

1 15A NCAC 02D .0540 is proposed for reoption with substantive changes as follows:

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3 **15A NCAC 02D .0540** **PARTICULATES FROM FUGITIVE DUST EMISSION SOURCES**

4 (a) For the purpose of this Rule the following definitions apply:

- 5 (1) "Excess fugitive dust emissions" means:
- 6 (A) Fugitive dust is visible extending beyond the facility's property line, or
- 7 (B) Upon inspection of settled dust on adjacent property, the Division finds that the dust came
- 8 from the adjacent facility.
- 9 (2) "Fugitive dust emissions" means particulate matter that does not pass through a process stack or
- 10 vent and that is generated within plant property boundaries from activities such as unloading and
- 11 loading areas, process areas, stockpiles, stock pile working, plant parking lots, and plant roads
- 12 (including access roads and haul roads).
- 13 (3) "Production of crops" means:
- 14 (A) cultivation of land for crop planting;
- 15 (B) crop irrigation;
- 16 (C) harvesting;
- 17 (D) on site curing, storage, or preparation of crops; or
- 18 (E) protecting them from damage or disease conducted according to practices acceptable to the
- 19 North Carolina Department of Agriculture and Consumer Services.
- 20 (4) "Public parking" means an area dedicated to or maintained for the parking of vehicles by the general
- 21 public.
- 22 (5) "Public road" means any road that is part of the State highway system or any road, street, or right-
- 23 of-way dedicated or maintained for public use.
- 24 (6) "Substantive complaints" means complaints that are verified with physical evidence of excess
- 25 fugitive dust emissions.

26 (b) This Rule does not apply to:

- 27 (1) abrasive blasting covered under ~~Rule 15A NCAC 02D .0541 of this Section;~~
- 28 (2) cotton ginning operations covered under ~~Rule 15A NCAC 02D .0542 of this Section;~~
- 29 (3) non-production military base operations;
- 30 (4) land disturbing activities that do not require a permit under 15A NCAC 02Q or are subject to a
- 31 requirement under 15A NCAC 02D, such as clearing, grading, or digging, and related activities such
- 32 as hauling fill and cut material, building material, or equipment; or
- 33 (5) public roads, public parking, timber harvesting, or production of crops.

34 (c) The owner or operator of a facility required to have a permit under 15A NCAC 02Q or ~~of~~-a source subject to a

35 requirement under 15A NCAC 02D shall not cause or allow fugitive dust emissions to cause or contribute to

36 substantive complaints, or visible emissions in excess of that allowed under Paragraph (e) of this Rule.

Commented [NBW1]: DAQ staff is proposing to add clarifications to the rule, as well as make some general formatting changes, add gender neutral pronouns, and other administrative type changes.

Commented [SH2]: DAQ staff recommends the addition of this language to provide clarification to the exemption.

1 (d) If fugitive dust emissions from a facility required to comply with this Rule cause or contribute to substantive
2 complaints, the owner or operator of the facility shall:

- 3 (1) within 30 days upon receipt of written notification from the Director of a second substantive
4 complaint in a 12-month period, submit to the Director a written report that includes the
5 identification of the probable source(s) of the fugitive dust emissions causing complaints and what
6 measures can be made to abate the fugitive emissions;
- 7 (2) within 60 days of the initial report submitted under Subparagraph (1) of this Paragraph, submit to
8 the Director a control plan as described in Paragraph (f) of this Rule; and
- 9 (3) within 30 days after the Director approves the plan, be in compliance with the plan.

10 (e) ~~If there is sufficient environmental benefit to justify a fugitive dust control plan,~~ The Director shall require that
11 the owner or operator of a facility covered by Paragraph (c) of this Rule develop and submit a fugitive dust control
12 plan as described in Paragraph (f) of this Rule if:

- 13 (1) ambient air quality measurements or dispersion modeling as provided in 15A NCAC 02D .1106(e)
14 ~~show that the excess fugitive dust emissions cause the show violation or a potential for a violation of an~~
15 ambient air quality standard for particulates in 15A NCAC 02D .0400 ~~to be exceeded;~~ or
- 16 (2) the Division observes excessive fugitive dust emissions from the facility beyond the property
17 boundaries for six minutes in any one hour using Reference Method 22 in 40 CFR 60, Appendix A.

18 (f) The fugitive dust control plan shall:

- 19 (1) identify the sources of fugitive dust emissions within the facility;
- 20 (2) describe how fugitive dust will be controlled from each identified source;
- 21 (3) contain a schedule by which the plan will be implemented;
- 22 (4) describe how the plan will be implemented, including training of facility personnel; and
- 23 (5) describe methods to verify compliance with the plan.

24 (g) The Director shall approve the plan if he ~~or she~~ finds that:

- 25 (1) the plan contains all required elements in Paragraph (f) of this Rule;
- 26 (2) the proposed schedule contained in the plan will reduce fugitive dust emissions in a timely manner;
- 27 (3) the methods used to control fugitive dust emissions are sufficient to prevent fugitive dust emissions
28 from causing or contributing to a violation of the ambient air quality standards for particulates; and
- 29 (4) the described compliance verification methods are sufficient to verify compliance with the plan.

30 If the Director finds that the proposed plan does not meet the requirements of this ~~Paragraph~~ Paragraph, he ~~or she~~ shall
31 notify the owner or operator of the facility of any deficiencies in the proposed plan. The owner or operator shall have
32 30 days after receiving written notification from the Director to correct the deficiencies or submit a schedule describing
33 actions to be taken and the time by which they will be implemented.

34 (h) If after a plan has been implemented, the Director finds that the plan ~~inadequately controls~~ fails to control excess
35 fugitive dust emissions, he ~~or she~~ shall require the owner or operator of the facility to correct the deficiencies in the
36 plan. Within 90 days after receiving written notification from the Director identifying the deficiency, the owner or
37 operator of the facility shall submit a revision to ~~his~~ their plan to correct the deficiencies.

Commented [SH3]: DAQ staff recommends changes to this paragraph to clarify the requirements.

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History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(c)(7);
Eff. July 1, 1998;
Amended Eff. July 10, 2010; August 1, 2007;
Readopted Eff. _____.