

## FISCAL AND REGULATORY IMPACT ANALYSIS

### READOPTION AND AMENDMENTS TO 15A NCAC 13B SECTION .1500 - STANDARDS FOR SPECIAL TAX TREATMENT OF RECYCLING AND RESOURCE RECOVERY EQUIPMENT AND FACILITIES

July 23, 2020

#### GENERAL INFORMATION

Agency: Department of Environmental Quality

Division: Division of Waste Management  
Solid Waste Section  
<https://deq.nc.gov/about/divisions/waste-management/solid-waste-section>

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Title of Rule Set: Standards for Special Tax Treatment of Recycling and Resource Recovery Equipment and Facilities

Citations: 15A NCAC 13B .1501 - .1514

Authority: G.S. 130A-294(a)(3), G.S. 105-275(8)(b), and G.S. 150B-21.3A

Impact Summary: - State Government Impact? Yes, as a benefit in reduced staff time  
- Requires expenditure, distribution, or reallocation of State funds? No  
- Local Government Impact? Yes  
- Impacts local government expenditures or revenues? Yes  
- Private Industry Impact? Yes  
- Substantial Economic Impact? No  
- Federal Requirement? No

Appendices Proposed Rule Text

## **PROPOSED RULE-MAKING SCHEDULE (SUBJECT TO CHANGE)**

<i>Date</i>	<i>Action</i>
08/7/2020	DEQ: Approval of proposed text and regulatory impact analysis to go to public comment, submit to OAH.
09/01/2020	Rules published in NC Register and DEQ website Comment Period Begins.
09/16/2020	Earliest date for public hearing.
11/02/2020	Comment Period Ends.
11/20/2020	DEQ: Approval of Hearing Officer's Report and Adoption of Rules, submit to RRC.
12/17/2020	RRC meeting: Approval of rule text
01/01/2021	Earliest effective date for rules.

## **NECESSITY OF RULE CHANGES**

The Division of Waste Management (Division) Solid Waste Section (Section) is responsible for regulating solid waste management within the state under the statutory authority of the Solid Waste Management Act, Article 9 of Chapter 130A of the General Statutes. Existing rules adopted by the Department of Environmental Quality (DEQ) under the authority of G.S. 130A-294(a)(3) are codified at Title 15A, Subchapter 13B of the North Carolina Administrative Code, Section .1500 *Standards for Special Tax Treatment of Recycling and Resource Recovery Equipment and Facilities*. Section .1500 establishes standards for qualification as a "recycling, reduction or resource recovering facility" or as "recycling, reduction or resource recovering equipment" for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. These rules are proposed for re-adoption in accordance with G.S. 150B-21.3A, and are required to be re-adopted by DEQ by the deadline set by the Rules Review Commission of April 30, 2021.

The Section's webpage regarding tax certifications can be found at this link:  
<https://deq.nc.gov/about/divisions/waste-management/solid-waste-section/tax-certification>.

The Section's webpage regarding the rule re-adoption process can be found at this link:  
<https://deq.nc.gov/about/divisions/waste-management/solid-waste-section/rules-review>.

## **BASELINE**

The baseline for the proposed rules include the existing rules in 15A NCAC 13B Section .1500; Article 1, and Article 9 of Chapter 130A of the General Statutes, specifically 130A-294(a)(3) for the Department's rule adoption authority, G.S. 105-275(8)(b) *Property classified and excluded from the tax base* which prompted the need for rules, and the

existing interdepartmental Tax Certification Guidance Document, previously required to be developed by Rule .1511 that was allowed to expire as a part of this rule review process.

G.S. 130A-294(a)(3) states: “The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to: Develop and adopt rules to establish standards for qualification as a "recycling, reduction or resource recovering facility" or as "recycling, reduction or resource recovering equipment" for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;”

G.S. 105-275(8)(b) states: “The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax: Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovering of or from solid waste, if the Department of Environmental Quality furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environmental Quality has found that the described property has been or will be constructed or installed, complies or will comply with the rules of the Department of Environmental Quality, and has, or will have as its primary purpose recycling or resource recovering of or from solid waste.”

The statutes above require that the materials that are being recovered or recycled meet the statutory definition of a solid waste in G.S. 130A-290. The Division of Waste Management will make this determination as the first step of the application review process. If the material accepted at the facility for processing is not a solid waste, then the activity being conducted at the facility is not a recycling or resource recovery process under these rules, and nothing in the facility or their processes would qualify for tax certification.

The Report for the Periodic Review of Existing Rules designated Rule .1511 *Pamphlet* as unnecessary, and this rule expired effective February 1, 2018. The purpose of this expired rule was to require the Department to create a guidance document, or pamphlet, that explained the guidelines for qualification for tax certification under G.S. 105-275(8)(b). A pamphlet was issued, and it provided guidelines for compliance with all of G.S. 105-275(8) across the Departments of Revenue (DOR) and Environmental Quality (DEQ) for pollution abatement and animal waste management, recycling or resource recovery facilities and equipment, reduction of cotton dust, and major recycling facilities.

The official Tax Certification Guidelines document was approved by the Directors of DOR and the DEQ Divisions of Water Quality, Air Quality, and Waste Management, and was last revised in May 2008. This document is published on the websites of all three DEQ Divisions and DOR, and can be viewed on the Solid Waste Section’s website here:

[https://files.nc.gov/ncdeq/Waste%20Management/DWM/SW/Field%20Operations/Tax%20Certification/tax\\_certification\\_guidelines.pdf](https://files.nc.gov/ncdeq/Waste%20Management/DWM/SW/Field%20Operations/Tax%20Certification/tax_certification_guidelines.pdf)

The guidelines that are applicable to compliance with 15A NCAC 13B Section .1500 are found in Chapters 1, 2, and 5 of the guidelines document. Tax certifications for pollution abatement facilities and equipment are administered by the Division of Water Resources and the Division of Air Quality and are not addressed by these rules. Tax certifications for animal waste management facilities and equipment are also administered by the Division of Water Resources because animal waste is excluded from the statutory definition of a solid waste. However, these facilities often have some crossover with DWM because they may recycle some solid waste in addition to handling animal waste. In practice under existing rule, DWM will review and process an application for such a facility only if the amount of waste received is more than 50% solid waste. If the feedstock is 50% or more animal waste, DWR will process the application. DOR determines a facility's compliance with the requirements for cotton dust, and also determines whether a facility meets the definition of a major recycling facility.

## **PARTIES POTENTIALLY AFFECTED BY THE RULE CHANGES**

### **Private Industries and Businesses**

The rule changes could affect the businesses that apply in the future for tax certification and tax exemption for facilities, land, and equipment used for recycling and resource recovery of or from a solid waste. The businesses are not required to be recycling businesses specifically; they can be any kind of business that conducts recycling activities. For example, a cardboard baler at a grocery store can qualify for certification as long as the cardboard is being sent for recycling, and the baler is not also used to bale waste for disposal. Any businesses that previously applied for and received tax certification would not be affected since proposed Rule .1503 clarifies that previously issued certifications will remain valid under the proposed rule.

### **Local Governments**

Rule changes to existing rules in Section .1500 could potentially affect the local government's property tax revenues received by county and municipal governments in NC for facility space and land areas (real property) and equipment items (personal property). The rule changes could also affect staff time in the local government (mainly county) tax collector's office.

### **State Governments**

The rule changes could also affect state government staff in DEQ's Division of Waste Management (DWM), Solid Waste Section that review the applications, inspect the facilities, provide technical assistance, and issue the tax certifications. DEQ's Division of Environmental Assistance and Customer Service (DEACS) also regularly provides technical assistance for applicants since they provide customer service to recycling businesses in NC; and will refer applicants to the Solid Waste Section for these tax certifications. G.S. 130A-294(a)(3) does not give the Department the authority to establish a fee for reviewing the applications, inspecting the facilities, providing frequent technical assistance, and issuing the tax certifications, so the work is completed using funds

appropriated by the General Assembly. The Division estimates that this work utilizes approximately three to four FTEs in the Department, distributed between approximately 18 employees, all of whom are required to train and stay current on the statutes, rules, guidelines, standards, and practices for tax certification as further described in the impact analysis below.

## **RULE SUMMARY**

### **Purpose of Existing Rules .1501 - .1514**

Rules .1501 - .1514 establish standards for DEQ to certify recycling or resource recovery facilities and equipment as qualifying for tax exemption from county and municipal real and personal property taxes as set forth in G.S. 105-275(8)(b). Rules .1501 - .1514 were effective in June 1976, and some rules were later amended, but no amendments have been made to any of these rules since 1991. As described beginning on Page 17 of the Tax Certification Guidelines pamphlet, existing Rules .1501 through .1506 generally serve as definitions to assist with determination of compliance with G.S. 130A-294(a)(3) and G.S. 105-275(8)(b). Existing Rule .1507 provides some clarification of the requirement for compliance with DEQ rules in G.S. 105-275(8)(b). Existing Rule .1508 establishes requirements for tax certification application, review, and issuance. Existing Rules .1512 and .1513 establish requirements for tax certifications for the reduction of hazardous waste generated, and existing Rule .1514 provides a reference to G.S. 150B for appeal procedures.

### **Description and Scope of Existing Tax Certification Process/Procedures**

The Division on average receives between 150 – 200 applications per year and issues a similar number of certifications per year. Based on the original costs for equipment provided by the applicants in their applications, the certifications issued by the Division for the last decade allow for property tax exemption for personal property valued at almost \$1.3 billion. This estimate does not include the value of real property certified by the Division. The Division does not have this information because the value of real property at the time of purchase has never been requested in the application. The estimate also does not include any personal property value certified between 1976 and 2009 that might still be in use and receiving tax exemption.

Once a certificate is issued for a particular equipment item, facility space, or land area that certificate remains valid from year to year unless there is a change in ownership or use for that property, or the facility is out of compliance with DEQ rules (note the Division has never had to revoke a tax certification for compliance status to date). Although the Department may only review the property and issue a tax certification one time, that certification is used on an annual basis to apply to the local tax collector for tax exemption for the real or personal property. This is a recurring benefit that could become invalid if circumstances change, such as the use or ownership of the property, or could be revoked if the applicant ceases to comply with DEQ regulations. Because a change in ownership invalidates a certification, property that is under a lease agreement is issued a certification that provides the lessor and lessee information, and also an expiration date that is the same as the expiration of the lease. In this case the person receiving the tax exemption must reapply for certification when the lease is renewed.

A tax certification for owned (not leased) property does not have an expiration date listed on the certificate. Because the applicant and the local tax collector are not required to notify the Division if the certified facility or equipment is sold or no longer used, and is no longer receiving property tax exemption, the Division cannot be certain of the value or amount of real and personal property these businesses are still receiving tax exemption for at any given time. It is the responsibility of the applicant to notify the local tax collector if they no longer own the property.

The entire facility is not certified in whole as a recycling facility. The certifications issued by the Division include a list of the amount of facility space and land areas (real property) and the specific equipment items (tangible personal property) that the Division has approved under one application as being used exclusively and integrally in a recycling or resource recovery process. This means that when a facility buys new equipment or expands the recycling areas in their facility, that new equipment and those new areas also need to be certified, which results in the same facility submitting multiple applications over many years, so one facility may have any number of certifications on file that they submit with their annual tax exemption application.

#### Summary of Rule Amendments

DEQ is required to review and readopt these rules in accordance with G.S. 150B-21.3A; and is updating the rules to be compliant with G.S. 150B. As a part of the readoption process, the Division is attempting to incorporate into rule most of the guidelines provided in the Tax Certification Guidelines pamphlet previously required to be developed by Rule .1511, which was allowed to expire in 2016. The Division is also updating the rules to incorporate the current practices and procedures used and enforced by the Division for the application process and the standards used to qualify real and personal property for certification. The proposed amendments to Rules .1501 - .1503 consolidate and reorganize the requirements for tax certification in existing Rules .1501 - .1508. Instead of having each rule serve as a type of definition, the rules will now be structured to be similar to other Sections in Subchapter 13B as follows:

Rule .1501 – Definitions

Rule .1502 – Application Requirements

Rule .1503 – Standards for Qualification for Tax Certification

Rule .1501 is proposed for amendment to establish the definitions that apply to all of Section .1500, and therefore the language that served as definitions in existing Rules .1501 through .1506 is proposed to be removed. Rule .1502 is proposed for amendment to establish the application requirements for tax certification, which are being moved here from existing Rule .1508. Rule .1503 is proposed for amendment to establish the standards and requirements for qualification for tax certification, which are consolidated here from various existing rules in Section .1500, and the guidance document. These are the standards that the Department will use to determine if facility space, land areas, or equipment qualify for tax certification as recycling or resource recovery facilities and equipment.

Rules .1504 through .1508 and .1512 through .1514 are proposed for repeal because the requirements are unnecessary, or the requirements were moved to Rules .1501 through .1503. Note that the reason that Rules .1512 and .1513 are unnecessary is because the Division is not aware of an applicant ever applying for tax certification for the reduction of hazardous waste in accordance with these rules since they were effective. In accordance with G.S. 150B-21.4(d), no fiscal note is required for the repeal of existing rules. Therefore, the impact analysis provided below does not address these rules for repeal except where requirements were moved to Rules .1501 through .1503.

The existing rules for tax certification are somewhat vague and provide very little actual requirements or procedures regarding the process of applying for and receiving a tax certification. Department staff spend a great deal of time in internal discussions and seeking legal advice on the interpretation and implementation of the existing statutes and rules for tax certification. Department staff also spend a great deal of time answering questions and providing technical assistance on the application requirements and the standards for qualification. Department staff provide technical assistance to local tax assessors and applicants by researching and providing information on previously issued tax certifications including copies of the certifications, their current status, and whether a new or updated certification is needed, even though the applicants are responsible for keeping track of their past certifications.

Department staff also spend time developing and updating internal training and guidance documents and external application documents, giving external training and presentations to local government tax assessors, and communicating with DOR staff to stay somewhat current on changes to property tax, sales tax, franchise tax, and corporate tax as they pertain to recycling benefits. The proposed amendments are intended to provide clarification to the applicants, the local tax assessor's office, and Department staff on the procedures for application, qualification, and issuance of tax certifications for the purpose of reducing uncertainty, questions, and time spent in discussion and on technical assistance, both among Department staff and between Department staff and the applicants and local governments.

As mentioned previously, a tax certification allows real and personal property to be eligible for local property tax exemption (county and municipal). Therefore, any proposed rule amendment that increases the benefit to a business by allowing more of their property to be excluded from the tax base will impose an equal cost to the local government in lost revenues from property taxes; and the same is true in reverse.

## **IMPACT ANALYSIS**

### **Description and Rationale for Amendments**

#### ***Rule .1501 – Definitions***

Proposed amendments to Rule .1501 incorporate, clarify, and add to what served as definitions in existing Rules .1501 - .1506, and will apply to all of Section .1500. The proposed new definitions are putting into rule how the Department has defined or interpreted these terms in practice. The amendments also incorporate or refer to some definitions in the tax laws in G.S. 105-273 since they apply to G.S. 105-275. Notable

additions or revisions that may impact the practical application of the rule requirements because of increased clarification are the definitions for “new material”, “production scrap”, and “spare parts”. These added definitions and the clarification in the proposed rule reflect how the Department has generally interpreted these terms or scenarios in practice and/or based on the existing guidelines document for these topics under existing rule for past applications, and would have made similar interpretations and decisions in the future. The remaining definitions were either in the existing rules, or were added or amended only for clarification, or to reflect long-standing guidelines or practice.

The term “new material” is meant to replace the term “new product” in existing Rule .1504. The term “new product” was not defined under existing rule or statute; and has often been subject to interpretation, especially where the business is conducting a unique or uncommon process. While the Department has a clear review process with multiple levels of review to ensure consistency in interpretation across current regional office inspectors, staff changes over the last 44 years of reviewing these applications has made it difficult to ensure consistency. Defining the term “new material” is essential because the recycling process is defined in the existing and proposed rules as ending when a new product or new material has been created. Because facility space, land, or equipment only qualifies if it is a part of a recycling or resource recovery process, determining where that process ends affects the determination of whether the property is a part of the process. This means that any facility space, land, or equipment used to handle or process materials after the point in the process where a new material is created have not and do not qualify for tax certification.

A definition of the term “production scrap” is being added to define a type of material and a process that does not qualify for tax certification, as stated in proposed Rule .1503. Production scrap is a pre-consumer material that is considered excess virgin material that was not fully utilized in a manufacturing process, or that did not meet specifications, which is returned to the first step in the same manufacturing process as feedstock.

A definition of the term “spare parts” is being added to define and clarify another type of personal property (equipment) that does not qualify for tax certification. The Tax Certification Guidelines document states that spare parts are considered incidental or supportive equipment and do not qualify for tax certification (top of Page 20). However, no definition for spare parts was provided in the guidelines or in rule or statute; therefore, the determination of what was a spare part was left up to interpretation which was not always consistent over time.

#### *Rule .1502 – Application for Tax Certification*

The proposed amendments to this rule establish the application requirements for tax certification. The application requirements are proposed to be moved here from existing Rule .1508.

Proposed Paragraph (a) - The proposed amendments to the existing application requirements provide greater clarity and are more specific than existing Rule .1508; and reflect what has been required in practice for the last decade if not longer. The Division currently has an application form posted on the tax certification website that requests all

of the information that is proposed to be required in Rule .1502(a), in addition to what was required by existing Rule .1508(b). The application form states that the Division does not accept applications that do not include all of the requested information. The Division requests that additional information be submitted before the application will be further processed and/or returns incomplete applications in practice under existing rule. The Division also states on the tax certification webpage that applications may be submitted in electronic format and only one copy is necessary; and has been accepting applications in that format in practice for at least the last eight years.

The proposed amendments now clearly state that the applicant must also submit their application for tax exemption to the tax collector, in addition to applying to the Department for tax certification. This was a requirement in practice under the existing rule as stated on the application form and on the webpage. This seemed to be a common point of confusion because some applicants in the past have been under the impression that if they submitted an application to the Department, they did not also need to submit something to the tax collector, despite the fact that the application form and website stated that it was required. The proposed amendments also state in Paragraph (g) that the Department will notify the local tax collector if an application for tax certification is returned. Notification would be via e-mail.

The proposed amendments also state that the application must be sent internally at the business to the person who is responsible for the requested property at the facility. While this may seem to be something that is generally understood as being self-explanatory or obvious, the purpose in adding this requirement is because often the application is filled out by an accountant in the central office of the business using spreadsheets or electronic records and asset numbers to generate the list of requested property. When DWM staff attempt to conduct an inspection of the requested property at the facility, the facility staff are often not aware of the application, do not understand why DWM needs to visit their facility, and cannot recognize or determine what physical property matches up with what was listed on the equipment list in the application. This confusion often requires DWM staff to have to conduct a second or third visit; and follow up with multiple phone calls to the facility staff and to the central office accountant. This is one of the most common causes for delays in the review and approval process.

Proposed Paragraph (b) clarifies who is required to sign the application. The applicant's signature provides verification that the information provided in the application is correct. The signature of the person/business receiving the tax benefit provides verification that they are in compliance with DEQ requirements. Requiring both signatures is necessary because it is often the case that the person or business filling out the application and the person or business receiving the benefit are not the same person or business, especially when a lease agreement is involved. (Note that "person" is defined in the general statutes as including a business entity.)

Proposed Paragraph (c) clarifies that facilities and equipment used for air or water pollution abatement should not be included on applications for recycling of solid waste because the Division of Waste Management does not make the determination of whether pollution abatement property can qualify for tax certification. Applications for pollution

abatement facilities and equipment must be included on the forms provided on the websites for the Division of Air Quality or the Division of Water Resources, must be submitted to those Divisions, and will be processed by those Divisions. This is what has been done in practice as noted in the Tax Certification Guidelines document. This is proposed to be added because in the past there has been a great deal of confusion over these different categories of tax certification, and they are often regarded by the applicants as being the same type of tax certification that can all be processed by the Division of Waste Management, which is not the case. The Division of Waste Management receives multiple applications per year that have pollution abatement property listed, and the Division will have to process the rest of the application but deny the pollution abatement items, and provide instruction that the applicant has to submit these items to DAQ or DWR for consideration, which delays the applicant's process for receiving tax exemption. The Division hopes that adding this statement and the note pointing to DAQ and DWR's websites to the proposed rule will make the process clear to applicants from the start so that no time is wasted.

Proposed Paragraph (d) clarifies and puts into rule a standing agreement between the Division of Waste Management and the Division of Water Resources regarding facilities that receive solid waste for recycling, but are also under a permit with the Division of Water Resources for the management of animal waste. They are usually facilities that accept sludge from wastewater treatment plants, which is a solid waste, and also fecal waste from fowls and animals, which is not a solid waste. The sludge might be accepted for composting or recycling, but they also have pollution abatement equipment for animal waste. The agreement between the Divisions which is proposed to be clarified in this rule is that any facility that has a feedstock ratio of solid waste to animal waste that is a majority animal waste will be processed for tax certification by the Division of Water Resources. Note that this same agreement applies to the permitting of these facilities.

Proposed Paragraphs (e) through (g) are intended to provide information or clarification of the application process in general; and put into rule the current practice under existing rule.

#### *Rule .1503 – Standards for Qualification*

The proposed amendments to this rule establish the standards to determine whether real or personal property qualify for tax certification in accordance with G.S. 105-275(8)(b). Under existing rule, the Division has utilized a combination of the requirements of G.S. 105-275(8)(b), G.S. 130A-294(a)(3), existing Rules .1501 - .1506 serving as definitions, Rule .1507, and the Tax Certification Guidelines document to make a determination on whether real or personal property qualifies for tax certification. The Division is proposing amendments to this rule to incorporate all of the baseline standards and requirements for qualification used under existing rule in practice. Requirements that may be considered "new" because they were not clearly stated in any of the baseline regulations or guidelines documents are described below.

Proposed Subparagraphs (c)(6) and (d)(6) state that real or personal property does not qualify if it is used to handle or store production scrap. The Division is proposing to add this requirement, in addition to the definition in Rule .1501 described above, to clarify that

production scrap does not qualify for the purpose of these rules. Adding this statement is necessary because there has been confusion surrounding this type of material in the past and whether it can qualify for tax certification. The confusion is based on the fact that an applicant may state that if they did not reuse the excess material or scraps, they would have to send it to a landfill. However, the materials are not generally discarded and still have the same value and can be used in the same way as raw materials. Also, the material has not yet served its intended purpose as a consumer product. Production scrap is returned to the process as a best practice for saving money on raw material and disposal fees, and the process that production scrap is being returned to is not a recycling process but is a manufacturing process. Based on the above, the process for reusing production scrap is not a recycling or resource recovery process for the purpose of these rules. This is consistent with the majority of past decisions made by the Division in practice when reviewing applications for this type of process.

Proposed Subparagraphs (c)(7) and (d)(7) require that the building and structures and equipment be constructed or installed before the Department issues the tax certification. This language is necessary because while an applicant may submit an application for tax certification for the Department's review before the requested property is constructed or installed, the Department cannot verify or certify that the requested property is being used in a recycling or resource recovery process until it is actually installed or put into use. The Department has had occasions in the past where the Department has issued certifications for facilities, land, or equipment that had not yet been constructed or installed, and after issuing the certification, the property may never have been constructed or installed, and the applicant could have been receiving a tax exemption for the property even though they never conducted recycling or resource recovery (notably for land and buildings).

Proposed Subparagraph (d)(2) states that equipment must be labeled in some way with the asset or serial number provided in the application, so that the Department is able to match the equipment viewed in person during the inspection to the equipment listed on the application. This language is necessary because without an identification number, the Department has no way of knowing if the equipment they are observing is the requested equipment, and is not a previously certified item, or other item that would not qualify. The existing application form states this request on Page 2, and the majority of facilities have complied with this request in practice. Generally, equipment will have an associated serial number or vehicle identification number (VIN) affixed to the equipment, and that serial or VIN number is the preferred number to include on the application to allow quick identification. If no serial or VIN number is on the equipment, the applicant may create or use an assigned asset or tracking number, and affix that asset number to the equipment by means such as a sticker, metal plate, or written in permanent marker.

Paragraph (e) clarifies that if none of the requested property qualifies, the Department will issue a denial letter stating the reasons for denial to the applicant and the local tax collector. While the Department has always issued a letter of denial to the applicant if the application was denied in whole, the Department has not consistently sent a copy of the denial to the tax collector, which may have caused confusion for the tax collector.

Proposed Paragraphs (j) through (m) clarify that a tax certification is issued to a particular

owner/user that is in compliance with DEQ rules, for a particular use, and/or under a particular lease agreement; and any change to ownership, compliance status, use, or lease agreement invalidates the certification, and the applicant must apply for a new certification if they believe the property still meets the requirements. Proposed Paragraph (n) also clarifies that a tax certification may be revoked if false information was provided and describes the process for revocation. Proposed Paragraph (o) clarifies a point of frequent confusion by the applicants, which is that the Department is only certifying to the local tax collector that the property is used for recycling. The Department has no involvement whatsoever in the application or implementation of the tax exemption to the applicant's property taxes, which is handled by and subject to the requirements of the local tax collector.

Proposed Paragraphs (p) and (q) clarify how previously certified equipment or the replacement of certified equipment will be treated once the proposed rule amendments are effective, to ensure that the changes to these rules do not cause any previously certified equipment to no longer qualify solely because of the changes to the rules, and the applicant may continue to receive the benefit of exemption on that property. The rule changes should in general only apply to applications received after the proposed rules are effective.

However, the rule amendments may impact a facility that previously received a tax certification, but the certification expired or there was a change in use, ownership, or compliance status, because the applicant would have to submit a new application, and that new application would be evaluated by the Department in accordance with the new rules. This circumstance could result in the Department determining that some property does not qualify which previously did qualify, and the property would no longer be eligible for exclusion from the tax base. The proposed amendments allow for a five-year transition period, where for five years following the readopted effective date of the rules, if an applicant has to re-apply for property for no reason other than that a lease expired and was renewed, or because they directly replaced that property, they can still receive a certification for that leased or replacement property that will remain valid until there is some other change requiring a new application.

### Costs and Benefits by Entity

#### *Private Industry and Businesses*

##### Costs

Because the proposed amendments allow all existing and valid certifications to remain valid, the amendments should not affect any existing valid certifications; and only have the potential to impact future applications. It is possible that the proposed amendments may impact businesses that apply for tax certification in the future, because the additional clarification in the rules on the standards for qualification could change the decisions made by Department staff on whether the requested property qualifies for tax certification. The addition of definitions for "new material" and "spare parts" and the clarification that equipment and space used for production scrap do not qualify may change the scope of what qualifies for certification. The changes are expected to be minimal because the Department has drafted these definitions and made these clarifications to reflect the decisions that the Department has generally made in practice and/or based on the

existing guidelines document on these topics under existing rule for past applications, and would have made similar decisions in the future. The Department cannot quantify the impact on potential future applications from businesses, since it cannot be predicted what businesses might decide to apply in the future, or the value of potential requested property.

The proposed amendments could impact future applications for only a handful of existing businesses that have received certifications in the past if they have new equipment to request for certification. The existing certifications apply only to the specific facility space, land areas, and equipment that were listed on the certificate(s) when they were issued. If a business has existing certifications and qualifying property under the existing rules, but purchases new equipment, expands their recycling areas at the facility, falls under new ownership, or moves their location, they would have to submit a new application to have the new or changed property certified. The application for that new property would be evaluated in accordance with the new rules, and this may mean that a business that had been receiving certifications in the past for their recycling process might not qualify for the new or changed items, but would still receive tax exemption for the existing certifications. However, the Department expects potential impacts to be minimal, since the requirements for qualification generally remain the same as they were under existing rule.

The proposed amendment to require labeling of equipment with a unique identification number may impact future applications. This change will not impact certification of past equipment or replacement of that equipment within five years. The amendment will require that future applicants find some way to label the requested equipment for future inspections or the requested equipment will be denied. The majority of businesses that have received certifications in the past and are likely to apply again in the future already label their equipment and are familiar with the process. They would only need to label equipment that did not already have an affixed serial or VIN number provided on the application. Because this procedure was requested in practice under existing rule on the application form, and labeling can be by whatever means is simplest and most cost-effective (such as hand-written with a permanent marker), the cost would be minimal, and would mainly be in staff time spent labeling the equipment. The time spent could vary depending on the amount of equipment requested.

The proposed amendment to require that the structures or equipment be installed prior to the effective date of the tax certification may delay the issuance of a tax certification where construction or installation is not complete. The delay would not have a cost unless the delay went past the required deadline for requesting tax exemption from the tax collector, and the applicant was charged for the property tax for that year. However, applicants will often request and receive an extension on their property taxes while waiting for the Department to issue a tax certification. The Department has in practice requested that the property be constructed or installed prior to issuance of the certificate since it is not logically possible to verify a process or use if the property is not in use, but may on occasion have issued certificates prior to installation of equipment. The Department has received very few applications for structures that have not yet been constructed and generally has not issued the certificate until it was constructed under existing rule. The Department receives some applications for replacement equipment that have been

approved prior to being replaced. Since replacement equipment is usually replaced with a few months, a delay this short should not impact the tax exemption.

#### Benefits

The proposed amendments will benefit private industry and businesses by providing much-needed clarification on the application process, the standards for qualification, and the status and validity of the certification. The clarification should reduce the applicant's time spent looking for information on the application process and contacting Department staff and the local tax collector for technical assistance and guidance. The proposed amendments also provide clarity to DWM staff in making decisions on whether property meets the standards for qualification, which will also benefit the applicant by expediting the application and review process. An expedited review process could assist the applicant in meeting any tax exemption application deadlines required by the local tax collector for a given year. Clarification of standards for qualification might also assist a business by preventing them from spending time completing and submitting an application for property that does not qualify.

#### *Local Governments*

##### Costs

The proposed amendments are not expected to impose any additional costs to local governments.

##### Benefits

The proposed amendments will provide a benefit to local governments by providing clarification of the requirements for tax certification to the applicants and the local tax collectors, which may reduce local tax collector's time spent seeking technical assistance from Department staff, and providing technical assistance to applicants. The proposed amendments will also benefit local government revenues (county and municipal) from property tax because the definition of "new material", and the clarification that spare parts and equipment and space used for production scrap do not qualify may change the scope of what qualifies for certification. The changes are expected to be minimal because the Department has drafted these definitions and made these clarifications to reflect the decisions that the Department has generally made in practice and/or based on the existing guidelines document on these topics under existing rule for past applications, and would have made similar decisions in the future. A reduction in property that qualifies for exemption will result in an increase in property tax revenues for local governments, and vice versa. This benefit will not apply to all local governments, but only to local governments in counties/municipalities where there are businesses seeking tax certification for property that the Department had or could have determined that the property qualified under existing rule, because nothing in existing rule explicitly stated that it could not qualify. The benefits to local governments in that case will be equal to the costs to private industries discussed above.

#### *State Government*

##### Costs

The proposed amendments may cause Department staff to have to spend additional minimal time in the first year after the effective date of the rules updating the tax

certification webpage and application form to be consistent with rule amendments, and providing additional technical assistance regarding the effects of the rule changes. The minimal time spent will be outweighed by time saved after the first year as described in the benefits below.

#### Benefits

The requirements under existing rule are provided in seven different locations: G.S. 105-275(8)(b), G.S. 130A-294(a)(3), 15A NCAC 13B .1500, the Tax Certification Guidelines document, the application document, the tax certification document, and the Division's webpage. The proposed amendments consolidate all of these requirements into one place for ease of review, clarification, and transparency for applicants, local tax collectors, and Division staff. Department staff time will be saved after the first year from a reduction in staff time spent providing technical assistance on the statutory and rule requirements and the application process to applicants and tax collectors, updating internal and external guidance, and providing internal and external training and presentations.

The amendments will also save DWM staff time spent in internal discussions, processing and review of applications for processes or property that do not qualify because existing rules did not make that clear, research of past decisions to ensure consistency, and seeking legal advice on interpretation and applicability of the existing statutes and rules, all of which should expedite the application review process.

#### *Public and the Environment*

##### Costs

The proposed amendments are not expected to impose any additional costs to the public or the environment.

##### Benefits

The proposed amendments to these rules will provide a benefit to the public by providing clarification of the requirements for tax certifications and what can or cannot be exempt from the property tax base in their county. The proposed amendments may also benefit the environment by clarifying and making transparent the fact that businesses cannot continue receiving tax exemption if they are out of compliance with DEQ rules, which may increase compliance by the businesses receiving tax certification.

#### **CONCLUSION**

- The proposed rule amendments may impact future applications from businesses that conduct recycling or resource recovery processes that may have had property eligible for tax certification under the existing rules; but which may not be eligible under the proposed rules. The costs and benefits are expected to be minimal because the Department has drafted these definitions and made these clarifications to reflect the decisions that the Department has generally made in practice and/or based on the existing guidelines document for past applications, and would have made similar decisions in the future. The costs and benefits are difficult to quantify since the Department cannot predict who will apply for tax certification or what property they will apply for in the future. Any previously issued certifications would not be affected by the rule amendments.

- The proposed rule amendments will provide a benefit to local government property tax revenues equal to the cost to businesses conducting a recycling or resource recovery process discussed above. The proposed rule amendments will also provide a benefit to local government tax collectors through clarification of requirements and expectations, and reduced staff time spent providing technical assistance.
- The proposed rule amendments will benefit Department staff through reduced time spent providing technical assistance and guidance on application and qualification requirements for tax certification, and internal discussions and review.
- The proposed rule amendments are not expected to have an annual aggregate impact to the affected parties of greater than or equal to \$1 million.
- The proposed rule amendments are expected to benefit the public and the environment through clarification and transparency of requirements to all parties.

1 15A NCAC 13B .1501 is proposed for readoption with substantive changes as follows:

2  
3 **SECTION .1500 - STANDARDS FOR SPECIAL TAX TREATMENT OF RECYCLING AND RESOURCE**  
4 **RECOVERY EQUIPMENT AND FACILITIES**  
5

6 Rules .1501 - .1514 of Title 15A Subchapter 13B of the North Carolina Administrative Code (T15A.13B  
7 .1501 - .1514); have been transferred and recodified from Rules .0501 - .0514 of Title 10 Subchapter 10C of the  
8 North Carolina Administrative Code (T10.10C .0501 - .0514), effective June 27, 1991.

9  
10 **15A NCAC 13B .1501 ~~RESOURCE RECOVERING FACILITIES~~ DEFINITIONS**

11 The definitions in Article 9 of Chapter 130A of the General Statutes, the definitions in Rule .0101 of this Subchapter,  
12 and the following definitions shall apply to the rules of this Section.

13 (1) “Applicant” means a person that submits an application to the Department to request tax certification  
14 for real property or personal property. The applicant shall be a business conducting a recycling or  
15 resource recovery process or shall be a person that owns real or personal property that is being used  
16 by or leased to a business conducting a recycling or resource recovery process.

17 (2) “Incidental or supportive equipment” means personal property that is used at any time for a purpose  
18 other than recycling or resource recovery; is not necessary for recycling or resource recovery to  
19 occur; or has a primary purpose that is not recycling or resource recovery. Incidental or supportive  
20 equipment includes personal property that is used at any time for administrative, safety, or  
21 maintenance services, even though it may be used in support of a recycling or resource recovery  
22 process, or that is used to provide comfort, safety, or convenience for employees such as:

23 (a) spare parts;

24 (b) office furniture or equipment;

25 (c) employee personal protective or safety equipment;

26 (d) kitchen or breakroom furniture, equipment, or appliances;

27 (e) heating or air conditioning equipment for employee comfort;

28 (f) fire alarms or fire suppression systems;

29 (g) vehicles used to transport employees, new materials, or waste for disposal at any time; and

30 (h) landfill gas vents or wells that are required by a permit issued by the Department.

31 (3) “Incidental or supportive facilities” means real property or parts thereof that is used at any time for  
32 a purpose other than recycling or resource recovery; is not necessary for recycling or resource  
33 recovery to occur, or has a primary purpose that is not recycling or resource recovery. Incidental or  
34 supportive facilities include real property that is used at any time for administrative, safety, or  
35 maintenance services, even though it may be used in support of a recycling or resource recovery, or  
36 that is used to provide comfort, safety, or convenience for the employees such as:

37 (a) office space;

- 1           **(b) conference rooms;**
- 2           **(c) bathrooms;**
- 3           **(d) kitchens;**
- 4           **(e) employee breakrooms;**
- 5           **(f) employee parking;**
- 6           **(g) maintenance sheds;**
- 7           **(h) maintenance areas;**
- 8           **(i) stormwater basins; and**
- 9           **(j) unused areas.**

10           **(4) “Manufacturing process” means a process by which goods are produced for sale or use from raw**  
11           **materials or from new materials resulting from a recycling or resource recovery process, or a**  
12           **combination of these materials.**

13           **(5) “New material” means a material that was generated from a recycling or resource recovery process**  
14           **that can be used without further processing in the same way as a raw material in a manufacturing**  
15           **process.**

16           **(6) “Production scrap” means excess or unusable material that is generated during a manufacturing**  
17           **process and is returned to be reused in the same manufacturing process. An example of production**  
18           **scrap is excess metal or cardboard or textiles from a sheet of metal or cardboard or batting that**  
19           **remains after a portion of the sheet is cut, stamped, trimmed, or formed to make a product, and the**  
20           **excess material is collected and returned to the process or equipment where the original sheet or**  
21           **batting was created. Another example of production scrap is a material that does not meet the quality**  
22           **standards or customer specifications for sale or use as determined by the person or business; and are**  
23           **returned to the manufacturing process. Production scrap does not include excess materials that are**  
24           **combined with recovered materials and returned to be reused in a recycling process.**

25           **(7) “Qualifying property” means requested property that meets the standards set forth in Rule .1503(c)**  
26           **or (d) of this Section to qualify for certification as a recycling, or resource recovery facility or as**  
27           **recycling, or resource recovery equipment for the purpose of special tax classification or treatment**  
28           **in accordance with G.S. 130A-294(a)(3) to be eligible for exclusion from the tax base as set forth**  
29           **in G.S. 105-275(8)(b).**

30           **(8) “Real property” means land and buildings, structures, improvements, or permanent fixtures on land,**  
31           **or a portion thereof.**

32           **(9) “Recycling” means the term defined in G.S. 130A-290. Recycling ends when a new material has**  
33           **been created from the recovered material. The term does not include the subsequent manufacturing**  
34           **process that utilizes the new material.**

35           **(10) “Requested property” means the real and personal property that have been included in an application**  
36           **for tax certification submitted in accordance with Rule .1502 of this Section because the applicant**

1 is requesting that the Department make a determination on whether these items qualify for exclusion  
2 from the property tax base.

3 (11) “Resource recovery” means the term defined in G.S. 130A-290. The term includes the transportation  
4 and storage of recyclable materials and recovered materials.

5 (12) “Spare parts” means parts of equipment that are purchased for future or speculative use, but that  
6 have not been installed in the equipment for which they were purchased.

7 (13) “Personal property” means equipment that is used by a business that is not permanently affixed to  
8 real property.

9 (14) “Tax certification” means a certification issued by the Department of Environmental Quality  
10 certifying that the Department has determined that the real or personal property listed on the  
11 certification document meet the requirements of the rules of this Section to qualify for certification  
12 as a recycling or resource recovery facility or as recycling or resource recovery equipment for the  
13 purpose of special tax classifications or treatment in accordance with G.S. 130A-294(a)(3) to be  
14 eligible for exclusion from the tax base as set forth in G.S. 105-275(8)(b).

15 (15) “Tax collector” means the tax collector for the taxing unit as defined in G.S. 105-273 for the  
16 requested property.

17 ~~(a) A resource recovering facility is a building, or buildings, or parts thereof, and includes any equipment exclusively~~  
18 ~~and integrally used therein for obtaining material or energy resources from solid waste. The facility also includes land~~  
19 ~~occupied by the buildings and equipment.~~

20 ~~(b) Facilities used to collect, sort, or otherwise prepare solid waste for reuse or recycling are resource recovering~~  
21 ~~facilities.~~

22 ~~(c) Incidental or supportive facilities and equipment as defined in .1506(a) of this Section do not qualify for special~~  
23 ~~tax treatment as resource recovering facilities.~~

24  
25 *History Note: Authority G.S. 130A-294(a)(3);*  
26 *Eff. June 2, 1976;*  
27 *Readopted Eff. December 5, 1977;*  
28 *Amended Eff. December 6, ~~1991-1991~~;*  
29 *Readopted Eff. January 1, 2021.*

1 15A NCAC 13B .1502 is proposed for readoption with substantive changes as follows:

2  
3 **15A NCAC 13B .1502 ~~RESOURCE RECOVERING EQUIPMENT~~APPLICATION REQUIREMENTS**

4 (a) An applicant for a tax certification for real and personal property used in recycling or resource recovery shall  
5 submit one electronic copy of an application to the Department. The applicant shall submit a copy of the application  
6 to the tax collector in accordance with the requirements of the tax collector. The applicant shall provide a copy of the  
7 application to the person responsible for management, operation, and maintenance of the requested property. The  
8 application form may be obtained from the Department's website at [https://deq.nc.gov/about/divisions/waste-](https://deq.nc.gov/about/divisions/waste-management/solid-waste-section/tax-certification)  
9 management/solid-waste-section/tax-certification. An application for tax certification shall contain the following  
10 information:

- 11 (1) the applicant name, address, phone number, and e-mail address;  
12 (2) the name, address, and phone number for the location of the requested property;  
13 (3) the name, phone number, and email address for the person responsible for management, operation,  
14 and maintenance of the requested property;  
15 (4) the name, phone number, and email address of the person filling out the application;  
16 (5) a description of facility operations, including the following information:  
17 (A) the types of business conducted at the facility location, such as manufacturing, retail, solid  
18 waste management, recycling, or resource recovery;  
19 (B) the type and source of recyclable material that is received at the facility for resource  
20 recovery, or recovered material that is received at the facility for recycling;  
21 (C) a description of the recycling or resource recovery process showing the steps involved the  
22 process, which may be in the form of a flow chart or a narrative; and  
23 (D) the intended destination of any solid waste, recovered material, or new material leaving the  
24 facility;  
25 (6) the following information for each item of personal property for which certification is requested:  
26 (A) name, make, and model number;  
27 (B) a unique identification number that is affixed to the personal property such as a serial  
28 number, vehicle identification number, or asset number;  
29 (C) the cost or value at the time of acquisition;  
30 (D) the year of acquisition, provided as the last two-digits of a four-digit year;  
31 (E) a description of how the personal property is used for recycling or resource recovery;  
32 (F) the percent of time the personal property is used for recycling or resource recovery; and  
33 (G) the vehicle registration or the invoice from the purchase of the personal property if the  
34 personal property is a vehicle, trailer, or container that will be in use off site at the time of  
35 inspection by the Department. If an invoice is required to be submitted and the trailer or  
36 container has no serial number that can be matched to the invoice, the invoice number from

1 the purchase of the trailer or container may be used as the unique identification number  
2 required by Part (B) of this Subparagraph;

3 (7) the following information for the real property for which certification is requested:

4 (A) a facility drawing and aerial map outlining the recycling or resource recovery areas,  
5 including the measurements of these areas;

6 (B) a description of the real property, including the parcel number of the land and the requested  
7 square footage of the facility space and the acreage of the land areas; and

8 (C) a description of how the areas are used for recycling or resource recovery;

9 (8) a copy of any notice of violation issued by the Department for violations of Chapters 113A, 130A,  
10 or 143 of the General Statutes, or the rules adopted thereunder that are under the authority of the  
11 Department to administer or enforce, that have not been resolved at the time of application submittal;

12 (9) if the real or personal property is under a lease agreement, the contact information for the lessor and  
13 lessee stated in the agreement, the expiration date of the lease agreement, and a copy of the executed  
14 lease agreement and amendments signed by the lessor and lessee; and

15 (10) a list of permit numbers for permits issued by the Department, or a unit of local government under  
16 delegated authority by the Department, in accordance with Chapters 113A, 130A, or 143 of the  
17 General Statutes and the rules adopted thereunder. The Department may request a copy of the permit  
18 if it is necessary to determine compliance with the rules of this Section.

19 (b) The application shall be signed by the applicant and the person receiving the benefit of the tax exemption.

20 (c) The rules of this Section shall not apply to the certification of real and personal property that is required by a  
21 permit issued by the Division of Water Resources or the Division of Air Quality or the Division of Energy, Mining,  
22 and Land Resources for the purpose of pollution abatement.

23 (d) The Division of Waste Management may return an application if the Department determines that the real or  
24 personal property is required to be submitted in an application to the Division of Water Resources because the real or  
25 personal property is located at a facility where the majority of the feedstock accepted at the facility is excluded from  
26 the definition of a solid waste pursuant to G.S. 130A-290(35).

27 (e) Requested property that is owned under a lease agreement shall be listed on a separate application from requested  
28 property that is not owned under a lease agreement. A separate application shall be required for each separate lease  
29 agreement, unless the lessor, lessee, and expiration date for the lease agreements are the same.

30 (f) The Department may request additional information if it is necessary to determine compliance with the rules of  
31 this Section, G.S. 105-275(8)(b), or G.S. 130A-294(a)(3). If the Department requests additional information, the  
32 Department shall request the information in writing via e-mail at the e-mail address provided in the application in  
33 accordance with Paragraph (a)(4) of this Rule. The applicant shall provide the requested information within 15 days  
34 of the request.

35 (g) The Department shall review the application to determine if the application complies with the requirements of this  
36 Rule. If the Department determines that the application does not comply with this Rule, the Department shall return

1 the application to the applicant, and shall state in writing the reasons why the application is not in compliance with  
2 this Rule, and shall also provide a copy of this notice to the county tax collector.

3 ~~Resource recovering equipment is equipment exclusively and integrally used in the actual process of recovering~~  
4 ~~material or energy resources from solid waste. To qualify, the equipment need not be specially designed for the~~  
5 ~~resource recovery process.~~

6

7 *History Note: Authority G.S. 130A-294(a)(3);*

8 *Eff. June 2, 1976;*

9 *Readopted Eff. January 1, 2021; December 5, 1977.*

1 15A NCAC 13B .1503 is proposed for readoption with substantive changes as follows:

2  
3 **15A NCAC 13B .1503 ~~RECYCLING FACILITIES~~ STANDARDS FOR QUALIFICATION FOR TAX**  
4 **CERTIFICATION**

5 (a) This Rule establishes only qualification for tax certification by the Department. Nothing in this Rule shall establish  
6 or supersede requirements for tax exemption application established or enforced by the tax collector.

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

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

13 (1) the real property was included in the application for tax certification submitted to the Department in  
14 accordance with Rule .1502 of this Section;

15 (2) the person that will receive the benefit of exclusion from the property tax base for the real property  
16 complies with Chapters 113A, 130A, and 143 of the General Statutes and the rules adopted  
17 thereunder that are under the authority of the Department to administer or enforce;

18 (3) the real property shall not be used at any time for a purpose other than recycling or resource  
19 recovery;

20 (4) the real property shall be necessary for recycling or resource recovery to occur;

21 (5) the real property shall not be incidental or supportive facilities;

22 (6) the real property shall not be used for handling or storing production scrap;

23 (7) the buildings, structures, improvements, or permanent fixtures on land shall be constructed prior to  
24 the effective date of the tax certification; and

25 (8) the land itself shall not be located beneath any area of a building or structure that does not meet the  
26 requirements of Subparagraphs (1) through (7) of this Paragraph.

27 (d) Personal property shall qualify as recycling or resource recovery equipment in accordance with G.S. 130A-  
28 294(a)(3) if the following conditions are met:

29 (1) the personal property was included in the application for tax certification submitted to the  
30 Department in accordance with Rule .1502 of this Section;

31 (2) the unique identification number required to be included in the application in accordance with Rule  
32 1502(a)(6)(B) of this Section can be matched to the same identification number affixed to the  
33 personal property during the inspection, unless the personal property meets the conditions of Rule  
34 .1502(a)(6)(G);

35 (3) the person that will receive the benefit of exclusion from the property tax base for the equipment  
36 shall comply with Chapters 113A, 130A, and 143 of the General Statutes and the rules adopted  
37 thereunder that are under the authority of the Department to administer or enforce;

1 (4) the personal property shall not be used at any time for a purpose other than recycling or resource  
2 recovery;

3 (5) the personal property shall be necessary for recycling or resource recovery to occur;

4 (6) the personal property shall not be incidental or supportive equipment;

5 (7) the personal property shall not be used for handling or storing production scrap; and

6 (8) the personal property shall be installed prior to the effective date of the tax certification.

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

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

11 (g) The tax certification shall list the qualifying property.

12 (h) The Department shall provide a copy of the tax certification to the applicant and to the office of the county tax  
13 collector.

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

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

17 (k) Tax certifications are not transferrable. If there is a change in ownership or lease agreement or if the facility  
18 changes locations of qualifying property after the Department issues a tax certification, then the real or personal  
19 property shall no longer qualify for exclusion from the property tax base. The new owner, lessor, or lessee of the real  
20 or personal property that was previously listed on a tax certification may apply for a new tax certification in accordance  
21 with Rule .1502 of this Section.

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

25 (m) If the person receiving the benefit of exclusion from the property tax base ceases to be in compliance with  
26 Chapters 113A, 130A, or 143 of the General Statutes and the rules adopted thereunder that are under the authority of  
27 the Department to administer or enforce after the Department issues the tax certification, the Department may  
28 determine that the real or personal property no longer qualifies for exclusion from the property tax base and revoke  
29 the tax certification if the person does not comply by the deadline for compliance required by the Department. If the  
30 Department revises or revokes a tax certification, the Department shall notify the applicant, the person receiving the  
31 tax benefit, and the county tax collector's office of the determination in writing. The applicant may submit a new  
32 application for tax certification in accordance with Rule .1502 of this Section when the person receiving the benefit  
33 complies with Chapter 113A, 130A, and 143 of the General Statutes and the rules adopted thereunder that are under  
34 the authority of the Department to administer or enforce.

35 (n) The Department may revoke a tax certification if the Department discovers that false information was provided  
36 in the application for tax certification submitted in accordance with Rule .1502 of this Section. If the Department

1 revokes a tax certification, the Department shall notify the applicant, the person receiving the tax benefit, and the  
2 county tax collector's office of the determination in writing.

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

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

11 (1) the use of the real or personal property has not changed;

12 (2) the person that is receiving the benefit of exclusion from the property tax base for the real property  
13 complies with Chapters 113A, 130A, and 143 of the General Statutes and the rules adopted  
14 thereunder that are under the authority of the Department to administer or enforce;

15 (3) the real or personal property has not changed ownership since the tax certification was issued; and

16 (4) any expiration date on the tax certification has not passed.

17 (q) If an application meeting the requirements of Rule .1502 of this Section is submitted within five years of the  
18 readopted effective date of this Rule for requested property that was previously certified under a lease agreement, the  
19 requested property that meets the requirements of Paragraph (p) of this Rule, except Paragraph (p)(4) of this Rule,  
20 shall be deemed qualifying property for the purpose of this Section.

21 ~~(a) A recycling facility is a building, or buildings, or parts thereof, and includes any equipment exclusively and~~  
22 ~~integrally used in a process by which recovered resources are transformed into new products in such a manner that the~~  
23 ~~original materials lose their identity. Recovered resources are materials that have been recovered from solid waste.~~  
24 ~~The facility also includes the land occupied by the buildings and equipment.~~

25 ~~(b) Incidental or supportive facilities and equipment as defined in .1506(a) of this Section do not qualify for special~~  
26 ~~tax treatment as recycling facilities.~~

27  
28 *History Note: Authority G.S. 130A-294(a)(3);*

29 *Eff. June 2, 1976;*

30 *Readopted Eff. December 5, 1977;*

31 *Amended Eff. December 6, 1991-1991;*

32 *Readopted Eff. January 1, 2021.*

1 15A NCAC 13B .1504 is proposed for reoption as a repeal as follows:

2

3 **15A NCAC 13B .1504 RECYCLING PROCESS**

4 ~~(a) To constitute recycling, the recovered materials must be so altered in form that the original materials lose their~~  
5 ~~identity and a new product is formed. A physical rather than a chemical change may be all that occurs but a substantial~~  
6 ~~change in the form of the materials must occur.~~

7 ~~(b) The recycling process ends when a new product has been created from the recovered materials, even though the~~  
8 ~~complete manufacturing process involving the recycled products has not concluded.~~

9

10 *History Note: Authority G.S. 130A-294(a)(3);*

11 *Eff. June 2, 1976;*

12 *Readopted Eff. December 5, ~~1977~~.1977;*

13 *Repealed Eff. January 1, 2021.*

14

1 15A NCAC 13B .1505 is proposed for readoption as a repeal as follows:

2

3 **15A NCAC 13B .1505 RECYCLING EQUIPMENT**

4 ~~Recycling equipment is equipment exclusively and integrally used in the actual process by which recovered resources~~  
5 ~~are transformed into new products in such a manner that the original materials lose their identity. The equipment need~~  
6 ~~not be specially designed for the recycling process.~~

7

8 *History Note: Authority G.S. 130A-294(a)(3);*

9 *Eff. June 2, 1976;*

10 *Readopted Eff. December 5, ~~1977~~.1977;*

11 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1506 is proposed for readoption as a repeal as follows:

2

3 **15A NCAC 13B .1506 INCIDENTAL OR SUPPORTIVE FACILITIES AND EQUIPMENT**

4 ~~(a) Incidental or supportive facilities and equipment consist of a building, buildings, or parts thereof, land or~~  
5 ~~equipment, which provide administrative or maintenance services to the resource recovery or recycling process or~~  
6 ~~which provides a comfort or convenience for the employees.~~

7 ~~(b) Buildings, land and equipment are used in the actual resource recovering or recycling process if they are an integral~~  
8 ~~part of the process by which:~~

9 ~~(1) material or energy resources are obtained from solid waste, or~~

10 ~~(2) recovered resources are transformed into new products in such a manner that the original products~~  
11 ~~lose their identity.~~

12 ~~(c) Qualifying equipment and facilities must be used in a mechanical or chemical process, in transportation, or in~~  
13 ~~storage.~~

14

15 *History Note: Authority G.S. 130A-294(a)(3);*

16 *Eff. June 2, 1976;*

17 *Readopted Eff. December 5, ~~1977-1977~~;*

18 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1507 is proposed for readoption as a repeal as follows:

2

3 **15A NCAC 13B .1507 OPERATIONAL REQUIREMENTS FOR FACILITIES AND EQUIPMENT**

4 ~~All resource recovering and recycling facilities and equipment shall be in full compliance with the rules on solid waste~~  
5 ~~management in 15A NCAC 13B adopted by the Commission for Public Health.~~

6

7 *History Note: Authority G.S. 130A-294(a)(3);*

8 *Eff. June 2, 1976;*

9 *Readopted Eff. December 5, 1977;*

10 *Amended Eff. September 1, 1990; July 1, ~~1985, 1985~~;*

11 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1508 is proposed for reoption as a repeal as follows:

2  
3 **15A NCAC 13B .1508 APPLICATION FOR TAX CERTIFICATION**

4 ~~(a) For the purposes of this Rule, the following definitions shall apply:~~

5 ~~(1) "Person" means any individual, partnership, firm, organization, corporation, association, business~~  
6 ~~trust, company, or other legal entity.~~

7 ~~(2) "Department" means the Secretary of the Department of Environment, Health and Natural~~  
8 ~~Resources or his authorized representative.~~

9 ~~(b) No application for tax certification shall be received from any person unless submitted in triplicate to the~~  
10 ~~Department containing the following information:~~

11 ~~(1) general layout of resource recovery or recycling facilities and equipment;~~

12 ~~(2) specify and describe facilities and parts thereof to be considered (including therewith acreage~~  
13 ~~involved);~~

14 ~~(3) specify and describe equipment exclusively used in resource recovering or recycling processes;~~

15 ~~(4) construction schedule if not yet completed, including anticipated date of final completion; and~~

16 ~~(5) the individual primarily responsible for management operation and maintenance of the facilities and~~  
17 ~~equipment.~~

18 ~~(c) The Department reserves the right to request additional information in the event the above does not provide~~  
19 ~~sufficient specificity.~~

20 ~~(d) Upon proper receipt of the above information, a representative of the Division of Solid Waste Management shall~~  
21 ~~inspect said facilities and equipment.~~

22 ~~(e) Evaluation of such facilities and equipment shall be made in accordance with these rules. Based thereon, the~~  
23 ~~Division of Solid Waste Management shall issue a written decision denying or granting tax certification. Where a~~  
24 ~~request is denied, such decision shall enumerate the reasons therefor.~~

25  
26 *History Note: Authority G.S. 130A-294(a)(3);*

27 *Eff. June 2, 1976;*

28 *Readopted Eff. December 5, 1977;*

29 *Amended Eff. December 6, 1991; September 1, ~~1990-1990~~;*

30 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1512 is proposed for readoption as a repeal as follows:

2

3 **15A NCAC 13B .1512 FACILITIES FOR REDUCING HAZARDOUS WASTE GENERATED**

4 ~~(a) A facility for the purpose of reducing the volume of hazardous waste generated is a building or buildings, or parts~~  
5 ~~thereof, constructed for the purpose of reducing the amount of hazardous waste generated by an existing industrial~~  
6 ~~facility and includes any equipment exclusively and integrally used therein for reducing the volume of hazardous~~  
7 ~~waste generated by the existing industrial facility. The facility also includes any land necessarily acquired for~~  
8 ~~occupation by the buildings or equipment.~~

9 ~~(b) An existing industrial facility is a building or buildings, or parts thereof, which house an industrial process that~~  
10 ~~has been or is capable of commercially feasible operation in the manner for which it was designed before the addition~~  
11 ~~of the facility or equipment for reducing the volume of hazardous waste generated.~~

12 ~~(c) Incidental or supportive facilities and equipment as defined in Rule .1506(a) of this Section do not qualify for~~  
13 ~~special tax treatment as equipment or facilities for the purpose of reducing the volume of waste generated.~~

14

15 *History Note: Authority G.S. 130A-294(a)(3);*

16 *Eff. October 1, 1983;*

17 *Amended Eff. December 6, 1991; September 1, ~~1990~~.1990;*

18 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1513 is proposed for readoption as a repeal as follows:

2

3 **15A NCAC 13B .1513 EQUIPMENT FOR REDUCING HAZARDOUS WASTE GENERATED**

4 ~~(a) Equipment for the purpose of reducing the volume of hazardous waste generated is equipment exclusively and~~  
5 ~~integrally used in the actual process by which the volume of hazardous waste generated by an existing industrial~~  
6 ~~process is reduced. The equipment need not be specially designed for the particular volume reduction process for~~  
7 ~~which it is used.~~

8 ~~(b) An existing industrial process is an industrial process that has been or is capable of commercially feasible operation~~  
9 ~~in the manner for which it was designed before the addition of the equipment for reducing the volume of hazardous~~  
10 ~~waste generated.~~

11

12 *History Note: Authority G.S. 130A-294(a)(3);*

13 *Eff. October 1, ~~1983~~.1983;*

14 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1514 is proposed for readoption as a repeal as follows:

2

3 **15A NCAC 13B .1514 APPEALS PROCEDURE**

4 ~~Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with~~  
5 ~~G.S. 150B.~~

6

7 *History Note: Authority G.S. 130A-294(a)(3);*

8 *Eff. February 1, 1987;*

9 *Amended Eff. September 1, ~~1990~~, 1990;*

10 *Repealed Eff. January 1, 2021.*