

CUTTING POLLUTION WHEN IT COUNTS!

The Need for Temporary Emission Controls For Ozone
May 20, 2004

- *Charlotte/Mecklenburg can cut a critical number of unhealthy ozone days - now!*
- *Charlotte/Mecklenburg can eliminate the public stigma of being one of the most ozone-polluted cities in the U.S. as early as next year!*
- *Charlotte/Mecklenburg can avoid the burden of overly restrictive year-round regulations, the risk of losing transportation funds and unnecessary use of limited local resources!*



Some non-attainment areas are faced with year-round regulations on large and small industry and businesses, tax increases to pay for regulatory programs and required spending on voluntary campaigns that have proven to have little to no effect. By inconveniencing ourselves for only 20-30 days during the summer our air can be much better. Mecklenburg County has an opportunity to directly and quickly reduce ozone levels, the number of code orange and red days and comply with the national ozone standard sooner is to coordinate our emission reduction activities with the ozone action days – cutting pollution when it counts!

Required actions are needed now to achieve ozone attainment. These actions are many and small. To be effective, very high participation levels are needed. High participation demands equity. Individuals, business, industry and government all need to believe and see that all sectors are participating and pulling their weight. This is especially true in competitive business situations. No state or local public dollars are readily available to entice or reward participation and voluntary involvement is ineffective.

We need to help our citizens and business community by having a plan that requires all of us to act on ozone action days



How do we create a plan? We start by reaching individuals through their place of work - requiring businesses to reduce the emissions generated by employees commuting to and from work. This means coordinating carpool lists, providing incentives to ride the bus, altering work schedules, and getting the word out that it is an Ozone Action Day. Simply put it means inconveniencing us a little on the days when it's critical to do so. When employees react to an Ozone Day with the same coordinated, diligent, efforts that they do on a "snow day" we can cut pollution when it counts!

Our air quality has improved and is expected to continue to improve. Still we are 15% below the health-based standards and 1/3 of our citizens suffer.

Mecklenburg's air quality dilemma with ozone in particular is serious but for most people it is not seen as a crisis - a crisis that would move them to make individual sacrifices or be inconvenienced for the public good. Moreover, it is almost impossible for us to understand how our one small act might make a difference and if it did we couldn't see it. These are some of the reasons appeals for voluntary actions have failed and the need for plans we can live with and act on.

**To lower ozone levels today, all contributors to the problem need to do their fair share to
*Cut Pollution When It Counts!***

EPISODIC CONTROL PROGRAM DESCRIPTION OUTLINE

May 12, 2004

What	Temporary measures to reduce NOx and VOC emissions during specific, critical days and times predicted as unhealthy ozone concentration episodes (1-3 days)
Why	To protect the public health, to achieve ozone attainment, to maintain economic prosperity
Where	Mecklenburg County, NC including all incorporated municipalities
When	<ul style="list-style-type: none"> • Ozone season: May 1 to September 30. • Days predicted by NCDAQ to achieve ozone levels of code orange, red or higher • Seven hours or less: e.g. 5:00 AM – 12 noon
Who(s) - Applicability	<ul style="list-style-type: none"> • Business, industry and government • Business, industry and government employing 20 or more (80% of workforce) must submit plans. Both Supply (providers) and Demand (service receivers)
How – Example Requirements	<p><u>Requirements would focus on strategies whose emissions could be calculated and compliance enforced. No intent to completely prohibit or close any business</u></p> <p>Businesses, industry or governments employing 20 or more shall appoint ozone “episode” coordinators and implement programs that will achieve <u>x % quantifiable emission reductions</u> in tons per day using a menu of approaches suited to their abilities. Local government to provide model programs and menu.</p> <p>Example Control Options:</p> <ul style="list-style-type: none"> • Energy conservation measures (energy star, load controls) • Flex time • Commuter choices • Delay using gasoline powered lawn maintenance equipment between 5:00 AM – 10:00 AM (time shift) (commercial only? what size? everybody?) • Delay fueling fleet vehicles between 5:00 AM – 10:00 AM (time shift) • Disallowing certain high emission processes between 5:00 AM – 10:00 AM (e.g. asphalt road paving, asphalt roofing, construction with HD vehicles etc.) • Anti-idling for heavy duty vehicles • Delay opening drive-thrus between 5:00 AM – 10:00 AM • Waivers and exemptions – to be developed (hardship, public health & safety) <p>Allowances and rewards for using advanced clean technology</p>
How – Initial Notice	Paid media advertising campaign and ongoing in-season publicity
How – Daily Notice	NCDAQ predicted code days: Television, newspaper, direct email from NCDAQ
How - Enforcement	<p>Authority: NCGS 143-215.112 “Local Air Pollution Control Programs” (a)(1) and (c)(4), via MCAPCO</p> <p>Existing MCAQ staff</p> <p>Spot inspections, self reporting, citizen reports (hot line)</p> <p>Standard warning notice, will penalize notice, assess civil penalty</p>
Cost	<p>To County to Regulate</p> <p>Existing staff – \$0, No additional staff or cost</p> <p>Program introduction: funds needed for thorough advertisement for regulation “roll out” - \$25,000 – \$50,000</p> <p>To Business</p> <p>Inconvenience factor - 30 days in 5 months (one fifth summer or one twelfth year)</p> <p>Cost dependent on nature and size of business and choices made</p> <p>No intent to completely close any business</p>

1.XXXX EPISODIC OZONE CONTROLS FOR EMPLOYERS (7/22/2004)

(a) Purpose. The purpose of this regulation is to reduce ambient ozone levels on days when unhealthful ozone levels are predicted by requiring that certain firms, businesses, educational institutions, non-profit agencies, government agencies and corporations take temporary actions to alter activities that generate ozone precursor emissions (nitrogen oxides – NOx and volatile organic compounds - VOC) to eliminate, reduce and or delay those emissions.

It is not the intent of this regulation to prohibit, inhibit or impede the direct delivery of health, safety or emergency services by any firm, business, educational institution, non-profit agency, government agency, corporation or other entity within Mecklenburg County or to completely close any business.

(b) Applicability. This Regulation applies to:

- (1) a firm, business, educational institution, non-profit agency, government agency, corporation or other entity within Mecklenburg County, and that has twenty or more persons at a Mecklenburg County location or combination of Mecklenburg County locations

(c) Variances

- (1) Variances: Any employer subject to all or part of the provisions of this Regulation may apply to the Director for a variance in accordance with MCAPCO Regulation 1.5305 – “Variances.” These requirements shall apply until a variance is granted.

(d) Definitions. For the purpose of this Regulation, the following definitions apply:

- (1) “**Business-Related Emissions**” means the amount of nitrogen oxides and volatile organic compounds resulting from business operations occurring from **5:00 AM to noon**. Examples of activities that generate business-related emissions include operation of a boiler, energy usage, industrial processes, use of heavy-duty construction equipment, use of lawn maintenance equipment and use of personal or employer vehicles for business reasons within Mecklenburg County
- (2) “**Commute-Related Emissions**” means the amount of nitrogen oxides (NOx) and volatile organic compounds (VOC) resulting from total employee use of personal or employer vehicles when traveling from home to and from the employer’s Mecklenburg County business location. Commute-related emissions shall be determined by multiplying the number of persons, the most recent average Mecklenburg County commute miles and the most recent commute pollution emission factor.
- (3) “**Emissions Reduction Target**” means the amount of nitrogen oxides (NOx) and volatile organic compounds (VOC) subject to be reduced on an ozone episode day. The emissions reduction target is a specified percentage of the commute-related emissions.
- (4) “**Ozone Episode Coordinator**” means the person designated by the employer as the point of contact for all Ozone Episode matters.
- (5) “**Ozone Episode Day**” means any day forecast for Mecklenburg County by the North Carolina Division of Air Quality, to have an Air Quality Index (AQI) identified as orange, red, purple or maroon.
- (6) “**Ozone Episode Plan**” means a written plan approved by Mecklenburg County Air Quality (MCAQ) that demonstrates how required emissions reductions will be met. At a minimum, it must contain the following:
 - (A) target emissions in tons/day NOx and VOC,
 - (B) a detailed list of programs to be implemented and the calculations for associated reductions in NOx and VOC emissions expected,

- (C) a description of how the recordkeeping and reporting requirement will be met,
- (D) the name and contact information for the Ozone Episode Coordinator and the highest ranking local company official,
- (E) method of receiving North Carolina Division of Air Quality's ozone forecast for the region including Mecklenburg County.

(7) **“Ozone Episodic Controls Guidance Manual”** means the information made available by MCAQ to assist the Employer with meeting the Requirements of this Regulation. The Manual will include information and tools to calculate commute-related emissions and to identify and quantify emission reduction techniques. All recommended forms and model plans will be included in the Manual.

(8) **“Person”** means an owner, partner, contractor or full-time employee (defined as 2000 work hours per year).

(e) Requirements. All employers subject to this Regulation shall:

(1) Achieve emission reduction targets of xx% NO_x and xx% VOC.

Reductions can be achieved by reducing commute-related emissions, business-related emissions or a combination of the two from those that would have occurred otherwise.

(2) Submit and implement annually an Ozone Episode Plan to be approved by MCAQ. The Plan shall demonstrate how programs selected by the employer will meet the emission reduction target on Ozone Episode Days. A plan shall be considered approved for implementation unless notice is received from MCAQ.

(3) Appoint an Ozone Episode Coordinator to oversee implementation of the Ozone Episode Plan. The Coordinator shall be identified in the Plan and MCAQ shall be notified as soon as practicable should the Coordinator change.

(4) Maintain records and submit reports according to the Plan.

(5) Identify how notification of NCDAQ daily forecasts will be received and communicated to employees.

(f) Recordkeeping and Reporting.

(1) Ozone Episode plans shall be submitted annually on or before March 1st each year.

(2) Employers shall submit a progress report by November 1st each year. At a minimum the report shall include a discussion of the Ozone Episode Plan and the program's effectiveness.

(3) Monthly records shall be maintained and available for inspection by the 15th of each Ozone Episode Day month that adequately documents implementation of the Plan.

(g) Effective Dates.

Ozone Episode Days shall begin May 1st and end September 30th.

(h) Substitution Provision.

This regulation shall be rescinded, at such time that a replacement measure is implemented that produces an equivalent level of emission reductions and such emission reductions are real, quantifiable, enforceable, and surplus relative to the most recently adopted state implementation plan.

END OF DRAFT REGULATION

ISSUES FOR FURTHER CONSIDERATION

Applicability.

A firm, business, educational institution, non-profit agency, government agency, corporation or other entity within Mecklenburg County. (No person threshold – applicable to all)

Exemptions.

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Requirements.

Achieve emission reduction targets as approved annually by the Mecklenburg County Air Quality Commission and published in the “**Ozone Episodic Controls Guidance Manual**”

AUTHORITY AND ENFORCEMENT

Authority

North Carolina General Statute §143-215.112. Local air pollution control programs.

(a) The Commission is authorized and directed to review and have general oversight and supervision over all local air pollution control programs and to this end shall review and certify such programs as being adequate to meet the requirements of this Article and Article 21 of this Chapter and any applicable standards and rules adopted pursuant thereto. The Commission shall certify any local program which:

(1) Provides by ordinance or local law for requirements compatible with those imposed by the provisions of this Article and Article 21 of this Chapter, and the standards and rules issued pursuant thereto; provided, however, the Commission upon request of a municipality or other local unit may grant special permission for the governing body of such unit to adopt a particular class of air contaminant regulations which would result in more effective air pollution control than applicable standards or rules promulgated by the Commission;

(c) (4) Each governing body is authorized to adopt any ordinances, resolutions, rules or regulations which are necessary to establish and maintain an air pollution control program and to prescribe and enforce air quality and emission control standards, a copy of which must be filed with the Commission and with the clerk of court of any county affected. Provisions may be made therein for the registration of air contaminant sources; for the requirement of a permit to do or carry out specified activities relating to the control of air pollution, including procedures for application, issuance, denial and revocation; for notification of violators or potential violators about requirements or conditions for compliance; for procedures to grant temporary permits or variances from requirements or standards; for the declaration of an emergency when it is found that a generalized condition of air pollution is causing imminent danger to the health or safety of the public and the issuance of an order to the responsible person or persons to reduce or discontinue immediately the emission of air contaminants; for notice and hearing procedures for persons aggrieved by any action or order of any authorized agent; for the establishment of an advisory council and for other administrative arrangements; and for other matters necessary to establish and maintain an air pollution control program.

Enforcement

**Mecklenburg County Air Pollution Control Ordinance (MCAPCO), Section 1.5300 –
“Enforcement; Variances; Judicial Review”**

The Mecklenburg County Air Pollution Control Ordinance are a set of local air pollution rules adopted by the Mecklenburg County Board of Commissioners pursuant to authority granted by state statute. Requirements of the proposed episodic regulation will be enforced using the existing powers and procedures prescribed by MCAPCO. Section 1.5300 provides for, Special Enforcement Procedures, Criminal Penalties, Civil Injunctions, Civil Penalties, Variances, Hearings and Judicial Review.