

PRE-HEARING DRAFT

North Carolina

Clean Air Act Section 110(l)

Noninterference

Demonstration

For

Permit Streamlining Related Rules

15A NCAC 02Q .0102 and .0318



June 6, 2018

Prepared by:

North Carolina Department of Environmental Quality

Division of Air Quality

Planning Section

(This page intentionally left blank)

PREFACE:

This document contains North Carolina's Clean Air Act Section 110(l) noninterference demonstration for the following non-Title V permitting rules: adoption of 15A NCAC 02Q .0318, Changes Not Requiring Permit Revisions, and amendment to 15A NCAC 02Q .0102, Activities Exempted From Permit Requirements.

TABLE OF CONTENTS

1.0 INTRODUCTION 1

2.0 BACKGROUND 1

 2.1 History of Rule 15A NCAC 02Q .0102 1

 2.2 Review of Non-Title V Permitting Program 1

 2.3 Stakeholder Process..... 2

3.0 AMENDMENTS TO NON-TITLE V PERMITTING RULES 2

 3.1 What is the revision to the rules? 2

 3.2 Why were the amendments necessary? 2

 3.3 How many facilities are affected by the amendments?..... 3

4.0 NON-INTERFERENCE WITH OZONE, CO, PM, SO₂, NO₂ AND LEAD NAAQS 3

5.0 CONCLUSION..... 4

CLEAN AIR ACT SECTION 110(I) DEMONSTRATION

1.0 INTRODUCTION

Section 110(l) of the Federal Clean Air Act (CAA), as amended prohibits EPA from approving any proposed State Implementation Plan (SIP) revision that would interfere with the attainment and maintenance of the national ambient air quality standards (NAAQS) in effect at the time of the revision. The following “noninterference demonstration” is provided to show that revisions to non-Title V air quality permitting rules will not interfere with North Carolina’s ability to attain or maintain compliance with the current carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), ozone (O₃), particulate matter (PM), and lead NAAQS.

2.0 BACKGROUND

2.1 History of Rule 15A NCAC 02Q .0102

Rule 15A NCAC 02Q .0102, Activities Exempted From Permit Requirements, governs activities that do not require an air quality permit for non-Title V (small and synthetic minor) facilities. The agency has amended the rule several times through the years to address specific issues. As a result, the overall size and structure of the rule evolved in a way that make it difficult to read, understand and implement, and it has become a source of frustration for both North Carolina Division of Air Quality (DAQ) staff and the regulated community. To address this issue, the DAQ formed an internal subcommittee of its existing Permits Workgroup to review and recommend revisions to the rule to make it easier to understand and use by affected facilities and DAQ staff.

2.2 Review of Non-Title V Permitting Program

As the process of simplifying the permit exemptions rule progressed, the DAQ decided to look at the entire non-Title V permitting program. The administrative effort associated with the small facility permitting program is relatively high for a large number of facilities with very low emissions. There are 1,599 small permitted facilities, 648 synthetic minor permitted facilities and 301 Title V permitted facilities under the jurisdiction of the DAQ. The small permitted facilities make up 63% of the total number of permitted facilities but contribute only 3.4% of the total criteria pollutant emissions.

To prepare the proposed rule change, the DAQ convened a number of strategic thinking sessions and reviewed available data, including emissions profiles, compliance history, regulatory framework and complexity. Permit engineers from North Carolina’s regional offices also provided input based on years of small facility permitting experience.

2.3 Stakeholder Process

The DAQ sought external stakeholder input throughout the development process and on the initial draft amendments on November 6, 2014. The DAQ received comments from both the regulated community and environmental interest groups. The DAQ received comments suggesting additional approaches, including tiered approaches with alternative exemption thresholds and a registration option for certain levels of emissions. The DAQ reviewed stakeholder feedback and considered alternatives to its initial approach. The DAQ discussed the feedback received and its considerations with the Air Quality Committee (AQC) at its May 6, 2015 meeting. Using feedback from commissioners at the AQC meeting, the DAQ presented updated draft rules to the AQC at its July 8, 2015 meeting. Those draft rules included proposed amendment to rule 15A NCAC 02Q .0102, and adoption of 15A NCAC 02Q .0318.

3.0 AMENDMENTS TO NON-TITLE V PERMITTING RULES

3.1 What is the revision to the rules?

Rule 15A NCAC 02Q .0102, Activities Exempted From Permit Requirements, was amended to simplify the rule to make it easier to understand. New exemption requirements were also added. Facilities with actual emissions after control devices less than five tons per year of each specified pollutant and total aggregate actual emissions of no more than 10 tons per year would be exempt from permitting. Facilities that are not exempt and have total aggregate actual emissions less than 25 tons per year would be eligible for registration instead of obtaining an operating permit. The previous version of the rule set the exemption level at five tons per year of actual emissions for each pollutant before air pollution control devices. The exempted facilities and registered facilities would still be required to comply with all applicable state and federal air regulations, and be subject to routine compliance assurance visits by the DAQ as discussed in Section 3.4.

Rule 15A NCAC 02Q .0318, Changes Not Requiring Permit Revisions, was proposed for adoption to allow facilities to make minor changes without first modifying their permit. This rule provides similar flexibility for small and synthetic minor facilities that Section 502(b)(10) of the CAA allows Title V facilities.

3.2 Why were the amendments necessary?

The overall size and structure of the permit exemption rule, 15A NCAC 02Q .0102, evolved in a way that made the rule difficult to read, understand and implement. The administrative effort was relatively high for a large number of facilities with very low emissions. §150B-19.1(a)(2) of the North Carolina General Statutes requires an agency to seek to reduce the burden upon those persons or entities who must comply with the rule. §150B-19.1(a)(6) requires rules to be designed to achieve the regulatory objective in a cost-effective and timely manner. These rule changes achieve those statutory requirements while maintaining public health.

3.3 How many facilities are affected by the amendments?

As of June 2016, North Carolina had 1,599 small permitted facilities, 301 Title V or major sources, and 648 synthetic minor sources. The rule changes resulted in about 1,110 small facilities becoming eligible for exemption from air quality permitting, representing about 0.6 percent of the criteria pollutant emissions (CO, NO_x, PM₁₀, SO₂, VOC) for stationary sources. Another 320 facilities, representing 1.2 percent of the criteria pollutant emissions, are eligible for registration with the DAQ instead of holding a permit. Small facilities eligible for exemption or registration could retain their permits if they so desired. The changes do not affect synthetic minor or Title V facilities. Additionally, 15A NCAC 02Q .0318 will allow approximately 17 small and synthetic minor facilities to make minor modifications to their facility without a permit revision.

3.4 Compliance Assurance for Exempted Facilities

It is important to note that small emitting facilities exempted from the permitting program must continue to comply with all state and federal regulations, despite not having an operating permit. The DAQ will review a facility's request for exemption to confirm the exemption requirements are met. The DAQ will confirm the facility's exemption status by mailing an approval letter to the facility. Attached to that approval letter will be a checklist to assist the facility to be in compliance with certain state and federal rules that apply to that particular facility. The checklist provides guidance for tracking annual emissions to ensure the facility-wide actual emissions remain below the appropriate exemption threshold

In addition, personnel from the DAQ regional offices will conduct compliance assurance visits (CAVs) to exempt and registered facilities. The purpose of the CAVs will be to ensure the facility is not exceeding the appropriate emission thresholds and ensure the facility is complying with state and federal rules. The CAVs will also be used to educate the facilities on any upcoming state or federal rule that may impact their facility. Compliance assurance visits will be conducted every two years, the same frequency that compliance inspections are conducted on small facilities in North Carolina prior to the rule being amended.

4.0 NON-INTERFERENCE WITH OZONE, CO, PM, SO₂, NO₂ AND LEAD NAAQS

All monitored areas in North Carolina are in attainment for the 2008 and 2015 ozone NAAQS, 2011 CO NAAQS, 2010 SO₂ NAAQS, 2010 NO₂ NAAQS, 2012 PM_{2.5} and PM₁₀ NAAQS and 2008 Lead NAAQS. The rule amendments relax the administrative requirements for obtaining a state permit. The rule amendments do not relax any applicable state or federal standards or requirements. As such, no impact to air emission levels from affected facilities is expected. The rule amendments in this rulemaking do not affect minor NSR requirements (40 CFR 51.160 through 51.164) that are specified in North Carolina's minor source permitting requirements in Section 15A NCAC 02Q .0300, Construction and Operation Permits. The rules in Section 15A NCAC 02Q .0300 are already part of North Carolina's approved State Implementation Plan. All

exempt or registered facilities will continue to be required to be in compliance with all state and federal requirements.

North Carolina will have a compliance assurance program for the exempted and registered facilities which will include compliance assurance visits to the facilities as described in Section 3.4 of this demonstration. If compliance becomes an issue with an unpermitted facility, the DAQ would have several options available to improve compliance, including enforcement action and requiring a facility to obtain a permit pursuant to Paragraph (g) of 15A NCAC 02Q .0102.

For these reasons, no change in emissions are expected to occur as a result of these rule changes. The DAQ has determined that the air quality will not be negatively impacted, and the state will continue to attain and maintain the NAAQS.

5.0 CONCLUSION

The DAQ concludes that amendments to the permitting rules for small sources do not interfere with the continued attainment or maintenance of any applicable NAAQS. All monitored areas in North Carolina are in attainment for current NAAQS. The rule changes affect the administrative procedures for the permitting of facilities that have small total emissions. The rule changes do not relax any state or federal emission standards. Therefore, with this submission, the DAQ believes the requirements of Section 110(l) of the Clean Air Act relative to the streamlining of the permit exemption rules have been met.