

1 15A NCAC 02D .1903 is amended as follows:

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3 **15A NCAC 02D .1903 OPEN BURNING WITHOUT AN AIR QUALITY PERMIT**

4 (a) All open burning is prohibited except open burning allowed under Paragraph (b) of this Rule or Rule .1904 of this
5 Section. Except as allowed under Paragraphs (b)(3) through (b)(9) of this Rule, open burning shall not be initiated in an
6 air quality forecast area that the Department, or the Forsyth County Environmental Affairs Department for the Triad air
7 quality forecast area, has forecasted to be in an Air Quality Action Day Code "Orange" or above during the time period
8 covered by that forecast.

9 (b) The following types of open burning are permissible without an air quality permit:

10 (1) open burning of leaves, tree branches or yard trimmings, excluding logs and stumps, if the following
11 conditions are met:

12 (A) The material burned originates on the premises of private residences and is burned on those
13 premises;

14 (B) There are no public pickup services available;

15 (C) Non-vegetative materials, such as household garbage, lumber, or any other synthetic
16 materials are not burned;

17 (D) The burning is initiated no earlier than 8:00 a.m. and no additional combustible material is
18 added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;

19 (E) The burning does not create a nuisance; and

20 (F) Material is not burned when the ~~Division of Forest Resources~~ North Carolina Forest Service
21 has banned burning for that area.

22 (2) open burning for land clearing or right-of-way maintenance if the following conditions are met:

23 (A) The wind direction at the time that the burning is initiated and the wind direction as
24 forecasted by the National Weather Service at the time that the burning is initiated are away
25 from any area, including public roads within 250 feet of the burning as measured from the
26 edge of the pavement or other roadway surface, which may be affected by smoke, ash, or
27 other air pollutants from the burning;

28 (B) The location of the burning is at least ~~4,000~~ 500 feet from any dwelling, group of dwellings,
29 or commercial or institutional establishment, or other occupied structure not located on the
30 property on which the burning is conducted. The regional office supervisor may grant
31 exceptions to the setback requirements if:

32 (i) a signed, written statement waiving objections to the open burning associated with
33 the land clearing operation is obtained and submitted to, and the exception granted
34 by, the regional office supervisor before the burning begins from a resident or an
35 owner of each dwelling, commercial or institutional establishment, or other
36 occupied structure within ~~4,000~~ 500 feet of the open burning site. In the case of a

1 lease or rental agreement, the lessee or renter shall be the person from whom
2 permission shall be gained prior to any burning; or

- 3 (ii) an air curtain burner that complies with Rule .1904 of this Section, is utilized at the
4 open burning site.

5 Factors that the regional supervisor shall consider in deciding to grant the exception include
6 all the persons who need to sign the statement waiving the objection have signed it, the
7 location of the burn, and the type, amount, and nature of the combustible substances. The
8 regional supervisor shall not grant a waiver if a college, school, licensed day care, hospital,
9 licensed rest home, or other similar institution is less than ~~4000~~500 feet from the proposed
10 burn site when such institution is occupied.

- 11 (C) Only land cleared plant growth is burned. Heavy oils, asphaltic materials such as shingles
12 and other roofing materials, items containing natural or synthetic rubber, or any materials
13 other than plant growth shall not be burned; however, kerosene, distillate oil, or diesel fuel
14 may be used to start the fire;

- 15 (D) Initial burning begins only between the hours of 8:00 a.m. and 6:00 p.m., and no combustible
16 material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following
17 day;

- 18 (E) No fires are initiated or vegetation added to existing fires when the ~~Division of Forest~~
19 ~~Resources~~North Carolina Forest Service has banned burning for that area; and

- 20 (F) Materials are not carried off-site or transported over public roads for open burning unless the
21 materials are carried off-site or transported over public roads to facilities permitted according
22 to Rule .1904 of this Section for the operation of an air curtain burner at a permanent site;

- 23 (3) camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial
24 occasions, or for human warmth and comfort and which do not create a nuisance and do not use
25 synthetic materials or refuse or salvageable materials for fuel;

- 26 (4) fires purposely set to public or private forest land for forest management practices for which burning is
27 acceptable to the ~~Division of Forest Resources~~North Carolina Forest Service and which follows the
28 smoke management plan as outlined in the ~~Division of Forest Resources~~North Carolina Forest
29 Service's smoke management program;

- 30 (5) fires purposely set to agricultural lands for disease and pest control and fires set for other agricultural
31 or apicultural practices for which burning is currently acceptable to the Department of Agriculture;

- 32 (6) fires purposely set for wildlife management practices for which burning is currently acceptable to the
33 Wildlife Resource Commission;

- 34 (7) fires for the disposal of dangerous materials when it is the safest and most practical method of
35 disposal;

- 1 (8) fires purposely set by manufacturers of fire extinguishing materials or equipment, testing laboratories,
2 or other persons, for the purpose of testing or developing these materials or equipment in accordance
3 with a standard qualification program;
- 4 (9) fires purposely set for the instruction and training of fire-fighting personnel at permanent fire-fighting
5 training facilities;
- 6 (10) fires purposely set for the instruction and training of fire-fighting personnel when conducted under the
7 supervision of or with the cooperation of one or more of the following agencies:
- 8 (A) ~~the Division of Forest Resources;~~ North Carolina Forest Service;
9 (B) the North Carolina Insurance Department;
10 (C) North Carolina technical institutes; or
11 (D) North Carolina community colleges, including:
12 (i) the North Carolina Fire College; or
13 (ii) the North Carolina Rescue College;
- 14 (11) fires not described in Subparagraphs (9) or (10) of this Paragraph, purposely set for the instruction and
15 training of fire-fighting personnel, provided that:
- 16 (A) The regional office supervisor of the appropriate regional office and the HHCB have been
17 notified according to the procedures and deadlines contained in the appropriate regional
18 notification form. This form may be obtained by writing the appropriate regional office at the
19 address in Rule .1905 of this Section and requesting it, and
- 20 (B) The regional office supervisor has granted permission for the burning. Factors that the
21 regional office supervisor shall consider in granting permission for the burning include type,
22 amount, and nature of combustible substances. The regional office supervisor shall not grant
23 permission for the burning of salvageable items, such as insulated wire and electric motors or
24 if the primary purpose of the fire is to dispose of synthetic materials or refuse. The regional
25 office supervisor of the appropriate regional office shall not consider previously demolished
26 structures as having training value. However, the regional office supervisor of the appropriate
27 regional office may allow an exercise involving the burning of motor vehicles burned over a
28 period of time by a training unit or by several related training units. Any deviations from the
29 dates and times of exercises, including additions, postponements, and deletions, submitted in
30 the schedule in the approved plan shall be communicated verbally to the regional office
31 supervisor of the appropriate regional office at least one hour before the burn is scheduled;
32 and
- 33 (12) fires for the disposal of material generated as a result of a natural disaster, such as tornado, hurricane,
34 or flood, if the regional office supervisor grants permission for the burning. The person desiring to do
35 the burning shall document and provide written notification to the regional office supervisor of the
36 appropriate regional office that there is no other practical method of disposal of the waste. Factors that
37 the regional office supervisor shall consider in granting permission for the burning include type,

1 amount, location of the burning, and nature of combustible substances. The regional office supervisor
 2 shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic
 3 materials or refuse or recovery of salvageable materials. Fires authorized under this Subparagraph
 4 shall comply with the conditions of Subparagraph (b)(2) of this Rule.

5 (c) The authority to conduct open burning under this Section does not exempt or excuse any person from the
 6 consequences, damages or injuries that may result from this conduct. It does not excuse or exempt any person from
 7 complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even
 8 though the open burning is conducted in compliance with this Section.

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 10 *History Note:* Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); S.L. 2011-394 Section;
 11 *Eff. July 1, 1996*;
 12 *Amended Eff.* _____; *July 1, 2007; December 1, 2005; June 1, 2004; July 1, 1998.*

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 14 15A NCAC 02D .1904 is amended as follows:

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 16 **15A NCAC 02D .1904 AIR CURTAIN BURNERS**

17 (a) Air quality permits are required for air curtain burners subject to 40 CFR 60.2245 through 60.2265, 60.2810 through
 18 60.2870, 60.2970 through 60.2975, or 60.3062 through 60.3069 or located at permanent sites or where materials are
 19 transported in from another site. Air quality permits are not required for air curtain burners located at temporary land
 20 clearing or right-of-way maintenance sites for less than nine months unless they are subject to 40 CFR 60.2245 through
 21 60.2265, 60.2810 through 60.2870, 60.2970 through 60.2975, or 60.3062 through 60.3069. The operation of air curtain
 22 burners in particulate and ozone nonattainment areas shall cease in any area that has been forecasted by the Department,
 23 or the Forsyth County Environmental Affairs Department for the Triad air quality forecast area, to be in an Air Quality
 24 Action Day Code "Orange" or above during the time period covered by that forecast.

25 (b) Air curtain burners shall comply with the following conditions and stipulations:

- 26 (1) The wind direction at the time that the burning is initiated and the wind direction as forecasted by the
 27 National Weather Service during the time of the burning shall be away from any area, including public
 28 roads within 250 feet of the burning as measured from the edge of the pavement or other roadway
 29 surface, which may be affected by smoke, ash, or other air pollutants from the burning;
- 30 (2) Only collected land clearing and yard waste materials may be burned. Heavy oils, asphaltic materials,
 31 items containing natural or synthetic rubber, tires, grass clippings, collected leaves, paper products,
 32 plastics, general trash, garbage, or any materials containing painted or treated wood materials shall not
 33 be burned. Leaves still on trees or brush may be burned;
- 34 (3) No fires shall be started or material added to existing fires when the ~~Division of Forest~~
 35 ~~Resources~~ North Carolina Forest Service has banned burning for that area;
- 36 (4) Burning shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m.;

- 1 (5) The air curtain burner shall not be operated more than the maximum source operating hours-per-day
2 and days-per-week. The maximum source operating hours-per-day and days-per-week shall be set to
3 protect the ambient air quality standard and prevention of significant deterioration (PSD) increment for
4 particulate. The maximum source operating hours-per-day and days-per-week shall be determined
5 using the modeling procedures in Rule .1106(b), (c), and (f) of this Subchapter. This Subparagraph
6 shall not apply to temporary air curtain burners;
- 7 (6) An air curtain burner with an air quality permit shall have onsite at all times during operation of the
8 burner a visible emissions reader certified according to 40 CFR Part 60, Method 9 to read visible
9 emissions, and the facility shall test for visible emissions within five days after initial operation and
10 within 90 days before permit expiration;
- 11 (7) Air curtain burners shall meet manufacturer's specifications for operation and upkeep to ensure
12 complete burning of material charged into the pit. Manufacturer's specifications shall be kept on site
13 and be available for inspection by Division staff;
- 14 (8) Except during start-up, visible emissions shall not exceed ten percent opacity when averaged over a
15 six-minute period except that one six-minute period with an average opacity of more than ten percent
16 but no more than 35 percent shall be allowed for any one-hour period. During start-up, the visible
17 emissions shall not exceed 35 percent opacity when averaged over a six-minute period. Start-up shall
18 not last for more than 45 minutes, and there shall be no more than one start-up per day. Instead of
19 complying with the opacity standards in this Subparagraph, air curtain burners subject to:
- 20 (A) 40 CFR 60.2245 through 60.2265 shall comply with the opacity standards in 40 CFR
21 60.2250;
- 22 (B) 40 CFR 60.2810 through 60.2870 shall comply with the opacity standards in 40 CFR
23 60.2860;
- 24 (C) 40 CFR 60.2970 through 60.2975 shall comply with the opacity standards in 40 CFR
25 60.2971; or
- 26 (D) 40 CFR 60.3062 through 60.3069 shall comply with the opacity standards in 40 CFR
27 60.3066;
- 28 (9) The owner or operator of an air curtain burner shall not allow ash to build up in the pit to a depth
29 higher than one-third of the depth of the pit or to the point where the ash begins to impede combustion,
30 whichever occurs first. The owner or operator of an air curtain burner shall allow the ashes to cool
31 and water the ash prior to its removal to prevent the ash from becoming airborne;
- 32 (10) The owner or operator of an air curtain burner shall not load material into the air curtain burner such
33 that it will protrude above the air curtain;
- 34 (11) Only distillate oil, kerosene, diesel fuel, natural gas, or liquefied petroleum gas may be used to start
35 the fire; and
- 36 (12) The location of the burning shall be at least ~~500~~300 feet from any dwelling, group of dwellings, or
37 commercial or institutional establishment, or other occupied structure not located on the property on

1 which the burning is conducted. The regional office supervisor may grant exceptions to the setback
 2 requirements if a signed, written statement waiving objections to the air curtain burning is obtained
 3 from a resident or an owner of each dwelling, commercial or institutional establishment, or other
 4 occupied structure within ~~500~~300 feet of the burning site. In case of a lease or rental agreement, the
 5 lessee or renter, and the property owner shall sign the statement waiving objections to the burning.
 6 The statement shall be submitted to and approved by the regional office supervisor before initiation of
 7 the burn. Factors that the regional supervisor shall consider in deciding to grant the exception include:
 8 all the persons who need to sign the statement waiving the objection have signed it; the location of the
 9 burn; and the type, amount, and nature of the combustible substances.

10 Compliance with this Rule does not relieve any owner or operator of an air curtain burner from the necessity of
 11 complying with other rules in this Section or any other air quality rules.

12 (c) Recordkeeping Requirements. The owner or operator of an air curtain burner at a permanent site shall keep a daily
 13 log of specific materials burned and amounts of material burned in pounds per hour and tons per year. The logs at a
 14 permanent air curtain burner site shall be maintained on site for a minimum of two years and shall be available at all
 15 times for inspection by the Division of Air Quality. The owner or operator of an air curtain burner at a temporary site
 16 shall keep a log of total number of tons burned per temporary site. Additionally, the owner or operator of air curtain
 17 burner subject to:

- 18 (1) 40 CFR 60.2245 through 60.2265 shall comply with the monitoring, recordkeeping, and reporting
 19 requirements in 40 CFR 60.2245 through 60.2265;
- 20 (2) 40 CFR 60.2810 through 60.2870 shall comply with the monitoring, recordkeeping, and reporting
 21 requirements in 40 CFR 60.2810 through 60.2870;
- 22 (3) 40 CFR 60.2970 through 60.2975 shall comply with the monitoring, recordkeeping, and reporting
 23 requirements in 40 CFR 60.2970 through 60.2975; or
- 24 (4) 40 CFR 60.3062 through 60.3069 shall comply with comply with the monitoring, recordkeeping, and
 25 reporting requirements in 40 CFR 60.3062 through 60.3069.

26 (d) Title V Considerations. Burners that have the potential to burn 8,100 tons of material or more per year may be
 27 subject to Section 15A NCAC 2Q .0500, Title V Procedures.

28 (e) Prevention of Significant Deterioration Consideration. Burners that burn 16,200 tons per year or more may be subject
 29 to 15A NCAC 02D .0530, Prevention of Significant Deterioration.

30 (f) A person may use a burner using a different technology or method of operation than an air curtain burner as defined
 31 under Rule .1902 of this Section if he demonstrates to the Director that the burner is at least as effective as an air curtain
 32 burner in reducing emissions and if the Director approves the use of the burner. The Director shall approve the burner if
 33 he finds that it is at least as effective as an air curtain burner. This burner shall comply with all the requirements of this
 34 Rule.

35 (g) In addition to complying with the requirements of this Rule, an air curtain burner subject to:

- 1 (1) 40 CFR Part 60, Subpart CCCC that commenced construction after November 30, 1999, or that
2 commenced reconstruction or modification on or after June 1, 2001, shall also comply with 40 CFR
3 60.2245 through 60.2265, or
4 (2) 40 CFR Part 60, Subpart EEEE that commenced construction after December 9, 2004, or that
5 commenced reconstruction or modification on or after June 16, 2006, shall also comply with 40 CFR
6 60.2970 through 60.2975.

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8 *History Note:* *Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10); 143-215.66; 143-215.108; 40 CFR 60.2865;*
9 *S.L. 2011-394 Section 2;*
10 *Eff. July 1, 1996;*
11 *Amended Eff. _____; July 1, 2007; December 1, 2005; August 1, 2004.*
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