ENVIRONMENTAL MANAGEMENT COMMISSION
FISCAL NOTE FOR PROPOSED AMENDMENTS TO GREENHOUSE GAS PERMITTING

Rule Amendments: 15A NCAC 02D .0544, Prevention of Significant Deterioration Requirements for Greenhouse Gases
15A NCAC 02Q .0502, Applicability

Rule Topic: Amendments to Clarify Applicability of Prevention of Significant Deterioration (PSD) Rule for Greenhouse Gases and Title V Applicability Rule

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Impact Summary:

State government:	Yes
Local government:	No
Substantial impact:	No

Statutory Authority: G.S. 143-215.3(a)(1); 143-215.107(a)(1), (3), (4), (5); 143-215.108; 143B-282; S.L. 2012-91.

Necessity: To revise the North Carolina Prevention of Significant Deterioration and Title V Rules to Address Supreme Court Decision.

I. Executive Summary

On June 23, 2014, the United States Supreme Court issued a decision in Utility Air Regulatory Group (UARG) v. Environmental Protection Agency (EPA) addressing the application of stationary source permitting requirements to greenhouse gas (GHG) emissions. In its decision, the Supreme Court said that the EPA may not treat greenhouse gases as an air pollutant for the purposes of determining whether a source is a major source required to obtain a Prevention of Significant Deterioration (PSD) or Title V permit.

The EPA does not interpret the Supreme Court decision to preclude states from retaining permitting requirements for sources of GHG emissions that apply independently under state law even where those requirements are no longer required under federal law.

However, under North Carolina G.S. 150B-19.3(a), an agency may not adopt a rule that imposes a more restrictive standard, limitation or requirement than those imposed by federal law or rule. Under G.S. 150B-19.1(a)(2), an agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.

15A NCAC 02D .0544, Prevention of Significant Deterioration Requirements for Greenhouse Gases, and 15A NCAC 02Q .0502, Applicability, are proposed for amendment to remove the requirement that facilities obtain a PSD or Title V permit on the sole basis of its GHG emissions.

Table 1. Fiscal Impact Summary, estimates fiscal impacts to affected facilities and state and local governments due to these rule amendments. A facility's annual cost savings would be the difference between that year's Title V permit fee and the $1,500 annual synthetic minor permit fee. For the facility previously unpermitted, its annual cost savings would be the full amount of the annual Title V permit fee. The fiscal impact to the State would be the equivalent loss of those annual Title V permit fees for the facilities that were required to submit a Title V application under the current rule. The three local programs, Mecklenburg County Air Quality, Western NC Regional Air Quality Agency, and Forsyth County Office of Environmental Assistance and Protection, do not have any facilities with Title V permits issued on the sole basis of its GHG emissions so there are not any fiscal impacts to local programs.

Table 1. Fiscal Impact Summary

	2015	**2016**	**2017**	**2018**	**2019**
Local Government	$0	$0	$0	$0	$0
State Government (Loss)	($23,052)	($23,604)	($24,164)	($24,740)	($25,324)
Private Industry (Saving)	$23,052	$23,604	$24,164	$24,740	$25,324
Total Impact (absolute value)	$46,104	$47,208	$48,328	$49,480	$50,648

II. Background

On June 3, 2010, EPA published the final Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule (herein referred to as the Tailoring Rule; 75 FR 31514), setting thresholds for GHG emissions that define when permits under these programs are required for new and existing industrial facilities.

The Tailoring Rule addresses emissions of a group of six GHGs:

1. Carbon dioxide (CO2)
2. Methane (CH4)
3. Nitrous oxide (N2O)
4. Hydrofluorocarbons (HFCs)
5. Perfluorocarbons (PFCs)
6. Sulfur hexafluoride (SF6)

Some of these GHGs have a higher global warming potential than others. To address these differences, the international standard practice is to express GHGs in carbon dioxide equivalents (CO_2e). Emissions of gases other than CO_2 are translated into CO_2e by using the gases' global warming potentials. Under the Tailoring, EPA is using CO_2e as the metric for determining whether sources are covered by permitting programs. Total GHG emissions are calculated by summing the CO_2e emissions of all of the six constituent GHGs.

On November 18, 2010, the Environmental Management Commission adopted 15A NCAC 02D .0544, Prevention of Significant Deterioration for Greenhouse Gases, which incorporated the requirements in the federal Tailoring Rule. The rule became effective on January 28, 2011 pursuant to Executive Order 81 signed by Governor Beverly E. Perdue.

The state rule essentially exempted from the permitting requirements most sources of GHGs, except the major ones. Beginning in July 1, 2011, the PSD permitting requirements cover new construction projects that emit at least 100,000 tons per year of GHGs on a CO_2e basis even if they do not exceed the permitting thresholds for any other pollutant. Modifications at existing facilities that increase GHG emissions by at least 75,000 tons per year are subject to permitting requirements, even if they do not significantly increase emissions of any other pollutant. Operating permit requirements apply to sources based on their GHG emissions even if they would not apply based on emissions of any other pollutant. Facilities that emit at least 100,000 tons per year CO_2e are subject to Title V permitting requirements. EPA labelled this Step 2 of the Tailoring Rule. Affected facilities were required to submit a permit application by June 30, 2012.

On June 23, 2014, the United States Supreme Court issued a decision in Utility Air Regulatory Group (UARG) v. Environmental Protection Agency (EPA) addressing the application of stationary source permitting requirements to GHG emissions. In its decision, the Supreme Court said that the EPA may not treat greenhouse gases as an air pollutant for the purposes of determining whether a source is a major source required to obtain a PSD or Title V permit.

On July 24, 2014, Janet G. McCabe, Acting Assistant Administrator, EPA Office of Air and Radiation, and Cynthia Giles, Assistant Administrator, EPA Office of Enforcement and Compliance Assurance, wrote a memo outlining EPA's next steps for the agency's GHG permit program. In the memo, they wrote that the EPA will not apply or enforce the following regulatory requirements:

- "Federal regulations or the EPA-approved PSD SIP provisions that require a stationary source to obtain a PSD permit if GHG are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (e.g., 40 CFR52.21 (b)(49)(v)).

- Federal regulations or provisions in the EPA-approved Title V programs that require a stationary source to obtain a Title V permit solely because the source emits or has the potential to emit GHG above the major source thresholds."

III. Reason for Rule Change

The EPA does not interpret the Supreme Court decision to preclude states from retaining permitting requirements for sources of GHG emissions that apply independently under state law even where those requirements are no longer required under federal law.

However, under North Carolina G.S. 150B-19.3(a), an agency may not adopt a rule that imposes a more restrictive standard, limitation or requirement than those imposed by federal law or rule. Under G.S. 150B-19.1(a)(2), an agency shall seek to reduce the burden upon those persons or entities who must comply with the rule. Under G.S. 150B-19.1(a)(6), rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner. Therefore, it is necessary to amend North Carolina's prevention of significant deterioration rule for greenhouse gases and Title V permit applicability rule to be consistent with the Supreme Court rule and EPA's implementation of their permitting program.

IV. Proposed Rule Changes

The agency is proposing to amend rule 15A NCAC 02D .0544, Prevention of Significant Deterioration Requirements for Greenhouse Gases, to exempt major stationary sources from the requirement to obtain a PSD permit on the sole basis of their GHG emissions. The agency is also proposing to update the global warming potentials for the GHGs.

Additionally, the proposed amendment to 15A NCAC 02Q .0502, Applicability, would exempt facilities from obtaining a Title V permit on the sole basis of their GHG emissions.

V. Changes from the Regulatory Baseline

The current PSD permitting requirements in Rule 15A NCAC 02D .0544 and the current Title V permit applicability requirements in 15A NCAC 02Q .0502 forms the basis of the regulatory baseline.

Title V permitting

Under the current Title V permitting applicability rule, facilities that emit at least 100,000 tons per year of GHG are subject to Title V permitting requirements even if they do not apply based on emissions of any other pollutant. The rule amendment would exempt facilities from obtaining a Title V permit on the sole basis of their GHG emissions.

The Division of Air Quality (DAQ) received four Title V permit applications by the Tailoring Rule Step 2 deadline of June 30, 2012 for permit application submittals. Three of those facilities have had their Title V permits issued by the DAQ and one facility that submitted a Title V permit application but withdrew their application due to the Supreme Court decision. The three local programs, Mecklenburg County Air Quality, Western NC Regional Air Quality Agency, and Forsyth County Office of Environmental Assistance and Protection, do not have any facilities with Title V permits issued on the sole basis of its GHG emissions.

PSD permitting

Under the current PSD permitting requirement for GHG in 15A NCAC 02D .0544, new facilities that emit GHG emissions of at least 100,000 tons per year are subject to PSD permitting requirements even if they do not exceed the permitting thresholds for any other pollutant. Modifications at existing facilities that increase their GHG emissions by at least 75,000 tons per year are also subject to PSD permitting requirements, even if they do not significantly increase emissions of any other pollutant.

The DAQ and three local programs have not issued any PSD permits for facilities on the sole basis of their GHG emissions. The DAQ did receive one permit application with a PSD avoidance condition in it to avoid PSD permitting. An avoidance condition is a limit in the permit, such as a production limit or number of hours of operation, to avoid exceeding the PSD emissions threshold where a permit would be required.

Global Warming Potentials

The current rule, 15A NCAC 02D .0544, incorporates the July 20, 2011(76 FR 43507) version of the Code of Federal Regulations (CFR). The global warming potentials are included in the definition of "Subject to regulation" in 40 CFR 51.166(b)(48)(ii)(a). EPA updated the global warming potentials on December 11, 2014 in 73 FR 73750. The numerical values are contained in Table A-1 to Subpart A of Part 98 that starts on page 73779.

The agency is amending the current rule to incorporate the current global warming potentials by reference and incorporate any subsequent changes to the potentials.

VI. Estimating the Fiscal Impacts to Affected Sources

A facility that is required to submit a Title V or PSD permit for GHG emissions may incur significant costs to gather data and prepare the permit application. The DAQ prepared a fiscal note for the initial Tailoring Rule requirements (*Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule*) that the NC Office of State Budget and Management approved on July 29, 2010. In that fiscal note, the DAQ estimated that the average cost savings per Title V permit for new industrial sources was $53,160 and for commercial/residential sources was $26,300. The DAQ also estimated the average cost savings per PSD permit was for new industrial sources was $96,600 and for commercial/residential sources was $67,500. The agency updated all estimates from the 2010 fiscal note from 2007 to 2015 dollars using an inflation factor of 1.1432.[1]

Based on a query of the iBeam database maintained by the DAQ, there are 2,251 existing non-Title V permitted facilities – 651 synthetic minor and 1,600 small permitted facilities – that form the pool of facilities with potential to require a Title V permit under the current rules. Synthetic minor facilities are facilities that have taken a limitation in their permit to avoid Title V

[1] IHS Global Insight, DataInsight -Web Imports, U.S. Regional Database, NC Consumer Price Index, Annual 30 Year State Forecast.

permitting. Three of the four permit applications received by the DAQ since 2011 held synthetic minor permits. Therefore, 0.13% (3 out of 2,251) of the existing facilities submitted permit applications by the Step 2 deadline date. For this analysis, the DAQ is assuming that all facilities that were required to submit a permit application by the Step 2 deadline did meet the submission requirement (i.e., 100% compliance rate). The fourth Title V application came from a previously unpermitted facility. Since June 30, 2012, the DAQ has not received any additional permit applications from new sources or sources that made modification since the Step 2 deadline date. Based on the low percentage of existing facilities needing a Title V permit for GHG emissions and the DAQ receiving no new applications since the Step 2 deadline date, the DAQ assumes that it is very unlikely that there will be any new Title V permit applications received during the next five years.

The DAQ has not issued any PSD permits for facilities on the sole basis of their GHG emissions. Therefore, the DAQ assumes that it is very unlikely that there will be any new PSD permit applications received during the next five years. There is little indication that the Supreme Court case and decision have delayed or deterred any facility in submitting a permit application. The case was docketed on March 21, 2013 and decided July 25, 2014; and DAQ has received no new application since June 30, 2012.

For the four Title V permit applications that the DAQ received, the costs to the facilities associated with submitting their application are sunk costs and are not included in this fiscal note. However, these facilities would incur a cost saving related to the annual permit fee as specified in Rule 15A NCAC 02Q .0203. The 2015 annual permit fee for Title V facilities is $6,888 and $1,500 for synthetic minor permits. There is an inflation adjustment to the permit fees in this rule based on the methodology contained in Rule 15A NCAC 02Q .0204.[2] Synthetic minor permit fees are fixed and not adjusted for inflation. DAQ has posted the current permit fees on its website at http://www.ncair.org/permits/Fee_Table_and_Guide.pdf.

Three of the four facilities that submitted Title V permit applications were synthetic minor facilities. Their annual cost savings would be the difference between that year's Title V permit fee and the $1,500 annual synthetic minor permit fee. For the facility previously unpermitted, it will have its permit rescinded and its annual cost savings would be the full amount of the annual Title V permit fee. There is not an annual permit fee for PSD permits.

For the purposes of this fiscal note, the agency assumes that inflation is approximately 2% per year. Therefore, the annual Title V permit fee would be as shown in Table 2.

Table 2. Estimated Annual Permit Fees

	2015	2016	2017	2018	2019
Title V Annual Fee	$6,888	$7,026	$7,166	$7,310	$7,456
Synthetic Minor Annual Fee	$1,500	$1,500	$1,500	$1,500	$1,500

[2] The inflation adjustments to the permit fees were 1.48%, 2.41%, 2.59%, 1.70% and 1.58% for years 2011 through 2015, respectively.

The proposed rulemaking could impact State expenditures and funds through the staff time saved in processing a permit application and issuing the final permit and the loss of annual Title V permit fees. In the 2010 fiscal note for the Tailoring Rule amendments, the State and local permitting authorities were estimated to expend about $22,900 per permit to process a new GHG industrial Title V permit and $11,400 per permit for a new commercial or residential Title V permit. Also, the agency estimated State and local permitting authorities to expend about $27,400 per permit to process a new GHG industrial PSD permit and $18,500 per permit for a new commercial or residential PSD permit. The agency updated all estimates from the 2010 fiscal note from 2007 to 2015 dollars using an inflation factor of 1.1432.

The loss of annual Title V permit fees to the State would be equal to the annual cost savings to the facilities for their reduced annual permit fees. For this fiscal note, the agency assumed that it is unlikely that there will be any new Title V or PSD permits on the sole basis of a facility's GHG emissions. Therefore, the agency estimated that the State would not have any cost savings from the regulatory burden relief of processing any permits. The total fiscal impact to the State would be the loss of annual Title V permit fees for the four facilities that were required to submit a Title V application under the current rule. The four affected facilities are the three facilities that had already submitted applications and the fourth facility that withdrew its application in light of the Supreme Court decision before the DAQ was able to process and issue the permit. The three local programs do not have any facilities with Title V permits issued on the sole basis of its GHG emissions so there are not any fiscal impacts to local programs.

Because of the low number of facilities, the agency estimates that the proposed change may affect, there is no expectation that the amendments would negatively affect air quality.

The agency does not expect any additional impact from the proposed changes. Some numerical values for the GHGs' global warming potential that EPA updated on December 11, 2014 increased and some numerical values decreased. The change in the values could affect the calculation of total GHGs emitted from a facility. Based on the extensive experience by the DAQ permit engineers since the federal Tailoring requirements went in effect, the DAQ permitting section does not expect the proposed amendment to incorporate the latest global warming potentials to change the permitting status of any facility in regards to total calculated GHG emissions. Therefore, there is no estimated impact from this amendment.

Table 3 summarizes the impacts from the proposed rule change based on the assumptions noted above.

Table 3. Fiscal Impact Summary

	2015	**2016**	**2017**	**2018**	**2019**
Local Government	$0	$0	$0	$0	$0
State Government (Loss)	($23,052)	($23,604)	($24,164)	($24,740)	($25,324)
Private Industry (Saving)	$23,052	$23,604	$24,164	$24,740	25,324
Total Impact (absolute value)	$46,104	$47,208	$48,328	$49,480	$50,648

Appendix A

15A NCAC 02D .0544 is proposed amendment as follows:

15A NCAC 02D .0544 PREVENTION OF SIGNIFICANT DETERIORATION REQUIREMENTS FOR GREENHOUSE GASES

(a) The purpose of this Rule is to implement a program for the prevention of significant deterioration of air quality for greenhouse gases as required by 40 CFR 51.166. For purposes of greenhouse gases, the provisions of this Rule shall apply rather than the provisions of Rule .0530 of this Section. A major stationary source or major modification shall not be required to obtain a prevention of significant deterioration (PSD) permit on the sole basis of its greenhouse gases emissions. For all other regulated new source review (NSR) pollutants, the provisions of Rule .0530 of this Section apply.

(b) For the purposes of this Rule, the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions." "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with Subparagraphs (1) through (3) of this Paragraph:

(1) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit ~~actually~~ emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period ~~immediately~~ preceding the date that a complete permit application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years ~~immediately~~ preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions;

(B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period;

(C) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source ~~must~~ shall currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal

Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions;

(D) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G.S. 143-215.107D and for which cost recovery is sought pursuant to G.S. 62-133.6;

(E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant can be used for each regulated NSR pollutant; and

(F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Parts (B) and (C) of this Subparagraph;

(2) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit; and

(3) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Subparagraph (1) of this Paragraph and for a new emissions unit in accordance with the procedures contained in Subparagraph (2) of this Paragraph.

(c) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be seven years.

(d) In the definition of “subject to regulation”, a greenhouse gas’s global warming potential is the global warming potential published at Table A-1 of Subpart A of 40 CFR Part 98 and shall include subsequent amendments and editions.

(d) The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply.

(e) Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR 51.166(i) and (a)(7) and by extension in 40 CFR 51.166(j) through (o) and (w). The transition provisions allowed by 40 CFR 52.21 (i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as the requirements to be used under this Rule, except as otherwise provided in this Rule. Wherever the language of the portions of 40 CFR 51.166 referenced in this Paragraph speaks of the "plan," the requirements described therein shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain requirements in certain circumstances, those exemptions and provisions of nonapplicability are also hereby adopted under this Rule. However, this provision shall not be interpreted so as to limit information that may be requested from the owner or operator by the Director as specified in 40 CFR 51.166(n)(2).

(f) 40 CFR 51.166(w)(10)(iv)(a) is changed to read: "If the emissions level calculated in accordance with Paragraph (w)(6) of this Section is equal to or greater than 80 percent of the PAL [plant wide applicability limit] level, the Director shall renew the PAL at the same level." 40 CFR 51.166(w)(10)(iv)(b) is not incorporated by reference.

(g) 15A NCAC 02Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the sources to which this Rule applies shall apply for and receive a permit as required in 15A NCAC 02Q .0300 or .0500.

(h) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation ~~which~~ that was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(i) The provisions of 40 CFR 52.21(r)(2) regarding the period of validity of approval to construct are incorporated by reference except that the term "Administrator" is replaced with "Director".

(j) Permits may be issued based on innovative control technology as set forth in 40 CFR 51.166(s)(1) if the requirements of 40 CFR 51.166(s)(2) have been met, subject to the condition of 40 CFR 51.166(s)(3), and with the allowance set forth in 40 CFR 51.166(s)(4).

(k) A permit application subject to this Rule shall be processed in accordance with the procedures and requirements of 40 CFR 51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the application is complete as to initial information submitted. Commencement of construction before full prevention of significant deterioration approval is obtained constitutes a violation of this Rule.

(l) Approval of an application with regard to the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply ~~fully~~ with applicable provisions of other rules of this Subchapter or Subchapter 02Q of this Title and any other requirements under local, state, or federal law.

(m) If the owner or operator of a source is using projected actual emissions to avoid applicability of prevention of significant deterioration requirements, the owner or operator shall notify the Director of the modification before beginning actual construction. The notification shall include:

(1) a description of the project;

(2) identification of sources whose emissions could be affected by the project;

(3) the calculated projected actual emissions and an explanation of how the projected actual emissions were calculated, including identification of emissions excluded by 40 CFR 51.166(b)(40)(ii)(c);

(4) the calculated baseline actual emissions and an explanation of how the baseline actual emissions were calculated; and

(5) any netting ~~calculations~~ calculations, if applicable.

If upon reviewing the notification, the Director finds that the project will cause a prevention of significant deterioration evaluation, then the Director shall notify the owner or operator of his or her findings. The owner or operator shall not make the modification until the owner or operator has received a permit issued pursuant to this Rule. If a permit revision is not required pursuant to this Rule, the owner or operator shall maintain records of

annual emissions in tons per year, on a calendar year basis related to the modifications for 10 years following resumption of regular operations after the change if the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant; otherwise these records shall be maintained for five years following resumption of regular operations after the change. The owner or operator shall submit a report to the Director within 60 days after the end of each year during which these records must be generated. The report shall contain the items listed in 40 CFR 51.166(r)(6)(v)(a) through (c). The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(n) The references to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a specific reference states otherwise. The version of the CFR incorporated in this Rule is that as of July 20, 2011 as set forth here http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol2/pdf/CFR-2011-title40-vol2-sec51-166.pdf, http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol3/pdf/CFR-2011-title40-vol3-sec52-21.pdf, and with the amendment set forth on 76 FR 43507 at http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-17256.pdf and does not include any subsequent amendments or editions to the referenced material. This Rule is applicable in accordance with 40 CFR 51.166(b)(48) and (b)(49)(iv) and (v).

History Note: *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.108(b); 150B-21.6;*
Eff. January 28, 2011 pursuant to E.O. 81, Beverly E. Perdue;
Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;
Temporary Amendment Eff. December 23, 2011;
Amended Eff. July 1, ~~2012.~~2012;
Temporary Amendment Eff. December 2, ~~2014.~~ 2014;
Amended Eff. .

15A NCAC 02Q .0502 is proposed for amendment as follows:

15A NCAC 02Q .0502 APPLICABILITY

(a) Except as provided in Paragraph (b) or (c) of this Rule, the following facilities are required to obtain a permit under this Section:

(1) major facilities;

(2) facilities with a source subject to 15A NCAC 2D .0524 or 40 CFR Part 60, except new residential wood heaters;

(3) facilities with a source subject to 15A NCAC 2D .1110 or 40 CFR Part 61, except asbestos demolition and renovation activities;

(4) facilities with a source subject to 15A NCAC 2D .1111 or 40 CFR Part 63 or any other standard or other requirement under Section 112 of the federal Clean Air Act, except that a source is not required to obtain a permit solely because it is subject to rules or requirements under Section 112(r) of the federal Clean Air Act;

(5) facilities to which 15A NCAC 2D .0517(2), .0528, .0529, or .0534 applies;

(6) facilities with a source subject to Title IV or 40 CFR Part 72; or

(7) facilities in a source category designated by EPA as subject to the requirements of 40 CFR Part 70.

(b) This Section does not apply to minor facilities with sources subject to requirements of 15A NCAC 2D .0524, .1110, or .1111 or 40 CFR Part 60, 61, or 63 until EPA requires these facilities to have a permit under 40 CFR Part 70.

(c) A facility shall not be required to obtain a permit under this Section on the sole basis of its greenhouse gas emissions.

~~(c)~~(d) Once a facility is subject to this Section because of emissions of one pollutant, the owner or operator of that facility shall submit an application that includes all sources of all regulated air pollutants located at the facility except for insignificant activities because of category.

History Note: *Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. July 1, 1996;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. July 1, ~~2000.~~2000;
Temporary Amendment Eff. December 2, ~~2014.~~ 2014;
Amended Eff. _____.