

SECTION .1500 - STANDARDS FOR SPECIAL TAX TREATMENT OF RECYCLING AND RESOURCE RECOVERY EQUIPMENT AND FACILITIES

15A NCAC 13B .1501 DEFINITIONS

The definitions in Article 9 of Chapter 130A of the General Statutes and the following definitions shall apply to the rules of this Section.

- (1) "Applicant" means a person that submits an application to the Department to request tax certification for real property or personal property. The applicant shall be a business conducting a recycling or resource recovery process or shall be a person that owns real or personal property that is being used by or leased to a business conducting a recycling or resource recovery process.
- (2) "County assessor" means the county assessor established by Article 16 of Chapter 105 of the General Statutes.
- (3) "Incidental or supportive equipment" means personal property that is used at any time for a purpose other than recycling or resource recovery; is not necessary for recycling or resource recovery to occur; or has a primary purpose that is not recycling or resource recovery. Incidental or supportive equipment includes personal property that is used at any time for administrative, safety, or maintenance services, even though it may be used in support of a recycling or resource recovery process, or that is used to provide comfort, safety, or convenience for employees such as:
 - (a) spare parts;
 - (b) office furniture or equipment;
 - (c) employee personal protective or safety equipment;
 - (d) kitchen or breakroom furniture, equipment, or appliances;
 - (e) heating or air conditioning equipment for employee comfort;
 - (f) fire alarms or fire suppression systems;
 - (g) vehicles used to transport employees, new materials, or waste for disposal at any time; and
 - (h) landfill gas vents or wells that are required by a permit issued by the Department.
- (4) "Incidental or supportive facilities" means real property or parts thereof that is used at any time for a purpose other than recycling or resource recovery; is not necessary for recycling or resource recovery to occur; or has a primary purpose that is not recycling or resource recovery. Incidental or supportive facilities include real property that is used at any time for administrative, safety, or maintenance services, even though it may be used in support of a recycling or resource recovery process, or that is used to provide comfort, safety, or convenience for the employees such as:
 - (a) office space;
 - (b) conference rooms;
 - (c) bathrooms;
 - (d) kitchens;
 - (e) employee breakrooms;
 - (f) employee parking;
 - (g) maintenance sheds;
 - (h) maintenance areas;
 - (i) stormwater basins; and
 - (j) unused areas.
- (5) "New material" means a material that has been chemically or mechanically changed through a recycling process so that it can be introduced into a production process or can be marketed for sale as a good.
- (6) "Personal property" means equipment that is used by a business that is not permanently affixed to real property.
- (7) "Production process" means a process by which goods are produced for sale or use from raw materials, or from new materials, or a combination of these materials.
- (8) "Production scrap" means excess or unusable material that is generated during a production process and is returned to be reused in the same production process. An example of production scrap is excess metal or cardboard or textiles from a sheet of metal or cardboard or batting that remains after a portion of the sheet is cut, stamped, trimmed, or formed to make a product, and the excess material is collected and returned to the process or equipment where the original sheet or batting was created. Another example of production scrap is a material that does not meet the

quality standards or customer specifications for sale or use as determined by the person or business, and are returned to the production process. Production scrap does not include excess materials that are combined with recovered materials and returned to be reused in a recycling process.

- (9) "Qualifying property" means requested property that meets the standards set forth in Rule .1503(b) or (c) of this Section to qualify for certification as a recycling or resource recovery facility or as recycling or resource recovery equipment for the purpose of special tax classification or treatment in accordance with G.S. 130A-294(a)(3) to be eligible for exclusion from the tax base as set forth in G.S. 105-275(8)(b).
- (10) "Real property" means land and buildings, structures, improvements, or permanent fixtures on land, or a portion thereof.
- (11) "Requested property" means the real and personal property that have been included in an application for tax certification submitted in accordance with Rule .1502 of this Section because the applicant is requesting that the Department make a determination on whether the property qualifies for exclusion from the property tax base.
- (12) "Spare parts" means parts of equipment that are purchased for future or speculative use, but that have not been installed in the equipment for which they were purchased.
- (13) "Tax certification" means a certification issued by the Department of Environmental Quality certifying that the Department has determined that the real or personal property listed on the certification document meets the requirements of the rules of this Section to qualify for certification as a recycling or resource recovery facility or as recycling or resource recovery equipment for the purpose of special tax classifications or treatment in accordance with G.S. 130A-294(a)(3) to be eligible for exclusion from the tax base as set forth in G.S. 105-275(8)(b).

History Note: Authority G.S. 130A-294(a)(3);
Eff. June 2, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. December 6, 1991;
Readopted Eff. March 1, 2021.

15A NCAC 13B .1502 APPLICABILITY AND APPLICATION REQUIREMENTS

(a) The rules of this Section shall apply only to the qualification of personal property, such as equipment, or for real property, such as areas within a building, land area, or portions thereof, for tax certification by the Department in accordance with G.S. 105-275(8)(b) and G.S. 130A-294(a)(3). Nothing in the rules of this Section shall interpret, establish, or supersede the requirements for tax exemption established or enforced by the county assessor, or any other requirements of Chapter 105 of the General Statutes.

(b) The rules of this Section shall not apply to the certification of real or personal property that is required for air or water pollution abatement by a permit issued by the Department, or that is used in a process that is regulated by a permit issued by the Department's Division of Water Resources or the Division of Air Quality.

(c) An applicant for a tax certification for real and personal property used in recycling or resource recovery shall submit one electronic copy of an application to the Department. The applicant shall submit a copy of the application to the county assessor in accordance with the requirements of the county assessor. The applicant shall provide a copy of the application to the person responsible for management, operation, and maintenance of the requested property. The application form may be accessed on the Department's website at <https://deq.nc.gov/about/divisions/waste-management/solid-waste-section/tax-certification>. The application shall be signed by the applicant and the person receiving the benefit of the tax exemption.

(d) An application for tax certification shall contain the following information:

- (1) the applicant name, address, phone number, and email address;
- (2) the name, address, and phone number for the location of the requested property;
- (3) the name, phone number, and email address for the person responsible for management, operation, and maintenance of the requested property;
- (4) the name, phone number, and email address of the person filling out the application;
- (5) a description of facility operations, including the following information:
 - (A) the types of business conducted at the facility location, such as manufacturing, retail, solid waste management, recycling, or resource recovery;
 - (B) the type and source of recyclable material that is received at the facility for resource recovery, or recovered material that is received at the facility for recycling;
 - (C) a description of the recycling or resource recovery process showing the steps involved in the process, which may be in the form of a flow chart or a narrative; and
 - (D) the intended destination of any solid waste, recovered material, or new material leaving the facility;
- (6) the following information for each item of personal property for which certification is requested:
 - (A) name, make, and model number;
 - (B) a unique identification number that is affixed to the personal property, such as a serial number, vehicle identification number, or asset number;
 - (C) the cost or value at the time of acquisition;
 - (D) the year of acquisition, provided as the last two-digits of a four-digit year;
 - (E) a description of how the personal property is used for recycling or resource recovery;
 - (F) the percent of time the personal property is used for recycling or resource recovery; and
 - (G) the vehicle registration or the invoice from the purchase of the personal property if the personal property is a vehicle, trailer, or container that will be in use off-site at the time of inspection by the Department. If an invoice is required to be submitted and the trailer or container has no serial number that can be matched to the invoice, the invoice number from the purchase of the trailer or container may be used as the unique identification number required by Part (B) of this Subparagraph;
- (7) the following information for the real property for which certification is requested:
 - (A) a facility drawing and aerial map outlining the recycling or resource recovery areas, including the measurements of these areas;
 - (B) a description of the real property, including the parcel number of the land and the requested square footage of the facility space and the acreage of the land areas; and
 - (C) a description of how the areas are used for recycling or resource recovery;
- (8) a copy of any notice of violation issued by the Department for violations of G.S. 113A, 130A, or 143, or the rules adopted under G.S. 113A, 130A, or 143 that are under the authority of the Department to administer or enforce, if the applicant has not complied with the requirements of the notice of violation at the time of application submittal;

- (9) if the real or personal property is under a lease agreement, the contact information for the lessor and lessee stated in the agreement, the expiration date of the lease agreement, and a copy of the executed lease agreement and amendments signed by the lessor and lessee; and
 - (10) a list of permit numbers for permits issued by the Department, or a unit of local government under delegated authority by the Department, in accordance with G.S. 113A, 130A, and 143 and the rules adopted under G.S. 113A, 130A, and 143. The Department may request a copy of the permit if it is necessary to determine compliance with the rules of this Section.
- (e) Requested property that is owned under a lease agreement shall be listed on a separate application from requested property that is not owned under a lease agreement. A separate application shall be required for each separate lease agreement, unless the lessor, lessee, and expiration date for the lease agreements are the same.
- (f) The Department may request additional information if it is necessary to determine compliance with the rules of this Section, G.S. 105-275(8)(b), or G.S. 130A-294(a)(3). If the Department requests additional information, the Department shall request the information in writing via email at the email address provided in the application in accordance with Subparagraph (d)(4) of this Rule. The applicant shall provide the requested information within 15 days of the request.
- (g) The Department shall review the application to determine if the application complies with the requirements of this Rule. If the Department determines that the application does not comply with this Rule, the Department shall return the application to the applicant, with a written statement of the reasons the application is not in compliance with this Rule. The Department shall also provide a copy of this notice to the county assessor.

History Note: Authority G.S. 130A-294(a)(3);
Eff. June 2, 1976;
Readopted Eff. March 1, 2021; December 5, 1977.

15A NCAC 13B .1503 STANDARDS FOR QUALIFICATION FOR TAX CERTIFICATION

(a) When the Department receives an application for tax certification that complies with Rule .1502 of this Section, the Department shall conduct an inspection, investigation, or verification of the requested property to confirm that it qualifies as a recycling or resource recovery facility or as recycling or resource recovery equipment for the purpose of special tax classifications or treatment in accordance with G.S. 130A-294(a)(3) and the requirements of this Rule.

(b) Real property shall qualify as a recycling or resource recovery facility in accordance with G.S. 130A-294(a)(3) if the following conditions are met:

- (1) the real property was included in the application for tax certification submitted to the Department in accordance with Rule .1502 of this Section;
- (2) the person that will receive the benefit of exclusion from the property tax base for the real property complies with G.S. 113A, 130A, and 143 and the rules adopted under G.S. 113A, 130A, and 143 that are under the authority of the Department to administer or enforce;
- (3) the real property shall not be used at any time for a purpose other than the following:
 - (A) recycling or resource recovery; or
 - (B) transportation or storage for recycling or resource recovery;
- (4) the real property shall be necessary for recycling or resource recovery to occur;
- (5) the real property shall not be incidental or supportive facilities;
- (6) the real property shall not be used for handling, storing, packaging, or transportation of new materials, production scrap, or solid waste intended for disposal;
- (7) the buildings, structures, improvements, or permanent fixtures on land shall be constructed prior to the effective date of the tax certification; and
- (8) the land itself shall not be located beneath any area of a building or structure that does not meet the requirements of Subparagraphs (1) through (7) of this Paragraph.

(c) Personal property shall qualify as recycling or resource recovery equipment in accordance with G.S. 130A-294(a)(3) if the following conditions are met:

- (1) the personal property was included in the application for tax certification submitted to the Department in accordance with Rule .1502 of this Section;
- (2) the unique identification number required to be included in the application in accordance with Rule .1502(d)(6)(B) of this Section can be matched to the same identification number affixed to the personal property during the inspection, unless the personal property meets the conditions of Rule .1502(d)(6)(G) of this Section;
- (3) the person that will receive the benefit of exclusion from the property tax base for the personal property complies with G.S. 113A, 130A, and 143 and the rules adopted under G.S. 113A, 130A, and 143 that are under the authority of the Department to administer or enforce;
- (4) the personal property shall not be used at any time for a purpose other than the following:
 - (A) recycling or resource recovery; or
 - (B) transportation or storage for recycling or resource recovery;
- (5) the personal property shall be necessary for recycling or resource recovery to occur;
- (6) the personal property shall not be incidental or supportive equipment;
- (7) the personal property shall not be used for handling, storing, packaging, or transportation of new materials, production scrap, or solid waste intended for disposal; and
- (8) the personal property shall be installed prior to the effective date of the tax certification.

(d) If the Department determines that none of the requested property in an application qualifies for exclusion from the property tax base in accordance with this Rule, the Department shall notify the applicant and the county assessor of the reasons for this determination in writing.

(e) The tax certification shall be effective upon the date of signature by the Department.

(f) The tax certification shall list the qualifying property.

(g) The Department shall provide a copy of the tax certification to the applicant and to the office of the county assessor.

(h) The applicant shall be responsible for maintaining records of all tax certifications issued to the applicant.

(i) Unless an expiration date is provided on the tax certification, the tax certification shall remain valid until there is a change in use, ownership, or lease agreement of the qualifying property.

(j) Tax certifications are not transferrable. If there is a change in ownership or lease agreement or if the facility changes locations of qualifying property after the Department issues a tax certification, then the real or personal property shall no longer qualify for exclusion from the property tax base. The new owner, lessor, or lessee of the real

or personal property that was previously listed on a tax certification may apply for a new tax certification in accordance with Rule .1502 of this Section.

(k) If there is a change in the use of the qualifying property after the Department issues the tax certification, and the new use does not comply with the requirements of Paragraphs (b) or (c) of this Rule, then the real or personal property shall no longer qualify for exclusion from the property tax base.

(l) If the person receiving the benefit of exclusion from the property tax base ceases to be in compliance with G.S. 113A, 130A, or 143 or the rules adopted under G.S. 113A, 130A, or 143 that are under the authority of the Department to administer or enforce after the Department issues the tax certification, the Department may determine that the real or personal property no longer qualifies for exclusion from the property tax base and revoke the tax certification if the person does not comply by the deadline for compliance required by the Department. If the Department revises or revokes a tax certification, the Department shall notify the applicant, the person receiving the tax benefit, and the county assessor's office of the determination in writing. The applicant may submit a new application for tax certification in accordance with Rule .1502 of this Section when the person receiving the benefit complies with G.S. 113A, 130A, and 143 and the rules adopted under G.S. 113A, 130A, and 143 that are under the authority of the Department to administer or enforce.

(m) The Department may revoke a tax certification if the Department discovers that false information was provided in the application for tax certification submitted in accordance with Rule .1502 of this Section. If the Department revokes a tax certification, the Department shall notify the applicant, the person receiving the tax benefit, and the county assessor's office of the determination in writing.

(n) The Department shall not be required to verify or confirm the cost or value of requested property that is provided by the applicant. The Department may include the cost of requested personal property provided by the applicant on the tax certification for ease of reference. Any change in cost or value shall not change the qualification status of the real or personal property.

(o) Real or personal property that was listed on a tax certification issued prior to the readopted effective date of this Rule, and equivalent real or personal property purchased to replace such property within five years of the readopted effective date of this Rule, shall be deemed qualifying property for the purpose of this Section if the following conditions are met:

- (1) the use of the real or personal property has not changed;
- (2) the person that is receiving the benefit of exclusion from the property tax base for the real or personal property complies with G.S. 113A, 130A, and 143 and the rules adopted under G.S. 113A, 130A, and 143 that are under the authority of the Department to administer or enforce;
- (3) the real or personal property has not changed ownership since the tax certification was issued; and
- (4) any expiration date on the tax certification has not passed.

(p) If an application meeting the requirements of Rule .1502 of this Section is submitted within five years of the readopted effective date of this Rule for requested property that was previously certified under a lease agreement, the requested property that meets the requirements of Subparagraphs (o)(1) through (o)(3) of this Rule shall be deemed qualifying property for the purpose of this Section.

*History Note: Authority G.S. 130A-294(a)(3);
Eff. June 2, 1976;
Readopted Eff. December 5, 1977;
Amended Eff. December 6, 1991;
Readopted Eff. March 1, 2021.*