

**ARTICLE 1.0000**

**PERMITTING PROVISIONS FOR AIR POLLUTION SOURCES, RULES AND  
OPERATING REGULATIONS FOR ACID RAIN SOURCES, TITLE V AND TOXIC  
AIR POLLUTANTS**

**Section 1.5100 GENERAL PROVISIONS AND ADMINISTRATION**

**1.5101 DECLARATION OF POLICY**

This Ordinance is designed to conserve, protect, and improve the air resources of Mecklenburg County by providing for the establishment of the office and prescribing the duties of the Director of Mecklenburg Air Quality and empowering investigation and abatement by the Director of violations of this Ordinance; for the establishment and enforcement of rules and regulations; for permits for the installation, construction, addition to, alteration and use of process, fuel-burning, refuse-burning, and control equipment; for inspections and tests for process, fuel-burning, refuse-burning, and control equipment, and for the issuance of permits; establishing limitations upon the emissions of air contaminants, declaring emissions which do not meet such limitations to be unlawful, prohibiting certain acts causing air pollution, providing for fines and penalties for violations of the provisions of this Ordinance; and for just and adequate means by which the provisions of this Ordinance may be executed.

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**1.5102 DEFINITION OF TERMS**

The following words and phrases when used in this Ordinance shall, for the purpose of this Ordinance, have the meanings respectively ascribed to them in this Regulation, unless a different meaning clearly is indicated. Provided further that to the extent that any definition in MCAPCO Regulation 1.5102 - "Definition of Terms" conflicts with any definition(s) included in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures", such MCAPCO Article 2.0000 definition(s) shall control.

- (1) **"Aerosol"** means a dispersion or suspension of small solid or liquid particles or any combination thereof in the air or other gaseous medium.
- (2) **"Air Contaminant"** means any smoke, soot, dust, fly ash, cinders, dirt, noxious or obnoxious acid, fumes, oxides, gases, vapors, odors, toxic or radioactive substance, waste

particulate, solid, liquid, or gaseous matter or any other materials in the outdoor atmosphere.

- (3) **“Air Pollutant”** means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter that is emitted into or otherwise enters the ambient air. Water vapor is not considered an air pollutant.
- (4) **“Air Pollution”** means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human or animal life, or to the property of others, or that interfere with the comfortable enjoyment of life or property or the conducting of business.
- (5) **“Allowable Emissions”** means the maximum emissions allowed by the applicable Regulations contained in MCAPCO Article 2.0000 - “Air Pollution Control Regulations and Procedures” or by permit conditions, if the permit limits emissions to a lesser amount.
- (6) **“Alteration”** means any modification which could change the emission characteristics.
- (7) **“Applicable Requirements”** means:
  - (A) any requirement listed in this Ordinance;
  - (B) any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through rulemaking under Title I of the federal Clean Air Act that implements the relevant requirements of the federal Clean Air Act including any revisions to 40 CFR Part 52;
  - (C) any term or condition of a permit for a facility covered under this Ordinance;
  - (D) any standard or other requirement under Section 111 or 112 of the federal Clean Air Act, but not including the contents of any risk management plan required under Section 112 of the federal Clean Air Act;
  - (E) any standard or other requirement under Title IV of the federal Clean Air Act;
  - (F) any standard or other requirement governing solid waste incineration under Section 129 of the federal Clean Air Act;
  - (G) any standard or other requirement under Section 183(e), 183(f), or 328 of the federal Clean Air Act;
  - (H) any standard or requirement under Title VI of the federal Clean Air Act unless a permit for such requirement is not required under this Section;
  - (I) any requirement under Section 504(b) or 114(a)(3) of the federal Clean Air Act; or
  - (J) any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal Clean Air Act.
- (8) **“Applicant”** means any person who is applying for an air quality permit from the Department.
- (9) **“Application Package”** means all elements or documents needed to make an application complete.
- (10) **“Ashes”** means cinders, fly ash, or any other solid material resulting from combustion, and may include unburned combustibles.
- (11) **“A.S.M.E.”** means the American Society of Mechanical Engineers.
- (12) **“A.S.T.M.”** means the American Society for Testing Materials.
- (13) **“Atmosphere”** means the air that envelops or surrounds the earth.

- (14) **“Board”** means the Mecklenburg County Board of County Commissioners.
- (15) **“Btu Hour Input”** means the gross calorific value of fuel fired per hour in fuel-burning equipment. (Gross calorific value shall be determined by standard procedures of A.S.T.M.)
- (16) **“CFR”** means Code of Federal Regulations.
- (17) **“Cinders”** means particles not ordinarily considered as fly ash or dust because of their greater size, consisting mainly of fused ash and/or burned matter.
- (18) **“Combustible Material”** means any substance that, when ignited, will burn in the air.
- (19) **“Combustible Refuse”** means any combustible waste material containing carbon in a free or combined state other than liquids or gases.
- (20) **“Combustion Contaminants”** means particulate matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.
- (21) **“Commission”** means the Mecklenburg County Air Quality Commission.
- (22) **“Construction”** means change in the method of operation or any physical change (including on-site fabrication, erection, installation, replacement, demolition, or modification of a source) that results in a change in emissions or affects the compliance status.
- (23) **“Control Equipment”** means any equipment which has the function of controlling process, fuel-burning, or refuse-burning equipment and thus reduces the creation of, or the emission of, air contaminants to the atmosphere, or both.
- (24) **“County”** means Mecklenburg County, North Carolina.
- (25) **“Department”** means Mecklenburg County Air Quality which may also be identified using the acronym (“MCAQ”).
- (26) **“Director”** means the Director of Mecklenburg County Air Quality or his duly authorized representatives.
- (27) **“Dust”** means minute solid particles released into the air by natural forces or by mechanical processes such as crushing, grinding, milling, drilling, demolishing, shoveling, conveying, covering, bagging, sweeping, etc.
- (28) **“Emission”** means the release into the outdoor atmosphere of air contaminants.
- (29) **“EPA”** means the United States Environmental Protection Agency or the administrator of the Environmental Protection Agency.
- (30) **“EPA Approves”** means full approval, interim approval, or partial approval by EPA.
- (31) **“Equivalent Unadulterated Fuels”** means used oils that have been refined such that the content of toxic additives or contaminants in the oils are no greater than those in unadulterated fossil fuels.
- (32) **“Facility”** means all of the pollutant emitting activities, except transportation facilities as defined under MCAPCO Regulation 2.0802 - “Definitions”, that are located on one or more contiguous or adjacent properties under common control.
- (33) **“Federally Enforceable”** or **“Federal Enforceable”** means enforceable by the EPA.
- (34) **“Fly Ash”** means particulate matter capable of being air-borne or gas-borne and consisting essentially of fused ash and/or unburned material.
- (35) **“Fuel”** means any form of combustible matter - solid, liquid, or gas, excluding combustible refuse.
- (36) **“Fuel Burning Operation”** means use of furnace, boiler, device, or mechanism used

principally, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.

- (37) **“Fuel Combustion Equipment”** means any fuel burning source covered under MCAPCO Regulations 2.0503 - “Particulates from Fuel Burning Indirect Heat Exchangers”, 2.0504 - “Particulates from Wood Burning Indirect Heat Exchangers” or 40 CFR Part 60 Subparts D - “Fossil fuel-fired steam generators”, Da - “Electric utility steam generating units”, Db - “Industrial - commercial - institutional steam generating units”, or Dc - “Small industrial - commercial - institutional steam generating units”.
- (38) **“Furnace”** means an enclosed space provided for the ignition and/or combustion of fuel.
- (39) **“Green Wood”** means wood with a moisture content of 18 percent or more.
- (40) **“Hazardous Air Pollutant”** means any pollutant that has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants listed only in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”, but not pursuant to Section 112(b), are not included in this definition.
- (41) **“Insignificant Activities”** means activities defined as insignificant activities because of category or as insignificant activities because of size or production rate under MCAPCO Regulation 1.5503 - “Definitions”.
- (42) **“Lesser Quantity Cutoff”** means:
  - (A) for a source subject to the requirements of Section 112(d) or 112(j) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which the following are not required:
    - (i) maximum achievable control technology (MACT) or generally available control technology (GACT), including work practice standards, requirement under Section 112(d) of the federal Clean Air Act;
    - (ii) substitute MACT or GACT adopted under Section 112(l) of the federal Clean Air Act; or
    - (iii) a MACT standard established under Section 112(j) of the federal Clean Air Act;
  - (B) for modification of a source subject to, or may be subject to, the requirements of Section 112(g) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which MACT is not required to be applied under Section 112(g) of the federal Clean Air Act; or
  - (C) for all other sources, potential emissions of each hazardous air pollutant below 10 tons per year and the aggregate potential emissions of all hazardous air pollutants below 25 tons per year.
- (43) **“Major Facility”** means a major source as defined under 40 CFR 70.2.
- (44) **“Mass Emission Rate”** means the weight discharged per unit of time.
- (45) **“Mist”** means a suspension of any finely-divided liquid in any gas or atmosphere.
- (46) **“Modification”** means any physical change or change in operation that results in a change in emissions or affects the compliance status of the source or the facility.
- (47) **“Modified Facility”** means the modification of an existing facility or source and:
  - (A) the permitted facility or source is being modified in such a manner to require the

- Department to reissue the permit, or
- (B) a new source is being added that requires the Department to reissue the permit. A modified facility does not include a facility or source that requests to change name or ownership, construction or test dates, or reporting procedures.
- (48) **“New Facility”** means a facility that is receiving a permit from the Department for construction and operation of an air pollution source and the facility is not currently permitted by the Department.
- (49) **“Odor”** means that property of an air contaminant that affects the sense of smell.
- (50) **“Open Fire”** means any combustion process from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack.
- (51) **“Owner or Operator”** means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
- (52) **“Peak Shaving Generator”** means a generator that is located at a facility and is used only to serve that facility's on-site electrical load during peak demand periods for the purpose of reducing the cost of electricity; it does not generate electricity for resale. A peak shaving generator also may be used for emergency backup.
- (53) **“Permit”** means the legally binding written document, including any revisions thereto, issued pursuant to G.S. 143-215.108 to the owner or operator of a facility or source that emits one or more air pollutants and that allows that facility or source to operate in compliance with G.S. 143-215.108. This document specifies the requirements applicable to the facility or source and to the permittee.
- (54) **“Permittee”** means the person who has received an air quality permit from the Department.
- (55) **“Person”** means any individual natural person, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations, or other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.
- (56) **“Plans and Specifications”** means the completed application and any other documents required to define the operating conditions of the air pollution source.
- (57) **“Portable Generator”** means a generator permanently mounted on a trailer or a frame with wheels.
- (58) **“Potential Emissions”** means the rate of emissions of any air pollutant that would occur at the facility's maximum capacity to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a facility to emit an air pollutant shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations include the air pollution control equipment, restriction on hours of operation or the type or amount of material combusted, stored or processed. Potential emissions include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions do not include a facility's secondary emissions such as those from motor vehicles associated with the facility and do not include emissions from insignificant activities because of category as defined under MCAPCO Regulation 1.5503 - “Definitions”. If MCAPCO Regulation 1.5211 - “Applicability” or a Rule or Regulation in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants covered under that

Regulation.

- (59) **“Private Residence”** means containing fewer than three dwelling units.
- (60) **“Process Equipment”** means any equipment, device, or contrivance for changing any materials or for storage or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use of which may cause any discharge of an air contaminant into the outdoor atmosphere but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this Ordinance.
- (61) **“Refuse”** means any garbage, rubbish, or trade waste.
- (62) **“Refuse-Burning Equipment”** means any equipment, device, or contrivance used for the destruction of garbage, rubbish, and/or other wastes by burning, and all appurtenances thereto.
- (63) **“Regulated Air Pollutant”** means:
  - (A) nitrogen oxides or any volatile organic compound as defined under 40 CFR 51.100;
  - (B) any pollutant for which there is an ambient air quality standard as defined under 40 CFR Part 50;
  - (C) any pollutant that is regulated under MCAPCO Regulation 2.0524 - “New Source Performance Standards” or MCAPCO Regulation 2.1110 - “National Emission Standards for Hazardous Air Pollutants”, or MCAPCO Regulation 2.1111 - “Maximum Achievable Control Technology” or 40 CFR Parts 60, 61, or 63;
  - (D) any pollutant subject to a standard promulgated under Section 112 of the federal Clean Air Act or other requirements established under Section 112 of the federal Clean Air Act, including Section 112(g) (but only for the facility subject to Section 112 (g)(2) of the federal Clean Air Act), Section 112 (j) or (r) of the federal Clean Air Act;
  - (E) any Class I or II substance listed under Section 602 of the federal Clean Air Act; or
  - (F) any toxic air pollutant listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.
- (64) **“Respondent”** means the person against whom a penalty has been assessed.
- (65) **“Saw Mill”** means a place or operation where logs are sawed into lumber consisting of one or more of these activities: debarking, sawing, and sawdust handling. Activities that are not considered part of a sawmill include chipping, sanding, planing, routing, lathing, and drilling.
- (66) **“SIP”** means the North Carolina State Implementation Plan for Air Quality and the Mecklenburg County portion thereof.
- (67) **“Solid Fuel”** means a fuel which is fired as a solid such as coal, lignite, and wood.
- (68) **“Soot”** means agglomerated particles consisting mainly of carbonaceous material.
- (69) **“Source”** means any stationary article, machine, process equipment, or other contrivance, or combination thereof, from which air pollutants emanate or are emitted, either directly or indirectly.
- (70) **“Stack”** means any chimney, flue, conduit, or opening arranged for the emission of solids, liquids, gases, or aerosols into the outdoor atmosphere.
- (71) **“Stack Height”** means the vertical distance measured in feet between the point of discharge from the stack or chimney into the outdoor atmosphere and the elevation of the

land thereunder.

- (72) **“Standard Conditions”** means a gas temperature of 70 degrees Fahrenheit and a gas pressure of 29.92 inches of mercury.
- (73) **“Title IV Source”** means a source that is required to be permitted following the procedures under MCAPCO Section 1.5400 - “Acid Rain Procedures”.
- (74) **“Title V Source”** means a source that is required to be permitted following the procedures under MCAPCO Section 1.5500 - “Title V Procedures”.
- (75) **“Toxic Air Pollutants”** means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.
- (76) **“Trade Secret”** means business or technical information, which in accordance with N.C. G.S. 66-152 includes but is not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:
  - a. derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
  - b. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (77) **“Transportation Facility”** means a complex source as defined in G.S. 143-213(22) that is subject to the requirements of MCAPCO Section 2.0800 - “Transportation Facilities”.
- (78) **“Unadulterated Fossil Fuel”** means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that could result in the emissions of a toxic air pollutant listed in MCAPCO Regulation 2.1104 - “Toxic Air Pollutant Guidelines”.
- (79) **“Vapor”** means the gaseous form of a substance which normally exists in the solid or liquid state.
- (80) **“Volatile or Volatile Matter”** means the gaseous constituents of solid fuels as determined by procedures defined in current A.S.T.M. Methods.

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### **1.5103 ENFORCEMENT AGENCY**

The Director of Mecklenburg County Air Quality shall have primary responsibility for administration of these Regulations, and he shall appoint an adequate administrative and

technical staff within the Department. The Director is authorized to use laboratory and other facilities and personnel of the Department to assist him in the administration of this Ordinance.

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**1.5104 GENERAL DUTIES AND POWERS OF THE DIRECTOR, WITH THE APPROVAL OF THE BOARD**

The powers and duties of the Director include, but are not limited to, the following:

- (a) Encourage the making of agreements and compacts among neighboring counties and states for the prevention and control of air pollution;
- (b) Investigate and evaluate the air resources of the County so as to identify sources and problems unique to the County, determine the degree of need for planning and action for air pollution control, scientifically define air pollution problems unique to the County, and obtain scientific information for the design, operation, and evaluation of the effectiveness of an air pollution control program tailored to the needs of the County, including,
  - (1) Emission inventories,
  - (2) Source registration,
  - (3) Receptor and effects inventories,
  - (4) Meteorological surveys,
  - (5) Air quality surveys,
  - and
  - (6) Odor surveys;
- (c) Administer and enforce rules and Regulations adopted by the Board controlling air pollution including but not limited to, issuing permits pursuant to this Ordinance as necessary to protect the public health and environment;
- (d) Require immediate discontinuance of discharges of air contaminants into the atmosphere;
- (e) Maintain and operate laboratory facilities with capabilities appropriate for air pollution studies, research, analytical determination and essential instrumentation;
- (f) Prepare and develop a comprehensive plan for prevention, abatement, and control of air pollution;

(g) Collect and disseminate appropriate information and conduct such educational and training programs as may appear appropriate;

(h) Encourage voluntary cooperation by persons or groups to achieve the purposes of this Ordinance;

(i) Advise, consult, and cooperate with all levels of official governmental representatives and agencies, with industrial and commercial enterprises, with educational institutions, with associations, and with other interested persons or groups;

(j) Investigate complaints and issue such orders as may be required to effectuate the purposes of this Ordinance and enforce them by all appropriate administrative and judicial proceedings;

(k) Make such recommendations to the Board as may be required or appropriate to keep this Ordinance abreast of modern technology and scientific developments;

(l) Make inspections of any air pollution source and conduct tests as deemed necessary by the Director; and

(m) Require the facility to conduct tests and gather information to document compliance with emission standards and effectuate the purposes of this Ordinance.

control technology. If there are no concerns regarding collateral environmental impacts, the analysis is ended and this proposed option is selected as maximum feasible controls. In the event the most stringent alternative is inappropriate, due to energy, human health, environmental, or economic impacts, the justification for this conclusion shall be fully documented; and the next most stringent option, in terms of control effectiveness, becomes the primary alternative and is similarly evaluated. This process shall continue until the control technology evaluated can not be eliminated due to source-specific environmental, human health, energy, or economic impacts.

- (5) Select maximum feasible controls. The most stringent option, in terms of control effectiveness, not eliminated under Subparagraph (b)(4) of this Regulation shall be selected as maximum feasible controls.

*History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); Eff. April 1, 2001.*

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