

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE  
ENVIRONMENTAL MANAGEMENT  
COMMISSION

\_\_\_\_\_  
IN THE MATTER OF )  
 )  
NORTH CAROLINA CITIZENS )  
FOR BUSINESS AND )  
INDUSTRY )  
 )  
Petitioner )  
 )  
\_\_\_\_\_ )

CONSENT AGREEMENT  
AND SETTLEMENT

Pursuant to N.C.G.S § 150B-22 and consistent with the policy of the North Carolina Division of Air Quality (“NCDAQ”) to settle disputes through informal procedures, the NCDAQ and North Carolina Citizens for Business and Industry (“NCCBI”) enter into this Consent Agreement and Settlement (“Agreement”) in order to resolve NCCBI’s August 28, 2000 request for Declaratory Ruling before the Environmental Management Commission. Without any admission of fact or conclusion of law, and in order to avoid costly and burdensome litigation, the parties hereby agree to the following:

1. The NCDAQ will revise its October 6, 1999 procedural memorandum entitled “NC DAQ Procedure to Quantify Condensable Particulate Matter” to clarify that:

(a) sampling procedures for determining compliance with the following particulate matter standards (“particulate standards”) shall be in accordance with Method 5 of Appendix A of 40 CFR Part 60:

15A NCAC 2D .0503: Particulates from Fuel Burning Indirect Heat Exchangers

15A NCAC 2D .0504: Particulates from Wood Burning Indirect Heat Exchangers

15A NCAC 2D .0506: Particulates from Hot Mix Asphalt Plants

15A NCAC 2D .0507: Particulates from Chemical Fertilizer Manufacturing Plants

15A NCAC 2D .0508: Particulates from Pulp and Paper Mills

15A NCAC 2D .0509: Particulates from Mica or Feldspar Processing Plants

15A NCAC 2D .0510: Particulates from Sand, Gravel, or Crushed Stone Operations

15A NCAC 2D .0511: Particulates from Lightweight Aggregate Processes

15A NCAC 2D .0512: Particulates from Wood Products Finishing Plants

15A NCAC 2D .0513: Particulates from Portland Cement Plants

15A NCAC 2D .0514: Particulates from Ferrous Jobbing Foundries

15A NCAC 2D .0515: Particulates from Miscellaneous Industrial Processes

15A NCAC 2D .0536: Particulate Emission from Electric Utility Boilers.

However, in cases where “sources are known to emit organic material (oil, pitch, plasticizers, etc.) which exist as finely divided liquid droplets at ambient conditions” as set forth in 15A NCAC 2D.0501(c)(3), if stack sampling is the method used to determine compliance with the particulate standards, compliance will be determined in accordance with Method 5 and EPA reference Method 202 (“Method 202”).

(b) Except as otherwise set forth in paragraph 1(a) above, prior to the revision of 15A NCAC 2D.0501(c)(3) through rulemaking in accordance with paragraph 2 below, NCDAQ shall neither require as an air quality permit condition the quantification of condensible particulate matter nor consider condensible particulate matter emissions for the purposes of determining compliance with the particulate standards listed in paragraph 1(a) above.

(c) Notwithstanding paragraph 1(b) above, NCDAQ may require sources to perform particulate emissions testing in accordance with Method 202 in order to quantify condensible particulate emissions for purposes other than enforcement of any of the particulate standards listed in paragraph 1(a) above.

2. NCDAQ agrees to undertake formal rulemaking procedures to amend 15A NCAC 2D .0501(c)(3) in accordance with the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-1 et seq., to clarify whether sampling for determining compliance with the particulate standards shall be made in accordance with Method 5 and/or Method 202.

3. NCCBI and the NCDAQ agree that the results of above referenced rulemaking amendment to 15A NCAC 2D .0501(c)(3) will define the stack test methods to determine compliance with the particulate standards.

4. NCCBI and the NCDAQ agree that the particulate standards listed in paragraph 1(a) above are designed to achieve and maintain compliance with the particulate ambient air quality standards contained in 15A NCAC 2D .0400.

5. NCCBI and the NCDAQ agree that, in accordance with North Carolina and Federal law, NCDAQ may require controls or impose permit restrictions on both filterable particulate matter, as measured by Method 5, and condensible particulate matter (organic and inorganic), as measured by Method 202, as necessary to prevent an exceedance of the ambient air quality standards of 15A NCAC 2D .0400.

6. NCCBI agrees to withdraw the pending request for Declaratory Ruling on this matter before the Environmental Management Commission within ten (10) days of the signing of this agreement by the parties.

Agreed to this the \_\_\_\_ day of January, 2001.

FOR PETITIONER

C. Edward Scott III P.E.

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FOR NCDAQ

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