

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;
Readopted Eff. January 1, 2018.*

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 air pollution in 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.

History Note: Authority G.S. 143-212; 143-213; 143-215.3(a)(1); 143-215.110;
Eff. April 1, 2004;
Readopted Eff. January 1, 2018.

15A NCAC 02D .2203 PUBLIC NOTICE

(a) The requirements of this Rule for public notice and public hearing shall apply to Consent Orders. The Commission may specify other conditions for Special Orders issued without consent if 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 Director shall give notice of a proposed Consent Order 30 days prior to any final action regarding the Consent Order.
- (3) The notice shall be posted on the North Carolina Division of Air Quality web site at <http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent> and provided to those persons specified in G.S. 143-215.110(a1)(1) for air quality special orders.
- (4) 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 during which action must 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 significant public interest for a public hearing exists, then he or she 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 posted on the North Carolina Division of Air Quality web site at <http://deq.nc.gov/about/divisions/air-quality/air-quality-enforcement/special-orders-by-consent> 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)(4) of this Rule. It shall also state the time and location for the hearing and the 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;
 - (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) Any Consent Order may be modified by the Director to incorporate minor modifications, such as modification of standard conditions to reflect updated versions of federal or state regulations, correction of typographical errors, or interim date extensions, 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; Readopted Eff. February 1, 2018.

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 15A NCAC 02D .2203. 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 15A NCAC 02D .2203. 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;
Readopted Eff. January 1, 2018.*

**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;
Readopted Eff. January 1, 2018.*