requested delegation from EPA to implement and enforce the Federal Plan under 40 CFR Part 62, Subpart LLL, and entered into a Memorandum of Agreement (MOA) to transfer authority, effective April 2, 2018.

Effective March 1, 2018, North Carolina regulations for SSI units under 15A NCAC 02D .1204 were amended and readopted to incorporate the requirements of the EG. A copy of 15A NCAC 02D .1204 is included as Appendix A of this document.

Based on the language of the EG, a state may meet its CAA Amendments, Section 111(d)/129 obligations by submitting a State Plan that meets the requirements of 40 CFR §60.5015. This State Plan includes the required components, as outlined in Section 1.2.

1.2 Required Elements of State Plan

As specified in 40 CFR §60.5015, the State Plan must include the following elements:

- 1) Inventory of the affected SSI units including those that have ceased operation but have not been dismantled;
- 2) Inventory of the emissions from the affected SSI units;
- 3) Compliance schedules for each affected SSI unit;
- 4) Emission limits, emission standards, operator training and qualification requirements, and operating limits for affected SSI units that are at least protective as the EGs contained in Subpart MMMM;
- 5) Performance testing, recordkeeping, and reporting requirements;

- 6) Certification that the hearing on the state plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission;
- 7) Provisions for state progress reports for EPA;
- 8) Identification of enforceable state mechanisms selected for implementing the emission guidelines of Subpart M MMM; and
- 9) Demonstration of the state's legal authority to carry out the sections 111(d) and 129 state plan.

2.0 Inventory of Affected SSI Units

40 CFR §60.25 requires an inventory of all designated facilities in the State Plan.

[Model Rule](#)

A designated facility under Subpart M MMM is any unit that meets the criteria specified in 40 CFR §60.5060(a) through (c). Affected units are those that meet the definition of a SSI unit as defined in 40 CFR §60.5250, commenced construction on or before October 14, 2010, and are not exempt under 40 CFR §60.5065. 40 CFR §60.5065 provides an exemption for certain combustion units that are not located at a wastewater treatment facility designed to treat domestic sewage sludge.

[State Plan](#)

15A NCAC 02D .1204(a) adopts the applicability requirements in 40 CFR §60.5060(a) through (c). 15A NCAC 02D .1204(c) exempts units that are subject to 40 CFR Part 60, Subpart LLLL by commencing construction after October 14, 2010 or commencing modification after September 21, 2011, and those that are subject to 15A NCAC 02D .1210 if they are not located at a wastewater treatment facility designed to treat domestic sewage sludge as defined in 40 CFR §60.5065.

There are three facilities covering four sources that will be affected by North Carolina's State Plan. There is one additional source in North Carolina that is currently covered under the Federal Plan delegation to the Asheville-Buncombe Air Quality Agency and is not included under this State Plan. An inventory of the four sources covered under this State Plan is contained in Table 1 of this section.

Table 1: Affected SSI Units in North Carolina

Unit ID	Unit Description	Dry Sludge Capacity	Control Description
City of Greensboro T.Z. Osborne Water Reclamation Facility (Facility ID 4100923) 2350 Huffine Mill Road, McLeansville, NC 27301			
ES-1 ¹	Natural gas/No. 2 fuel oil-fired-fluidized bed sewage sludge incinerator	6,000 lbs of dry sludge per hour maximum charge rate; 8.61 MMBtu/hr rated auxiliary heat input	One multiple Venturipak scrubber (CD-22, 400 gallons per minute liquid injection rate and includes sorbent polymer composite mercury removal modules)
ES-20	Natural gas/No. 2 fuel oil-fired-fluidized bed sewage sludge incinerator	6,500 lbs of dry sludge per hour maximum charge rate; 13.0 MMBtu/hr rated auxiliary heat input	One hydrosonic wet scrubber (CD-20, 199 gpm upper and 120 gpm lower minimum liquid injection rate) in series with one wet tray scrubber (CD-21, 278 gpm minimum liquid injection rate)
City of High Point Eastside Wastewater Treatment Plant (Facility ID 4100977) 5898 Riverdale Drive, Jamestown, NC			
ES-01	Natural gas/No. 2 fuel oil-fired-fluidized bed sewage sludge incinerator	3,000 pounds of dry sludge per hour maximum charge rate; 5.05 MMBtu/hr rated auxiliary heat input	Wet scrubber (392 gpm liquid injection rate) Sorbent polymer catalyst composite material adsorber (0.35 to 3.0 inches of H ₂ O pressure drop)
Water and Sewer Authority of Carbarrus County Rocky River Regional Wastewater Treatment Plant (Facility ID 1300002) 6400 Breezy Lane, Concord, NC 28025			
ES-1	Sewage sludge multiple hearth incinerator fired by 12 No. 2 fuel oil/recycled No. 2 fuel oil-fired burners	22.25 feet in diameter, with a maximum average permitted charging rate of 21,200 wet pounds per hour. 18.8 MMBtu/hr total heat input rating.	No. 2 fuel oil-fired afterburner (ID No. CD-03, 7.77 MMBtu maximum burner rating), conditioning system consisting of a spray quencher and two-tray impingement cooler (ID No. CD-04), packed tower scrubber (ID No. CD-06, 155 gpm minimum liquid injection rate), wet electrostatic precipitator (ID

¹ Historically, ES-1 and ES-20 were not authorized to operate simultaneously. The facility was issued an amended permit in March 2021, which removed hydrosonic wet scrubber CD-1, authorized a new multiple Venturipak scrubber (CD-22) to control ES-1, retained CD-21 for control of ES-20 only, and authorized simultaneous operation of ES-1 and ES-20.

Unit ID	Unit Description	Dry Sludge Capacity	Control Description
			No. CD-02, 2,439 square feet of collector plate area)

*Table 1 has been developed on the information presented in the air quality permits No. 04489T26, issued March 2021; 08074T15, issued March 2021; and 04475T21, issued September 2020.

3.0 Inventory of Emissions from Affected SSI Units

40 CFR §60.25(a) requires each plan to include an inventory of all designated facilities, including emission data for the designated pollutants and information related to emissions as specified in Appendix D to 40 CFR Part 60. Emission rates are to be summarized in the plan and emission rates of designated pollutants from designated facilities must be correlated with applicable emission standards in such a manner as to show the relationship between measured or estimated amounts of emissions and emissions allowable under the standards.

The designated pollutants for 40 CFR Part 60, Subpart M MMM are those listed in Tables 2 and 3 of the EG. Only pollutants which are considered designated pollutants under Subpart M MMM are included in the inventory of emissions submitted with this State Plan. Appendix D of 40 CFR Part 60 requires an estimate of the designated pollutant emissions from the designated facility (maximum per hour and average per year) and the method used to determine the emissions.

This section contains two subsections. Subsection 3.1 contains the results from the most recent stack test at each of the designated facilities for comparison with the emission limitations in Tables 2 and 3 of the EG. Subsection 3.2 contains the tons per year or pounds per year of the designated pollutants that were reported in the North Carolina Emissions Inventory Database for the calendar year 2018.

3.1 Stack Test Results with Comparison to Emission Guidelines Limits

On October 20, 2016 and January 28-29, 2020, stack tests were conducted at the T.Z. Osborne Water Reclamation Facility on Units ES-1 and ES-20, respectively. The results of the tests are summarized in Tables 2 and 3 below.

Table 2 below contains the results of the most recent stack test performed on ES-1 at this facility, conducted on October 20, 2016. It should be clarified that the last stack test for this unit was conducted with the concurrent operations of the previously permitted control devices CD-1 (hydrosonic scrubber) and CD-21 (wet tray scrubber with mercury modules). On March 2, 2021, the permit was revised to remove the CD-1 hydrosonic scrubber, and authorize a new Venturipak scrubber (CD-22) that will replace the combined controls of CD-1 and CD-21 for controlling emissions from ES-1. CD-21 remains onsite to control emissions from ES-20. The section of CD-21 that controls mercury emissions uses a sorbent polymer catalyst composite material. The proposed CD-22 will essentially be a combined unit that includes similar controls of CD-1 and CD-21. CD-22 contains the same sorbent polymer catalyst composite material as CD-21. The facility has stated that the new CD-22 may have a higher control efficiency than the previous equipment configuration and the October 20, 2016 emissions testing data is the best available data for the proposed control equipment configuration to be installed for ES-1.

Table 2: T.Z. Osborne Water Reclamation Facility October 2016 ES-1 Stack Test Results

Pollutant	Stack Test Result	Limit^{(2)*}	Units	Test Method
PM	9.4	18	mg/dscm, corrected to 7% O ₂ on a volume basis	5
HCl	0.027	0.51	ppmvd, corrected to 7% O ₂ on a volume basis	26A
CO	29.32	64	ppmvd, corrected to 7% O ₂ on a volume basis	10
Dioxins/furans	0.221	1.2	ng/dscm (total mass basis), corrected to 7% O ₂ on a volume basis	23
	0.006	0.10	ng/dscm (TEQ basis), corrected to 7% O ₂ on a volume basis	23
Mercury	0.0281	0.037	mg/dscm, corrected to 7% O ₂ on a volume basis	30B
NO _x	22.52	150	ppmvd, corrected to 7% O ₂ on a volume basis	7E

² Limit taken from Table 2 of 40 CFR Part 60, Subpart Mmmm, Emission Limits and Standards for Existing Fluidized Bed Sewage Sludge Incineration Units

SO ₂	47.62 ⁽³⁾	15	ppmvd, corrected to 7% O ₂ on a volume basis	6C
Cadmium	0.00035	0.0016	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Lead	0.00076	0.0074	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Ash Handling Visible Fugitive Emissions	0% opacity	≤5% opacity	-	22

Table 3: T.Z. Osborne Water Reclamation Facility January 2020 ES-20 Stack Test Results

Pollutant	Stack Test Result	Limit ⁽²⁾	Units	Test Method Used
PM	3.8	18	mg/dscm, corrected to 7% O ₂ on a volume basis	5
HCl	0.035	0.51	ppmvd, corrected to 7% O ₂ on a volume basis	26A
CO	51.0	64	ppmvd, corrected to 7% O ₂ on a volume basis	10
Dioxins/furans	0.087	1.2	ng/dscm (total mass basis), corrected to 7% O ₂ on a volume basis	23
	0.0012	0.10	ng/dscm (TEQ basis), corrected to 7% O ₂ on a volume basis	23
Mercury	0.019	0.037	mg/dscm, corrected to 7% O ₂ on a volume basis	30B
NO _x	23.6	150	ppmvd, corrected to 7% O ₂ on a volume basis	7E
SO ₂	9.5	15	ppmvd, corrected to 7% O ₂ on a volume basis	6C

³ The SO₂ results of the October 2016 stack tests for ES-1 at the T.Z. Osborne Water Reclamation Facility showed non-compliance with the SO₂ emission limit set forth under the Federal Plan in 40 CFR Part 62, Subpart III. However, at the time of the stack test, the State of North Carolina had not been delegated enforcement authority for this regulation. The new scrubber manufacturer has provided a guarantee that it is designed to meet the SO₂ standard under 40 CFR Part 60, Subpart M.

Pollutant	Stack Test Result	Limit⁽²⁾	Units	Test Method Used
Cadmium	<0.00013	0.0016	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Lead	0.00052	0.0074	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Ash Handling Visible Fugitive Emissions	0% opacity	≤5% opacity	-	22

On September 15-16, 2020, a stack test was conducted at the City of High Point Eastside Wastewater Treatment Plant on Unit ES-01. The results of the stack tests are summarized for designated pollutants in Table 4 below.

Table 4: City of High Point Eastside Treatment Plant September 2020 ES-01 Stack Test Results

Pollutant	Stack Test Result	Limit⁽²⁾	Units	Test Method
PM	5.8	18	mg/dscm, corrected to 7% O ₂ on a volume basis	5
HCl	0.06	0.51	ppmvd, corrected to 7% O ₂ on a volume basis	26A
CO	21.5	64	ppmvd, corrected to 7% O ₂ on a volume basis	10
Dioxins/furans	0.0074	1.2	ng/dscm (total mass basis), corrected to 7% O ₂ on a volume basis	23
	0.00075	0.10	ng/dscm (TEQ basis), corrected to 7% O ₂ on a volume basis	23
Mercury	0.0061	0.037	mg/dscm, corrected to 7% O ₂ on a volume basis	30B
NO _x	48.9	150	ppmvd, corrected to 7% O ₂ on a volume basis	7E
SO ₂	0.9	15	ppmvd, corrected to 7% O ₂ on a volume basis	6C
Cadmium	<0.00011	0.0016	mg/dscm, corrected to 7% O ₂ on a volume basis	29

Lead	0.00071	0.0074	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Ash Handling Visible Fugitive Emissions	N/A ⁴	≤5% opacity	-	22

A stack test was conducted at the Rocky River Water Reclamation Facility on ES-1 on February 25-26, 2020. The results of the stack tests are summarized for designated pollutants in Table 5 below.

Table 5: Rocky River Water Reclamation Facility February 25-26, 2020 ES-1 Stack Test Results

Pollutant	Stack Test Result	Limit ⁽⁵⁾	Units	Test Method Used
PM	15.0	80	mg/dscm, corrected to 7% O ₂ on a volume basis	5
HCl	0.0344	1.2	ppmvd, corrected to 7% O ₂ on a volume basis	26A
CO	499.3	3,800	ppmvd, corrected to 7% O ₂ on a volume basis	10
Dioxins/furans	0.368	5.0	ng/dscm (total mass basis), corrected to 7% O ₂ on a volume basis	23
	0.184	0.32	ng/dscm (TEQ basis), corrected to 7% O ₂ on a volume basis	23
Mercury	0.0388	0.28	mg/dscm, corrected to 7% O ₂ on a volume basis	30B

⁴ EPA Method 22 for visible fugitive emissions was not conducted as the test report stated that the entire system is enclosed and there are no fugitive emissions points.

⁵ Limit taken from Table 3 of 40 CFR Part 60, Subpart M, Emission Limits and Standards for Existing Multiple Hearth Sewage Sludge Incineration Units

Pollutant	Stack Test Result	Limit⁽⁵⁾	Units	Test Method Used
NOx	202.02	220	ppmvd, corrected to 7% O ₂ on a volume basis	7E
SO ₂	0.99	27	ppmvd, corrected to 7% O ₂ on a volume basis	6C
Cadmium	0.0033	0.095	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Lead	0.00313	0.30	mg/dscm, corrected to 7% O ₂ on a volume basis	29
Ash Handling Visible Fugitive Emissions	0.0% opacity	≤5% opacity	-	22

3.2 Mass Emission Rates from Affected SSI Units

The emissions reported for 2018 in the North Carolina Emissions Inventory for designated pollutants from the three facilities are included in Table 6 below.

Table 6: Mass Emission Rates for Affected SSI Units

Pollutant	T.Z. Osborne Water Reclamation Facility		City of High Point - Eastside Wastewater Treatment Plant	WSACC – Rocky River Regional Wastewater Treatment Plant
	ES-1 CY2018 ⁽⁶⁾ Emissions (Tons/Year)	ES-20 CY2019 Emissions (Tons/year)	ES-01 CY 2019 Emissions (Tons/Year)	ES-01 CY2019 Emissions (Tons/Year)
CO	0.59	7.74	0.18	115.09
NO _x	0.75	17.41	2.55	5.98
TSP	0.17	1.18	0.19	1.03
PM ₁₀	0.05	0.09	0.01	0.28
PM _{2.5}	0.04	0.07	0.01	0.23
SO ₂	2.23	6.77	0.63	2.79
VOC	1.03	15.47	0.11	9.11

⁶ ES-1 operated for approximately 82 days in 2018, and did not operate in 2019 or 2020.

Pollutant		T.Z. Osborne Water Reclamation Facility		City of High Point - Eastside Wastewater Treatment Plant	WSACC – Rocky River Regional Wastewater Treatment Plant
HAP/TAP Pollutants	CAS	CY 2018 Emissions (Pounds/Year)	CY2019 Emissions (Pounds/Year)	CY 2019 Emissions (Pounds/Year)	CY2019 Emissions (Pounds/Year)
Cadmium & Compounds	CDC				
Cadmium Total	7440-43-9				0.5171
Cadmium Unlisted Compounds	CDC-Other	0.0123	0.0646	0	
Hexachlorodibenzo-p-dioxin 1,2,3,6,7,8	57653-85-7				
Hydrogen chloride (hydrochloric acid)	7647-01-0	1.49	26.3031	0.0023	7.0503
Lead & Compounds	PB				
Lead Unlisted Compound	PBC-Other	0.0282	0.793		0.795
Mercury & compounds	HGC				
Mercury, vapor	7439-97-6				15.718
Mercury Unlisted Compounds	HGC-Other	1.02	14.8922	0.0002	
Tetrachlorodibenzo-p-dioxin, 2,3,7,8	1746-01-6				

4.0 Compliance Schedules

40 CFR §60.24(a) requires each state plan to include compliance schedules. Any compliance schedule extending more than 12 months from the date required for submittal of the plan must include legally enforceable increments of progress to achieve compliance for each designated facility.

[Model Rule](#)

40 CFR §60.5035 requires compliance no later than the earlier of March 21, 2016, or three years after the effective date of state plan approval.

[State Plan](#)

Under 15A NCAC 02D .1204(n), North Carolina requires compliance by the dates specified in 40 CFR §60.5035(a) or (b) for all affected SSI units. Permit provisions for each of the three affected facilities require the facilities to comply by March 21, 2016.

5.0 Emission Limits and Standards, Operator Training and Qualification, and Operating Limits

5.1 Emission Limits and Standards

40 CFR §60.24 requires each plan to contain emission standards, either based on an allowance system or with prescribed allowable rates of emissions. Emission standards shall apply to all designated facilities within the State, and may contain emission standards adopted by local jurisdictions provided that the standards are enforceable by the State. Emission standards shall be no less stringent than the corresponding EG.

[Model Rule](#)

40 CFR §60.5165 requires the SSI unit meet the emission limits and standards in Tables 2 and 3 of the EG. The emission limits and standards apply at all times the unit is operating, including malfunctions, and to emissions from a bypass stack or vent while sewage sludge is in the combustion chamber.

[State Plan](#)

Under 15A NCAC 02D .1204(e), North Carolina adopts the emission limitations specified in 40 CFR §60.5165, along with the specified limits in §60.152 (for particulate matter), 15A NCAC 02D .0521 (for fugitive emissions), 40 CFR §61.52(b) (for mercury), 40 CFR §503.43(c) (for maximum lead in sewage sludge fed to the SSI), 40 CFR §61.32(a) through (c) (for beryllium), 40 CFR §503.43(d) (for concentration of arsenic, cadmium,

chromium, and nickel fed to a SSI unit). The concentration of total hydrocarbons, or carbon monoxide as provided in 40 CFR §503.40(c), is limited to 100 ppmv at zero percent moisture and seven percent oxygen, and required to be monitored using a CEMS. The emission and operational standards are required be met at all times that the sewage sludge is in the combustion chamber before the sewage sludge feed to the combustor is cut off for a period of time not less than the sewage sludge incineration residence time, and during periods of malfunction as specified in 40 CFR §60.5180.

15A NCAC 02D .1204(e) adopts the emission limits and standards from 40 CFR §60.5165. Therefore, the requirements at least as stringent as the model rule, as required by the EG.

5.2 Operator Training and Qualifications

[Model Rule](#)

40 CFR §60.5130 through §60.5160 specify operator training and qualification requirements, including training course compliance dates, qualification methods, operator qualification maintenance methods, lapsed operator qualification renewal methods, compliance options for periods when qualified operators are temporarily not accessible, and documentation requirements.

A fully trained and qualified SSI unit operator must be accessible when a SSI unit is operated, either at the facility or able to be at the facility within one hour. The fully trained and qualified SSI unit operator may operate the SSI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified SSI unit operators are temporarily not accessible, the procedures in 40 CFR §60.5155 apply, which allow for operation of the SSI unit for less than two weeks by other plant personnel who are familiar with the operation of the SSI unit and have completed a review of the information in 40 CFR §60.5160 within the past 12 months. If a qualified operator is not accessible for 2 weeks or more, written notification of the deviation must be provided to the Administrator within 10 days, and a status report provided every four weeks outlining the items listed in 40 CFR §60.5155(b)(2). If the Administrator disapproves the request, operation of the SSI unit must cease operation after no later than 30 days, resuming only when a qualified operator is accessible as required under 40 CFR §60.5130(a) and notification is provided to the Administrator within five days of having resumed operations.

Operator training and qualification must be obtained through a state-approved program or by completing the requirements included in 40 CFR §60.5130(c). A review or refresher course covering the five topics in 40 CFR §60.5145 is required annually to maintain qualification. Lapsed qualifications are renewed according to 40 CFR §60.5150.

Operator training must be completed by the later of the final compliance date, six months after SSI unit startup, or six months after an employee assumes responsibility for operating or supervising the operation of the SSI unit.

State Plan

North Carolina regulates affected SSI unit operator training and qualification under 15A NCAC 02D .1204(m), which adopts language from 40 CFR §60.5130 through §60.5160 of the model rule. SSI units may not be operated unless a fully trained and qualified SSI unit operator is at the facility or can be at the facility within one hour. The trained and qualified SSI unit operator may operate the SSI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified SSI unit operators are temporarily not accessible, the procedures in 40 CFR §60.5155 apply. Operator training and qualification is required in accordance with 40 CFR §60.5230(c). Completion of an annual review or refresher course covering the five topics specified in 40 CFR §60.5145(a) through (e) is required to maintain an operator qualification. Renewal of a lapsed operator qualification shall be by one of the two methods specified in 40 CFR §60.5150(a) and (b). When a qualified operator is not present at the facility and cannot be present within one hour, the requirements of 40 CFR §60.5155 apply. Maintenance and review of the operator training documentation is required as specified in 40 CFR §60.5160(a) and (b). The requirements of 15A NCAC 02D .1204(m) are adopted from 40 CFR §60.5130 through §60.5160. Therefore, these requirements are at least as stringent as the model rule, as required by the emission guidelines.

5.3 Operating Limits

Model Rule

40 CFR §60.5170 contains operating limits and requirements, and associated compliance dates for various control systems, including bag leak detection systems and alarms. 40 CFR §60.5170 references the operating parameters listed in Table 4 of Subpart MMMM for establishing operating limits for a wet scrubber, fabric filter, electrostatic precipitator, or activated carbon injection. 40 CFR §60.5175 contains procedures for establishing operating limits for systems which do not use a control device covered under 40 CFR §60.5170, or which utilize another method for limiting emissions in order to comply with

emission limits. Fugitive emissions from the ash handling system must follow a site-specific monitoring plan submitted in accordance with 40 CFR §60.5200(d). Operating limits must be met by the final compliance date under the approved state plan, Federal plan or delegation, as applicable.

State Plan

15A NCAC 02D .1204(f) adopts the operating limits and requirements in 40 CFR §60.5170 according to the applicable schedules specified in 40 CFR §60.5170(e) and 15A NCAC 02D .1204(n), which adopts the compliance dates set forth in 40 CFR §60.5035(a) or (b). The sewage sludge feed rate and moisture content are required to be monitored as specified in 40 CFR §60.5170(f)(1) and (2). The operating requirements in 40 CFR §60.5170(a) through (d) and (h) are required to meet any new operating limits re-established in accordance with 40 CFR §60.5210. The operating limits from 40 CFR §60.5170 are adopted by reference and are therefore at least as stringent as the model rule, as required by the EG.

6.0 Performance Testing, Recordkeeping, and Reporting

6.1 Initial Compliance

Model Rule

40 CFR §60.5185 through §60.5200 contains requirements for demonstrating initial compliance with emission limits and standards, establishing operating limits, conducting initial air pollution control device inspections, making necessary repairs, developing a site-specific monitoring plan for continuous monitoring, bag leak detection and ash handling systems, and conducting an initial performance evaluation.

State Plan

North Carolina requires initial compliance for SSI units in accordance with 15A NCAC 02D .1204(h). The procedures in 40 CFR §60.5185(a) through (e) are adopted for demonstrating initial compliance with emission standards. The site-specific operating limits specified in 40 CFR §60.5190(a) are required to be established in accordance with the requirements of 40 CFR §60.5190(a) through (f) during initial performance tests, and re-established during subsequent performance tests as specified in §60.5190(a). Initial air pollution control device inspections shall be conducted as specified in 40 CFR §60.5220(c) by the date established in accordance with 40 CFR §60.5195(a), and any necessary repairs are required to be completed in accordance with 40 CFR §60.5195(b). A site-specific monitoring plan for continuous monitoring, bag leak detection, ash handling

systems, and an initial performance evaluation date are required to be developed in accordance with the requirements of 40 CFR §60.5200(a) and (d) through (h). The requirements in 15A NCAC .1204(h) were adopted from the model rule requirements in 40 CFR §60.5185, §60.5190, §60.5195, and §60.5200. Therefore, these requirements are at least as stringent as the model rule, as required by the EG.

6.2 Continuous Compliance

Model Rule

The Model Rule language in 40 CFR §60.5205 through §60.5215 specifies requirements for demonstrating continuous compliance with emission limits, standards and operating limits, and specifies the date and method by which the owner or operator must conduct annual air pollution control device inspections and make any necessary repairs.

Continuous compliance with the emission limits and standards in Tables 2 and 3 of Subpart M MMM shall be demonstrated using the procedures in 40 CFR §60.5205(a) or (b), as applicable. The requirements of 40 CFR §60.5205(a) and (b), as applicable, and (c) through (e), shall be met according to the performance testing, monitoring, and calibration requirements in 40 CFR §60.5220(a) and (b) to demonstrate compliance with emission limits and standards in Tables 2 and 3 of Subpart M MMM.

Continuous compliance with the operating parameters shall be conducted according to 40 CFR §60.5210(a) and meet the requirements specified in 40 CFR §60.5210(b) and (c), according to the monitoring and calibration requirements in 40 CFR §60.5225. Operating limits are re-established according to 40 CFR §60.5210(d).

An annual inspection of each air pollution control device inspection and any necessary repairs shall be conducted by the dates specified in 40 CFR §60.5215.

State Plan

North Carolina requires continuous compliance demonstration with the emission standards specified in 15A NCAC 02D .1204(e)(1) through (13) and (15) under 15A NCAC 02D .1204(i), which adopts requirements from 40 CFR §60.5205 through §60.5215, along with applicable requirements of 40 CFR Part 503, *Standards for the Use or Disposal of Sewage Sludge*.

Continuous compliance with emission limits, emission standards, and operating limits is required to be demonstrated as specified in 40 CFR §60.5205(a) through (f) and §60.5210(a)(1) and (b) through (d). Air pollution control device inspections and necessary repairs are required to be conducted according to 40 CFR §60.5215(a) and (b). The continuous compliance requirements of 40 CFR §503.40(c) and §503.45(a) through (c) are adopted for monitoring total hydrocarbon or carbon monoxide concentrations, oxygen content, and moisture content of the incinerator stack exit gas. The monitoring frequencies of 40 CFR §503.46(a)(1) through (3) are adopted for monitoring concentrations of beryllium, mercury, arsenic, cadmium, chromium, lead, and nickel in the sewage sludge fed to the incinerator.

The requirements in 15A NCAC 02D .1204(i) are adopted from the model rule. Therefore, these requirements are at least as stringent as the model rule, as required by the EG.

6.3 Performance Testing, Monitoring and Calibration

[Model Rule](#)

Performance testing, monitoring, and air pollution control device inspections are required in accordance with 40 CFR §60.5220. The installation, operation, calibration and maintenance of continuous parameter monitoring systems is required in accordance with the requirements specified in 40 CFR §60.5225. For SSI units with a bypass stack, a device or method for measuring the use of the bypass stack must be installed, calibrated, maintained, and operated.

[State Plan](#)

15A NCAC 02D .1204(j) adopts the performance testing, monitoring, and air pollution control device inspection requirements from Sections §60.5220(a)(1) through (11) and (b)(1) through (7) and the bypass provisions of 40 CFR §60.5220(d), along with the referenced requirements in 40 CFR Part 61, Subparts C, E, and M, and 40 CFR Part 503.

15A NCAC 02D .1204(k) adopts the installation, operation, calibration and maintenance requirements for continuous parameter monitoring systems of 40 CFR §60.5225(a)(1) and (2), 40 CFR §503.45 and §60.153 to ensure compliance with the operational limits of 15A NCAC 02D .1204(f).

The performance testing, monitoring, and inspection requirements in 15A NCAC 02D .1204(j) and (k) adopt the requirements of the model rule and are therefore at least as stringent as the model rule, as required by the emission guidelines.

6.4 Recordkeeping and Reporting

Model Rule

40 CFR §60.5230 and §60.5235 specify recordkeeping and reporting requirements, including those for increments of progress, operator training, performance test reports, air pollution control device inspections, continuous monitoring data, deviation reports, equipment specifications, equipment operation, equipment maintenance, monitoring device inspections, calibrations, and validation checks, monitoring plan and performance evaluations for continuous monitoring systems, and usage of bypass stacks.

State Plan

North Carolina requires recordkeeping and reporting for affected SSI units in accordance with 15A NCAC 02D .1204(l), which adopts the recordkeeping and reporting requirements of 40 CFR §60.5230 and §60.5235 along with recordkeeping requirements for continuous monitoring systems in 40 CFR §60.153. Records are also required to be maintained showing compliance with standards for the use or disposal of sewage sludge listed in 40 CFR §503.47(b) through (n). Semiannual or annual reporting dates for operator training and qualification may be changed, with Director's approval, in accordance with the procedures established in 40 CFR §60.19(c).

The recordkeeping requirements of 40 CFR §60.5230 and §60.5235 are adopted in 15A NCAC 02D .1204(l). Therefore, the state plan requirements are at least as stringent as the model rule, as required by the emission guidelines.

7.0 Certification of Hearing

North Carolina certifies that a public hearing was held in regard to the State Plan for SSI Units on **XX/XX/XXXX**. A copy of the hearing record is attached herein.

8.0 Provisions for State Progress Reports to EPA

North Carolina will submit annual progress reports to EPA to document implementation and enforcement of the State Plan. As part of the Federal Plan delegation, reporting was required to commence one year after the Federal Plan was delegated.

These reports will include:

- 1) Status of enforcement actions;
- 2) Status of increments of progress;
- 3) Identification of sources that have shut down or started operation;
- 4) Emissions inventory data for sources that were not in operation at the time of plan development but that began operation during the reporting period;
- 5) Additional data as necessary to update previously submitted source and emissions information; and
- 6) Copies of technical reports on all performance testing and monitoring.

9.0 Enforceable State Mechanisms for Implementation

15A NCAC 02D .1204 was amended and readopted effective March 1, 2018 to adopt the emission limits, standards, operating limits, compliance provisions, operator training requirements, recordkeeping and reporting requirements, and compliance timelines of the model rule for 40 CFR Part 60, Subpart M. 15A NCAC 02D .1204 applies to SSI units that meet the three requirements listed in 40 CFR §60.5060(a) through (c), unless exempted under 15A NCAC 02D .1204(c).

10.0 Demonstration of Legal Authority

The following is provided as documentation of adequate resources and authority to adopt and enforce emission standards and compliance schedules. Copies of the North Carolina General Statutes (NCGS) referenced in this document are included in Appendix C of this state plan and can also be found on the North Carolina General Assembly website (<http://www.ncleg.net/gascripts/statutes/Statutes.asp>).

Under its fully approved 40 CFR Part 70 Title V permitting program (66 FR 45941), the Division of Air Quality (DAQ) already serves as the Title V permitting authority for the three affected facilities covered under this plan. The facilities are already classified as Title V and are paying Title V fees. As a result of interaction in this role, the DAQ already provides assistance regarding the regulatory requirements of the Federal Plan. The DAQ is also already the compliance and enforcement authority for other state and federal air quality requirements at these facilities and inspects them annually. Thus, existing resources are considered adequate to enforce the State Plan for the three existing facilities covered under this State Plan.

The following statutes provide supporting authority to administer and enforce the State Plan.

N.C.G.S. 143-211 (c) provides the authority for the Department to administer the air quality program stating:

“It is the intent of the General Assembly, through the duties and powers defined herein, to confer such authority upon the Department of Environmental Quality as shall be necessary to administer a complete program of water and air conservation, pollution abatement and control and to achieve a coordinated effort of pollution abatement and control with other jurisdictions.”

and provides the authority for the Department:

“to qualify to administer federally mandated programs of environmental management and to qualify to accept and administer funds from the federal government for such programs.”

N.C.G.S. 143-215.106 provides that:

“The Department shall administer the air quality program of the State.”

N.C.G.S. 143-215.107(a)(10) establishes the duty -

“to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.”

N.C.G.S. 143-215.3 provides authority to implement permit fees including Title V Permit fees (143-215.3(a)(1d)). The rules in 15A NCAC 02Q .0200, Permit Fees, (<http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules/permit-fees>) provide the mechanism by which stationary sources that emit air pollutants pay a fee based on the type of permit and the quantity of emissions emitted. These fees include Title V fees and cover the costs of reviewing, approving, implementing and enforcing a permit.

N.C.G.S. 143-215.3(c) provides that:

“(c) Relation with the Federal Government. The Commission as official water and air pollution control agency for the State is delegated to act in local administration of all matters

covered by any existing federal statutes and future legislation by Congress relating to water and air quality control. In order for the State of North Carolina to effectively participate in programs administered by federal agencies for the regulation and abatement of water and air pollution, the Department is authorized to accept and administer funds provided by federal agencies for water and air pollution programs and to enter into contracts with federal agencies regarding the use of such funds."

In its capacity as the primary implementing authority for air quality requirements overall, the Division already performs the functions of administration and oversight of compliance reporting and recordkeeping requirements, inspections, and preparation of enforcement actions for other air quality requirements at the affected facilities.

In G.S. 143-215.3(a)(2) and 143-215.108(c)(1), State law provides authority to incorporate into permits inspection and entry requirements consistent with 40 CFR §70.6(c)(2).

In G.S. 143-215.108(c)(1) and 143-215.107(a)(10), State law provides authority to incorporate into an operating permit, upon issuance or renewal, all applicable requirements as defined in 40 CFR §70.2, and as provided generally in the CAA and 40 CFR Part 70. G.S. 143-215.107(a)(10) empowers the EMC to adopt standards and plans necessary to implement the CAA and EPA's implementing regulations. G.S. 143-215.108(c)(1) authorizes the State to attach such conditions to a permit as are necessary to achieve the purposes of the CAA and EPA's implementing regulations.

State law provides authority to incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into operating permits consistent with 40 CFR §70.6. State law provides authority to incorporate into the permit periodic monitoring or testing requirements where the existing State implementation plan or other applicable requirement does not contain such a requirement, consistent with 40 CFR §70.6(a)(3)(i)(B). G.S. 143-215.63, et seq. authorizes the EMC to require periodic monitoring or testing of all sources subject to permitting requirements. G.S. 143-215.107(a)(10) empowers the EMC to adopt standards and plans necessary to implement the CAA and EPA's implementing regulations. G.S. 143-215.108(c)(1) authorizes the State to attach such conditions to a permit as are necessary to achieve the purposes of the CAA and EPA's implementing regulations.

In G.S. 143-215.114A, State law provides civil and criminal enforcement authority consistent with 40 CFR §70.11, including authority to recover penalties and fines. G.S. 143-215.114C provides enforcement procedures and injunctive relief.

As specified in 40 CFR §60.5050, the following authorities are not delegable to state, local, or tribal agencies:

- (a) approval of alternatives to the emission limits and standards in Tables 2 and 3 of Subpart MMMM and operating limits established under 40 CFR §60.5175 or §60.5190;
- (b) approval of major alternatives to test methods;
- (c) approval of major alternatives to monitoring;
- (d) approval of major alternatives to recordkeeping and reporting;
- (e) the requirements in §60.5175;
- (f) the requirements in §60.5155(b)(2); and
- (g) performance test and data reduction waivers under §60.8(b).

Appendix A – Copy of 15A NCAC 02D .1204

15A NCAC 02D .1204 SEWAGE SLUDGE INCINERATION UNITS

(a) Applicability. This Rule shall apply to sewage sludge incineration units that meet all three requirements listed in 40 CFR 60.5060(a) through (c).

(b) The provisions of this Rule shall apply to any incinerator subject to this Rule. However, when the provisions of this Rule and provisions of 15A NCAC 02D .0524, .1110, or .1111 or provisions of 40 CFR Part 61, Subpart C; 40 CFR Part 61, Subpart E; or 40 CFR Part 503, Subpart E, regulate the same pollutant, the provisions of the more restrictive standards established in Paragraphs (e) and (f) of this Rule shall apply, notwithstanding provisions of 15A NCAC 02D .0524, .1110, or .1111 or provisions of 40 CFR Part 61, Subpart C; 40 CFR Part 61, Subpart E; or 40 CFR Part 503, Subpart E to the contrary.

(c) Exemptions. Sewage sludge incineration units shall be exempted from this Rule if they are subject to:

(1) 40 CFR Part 60 Subpart LLLL by:

(A) commencing construction after October 14, 2010; or

(B) commencing modification after September 21, 2011; or

(2) Rule 15A NCAC 02D .1210, if they are not located at a wastewater treatment facility designed to treat domestic sewage sludge as defined in 40 CFR 60.5065.

(d) Definitions. For the purpose of this Rule, the definitions in 40 CFR 503.41, 40 CFR 60.5250, and 40 CFR 60.2 shall apply in addition to the definitions in 15A NCAC 02D .1202.

(e) Emission Standards. Any incinerator subject to this Rule shall comply with all of the following emission standards:

(1) Emissions of particulate matter from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165 or 40 CFR 60.152 as defined in Paragraph (b) of this Rule.

(2) Fugitive emissions from a sewage sludge incineration unit ash handling process shall meet the requirements established in 40 CFR 60.5165. All other visible emissions from a sewage sludge incineration unit shall comply with 15A NCAC 02D .0521.

(3) Emissions of hydrogen chloride from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(4) Emissions of carbon monoxide from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(5) Emissions of dioxin and furan (total mass basis) from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(6) Emissions of dioxin and furan (toxic equivalency basis) from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(7) Emissions of mercury from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165 and in 40 CFR 61.52(b) as referenced in 15A NCAC 02D .1110(a), (d), and (e).

(8) Emissions of nitrogen oxides from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(9) Emissions of sulfur dioxide from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(10) Emissions of cadmium from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165.

(11) Emissions of lead from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 60.5165. The daily concentration of lead in sewage sludge fed to a sewage sludge incinerator shall meet the requirements specified in 40 CFR 503.43(c).

(12) Emissions of beryllium from a sewage sludge incineration unit shall meet the requirements established in 40 CFR 61.32(a) through (c) as referenced in 15A NCAC 02D .1110(a), (d), and (e).

(13) The daily concentration of arsenic, cadmium, chromium, and nickel in sewage sludge fed to a sewage sludge incinerator shall meet the requirements specified in 40 CFR 503.43(d).

(14) Emissions of toxic air pollutants from a sewage sludge incineration unit shall meet the requirements specified in 15A NCAC 02D .1100 in accordance with 15A NCAC 02Q .0700.

(15) The monthly average concentration for total hydrocarbons, or for carbon monoxide as provided in 40 CFR 503.40(c), in the exit gas from a sewage sludge incinerator stack, corrected to zero percent moisture and seven percent oxygen as specified in 40 CFR 503.44, shall not exceed 100 parts per million on a volumetric basis using the continuous emission monitoring required in Paragraph (k) of this Rule.

- (f) Operating limits. The owner or operator of a sewage sludge incineration unit shall meet:
- (1) as applicable, the operating limits and requirements specified in 40 CFR 60.5170 including Subparagraphs (a) through (d) and (h) according to the schedule specified in 40 CFR 60.5170(e);
 - (2) the operating limits and requirements specified in 40 CFR 60.5170 including Subparagraphs (a) through (d) by the final compliance date specified in Paragraph (n) of this Rule;
 - (3) monitor the feed rate and moisture content of the sewage sludge fed to the sewage sludge incinerator, as specified in 40 CFR 60.5170(f)(1) and (f)(2); and
 - (4) the operating requirements in 40 CFR 60.5170(a) through (d) and (h) shall meet any new operating limits, re-established in accordance with 40 CFR 60.5210.
- (g) Emission and operational standards and limits established in Paragraphs (e) and (f) of this Rule and in accordance with provisions in Paragraph (b) of this Rule shall apply at all times that sewage sludge is in the combustion chamber before the sewage sludge feed to the combustor is cut off for a period of time not less than the sewage sludge incineration residence time and during periods of malfunction as specified in 40 CFR 60.5180.
- (h) Initial Compliance:
- (1) Requirements with the emission standards specified in the Paragraph (e) of this Rule shall be demonstrated by using the procedures specified in 40 CFR 60.5185(a) through (e).
 - (2) Requirements with the site-specific operating limits specified in 40 CFR 60.5190(a) shall be established in accordance with the requirements specified 40 CFR 60.5190(a) through (f).
 - (3) Initial air pollution control device inspection specified 40 CFR 60.5220(c) shall be conducted by the date established in accordance with 40 CFR 60.5195(a). All necessary repairs shall be completed in accordance with 40 CFR 60.5195(b).
 - (4) A site-specific monitoring plan for continuous monitoring, bag leak detection, ash handling systems, and an initial performance evaluation date shall be developed in accordance with the requirements specified in 40 CFR 60.5200(a) and (d) through (h).
- (i) Continuous Compliance Requirements. The owner or operator of a sewage sludge incineration unit subject to this Rule shall demonstrate compliance with the emissions standards in Subparagraphs (e)(1) through (13) and (15) of this Rule by:
- (1) demonstrating continuous compliance as specified in 40 CFR 60.5205(a) through (f);
 - (2) demonstrating continuous compliance with the operating limits as specified in 40 CFR 60.5210(a)(1) and (b) through (d);
 - (3) demonstrating continuous compliance with the total hydrocarbon concentration of the incinerator stack exit gas according to 40 CFR 503.45(a) unless the requirements for continuously monitoring carbon monoxide as provided in 40 CFR 503.40(c) are satisfied;
 - (4) demonstrating continuous compliance with the oxygen content of the incinerator stack exit gas as provided in 40 CFR 503.45(b);
 - (5) demonstrating continuous compliance with the moisture content of the incinerator stack exit gas as provided in 40 CFR 503.45(c);
 - (6) conducting an annual air pollution control device inspection as specified in 40 CFR 60.5215(a);
 - (7) making all necessary repairs within the time periods specified in 40 CFR 60.5215(b);
 - (8) monitoring the concentration of beryllium and mercury from the sewage sludge fed to the incinerator as frequently as specified in 40 CFR 503.46(a)(1); and
 - (9) monitoring the concentrations of arsenic, cadmium, chromium, lead, and nickel in the sewage sludge fed to the incinerator as frequently as specified in 40 CFR 503.46(a)(2) and (3).
- (j) Performance Testing, Monitoring, and Calibration Requirements. The owner or operator of a sewage sludge incineration unit subject to this Rule shall demonstrate compliance with the emissions standards in Subparagraphs (e)(1) through (13) and (15) of this Rule by:
- (1) meeting the performance testing requirements specified in 40 CFR 60.5220(a)(1) through (11), 40 CFR 61.53(d) or 40 CFR 61.54, 40 CFR 503.43(e), and 40 CFR 61.33;
 - (2) meeting the monitoring requirements specified in 40 CFR 60.5220(b)(1) through (7), 40 CFR 61.55, 40 CFR 503.55, 40 CFR 503.46; and 40 CFR 60.153;
 - (3) performing the air pollution control device inspection requirements specified in 40 CFR 60.5220(b)(1) through (3); and
 - (4) meeting the bypass stack provisions specified in 40 CFR 60.5220(d).

(k) The owner or operator of a sewage sludge incineration unit, subject to this Rule, shall install, operate, calibrate, and maintain the continuous parameter monitoring systems to ensure compliance with the operational limits set forth in Paragraph (f) of this Rule as specified in 40 CFR 503.45, 40 CFR 60.5225 (a)(1), (2), and 40 CFR 60.153.

(l) Recordkeeping and Reporting. The owner or operator of a sewage sludge incineration unit subject to this Rule shall:

- (1) maintain on site in either paper copy or electronic format that can be printed upon request for a period of five years the following:
 - (A) the calendar date of each record as specified in 40 CFR 60.5230(a);
 - (B) increments of progress as specified in 40 CFR 60.5230(b);
 - (C) operator training records as specified in 40 CFR 60.5230(c)(1) through (4);
 - (D) air pollution control device inspections as specified in 40 CFR 60.5230(d);
 - (E) performance test reports as specified in 40 CFR 60.5230(e)(1) through (4);
 - (F) continuous monitoring data as specified in 40 CFR 60.5230(f)(1) through (4) and 40 CFR 60.153;
 - (G) other records for continuous monitoring systems as specified in 40 CFR 60.5230(g)(1) through (3) and 40 CFR 60.153;
 - (H) deviation reports as specified in 40 CFR 60.5230(h);
 - (I) equipment specifications and operation and maintenance requirements as specified in 40 CFR 60.5230(i);
 - (J) inspections, calibrations, and validation checks of monitoring devices as specified in 40 CFR 60.5230(j);
 - (K) monitoring plan and performance evaluations for continuous monitoring systems as specified in 40 CFR 60.5230(k);
 - (L) records indicating use of the bypass stack as specified in 40 CFR 60.5230(m);
 - (M) malfunction occurrence records shall as specified in 40 CFR 60.5230(n); and
 - (N) records showing compliance with standards for the use or disposal of sewage sludge listed in 40 CFR 503.47(b) through (n).
- (2) Submit to the Director in the format specified in 40 CFR 60.5235(h)(1) and by due dates established in Table 6 of 40 CFR Part 60 Subpart Mmmm the following:
 - (A) the initial compliance report as specified in 40 CFR 60.5235(b);
 - (B) the annual compliance report as specified in 40 CFR 60.5235(c);
 - (C) deviation reports (deviations from emission limits, emission standards, or operating limits, as specified in 40 CFR 60.5235(e)(1)) when it is required by 40 CFR 60.5235(d);
 - (D) notification of qualified operator deviation and notification of status of qualified operator deviation as specified in 40 CFR 60.5235(e)(1);
 - (E) notification of resumed operation pursuant to 40 CFR 60.5155(b)(2)(i) following shutdown (due to qualified operator deviation) as specified in 40 CFR 60.5235(e)(2);
 - (F) notification of a force majeure as specified in 40 CFR 60.5235(f);
 - (G) notification of intent to start or stop use of a continuous monitoring system, notification of intent to conduct a performance test, and notification of intent to conduct a rescheduled performance test as specified in 40 CFR 60.5235(g);
 - (H) performance test relative accuracy audit data (test reference method) and performance test data in the manner specified in 40 CFR 60.5235(h)(2); and
 - (I) semiannual reports as specified in 40 CFR 60.155.
- (3) With the Director's approval, the owner or operator may change the semiannual or annual reporting dates of the reports listed in Subparagraph (l)(2) of this Rule in accordance with the procedures established in 40 CFR 60.19(c) pursuant to 40 CFR 60.5235(i).

(m) Operator Training and Qualification.

- (1) A sewage sludge incineration unit subject to this Rule shall not be operated unless a fully trained and qualified sewage sludge incineration unit operator is at the facility or can be at the facility within one hour. The trained and qualified sewage sludge incineration unit operator may operate the sewage sludge incineration unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified sewage sludge incineration unit operators are temporarily not accessible, the procedures in 40 CFR 60.5155 shall apply.
- (2) Operator training and qualification shall be obtained by completing the requirements specified in 40 CFR 60.5130(c).

- (3) The owner or operator of a sewage sludge incineration unit subject to this Rule shall complete an annual review or refresher course covering the five topics specified in 40 CFR 60.5145(a) through (e) to maintain an operator qualification.
 - (4) The owner or operator of a sewage sludge incineration unit subject to this Rule shall renew a lapsed operator qualification before he or she begins operation of the unit by one of the two methods specified in 40 CFR 60.5150(a) and (b).
 - (5) When a qualified operator of a sewage sludge incineration unit subject to this Rule is not at the facility and cannot be at the facility within one hour, the owner shall meet the criteria specified in 40 CFR 60.5155.
 - (6) The owner or operator of a sewage sludge incineration unit subject to this Rule shall maintain and review the operator training documentation as specified in 40 CFR 60.5160 (a) and (b).
- (n) Final compliance. The owner or operator of a sewage sludge incineration unit subject to this Rule shall achieve final compliance by the dates specified in 40 CFR 60.5035(a) or (b).

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4),(5);
Eff. October 1, 1991;
Amended Eff. June 1, 2008; August 1, 2002; July 1, 2000; July 1, 1999; July 1, 1998; July 1, 1996;
April 1, 1995; December 1, 1993;
Readopted Eff. March 1, 2018;
Amended Eff. December 1, 2021.*

Appendix B – Hearing Record for State Plan

Appendix C – Full Text of Referenced General Statutes

Article 21.

Water and Air Resources.

Part 1. Organization and Powers Generally; Control of Pollution.

§ 143-211. Declaration of public policy.

(a) It is hereby declared to be the public policy of this State to provide for the conservation of its water and air resources. Furthermore, it is the intent of the General Assembly, within the context of this Article and Articles 21A and 21B of this Chapter, to achieve and to maintain for the citizens of the State a total environment of superior quality. Recognizing that the water and air resources of the State belong to the people, the General Assembly affirms the State's ultimate responsibility for the preservation and development of these resources in the best interest of all its citizens and declares the prudent utilization of these resources to be essential to the general welfare.

(b) It is the public policy of the State to maintain, protect, and enhance water quality within North Carolina. Further, it is the public policy of the State that the cumulative impact of transfers from a source river basin shall not result in a violation of the antidegradation policy set out in 40 Code of Federal Regulations § 131.12 (1 July 1997 Edition) and the statewide antidegradation policy adopted pursuant thereto.

(c) It is the purpose of this Article to create an agency which shall administer a program of water and air pollution control and water resource management. It is the intent of the General Assembly, through the duties and powers defined herein, to confer such authority upon the Department of Environmental Quality as shall be necessary to administer a complete program of water and air conservation, pollution abatement and control and to achieve a coordinated effort of pollution abatement and control with other jurisdictions. Standards of water and air purity shall be designed to protect human health, to prevent injury to plant and animal life, to prevent damage to public and private property, to insure the continued enjoyment of the natural attractions of the State, to encourage the expansion of employment opportunities, to provide a permanent foundation for healthy industrial development and to secure for the people of North Carolina, now and in the future, the beneficial uses of these great natural resources. It is the intent of the General Assembly that the powers and duties of the Environmental Management Commission and the

Department of Environmental Quality be construed so as to enable the Department and the Commission to qualify to administer federally mandated programs of environmental management and to qualify to accept and administer funds from the federal government for such programs. (1951, c. 606; 1967, c. 892, s. 1; 1973, c.1262, s. 23; 1977, c. 771, s. 4; 1979, 2nd Sess., c.1158, s. 2; 1989, c. 135, s. 1; c. 727, s. 218(102); 1997-443, s. 11A.119(a); 1998-168, s. 1; 2006-259, ss. 31(b), 31(c); 2015-241, s. 14.30(u).)

Article 21B.

Air Pollution Control.

§ 143-215.105. Declaration of policy; definitions.

The declaration of public policy set forth in G.S. 143-211, the definitions in G.S. 143-212, and the definitions in G.S. 143-213, applicable to the control and abatement of air pollution, shall be applicable to this Article. (1973, c. 821, s. 6; 1987, c. 827, s. 203.)

§ 143-215.106. Administration of air quality program.

The Department shall administer the air quality program of the State. (1973, c. 821, s. 6; c. 1262, s. 23; 1977, c. 771, s. 4; 1987, c.827, s.204.)

§ 143-215.3. General powers of Commission and Department; auxiliary powers.

(a) Additional Powers. In addition to the specific powers prescribed elsewhere in this Article, and for the purpose of carrying out its duties, the Commission shall have the power:

- (1) To make rules implementing Articles 21, 21 A, 21 B, or 38 of this Chapter.
- (1a) To adopt fee schedules and collect fees for the following:
 - a. Processing of applications for permits or registrations issued under Article 21, other than Parts 1 and 1A, Articles 21A, 21B, and 38 of this Chapter;
 - b. Administering permits or registrations issued under Article 21, other than Parts 1 and 1A, Articles 21A, 21B, and 38 of this Chapter including monitoring compliance with the terms of those permits; and

- c. Reviewing, processing, and publicizing applications for construction grant awards under the Federal Water Pollution Control Act.

No fee may be charged under this provision, however, to a farmer who submits an application that pertains to his farming operations.

(1b) The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing an application for a permit under G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this Chapter may not exceed five hundred dollars (\$500.00). The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing a registration under Part 2A of this Article or Article 38 of this Chapter may not exceed fifty dollars (\$50.00) for any single registration. An additional fee of twenty percent (20%) of the registration processing fee may be assessed for a late registration under Article 38 of this Chapter. The fee for administering and compliance monitoring under Article 21, other than Parts 1 and 1A, and G.S. 143-215.108 and G.S.143-215.109 of Article 21B shall be charged on an annual basis for each year of the permit term and may not exceed one thousand five hundred dollars (\$1,500) per year. Fees for processing all permits under Article 21A and all other sections of Article 21B shall not exceed one hundred dollars (\$100.00) for any single permit. The total payment for fees that are set by the Commission under this subsection for all permits for any single facility shall not exceed seven thousand five hundred dollars (\$7,500) per year, which amount shall include all application fees and fees for administration and compliance monitoring. A single facility is defined to be any contiguous area under one ownership and in which permitted activities occur. For all permits issued under these Articles where a fee schedule is not specified in the statutes, the Commission, or other commission specified by statute shall adopt a fee schedule in a rule following the procedures established by the Administrative Procedure Act. Fee schedules shall be established to reflect the size of the emission or discharge, the potential impact on the environment, the staff costs involved, relative costs of the issuance of new permits and the reissuance of existing permits, and shall include adequate safeguards to prevent unusual fee assessments which would result in serious economic burden on an individual applicant. A system shall be considered to allow consolidated annual payments for persons with multiple permits. In its rulemaking to establish fee schedules, the Commission is also directed to consider a method of rewarding facilities which achieve full compliance with administrative and self-monitoring reporting requirements, and to consider, in those cases where the cost of renewal or amendment of a permit is less than for the original permit, a lower fee for the renewal or amendment.

- (1c) Moneys collected pursuant to G.S. 143-215.3(a)(1a) shall be used to:
- a. Eliminate, insofar as possible, backlogs of permit applications awaiting agency action;
 - b. Improve the quality of permits issued;
 - c. Improve the rate of compliance of permitted activities with environmental standards; and
 - d. Decrease the length or the processing period for permit applications.
- (1d) The Commission may adopt and implement a graduated fee schedule sufficient to cover all direct and indirect costs required for the State to develop and administer a permit program which meets the requirements of Title V. The provisions of subdivision (1b) of this subsection do not apply to the adoption of a fee schedule under this subdivision. In adopting and implementing a fee schedule, the Commission shall require that the owner or operator of all air contaminant sources subject to the requirement to obtain a permit under Title V to pay an annual fee, or the equivalent over some other period, sufficient to cover costs as provided in section 502(b)(3)(A) of Title V. The fee schedule shall be adopted according to the procedures set out in Chapter 150B of the General Statutes.
- a. The total amount of fees collected under the fee schedule adopted pursuant to this subdivision shall conform to the requirements of section 502(b)(3)(B) of Title V. No fee shall be collected for more than 4,000 tons per year of any individual regulated pollutant, as defined in section 502(b)(3)(B)(ii) of Title V, emitted by any source. Fees collected pursuant to this subdivision shall be credited to the Title V Account.
 - b. The Commission may reduce any permit fee required under this section to take into account the financial resources of small business stationary sources as defined under Title V and regulations promulgated by the United States Environmental Protection Agency.
 - c. When funds in the Title V Account exceed the total amount necessary to cover the cost of the Title V program for the next fiscal year, the Secretary

shall reduce the amount billed for the next fiscal year so that the excess funds are used to supplement the cost of administering the Title V permit program in that fiscal year.

- (1e) The Commission shall collect the application, annual, and project fees for processing and administering permits, certificates of coverage under general permits, and certifications issued under Parts 1 and 1A of this Article and for compliance monitoring under Parts 1 and 1A of this Article as provided in G.S. 143-215.30 and G.S. 143-215.10G.
- (2) To direct that such investigation be conducted as it may reasonably deem necessary to carry out its duties as prescribed by this Article or Article 21A or Article 21 B of this Chapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating the condition of any waters and the discharge therein of any sewage, industrial waste, or other waste or for the purpose of investigating the condition of the air, air pollution, air contaminant sources, emissions, or the installation and operation of any air-cleaning devices, and to require written statements or the filing of reports under oath, with respect to pertinent questions relating to the operation of any air-cleaning device, sewer system, disposal system, or treatment works. In the case of effluent or emission data, any records, reports, or information obtained under this Article or Article 21A or Article 21B of this Chapter shall be related to any applicable effluent or emission limitations or toxic, pretreatment, or new source performance standards. No person shall refuse entry or access to any authorized representative of the Commission or Department who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (3) To conduct public hearings and to delegate the power to conduct public hearings in accordance with the procedures prescribed by this Article or by Article 21B of this Chapter.
- (4) To delegate such of the powers of the Commission as the Commission deems necessary to one or more of its members, to the Secretary or any other qualified employee of the Department. The Commission shall not delegate to persons other than its own members and the designated employees of the Department the power

to conduct hearings with respect to the classification of waters, the assignment of classifications, air quality standards, air contaminant source classifications, emission control standards, or the issuance of any special order except in the case of an emergency under subdivision (12) of this subsection for the abatement of existing water or air pollution. Any employee of the Department to whom a delegation of power is made to conduct a hearing shall report the hearing with its evidence and record to the Commission.

- (5) To institute such actions in the superior court of any county in which a violation of this Article, Article 21B of this Chapter, or the rules of the Commission has occurred, or, in the discretion of the Commission, in the superior court of the county in which any defendant resides, or has his or its principal place of business, as the Commission may deem necessary for the enforcement of any of the provisions of this Article, Article 21B of this Chapter, or of any official action of the Commission, including proceedings to enforce subpoenas or for the punishment of contempt of the Commission.
- (6) To agree upon or enter into any settlements or compromises of any actions and to prosecute any appeals or other proceedings.
- (7) To direct the investigation of any killing of fish and wildlife which, in the opinion of the Commission, is of sufficient magnitude to justify investigation and is known or believed to have resulted from the pollution of the waters or air as defined in this Article, and whenever any person, whether or not he shall have been issued a certificate of approval, permit or other document of approval authorized by this or any other State law, has negligently, or carelessly or unlawfully, or willfully and unlawfully, caused pollution of the waters or air as defined in this Article, in such quantity, concentration or manner that fish or wildlife are killed as the result thereof, the Commission, may recover, in the name of the State, damages from such person. The measure of damages shall be the amount determined by the Department and the North Carolina Wildlife Resources Commission, whichever has jurisdiction over the fish and wildlife destroyed to be the replacement cost thereof plus the cost of all reasonable and necessary investigations made or caused to be made by the State in connection therewith. Upon receipt of the estimate of damages caused, the Department shall notify the persons responsible for the destruction of the fish or wildlife in question and may effect such settlement as the Commission may deem proper and reasonable, and if no settlement is reached

within a reasonable time, the Commission shall bring a civil action to recover such damages in the superior court in the county in which the discharge took place. Upon such action being brought the superior court shall have jurisdiction to hear and determine all issues or questions of law or fact, arising on the pleadings, including issues of liability and the amount of damages. On such hearing, the estimate of the replacement costs of the fish or wildlife destroyed shall be prima facie evidence of the actual replacement costs of such fish or wildlife. In arriving at such estimate, any reasonably accurate method may be used and it shall not be necessary for any agent of the Wildlife Resources Commission or the Department to collect, handle or weigh numerous specimens of dead fish or wildlife.

The State of North Carolina shall be deemed the owner of the fish or wildlife killed and all actions for recovery shall be brought by the Commission on behalf of the State as the owner of the fish or wildlife. The fact that the person or persons alleged to be responsible for the pollution which killed the fish or wildlife holds or has held a certificate of approval, permit or other document of approval authorized by this Article or any other law of the State shall not bar any such action. The proceeds of any recovery, less the cost of investigation, shall be used to replace, insofar as and as promptly as possible, the fish and wildlife killed, or in cases where replacement is not practicable, the proceeds shall be used in whatever manner the responsible agency deems proper for improving the fish and wildlife habitat in question. Any such funds received are hereby appropriated for these designated purposes. Nothing in this paragraph shall be construed in any way to limit or prevent any other action which is now authorized by this Article.

- (8) After issuance of an appropriate order, to withhold the granting of any permit or permits pursuant to G.S. 143-215.1 or G.S. 143-215.108 for the construction or operation of any new or additional disposal system or systems or air-cleaning device or devices in any area of the State. Such order may be issued only upon determination by the Commission, after public hearing, that the permitting of any new or additional source or sources of water or air pollution will result in a generalized condition of water or air pollution within the area contrary to the public interest, detrimental to the public health, safety, and welfare, and contrary to the policy and intent declared in this Article or Article 21B of this Chapter. The Commission may make reasonable distinctions among the various sources of water and air pollution and may direct that its order shall apply only to those sources which it determines will result in a generalized condition of water or air pollution.

The determination of the Commission shall be supported by detailed findings of fact and conclusions set forth in the order and based upon competent evidence of record. The order shall describe the geographical area of the State affected thereby with particularity and shall prohibit the issuance of permits pending a determination by the Commission that the generalized condition of water or air pollution has ceased.

Notice of hearing shall be given in accordance with the provisions of G.S. 150B-21.2.

A person aggrieved by an order of the Commission under this subdivision may seek judicial review of the order under Article 4 of Chapter 150B of the General Statutes without first commencing a contested case. An order may not be stayed while it is being reviewed.

- (9) If an investigation conducted pursuant to this Article or Article 21B of this Chapter reveals a violation of any rules, standards, or limitations adopted by the Commission pursuant to this Article or Article 21B of this Chapter, or a violation of any terms or conditions of any permit issued pursuant to G.S. 143-215.1 or 143-215.108, or special order or other document issued pursuant to G.S. 143-215.2 or G.S. 143-215.110, the Commission may assess the reasonable costs of any investigation, inspection or monitoring survey which revealed the violation against the person responsible therefor. If the violation resulted in an unauthorized discharge to the waters or atmosphere of the State, the Commission may also assess the person responsible for the violation for any actual and necessary costs incurred by the State in removing, correcting or abating any adverse effects upon the water or air resulting from the unauthorized discharge. If the person responsible for the violation refuses or fails within a reasonable time to pay any sums assessed, the Commission may institute a civil action in the superior court of the county in which the violation occurred or, in the Commission's discretion, in the superior court of the county in which such person resides or has his or its principal place of business, to recover such sums.
- (10) To require a laboratory facility that performs any tests, analyses, measurements, or monitoring required under this Article or Article 21B of this Chapter to be certified annually by the Department, to establish standards that a laboratory facility and its employees must meet and maintain in order for the laboratory facility to be

certified, and to charge a laboratory facility a fee for certification. Fees collected under this subdivision shall be credited to the Water and Air Account and used to administer this subdivision. These fees shall be applied to the cost of certifying commercial, industrial, and municipal laboratory facilities.

- (11) Repealed by Session Laws 1983, c. 296, s. 6.
- (12) To declare an emergency when it finds that a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. Regardless of any other provisions of law, if the Department finds that such a condition or water or air pollution exists and that it creates an emergency requiring immediate action to protect the public health and safety or to protect fish and wildlife, the Secretary of the Department with the concurrence of the Governor, shall order persons causing or contributing to the water or air pollution in question to reduce or discontinue immediately the emission or air contaminants or the discharge of wastes. Immediately after the issuance of such order, the chairman of the Commission shall fix a place and time for a hearing before the Commission to be held within 24 hours after issuance of such order, and within 24 hours after the commencement of such hearing, and without adjournment thereof, the Commission shall either affirm, modify or set aside the order.

In the absence of a generalized condition of air or water pollution of the type referred to above, if the Secretary finds that the emissions from one or more air contaminant sources or the discharge of wastes from one or more sources of water pollution is causing imminent danger to human health and safety or to fish and wildlife, he may with the concurrence of the Governor order the person or persons responsible for the operation or operations in question to immediately reduce or discontinue the emissions of air contaminants or the discharge of wastes or to take such other measures as are, in his judgment, necessary, without regard to any other provisions of this Article or Article 21B of this Chapter. In such event, the requirements for hearing and affirmance, modification or setting aside of such orders set forth in the preceding paragraph of this subdivision shall apply.

- (13) Repealed by Session Laws 1983, c. 296, s. 6.
- (14) To certify and approve, by appropriate delegations and conditions in permits required by G.S. 143-215.1, requests by publicly owned treatment works to

implement, administer and enforce a pretreatment program for the control of pollutants which pass through or interfere with treatment processes in such treatment works; and to require such programs to be developed where necessary to comply with the Federal Water Pollution Control Act and the Resource Conservation and Recovery Act, including the addition of conditions and compliance schedules in permits required by G.S. 143-215.1. Pretreatment programs submitted by publicly owned treatment works shall include, at a minimum, the adoption of pretreatment standards, a permit or equally effective system for the control of pollutants contributed to the treatment works, and the ability to effectively enforce compliance with the program.

- (15) To adopt rules for the prevention of pollution from underground tanks containing petroleum, petroleum products, or hazardous substances. Rules adopted under this section may incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations.
- (16) To adopt rules limiting the manufacture, storage, sale, distribution or use of cleaning agents containing phosphorus pursuant to G.S. 143-214.4(e), and to adopt rules limiting the manufacture, storage, sale, distribution or use of cleaning agents containing nitrilotriacetic acid.
- (17) To adopt rules to implement Part 2A of Article 21A of Chapter 143.

(b) Research Functions. The Department shall have the power to conduct scientific experiments, research, and investigations to discover economical and practical corrective methods for air pollution and waste disposal problems. To this end, the Department may cooperate with any public or private agency or agencies in the conduct of such experiments, research, and investigations, and may, when funds permit, establish research studies in any North Carolina educational institution, with the consent of such institution. In addition, the Department shall have the power to cooperate and enter into contracts with technical divisions of State agencies, institutions and with municipalities, industries, and other persons in the execution of such surveys, studies, and research as it may deem necessary in fulfilling its functions under this Article or Department on matters of mutual interest.

(c) Relation with the Federal Government. The Commission as official water and air pollution control agency for the State is delegated to act in local administration of all matters covered by any existing federal statutes and future legislation by Congress relating to water and air quality

control. In order for the State of North Carolina to effectively participate in programs administered by federal agencies for the regulation and abatement of water and air pollution, the Department is authorized to accept and administer funds provided by federal agencies for water and air pollution programs and to enter into contracts with federal agencies regarding the use of such funds.

(d) **Relations with Other States.** The Commission or the Department may, with the approval of the Governor, consult with qualified representatives of adjoining states relative to the establishment of regulations for the protection of waters and air or mutual interest, but the approval of the General Assembly shall be required to make any regulations binding.

(e) **Variations.** -Any person subject to the provisions of G.S. 143-215.1 or 143-215.108 may apply to the Commission for a variance from rules, standards, or limitations established pursuant to G.S. 143-214.1) 143-215, or 143-215. 107. The Commission may grant such variance, for fixed or indefinite periods after public hearing on due notice, or where it is found that circumstances so require, for a period not to exceed 90 days without prior hearing and notice. Prior to granting a variance hereunder, the Commission shall find that:

- (1) The discharge of waste or the emission of air contaminants occurring or proposed to occur do not endanger human health or safety; and
- (2) Compliance with the rules, standards) or limitations from which variance is sought cannot be achieved by application of best available technology found to be economically reasonable at the time of application for such variances, and would produce serious hardship without equal or greater benefits to the public, provided that such variances shall be consistent with the provisions of the Federal Water Pollution Control Act as amended or the Clean Air Act as amended; and provided further, that any person who would otherwise be entitled to a variance or modification under the Federal Water Pollution Control Act as amended or the Clean Air Act as amended shall also be entitled to the same variance from or modification in rules, standards, or limitations established pursuant to G.S. 143-214.1, 143-215, and 143-215.107, respectively.

(f) **Notification of Completed Remedial Action.** The definitions set out in G.S. 130A-310.31(b) apply to this subsection. Any person may submit a written request to the Department for a determination that groundwater has been remediated to meet the standards and classifications established under this Part. A request for a determination that groundwater has

been remediated to meet the standards and classifications established under this Part shall be accompanied by the fee required by G.S. 130A-310.39(a)(2). If the Department determines that groundwater has been remediated to established standards and classifications, the Department shall issue a written notification that no further remediation of the groundwater will be required. The notification shall state that no further remediation of the groundwater will be required unless the Department later determines, based on new information or information not previously provided to the Department, that the groundwater has not been remediated to established standards and classifications or that the Department was provided with false or incomplete information. Under any of those circumstances, the Department may withdraw the notification and require responsible parties to remediate the groundwater to established standards and classifications. (1951, c. 606; 1957, c. 1267, s. 3; 1959, c. 779, s. 8; 1963, c. 1086; 1967, c. 892, s. 1; 1969, c. 538; 1971, 1167, ss. 7, 8; 1973, c. 698, ss. 1-7, 9, 17; 712, s. 1; c. 1262, ss. 23, 86; c. 1331, s. 3; 1975, c. 583, ss. 5, 6; c. 655, s. 3; 1977, c. 771, s.4; 1979, c. 633, ss. 6-8; 1979, 2nd Sess., c. 1158, ss. 1, 3, 4; 1983, c. 296, ss. 5-8; 1985, c. 551, s. 2; 1987, c. 111, s. 2; c. 767, s. 1; c. 827, ss. 1, 154, 161, 266; 1987 (Reg. Sess., 1988), c. 1035, s. 2; 1989, c. 500, s. 122; c. 652, s. 1; 1991, c. 552, ss. 2, 11; c. 712, s. 2; 1991 (Reg. Sess., 1992), c. 890, s. 16; c. 1039, ss. 14, 20.1; 1993, c. 344, s. 2; c.400, ss. 1(c), 2, 3, 15; c. 496, s. 4; 1993 (Reg. Sess., 1994), c. 694, s. 1; 1995, c. 484, s. 5; 1997-357, s. 6; 1997-496, s. 4; 1998-212, s. 29A.1 1(b).)

§ 143-215.107. Air quality standards and classifications.

- (a) Duty to Adopt Plans, Standards, etc. - The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:
- (1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.
 - (2) To determine by means or field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

- (3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.
- (4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
- (5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. The Department shall implement rules adopted pursuant to this subsection as follows:
 - a. Except as provided in sub-subdivision b. of this subdivision, rules adopted pursuant to this subdivision that control emissions of toxic air pollutants shall not apply to an air emission source that is any of the following:
 1. Subject to an applicable requirement under 40 C.F.R. Part 61 as amended.
 2. An affected source under 40 C.F.R. Part 63, as amended.
 3. Subject to a case-by-case maximum achievable control technology (MACT) permit requirement issued by the Department pursuant to 42 U.S.C. § 7412(j), as amended.
 - b. Upon receipt or a permit application for a new source or facility, or for the modification of an existing source or facility, that would result in an increase in the emission of toxic air pollutants, the Department shall review the application to determine if the emission of toxic air pollutants from the

source or facility would present an unacceptable risk to human health. Upon making a written finding that a source or facility presents or would present an unacceptable risk to human health, the Department shall require the owner or operator of the source or facility to submit a permit application for any or all emissions of toxic air pollutants from the facility that eliminates the unacceptable risk to human health. The written finding may be based on modeling, epidemiological studies, actual monitoring data, or other information that indicates an unacceptable health risk. When the Department requires the owner or operator of a source or facility to submit a permit application pursuant to this subdivision, the Department shall report to the Chairs of the Environmental Review Commission on the circumstances surrounding the permit requirement, including a copy of the written finding.

- (6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.
- (7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.
- (8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide (SO₂) allowances and oxides of nitrogen (NO_x) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.
- (9) To regulate the content of motor fuels, as defined in G.S. 105-449.60, to require use of reformulated gasoline as the Commission determines necessary, to

implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

- (10) Except as provided in subsection (h) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.
- (11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.
- (12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.
- (13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.
- (14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article.

(d), (e) Repealed by Session Laws 1987, c. 827, s. 205.

(f), (g) Repealed by Session Laws 1995, c. 507, s. 27.

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

- (1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.
- (2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection. (1973, c. 821, s. 6; c. 1262, s. 23; 1975, c. 784; 1979, c. 545, s. 1; c. 931; 1987, c. 827, ss. 154, 205; 1989, c. 132; c. 168, s. 48; 1991, c. 403, s. 3; c. 552, s. 9; c. 761, s. 40; 1991 (Reg. Sess., 1992), c. 889, s. 3; 1993, c. 400, s. 7; 1993 (Reg. Sess., 1994), c. 686, s. 6; 1995, c. 123, s. 9; c. 507, s. 27.8(s); 1997-458, s. 3.1; 1999-328, s. 3.12; 2000-134, s. 1; 2002-4, s. 3; 2002-165, s. 1.7; 2012-91, s. 1; 2015-286, s. 4.3(a).)

§ 143-215.108. Control of sources of air pollution; permits required.

(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities that contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained a permit for the activity from the Commission and has complied with any conditions of the permit:

- (1) Establish or operate any air contaminant source, except as provided in G.S. 143-215.108A.

- (2) Build, erect, use, or operate any equipment that may result in the emission of an air contaminant or that is likely to cause air pollution, except as provided in G.S. 143-215.108A.
- (3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be emitted.
- (4) Repealed by Session Laws 2003-428, s. 1, effective August 19, 2003.

(a1) The Commission may by rule establish procedures that meet the requirements of section 502(b)(10) of Title V (42 U.S.C. § 7661a(b)(10)) and 40 Code of Federal Regulations § 70.4(b)(12) (1 July 1993 Edition) to allow a permittee to make changes within a permitted facility without requiring a revision of the permit.

(a2) The Commission may adopt rules that provide for a minor modification of a permit. At a minimum, rules that provide for a minor modification of a permit shall meet the requirements of 40 Code of Federal Regulations § 70.7(e)(2) (1 July 1993 Edition). If the Commission adopts rules that provide for a minor modification of a permit, a permittee shall not make a change in the permitted facility while the application for the minor modification is under review unless the change is authorized under the rules adopted by the Commission.

(b) The Commission shall act upon all applications for permits so as to effectuate the purposes of this Article by reducing existing air pollution and preventing, so far as reasonably possible, any increased pollution of the air from any additional or enlarged sources.

(c) The Commission shall have the power:

- (1) To grant and renew a permit with any conditions attached that the Commission believes necessary to achieve the purposes of this Article or the requirements of the Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency;
- (2) To grant and renew any temporary permit for such period of time as the Commission shall specify even though the action allowed by such permit may result in pollution or increase pollution where conditions make such temporary permit essential;

- (3) To terminate, modify, or revoke and reissue any permit upon not less than 60 days' written notice to any person affected;
- (3a) To suspend any permit pursuant to the provisions of G.S. 150B-3(c);
- (4) To require all applications for permits and renewals to be in writing and to prescribe the form of such applications;
- (5) To request such information from an applicant and to conduct such inquiry or investigation as it may deem necessary and to require the submission of plans and specifications prior to acting on any application for a permit;
- (5a) To require that an applicant satisfy the Department that the applicant, or any parent, subsidiary, or other affiliate of the applicant or parent:
 - a. Is financially qualified to carry out the activity for which a permit is required under subsection (a); and
 - b. Has substantially complied with the air quality and emission control standards applicable to any activity in which the applicant has previously engaged, and has been in substantial compliance with federal and state laws, regulations, and rules for the protection of the environment.

As used in this subdivision, the words "affiliate," "parent," and "subsidiary" have the same meaning as in 17 Code of Federal Regulations 240.12b-2 (1 April 1990 Edition);

- (6) To adopt rules, as it deems necessary, establishing the form of applications and permits and procedures for the granting or denial of permits and renewals pursuant to this section; and all permits, renewals and denials shall be in writing;
- (7) To prohibit any stationary source within the State from emitting any air pollutant in amounts that will prevent attainment or maintenance by any other state of any national ambient air quality standard or that will interfere with measures required to be included in the applicable implementation plan for any other state to prevent deterioration of air quality or protect visibility; and

- (8) To designate certain classes of activities for which a general permit may be issued, after considering the environmental impact of an activity, the frequency of the activity, the need for individual permit oversight, and the need for public review and comment on individual permits.
- (d) (1) The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. A permit application may not be deemed complete unless it is accompanied by a copy of the request for determination as provided in subsection (f) of this section that bears a date of receipt entered by the clerk of the local government and until the 15-day period for issuance of a determination has elapsed.
- (2) The Commission shall adopt rules specifying the times within which it must act upon applications for permits required by Title V and other permits required by this section. The times specified shall be extended for the period during which the Commission is prohibited from issuing a permit under subdivisions (3) and (4) of this subsection. The Commission shall inform a permit applicant as to whether or not the application is complete within the time specified in the rules for action on the application. If the Commission fails to act on an application for a permit required by Title V or this section within the time period specified, the failure to act on the application constitutes a final agency decision to deny the permit. A permit applicant, permittee, or other person aggrieved, as defined in G.S. 150B-2, may seek judicial review of a failure to act on the application as provided in G.S. 143-215.5 and Article 4 of Chapter 150B of the General Statutes. Notwithstanding the provisions of G.S.150B-51, upon review of a failure to act on an application for a permit required by Title V or this section, a court may either: (i) affirm the denial of the permit or (ii) remand the application to the Commission for action upon the application within a specified time.
- (3) If the Administrator of the United States Environmental Protection Agency validly objects to the issuance of a permit required by Title V within 45 days after the Administrator receives the proposed permit and the required portions of the permit application, the Commission shall not issue the permit until the Commission revises the proposed permit to meet all objections noted by the Administrator or

otherwise satisfies all objections consistent with Title V and implementing regulations adopted by the United States Environmental Protection Agency.

- (4) If the Administrator of the United States Environmental Protection Agency validly objects to the issuance of a permit required by Title V after the expiration of the 45-day review period specified in subdivision (3) of this subsection as a result of a petition filed pursuant to section 505(b)(2) of Title V (42 U.S.C. § 7661d(b)(2)) and prior to the issuance of the permit by the Commission, the Commission shall not issue the permit until the Commission revises the proposed permit to meet all objections noted by the Administrator or otherwise satisfies all objections consistent with Title V and implementing regulations adopted by the United States Environmental Protection Agency.

(d1) No Title V permit issued pursuant to this section shall be issued or renewed for a term exceeding five years. All other permits issued pursuant to this section shall be issued for a term of eight years.

(e) A permit applicant or permittee who is dissatisfied with a decision of the Commission on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review. The filing of a petition under this subsection will stay the Commission's decision until resolution of the contested case.

(e1) A person other than a permit applicant or permittee who is a person aggrieved by the Commission's decision on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission provides notice of its decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on a publicly available Web site. The filing of a petition under this subsection does not stay the Commission's decision except as ordered by the administrative law judge under G.S. 150B-33(b).

(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue 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 or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft

permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless the local government makes a subsequent 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 Commission shall attach as a condition of the permit 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. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

(g) Repealed by Session Laws 2014-120, s. 38(c), effective September 18, 2014.

(h) Expedited Review of Applications Certified by a Professional Engineer. The Commission shall adopt rules governing the submittal of permit applications certified by a professional engineer, including draft permits, that can be sent to public notice and hearing upon receipt and subjected to technical review by personnel within the Department. These rules shall specify, at a minimum, any forms to be used; a checklist for applicants that lists all items of information required to prepare a complete permit application; the form of the certification required on the application by a professional engineer; and the information that must be included in the draft permit. The Department shall process an application that is certified by a professional engineer as provided in subdivisions (1) through (7) of this subsection.

- (1) Initiation of Review. Upon receipt of an application certified by a professional engineer in accordance with this subsection and the rules adopted pursuant to this subsection, the Department shall determine whether the application is complete as provided in subdivision (2) of this subsection. Within 30 days after the date on which an application is determined to be complete, the Department shall:
 - a. Publish any required notices, using the draft permit included with the application;
 - b. Schedule any required public meetings or hearings on the application and permit; and
 - c. Initiate any and all technical review of the application in a manner to ensure substantial completion of the technical review by the time of any public hearing on the application, or if there is no hearing, by the close of the notice period.

- (2) Completeness Review. Within 10 working days of receipt of the permit application certified by a professional engineer under this subsection, the Department shall determine whether the application is complete for purposes of this subsection. The Department shall determine whether the permit application certified by a professional engineer is complete by comparing the information provided in the application with the checklist contained in the rules adopted by the Commission pursuant to this subsection.
 - a. If the application is not complete, the Department shall promptly notify the applicant in writing of all deficiencies of the application, specifying the items that need to be included, modified, or supplemented in order to make the application complete, and the 10-day time period is suspended after this request for further information. If the applicant submits the requested information within the time specified, the 10-day time period shall begin again on the day the additional information was submitted. If the additional information is not submitted within the time periods specified, the Department shall return the application to the applicant, and the applicant may treat the return of the application as a denial of the application or may resubmit the application at a later time.

- b. If the Department fails to notify the applicant that an application is not complete within the time period set forth in this subsection, the application shall be deemed to be complete.

- (3) Time for Permit Decision. For any application found to be complete under subdivision (2) of this subsection, the Department shall issue a permit decision within 30 days of the last day of any public hearing on the application, or if there is no hearing, within 30 days of the close of the notice period.

- (4) Rights if Permit Decision Not Made in Timely Fashion. If the Department fails to issue a permit decision within the time periods specified in subdivision (3) of this subsection, the applicant may:
 - a. Take no action, thereby consenting to the continued review of the application; or
 - b. Treat the failure to issue a permit decision as a denial of the application and appeal the denial as provided in subdivision (2) of subsection (d) of this section.

- (5) Power to Halt Review. At any time after the permit application certified by a professional engineer has been determined to be complete under subdivision (2) of this subsection, the Department may immediately terminate review of that application, including technical review and any hearings or meetings scheduled on the application, upon a determination of one of the following:
 - a. The permit application is not in substantial compliance with the applicable rules; or
 - b. The applicant failed to pay all permit application fees.

- (6) Rights if Review Halted. If the Department terminates review of an application under subdivision (5) of this subsection, the applicant may take any of the following actions:
 - a. Revise and resubmit the application; or

b. Treat the action as a denial of the application and appeal the denial under Article 3 of Chapter 150B of the General Statutes.

(7) Option; No Additional Fee. The submittal of a permit application certified by a professional engineer to be considered under this subsection shall be an option and shall not be required of any applicant. The Department shall not impose any additional fees for the receipt or processing of a permit application certified by a professional engineer.

(i) Rules for Review of Applications Other Than Those Certified by a Professional Engineer. The Commission shall adopt rules governing the times of review for all permit applications submitted pursuant to this section other than those certified by a professional engineer pursuant to subsection (h) of this section. Those rules shall specify maximum times for, among other things, the following actions in reviewing the permit applications covered by this subsection:

- (1) Determining that the permit application is complete;
- (2) Requesting additional information to determine completeness;
- (3) Determining that additional information is needed to conduct a technical review of the application;
- (4) Completing all technical review of the permit application;
- (5) Holding and completing all public meetings and hearings required for the application;
- (6) Completing the record from reviewing and acting on the application; and
- (7) Taking final action on the permit, including granting or denying the application.

(j) No Power to Regulate Residential Combustion. Nothing in this section shall be interpreted to give the Commission or the Department the power to regulate the emissions from any combustion heater, appliance, or fireplace in private dwellings, except to the extent required by federal law. For purposes of this subsection, "combustion heater, appliance, or fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating, cooking,

drying, or decorative purposes. (1973, c. 821, s. 6; c. 1262, s.23; 1979, c. 545, ss. 2, 3; 1987, c.461, s.2; c. 827, ss. 154, 206; 1989, c. 168, s.30; c.492; 1989 (Reg. Sess., 1990), c. 1037, s. 2; 1991, c. 552, s. 5; c. 629, s. 1; c. 761, s. 27(a)-(c); 1993, c. 400, s. 8; 1995, c. 484, s. 2; 1995 (Reg. Sess., 1996), c. 728, s. 1; 2002-4, s. 2; 2003-340, s. 1.8(b); 2003-428, ss. 1, 2; 2011-398, s. 60(a); 2013-413, s. 29; 2014-I 15, s. 17; 2014-120, ss. 24(g), 38(c); 2015-286, s. 4.17(a).)

§ 143-215.114A. Enforcement procedures: civil penalties.

(a) A civil penalty of not more than twenty-five thousand dollars (\$25,000) may be assessed by the Secretary against any person who:

- (1) Violates any classification, standard or limitation established pursuant to G.S. 143-215.107.
- (2) Is required but fails to apply for or to secure a permit required by G.S. 143-215.108 or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit.
- (3) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to G.S. 143-215.107D.
- (4) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article or Parts 1 or 7 of Article 21 of this Chapter.
- (5) Violates a rule of the Commission or a local governing body implementing this Article or Parts 1 or 7 of Article 21.
- (6) Violates the offenses set out in G.S. 143-215.114B.
- (7) Violates the emissions limitations set out in G.S. 143-215.107D.

(b) If any action or failure to act for which a penalty may be assessed under this section is continuous, the Secretary may assess a penalty not to exceed twenty-five thousand dollars (\$25,000) per day for so long as the violation continues.

(b1) The Secretary may assess a civil penalty of not more than twenty-five thousand dollars (\$25,000) per day for a violation of the emissions limitations set out in G.S. 143-215.107D as provided in this subsection. If at the end of any calendar year, an investor-owned public utility has violated an emissions limitation set out in G.S. 143-215.107D, the violation shall be considered to be continuous from the day that the collective emissions first exceeded the emissions limitation set out in G.S. 143-215.107D through the end of the calendar year and the Secretary may assess a separate civil penalty for each day.

Pre-Hearing Draft

North Carolina State Plan for SSI Units
40 CFR Part 60, Subpart MMMM

May 27, 2022
Page 54

(c) In determining the amount of the penalty the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(d) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(e) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(f) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection, or requests remission of the assessment in whole or in part as provided in subdivision (5) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

(g) Repealed by Session Laws 1996, Second Extra Session c. 18, s. 27.34(f).

(h) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1973, c. 821, s. 6; c. 1262, s. 23; c. 1331, s. 3; 1975, c. 19, s. 53; c. 842, ss. 6, 7; 1977, c. 771, s. 4; 1979, c. 545, ss. 4-6; 1987, c. 748, s. 2; c. 827, ss. 154, 212; 1989, c. 135, s. 8; 1989 (Reg. Sess., 1990), c. 1036, s. 8; c. 1045,

s. 4; 1991, c. 552, s. 4; c. 725, s. 7; 1991 (Reg. Sess., 1992), c. 890, s. 18; 1996, 2nd Ex. Sess., c. 18, s. 27.34(f); 1997-496, s. 7; 1998-215, s. 73; 2002-4, ss. 4, 5; 2002-165, s. 1.12; 2007-296, s. 1.)

§143-215.114C. Enforcement procedures: injunctive relief.

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Article or Article 21 of this Chapter or a rule implementing this Article or Article 21 of this Chapter, the Department, either before or after the institution of any other action or proceeding authorized by this Article or Article 21 of this Chapter, may request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the Superior Court of Wake County, or, in his discretion, in the superior court of the county in which the violation occurred or may occur. Upon a determination by the court that the alleged violation of the provisions of this Article or Article 21 of this Chapter or the regulation of the Commission has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened 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 Article or Article 21 of this Chapter. (1973, c. 821, s. 6; c. 1262, s. 23; c. 1331, s. 3; 1975, c. 19, s. 53; c. 842, ss. 6, 7; 1977, c. 771, s. 4; 1979, c. 545, ss. 4-6; 1987, c. 748, s. 2; c. 827, ss. 154, 212; 1989, c. 135, s. 8; 1989 (Reg. Sess., 1990), c. 1045, s. 6.)