

## **SECTION .2200 – SPECIAL ORDERS**

### **15A NCAC 02D .2201 PURPOSE**

The purpose of this Section is to implement the provisions of G.S. 143-215.110 pertaining to the issuance of air quality Special Orders by the Environmental Management Commission.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.110;  
Eff. April 1, 2004.*

**15A NCAC 02D .2202 DEFINITIONS**

For the purposes of this Section, the following definitions apply:

- (1) "Special Order" means a directive of the Commission to any person whom it finds responsible for causing or contributing to any pollution of the air of the State. The term includes all orders or instruments issued by the Commission pursuant to G.S. 143-215.110.
- (2) "Consent Order" means a Special Order into which the Commission enters with the consent of the person who is subject to the order.
- (3) "Special Order by Consent" means "Consent Order."

*History Note:* Authority G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.110;  
Eff. April 1, 2004.

### **15A NCAC 02D .2203 PUBLIC NOTICE**

(a) The requirements of this Rule for public notice and public hearing apply to Consent Orders. The Commission may specify other conditions for Special Orders issued without consent if it finds such conditions are necessary to achieve or demonstrate compliance with a requirement under this Subchapter or 15A NCAC 02Q.

(b) Notice of proposed Consent Order:

- (1) The Director shall give notice pursuant to G.S. 143-215.110(a1).
- (2) The notice shall include at least the following:
  - (A) name, address, and telephone number of the Division;
  - (B) name and address of the person to whom the proposed order is directed;
  - (C) a brief summary of the conditions of the proposed order including the period of time in which action shall be taken to achieve compliance and the major permit conditions or emission standards that the source will be allowed to exceed during the pendency of the order;
  - (D) a brief description of the procedures to be followed by the Commission or Director in reaching a final decision on the proposed order, which shall include descriptions of the process for submitting comments and requesting a public hearing. The description shall specify that comments and requests for a public hearing are to be received by the Division within 30 days following the date of public notice; and
  - (E) a description of the information available for public review, where it can be found, and procedures for obtaining copies of pertinent documents.

(c) Notice of public hearing for proposed Consent Order:

- (1) The Director shall consider all requests for a public hearing, and if he determines significant public interest for a public hearing exists, then he shall hold a public hearing.
- (2) The Director shall give notice of the public hearing at least 30 days before the hearing.
- (3) The notice shall be advertised in a local newspaper and provided to those persons specified in G.S. 143-215.110(a1)(2) for air quality special orders.
- (4) The notice shall include the information specified in Subparagraph (b)(2) of this Rule. It shall also state the time and location for the hearing along with procedures for providing comment.
- (5) The Chairman of the Commission or the Director shall appoint one or more hearing officers to preside over the public hearing and to receive written and oral comments. The hearing officer shall provide the Commission a written report of the hearing, which shall include:
  - (A) a copy of the public notice published in the newspaper;
  - (B) a copy of all the written comments and supporting documentation received;
  - (C) a summary of all the oral comments received;
  - (D) recommendations of the hearing officer to the Commission; and
  - (E) a proposed Consent Order for the Commission's consideration.

(d) Any person may request to receive copies of all notices required by this Rule, and the Director shall mail copies of notices to those who have submitted a request.

(e) The Director may satisfy the requirements in Paragraphs (b) and (c) of this Rule by issuing a notice that complies with both Paragraphs.

(f) Any Consent Order may be amended by the Director to incorporate minor modifications, such as modification of standard conditions to reflect updated versions, correction of typographical errors, or interim date extensions, in a consent order without public notice provided that the modifications do not extend the final compliance date by more than four months.

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.110; Eff. April 1, 2004.

**15A NCAC 02D .2204 FINAL ACTION ON CONSENT ORDERS**

(a) The Director shall take final action for the Commission on Consent Orders for which a public hearing has not been held as provided in Rule .2203 of this Section. The final action on the proposed order shall be taken no later than 60 days following publication of the notice.

(b) The Commission shall take final action on Consent Orders for which a public hearing has been held as provided in Rule .2203 of this Section. The final action on the proposed order shall be taken no later than 90 days following the hearing.

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4); 143-215.110;  
Eff. April 1, 2004.

**15A NCAC 02D .2205 NOTIFICATION OF RIGHT TO CONTEST SPECIAL ORDERS ISSUED  
WITHOUT CONSENT**

For any Special Orders other than Consent Orders, the Commission shall notify the person subject to the order of the procedure set out in G.S. 150B-23 to contest the Special Order.

*History Note:* Authority G.S. 143-215.2(b); 143-215.3(a)(1); 143-215.110(b);  
Eff. April 1, 2004.