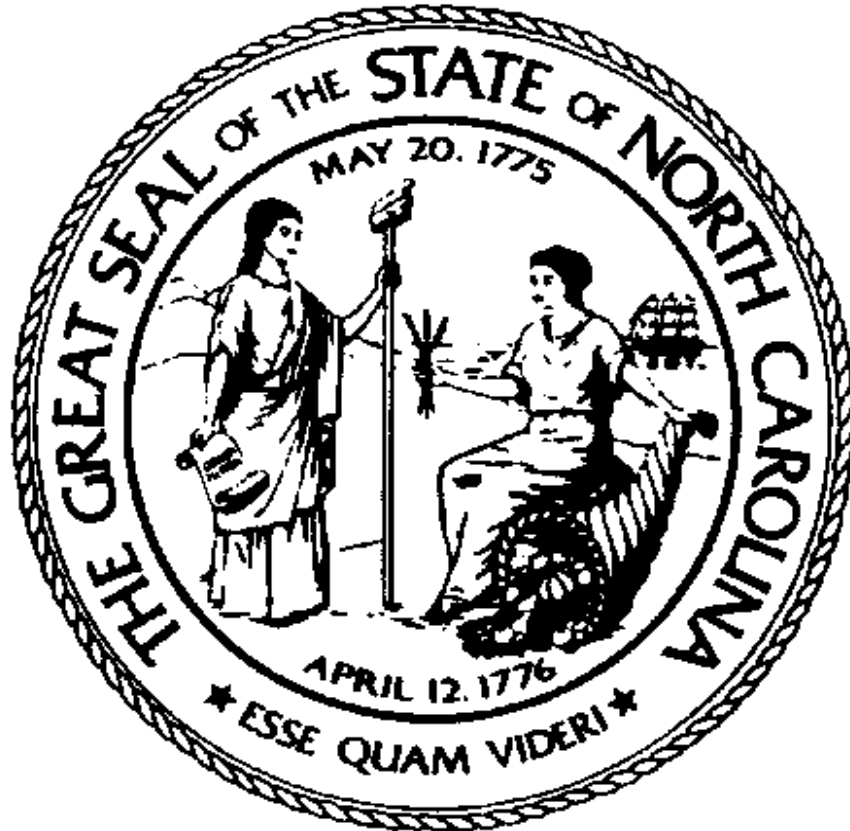


Tax Certification Guidelines



for

**Pollution Abatement Property and
Recycling and Resource Recovery of
or from Solid Waste Property**

Last Revised
May 1, 2008

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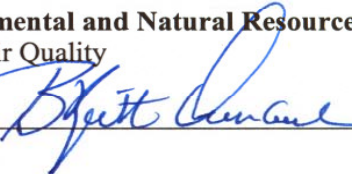
Preface:

These guidelines are from a joint effort between the North Carolina Department of Environmental and Natural Resources (DENR) and the North Carolina Department of Revenue. The guidelines were created as a source of reference to assist the technical staff of DENR in certifying the real and personal property consistently and uniformly as well as assisting the county appraisers to properly exempt the certified property. Per G.S. 105-275 (8), only DENR has the authority to certify real and personal property being used for the abatement of pollution or recycling and resource recovery of solid waste and only the local county tax office has the authority to exempt this property.

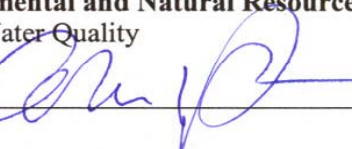
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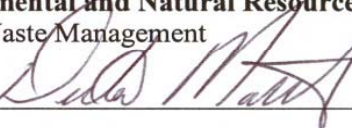
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Chapter 1

What the Law Says

Determining what to certify and what not to certify can be a challenging task. Fortunately, we have the law to give us guidance. The North Carolina General Statute 105-275(8) dictates what real or personal property can receive tax exemption in regards to pollution abatement and recycling or resource recovery of or from solid waste. The statute reads:

105-275 (8)

a. Real and personal property that is used or, if under construction, is to be used EXCLUSIVELY for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Department of Environment and Natural Resources or a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Environmental Management Commission or local air pollution control program has found that the described property:

- 1. Has been or will be constructed or installed;**
- 2. Complies with or that plans therefore which have been submitted to the Environmental Management Commission or local air pollution control program indicate that it will comply with the requirements of the Environmental Management Commission or local air pollution control program;**
- 3. Is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program; and**
- 4. Has or, when completed, will have as its PRIMARY rather than incidental purpose the reduction of water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.**

a1. Sub-subdivision a. of this subdivision shall not apply to an animal waste management system, as defined in G.S. 143-215.10B, unless the Environmental Management Commission determines that the animal waste management system will accomplish all of the following:

- 1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.**
- 2. Substantially eliminate atmospheric emissions of ammonia.**
- 3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.**
- 4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.**

5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.
- b. 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 Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources 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 Environment and Natural Resources, and has, or will have as its **PRIMARY** purpose recycling or resource recovering of or from solid waste.
- c. Tangible personal property that is used **EXCLUSIVELY**, or if being installed, is to be used **EXCLUSIVELY**, for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees of the plant, in accordance with occupational safety and health standards adopted by the State of North Carolina pursuant to Article 16 of G.S. Chapter 95. Notwithstanding the exclusive use requirement of this sub-subdivision, all parts of a ventilation or air conditioning system that are integrated into a system used for the prevention or reduction of cotton dust, except for chillers and cooling towers, are excluded from taxation under this sub-subdivision. The Department of Revenue shall adopt guidelines to assist the tax supervisors in administering this exclusion.
- d. Real or personal property that is used or, if under construction, is to be used by a major recycling facility as defined in G.S. 105-129.25 predominantly for recycling or resource recovering of or from solid waste, if the Department of Environment and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment and Natural Resources has found that the described property has been or will be constructed or installed for use by a major recycling facility, complies or will comply with the rules of the Department of Environment and Natural Resources, and has, or will have as a purpose recycling or resource recovering of or from solid waste.

This statute describes five separate categories for which an exemption is valid. These five categories are: a) air and water pollution, a1) animal waste, b) solid waste, c) cotton dust and d) major recycling facilities. The section on air and water deals directly with the Divisions of Air and Water Quality while the section on solid waste deals directly with the Division of Waste Management. Since the statute recognizes the differences between the three Divisions in DENR, this manual will do so as well.

While the statute does segregate the Divisions of Air and Water Quality from the Division of Waste Management, it is worth noting the similarities also. All use the terminology “Real and personal property that is used or, if under construction, is to be used EXCLUSIVELY ...”. The word EXCLUSIVELY is to be applied to real or personal property being used 100% for pollution abatement or recycling or resource recovery from solid waste. Anything used less than 100% should not be considered as being used exclusively for this purpose.

The language adopted for all divisions says that the property must have as its PRIMARY purpose to either reduce the pollutants from the air or water or to recycle or resource recovering of solid waste. The word PRIMARY should be viewed as real and personal property that, when in operation, would have as its only purpose to reduce pollution and or solid waste.

Chapter 2

Principles of Taxation

What is Taxable?

When you certify real and personal property for tax certification, you are qualifying property for exemption that would have been taxable. These exemptions can significantly affect the counties budgets. For this reason it is important that you have an understanding of what is taxable and how your certification affects the county's process. General Statute 105-274 (a) explains that all property, real and personal, within this state's jurisdiction is taxable unless it has been either excluded or exempted from taxation.

Real vs. Personal

Throughout this manual, real and personal property has been referenced. So what is the difference between real and personal property? Real property is property that is more or less permanently affixed. Examples of real property would be land or buildings. Typically, personal property is moveable, or could be moved without serious injury to the building. Ultimately, what is specifically assessed as real property is determined in each county by a document called the "schedule of values". Personal property is everything not assessed as real property. This could include anything like equipment, motor vehicles, tractors, etc. Remember, the county taxes all real and personal property unless exempted or excluded by statute.

Cost

While it is not the job of the technical staff to certify how much a piece of property cost, it is important to understand which cost makes up that piece of property that is being requested for certification. Real property is fairly straightforward. If a company purchases 100 acres, then the county will assess them on 100 acres at the market value per acre. If a company builds a 2,000 square foot building, the county assesses them for that 2,000 square foot building at the appropriate cost per square foot.

Personal Property is not as straightforward. For example, a piece of equipment may cost \$480,000, plus \$15,000 to install and \$6,000 in freight. This piece of equipment could also have other costs needed to get the equipment in operation such as grading cost of \$35,000 and engineering cost of \$12,000. This business should report to the county this piece of equipment at \$548,000. These component parts and their costs will also appear on the company's accounting records. The county makes sure these component parts and their costs are reported (listed) for property tax purposes if they are costs of taxable property. The cost of the equipment to be reported to the tax office is the total of all costs required to get this particular piece of equipment into operation and not just the invoice

cost of the equipment. This is why it is important to certify all component parts required for a piece of equipment to become operational, if the applicant requests it. Sometimes these component parts may be lumped together into the asset description of this equipment (see Fig. 1). Sometimes these component parts may be separated out (see Fig 2).

Fig. 1

<u>Equipment</u>	<u>Cost</u>	<u>Year Acquired</u>
Pollution Equipment A	\$548,000	1999

Fig. 2

<u>Equipment</u>	<u>Cost</u>	<u>Year Acquired</u>
Pollution Equipment A	\$480,000	1999
Grading for Equipment A	\$35,000	1999
Engineering Cost	\$12,000	1999
Installation	\$15,000	1999
Freight	\$6,000	1999

This may not ever be an issue, as the applicant will typically report the equipment as one lump sum that includes all of the component parts. But if you ever see equipment listed as in Fig. 2, know that all of these component parts should be certified if the actual piece of equipment is to be certified. **As mentioned before, you as technical staff are in no way responsible for certifying the actual cost of the equipment. You are just certifying that the equipment is being used or will be once constructed or installed for pollution abatement or recycling or resource recovery of or from solid waste.**

Chapter 3

Divisions of Air and Water Quality

[Information in this chapter is intended only for the Divisions of Air and Water Quality]

What is Certifiable?

General Statute 105-275 (8) a. speaks directly to the Division of Air Quality and the Division of Water Quality. An applicant's real and personal property could be certified and qualify for tax exemption if it is used EXCLUSIVELY for pollution abatement and can meet the following four requirements:

The Four Requirements

1. The equipment has been or will be constructed or installed.
2. The equipment complies with the requirements of the Environmental Management Commission or local air pollution control program.
3. The equipment operates in accordance with the terms and conditions of the permits and other documents of approval issued by the Environmental Management Commission or local air pollution control program.
4. The equipment will have as its primary purpose, rather than incidental purpose, the reduction of air and water pollutants.

The first requirement is fairly simple; if an applicant is filling out a tax exemption application and has been issued permits by the appropriate division, then more than likely the equipment has already been constructed or will soon be constructed or installed. You should still verify that the equipment is there, and if it is not, find out when it will be constructed or installed.

January 1st is the lien date used for all property in North Carolina. Even though the odds are that you will not visit the facilities of the applicant on January 1st, it is important to ask if the equipment being certified had pollution abatement as its primary purpose on the lien date. Example: A vehicle could have been used as a company vehicle January 1, 2006 thru January 4, 2006 to be driven home by an employee each night. On January 5th it could have been reassigned, with its primary purpose now being pollution abatement. This vehicle could not qualify for certification for tax year 2006, since on January 1st its primary purpose was not pollution abatement. This is typically not an issue with most equipment, since most of the equipment being certified has only one purpose. The use of equipment such as vehicles, computers, etc. that are not normally associated with pollution abatement can be more challenging to classify.

The second requirement deals more with each individual Division of Air Quality or Water Quality. Each division should have minimum requirements that the applicant's equipment must meet in order to remain in compliance with the pollution control program. For the equipment to be certified and remain certified, the equipment should

always be in compliance with the pollution control program. It is essential to review the applicant's testing reports to ensure that their equipment is being utilized in the manner in which it was intended to be used. Applicants that continue to fall beneath the minimum standards set for their facilities and equipment may need to have their certification removed, and consequently lose their exemption from property tax.

The third requirement reiterates the second requirement in mentioning that the equipment must operate under a pollution control program. It also further states that the equipment qualifying for exemption must ***“operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program.”***

This means that the permit, certificate of approval or other approved document from the appropriate Division must reference the equipment or establish requirements for which specific equipment must meet in order for it to qualify for exemption. Or more importantly, equipment not referenced by the permit or specifically needed to meet the requirements of the permit would not qualify. There are exceptions to this requirement and they are referenced in the “Permit” section below.

The final requirement is to determine if the equipment was put in place with its primary purpose, rather than incidental, to be the reduction of water and air pollutants. Thus, a piece of equipment that was intended for one purpose, but just happens to aid in the abatement of pollutants of air and water would not qualify. The Attorney General's Opinion on this as stated in the May 19, 1976 release is, “If there is a reduced amount of pollution, but the reduction is incidental to the other purposes and functions of the device or equipment, that reduction could not be considered the primary purpose.” This particular opinion was in regards to an air furnace put in place in the early 1970's. The applicant was trying to argue that the new furnace put in place reduced the air pollution when compared to the original furnace. The Attorney General's opinion stated that the furnace's primary purpose was to melt metals and not that of pollution abatement.

In summary, an applicant's property must be EXCLUSIVELY used for pollution abatement. The word EXCLUSIVELY means 100% of its use, which leaves no margin of error. The property must operate under the guidance of the permit or other approved documentation issued by the appropriate Division, thus only equipment requested by the permit or other approved documentation issued from the Environmental Management Commission meets the criteria of certification. Finally, the primary purpose of the property has to be pollution abatement.

Permits

[The word “Permit” is to include the permit and / or the application for the permit.]

As mentioned above, the issuance of permits is an extremely important factor in whether or not a piece of equipment should be certified. Since one of the provisions to qualify for tax exemption is to be in compliance with the permits or other documents of approval, then it stands to reason that only the equipment listed on these documents could be eligible for exemption. However, as with any rule, there is always an exception. These permits or other documents of approval list only the equipment that is involved with the abatement of pollution. The permits also require the proper operation and maintenance of a pollution control program.

In the case of a proper operation and maintenance of a pollution control program, there could be other equipment that should qualify for certification that was not specifically mentioned in the permit or other approved documentation. Examples of this would be where testing is required that cannot reasonably be done without the use of a computer. If testing is a requirement that is mentioned in the permit or other approved documentation, then a computer used to analyze the results could be certified. Please note that this computer still must be used EXCLUSIVELY in conjunction with the pollution abatement equipment, and any other use of this computer would disqualify it from being certifiable. In this example, you would expect to find the computer in the same room as the equipment or at least connected directly to the equipment in some fashion. These are things to look for to determine if this computer was being used EXCLUSIVELY.

An example directed towards Water Quality would be farm tractors and hay balers. A properly managed pollution control program may require land application sites that grow a crop, which help remove the pollutants from the water. To successfully complete this task, tractors and balers would be needed to remove the crops along with the nutrients that they now contain. This equipment could also qualify as long as it was used EXCLUSIVELY for pollution abatement only on the land application area.

An example directed towards Air Quality would be water trucks. The permits may not require water trucks, but may require that the dust level be kept to a minimum. One way the applicant could successfully complete this task would be to spray the dirt roads using water trucks. These trucks could qualify if they were being used EXCLUSIVELY as pollution abatement equipment. Any other use of these trucks or the tractors and balers would cause them to lose their eligibility for certification.

Buildings and Land

A building's primary purpose is not to reduce the pollutants from air or water, therefore should not normally be considered for certification. However, if the equipment is required by a permit from the Division of Air or Water Quality to be protected by a building or if the DENR staff determines that the building is required for the proper operation and maintenance of the system, then that building could be certified. If this is the case and the building only contains pollution abatement equipment, then the whole building could be certified. If only a section of the building contained pollution abatement equipment, then only that section could be certified. A test to determine if that section should be certified is: **Can this section be removed without harming the building?** If you removed a section from the middle of a building, you would be leaving a hole in the middle of the building, thus this section could not be certified. Remember, the permit must state, or be the opinion of the technical staff, that it is necessary for the equipment to be placed inside a building for the building to be considered for certification.

Fig. 1

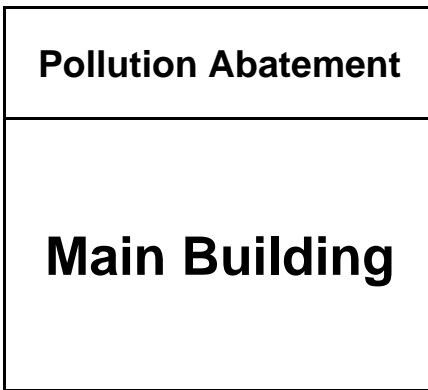
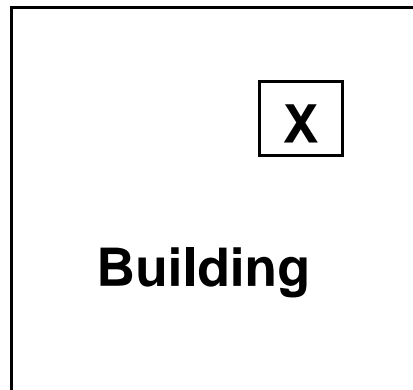


Fig. 2



In Fig. 1, the section of the building that contains the pollution abatement equipment could be removed and the main building could still function. In Fig. 2, if the pollution abatement equipment section (represented by the “X”) were removed, it would leave a hole in the building. The section from Fig. 1 could be certified, but the section from Fig. 2 could not.

If the building is being used exclusively for pollution abatement, the building would qualify for certification and the land beneath the building would also qualify. There are two guidelines for the land under a building to qualify. Both of these guidelines pertain only to the land under the building. The first guideline requires the square footage of a building to be equal to or greater than the square footage of the land beneath it. Thus a 2000 square foot building (one story) could not have more than 2,000 square feet of land certified.

The second guideline requires the area of a building designated for pollution abatement to be **only** one story unless all stories in the building qualify for tax certification. The land under a multistory building could not be considered as being exclusively used for pollution abatement if one of the floors of the building was used for something else. An example of this would be a two-story building with only one of the floors being used exclusively for pollution abatement. The land beneath the building could not qualify since the land is not being used exclusively for pollution abatement. A percentage of this land is being used for the floor containing the pollution abatement equipment and the other percentage is being used for the floor containing the non-pollution abatement equipment.

Another example is conveyor belts used exclusively for pollution abatement, which are hung or suspended from the ceiling. If the floor space beneath these conveyors is being used for any purpose other than pollution abatement, the land beneath this floor could not qualify. In this example we are assuming that the conveyors are hung or suspended high enough so that they do not impede the use of the floor. Again this only pertains to land under a building, as there could always be land that surrounds the building that could meet the requirements to qualify as well.

The one exception to the two guidelines on land qualifying underneath the building is where the entire building is used for pollution abatement. In this particular case the land would qualify even if the building were multistory since the entire building (all floors) qualify.

Fig. 3

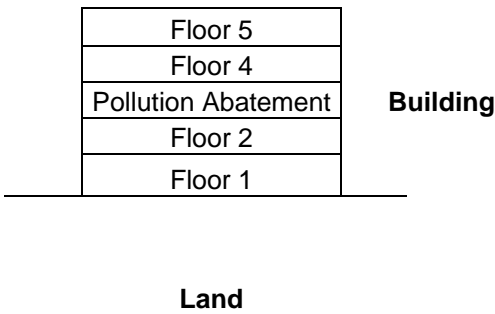


Fig. 4



In Fig. 3 the land could not qualify since it is not being used exclusively for pollution abatement. In Fig. 4 the land could qualify since the land is being used exclusively. This is assuming that the pollution abatement equipment is certified.

Vehicles

[The use of the word “vehicle” is meant to include all sorts of transportation equipment. This could include motor vehicles, boats, planes, golf carts, tractors, etc.]

As with buildings, a vehicle’s primary purpose is not reducing the pollutants in the air or water. For this reason, vehicles should not normally be certified. However if a vehicle is required by a permit or is deemed necessary by the technical staff for the proper operation and maintenance of the pollution control program, then it could be certified. As with all other equipment, the vehicle must be used EXCLUSIVELY for the reduction of pollutants from air or water and have, as its primary purpose the abatement of pollution. Examples of this would be the water trucks mentioned above, or if a boat was deemed necessary for sampling or testing of surface waters.

Spare Parts

Spare parts could be certified if they were to be used EXCLUSIVELY for the reduction of pollutants from air or water and have that as their primary purpose as well. Spare parts would not qualify for certification unless they were mentioned directly in the permit or they were deemed to be necessary by the technical staff for the proper operation and maintenance of the pollution control program. Nuts and bolts that could be used anywhere throughout the facilities of the applicant which are easily obtained should not be certified. Replacement parts that could not be easily purchased and would cause the pollution abatement equipment to be out of service for an extended period of time if not available, could qualify. This decision would have to be made by the technical staff based on his/her opinion as to the necessity of the spare parts.

Land Application Sites

If a permit required the applicant to have a land application site for pollution abatement, then the acreage encompassed by the land application site could qualify for certification. This would be the same for all setback areas or buffer areas that were required as well, with the few exceptions mentioned below. This acreage would have to be used EXCLUSIVELY for the abatement of pollutants from water or air, and any use of the land other than what was required by the permits would make it ineligible for

certification. The pollution control program should determine the amount of acreage needed for the land application sites, buffer or setback areas. Only the acreage required can be certified, and it would be helpful for the applicant to provide the technical staff with a map of the facilities specifically indicating the designated areas.

There are a few scenarios where land application fields should not be certified. The first would be if the applicant owns the land (application fields) but allows an outside farmer to tend and harvest the crop that is grown as a normal agricultural operation. In this case the primary purpose of the land is to grow a harvestable crop by the farmer and the land is not being used exclusively for pollution abatement. **For this reason, it is important for the technical staff to ask who is growing the crop.**

The second scenario involves a farmer owning the land application fields and tending to the crop. The applicant is land applying the waste onto the farmer's field, but that is all they are doing. Again in this case, the primary purpose of this land is for the farmer to grow a harvestable crop.

There are also land application systems that deal with animal waste. These land application systems are talked about in the following chapter dealing with Animal Waste Management Systems. These land application systems must meet separate criteria and should not be confused with non-animal wasteland application systems.

Summary for the Divisions of Air and Water Quality

When trying to determine if real or personal property should be certified, the technical staff should ask these simple questions and you should feel confident in your decision:

1. Is this property being used **EXCLUSIVELY** (100%) for pollution abatement?
2. Has the equipment been constructed or will soon be constructed?
3. Is this property complying with the requirements of the Environmental Management Commission or local pollution control program?
4. Is the property required by the permit or other documents of approval to successfully operate and maintain a pollution control program?
5. Is the **PRIMARY** purpose instead of an incidental purpose, the abatement of pollution?

If you answered "YES" to **all** of these questions, the property should be certified. If you answered "NO" to any of these questions, the property does not meet the criteria for certification.

Chapter 4

Animal Waste Management Systems

G.S. 105-275 (8) a1. was created just for animal waste management systems. This Statute specifically indicates that animal waste management systems do not qualify for tax certification unless the Environmental Management Commission determines that the system meets the 5 criteria listed in the Statute and determines it to be an environmental superior technology. For property being used as part of an animal waste management system to be certified for tax exemption, it has to be used 100% exclusively for reducing pollution or solid waste.

The Five Criteria:

1. The property eliminates the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
2. The property substantially eliminates atmospheric emissions of ammonia.
3. The property substantially eliminates the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
4. The property substantially eliminates the release of disease transmitting vectors and airborne pathogens.
5. The property substantially eliminates nutrient and heavy metal contamination of soil and groundwater.

If an individual piece of property is part of a system that meets these five requirements and it is being used exclusively (100%) for reducing pollution, then this property could be certified and exempted from taxation.

Current conventional animal waste lagoons and land application systems however do not successfully comply with all 5 of the criteria, thus conventional animal waste lagoon/land application systems do not qualify for certification.

Chapter 5

Division of Waste Management

[Information in this chapter is intended for the Division of Waste Management Only]

What is Certifiable?

General Statute 105-275 (8) b. speaks directly to the Division of Waste Management. An applicant's property could be certified and qualify for property tax exemption if the property is being used EXCLUSIVELY in recycling or resource recovery of or from solid waste and can meet the following requirements:

The Three Requirements

1. The equipment has been or will be constructed.
2. The property will comply with the rules of the Department of Environment and Natural Resources.
3. The property will have as its primary purpose recycling or resource recovery of or from solid waste.

The first requirement is fairly simple; if an applicant is filling out a tax exemption application, then more than likely the equipment has already been constructed or will soon be constructed. You should still verify that the equipment is there, and if it is not, find out when it will be built.

January 1st is the lien date used for all property in North Carolina. Even though the odds are that you will not visit the facilities of the applicant on January 1st, it is important to ask if the equipment being certified had as its primary purpose, recycling or resource recovery of solid waste as of the lien date. Consider a vehicle under review for certification as an example of why this is important. A vehicle could have been used as a company vehicle January 1, 2006 thru January 4, 2006 and driven home by an employee each night, thus not having as its primary purpose to recycle or recover resources from solid waste. On January 5th it could have been reassigned, with its primary purpose now being recycling or resource recovery of solid waste. This vehicle could not qualify for certification for the tax year 2006, since on January 1st its primary purpose was not recycling or resource recovery. The property had to have as its primary purpose recycling or resource recovery as of January 1 to be considered for exemption from this same year.

The second requirement says that the property will comply with the rules of DENR. Administrative Codes have been written specifically on this subject, and all property being considered for tax certification and tax exemption must follow those rules. There will be further details regarding these codes later in this chapter.

The final requirement is that the property must have as its primary purpose the recycling or resource recovery of or from solid waste. Thus a piece of equipment that was intended for one purpose, but just happens to aid in the recycling or resource recovery of or from solid waste, would not qualify.

In summary, an applicant's property must be EXCLUSIVELY used for recycling or resource recovery of or from solid waste. The word EXCLUSIVELY means 100% of its use, which leaves no margin of error. The property must operate under the rules of DENR. Finally, the primary purpose of the property is to be recycling or resource recovery of or from solid waste.

Administrative Codes

The tax certification that the technical staff will be issuing will potentially allow for tax exemption of real or personal property. General Statute 105-275 (8) b. allows for property that meets certain requirements dealing with solid waste to be exempted from the tax base. For property to be certified, it has to be in compliance with this statute. One of the requirements of this statute is that it follows the rules of DENR.

Title 15A subchapter 13B of the North Carolina Administrative Codes Rules .1501 thru .1514 were written to determine if property should or should not receive certification. Rules .1501 thru .1507 will be the main focus for this section of the manual.

Rule .1501

15A NCAC 13B .1501 RESOURCE RECOVERING FACILITIES

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

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

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

Rule .1502

15A NCAC 13B .1502 RESOURCE RECOVERING EQUIPMENT

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

Rule .1503

15A NCAC 13B .1503 RECYCLING FACILITIES

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

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

Rule .1504

15A NCAC 13B .1504 RECYCLING PROCESS

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

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

Rule .1505

15A NCAC 13B .1505 RECYCLING EQUIPMENT

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

Rule .1506

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

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

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

(1) Material or energy resources are obtained from solid waste, or

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

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

Rule .1507

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

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

These rules can almost be looked upon as definitions. Rule .1501 and .1502 define a resource recovery facility and resource recovery equipment. They stipulate that any equipment or facility being used exclusively and integrally to collect, sort or otherwise prepare solid waste for reuse or recycling would qualify for certification. At the same time, Rule .1501 is very clear on incidental and supportive, stating that these facilities and equipment cannot be certified.

Rules .1503 thru .1505 define recycling facilities, the recycling process and recycling equipment. The recycling process constitutes the recycling of recovered materials so that they are altered from their original state and a new product is formed. This change can be either physical or chemical. It is important to note that the recycling process ends when the new product is formed, even if the complete manufacturing process has not. This would mean any equipment used on this product after it has changed forms would not qualify. An example of this would be a company that recycles material "A" into material "B". Equipment used to package material "B" for resale could not qualify, due to the recycling process having been finished. Also, a warehouse facility that stores material "B" could not qualify.

A recycling facility is any building or land used exclusively and integrally in the recycling process. Recycling equipment is any equipment used exclusively and integrally in the recycling process. Just like Rule .1501, incidental and supportive facilities and equipment cannot be certified.

Britannica defines the word integrally as meaning “essential to completeness.” Using this definition, Rules .1501 thru .1505 would allow any equipment or facilities that are essential to recycling or resource recovering of solid waste to be certified. Thus to meet the requirements governed by the NCAC, the equipment or facilities would have to be used exclusively, which means 100% of its use, and it would have to be considered an essential necessity to successfully recycle or recover resources from solid waste.

Rule .1506 is very clear on incidental and supportive facilities and equipment. It states that land, buildings or equipment providing administrative or maintenance services that provide comfort or convenience to the employees do not qualify for certification. There is no lenience here. There is no situation where administrative equipment, bathrooms, etc. should ever receive certification for tax exemption.

Buildings

The NCAC defines different facilities that can qualify for certification. As long as these buildings and facilities are being used EXCLUSIVELY for the recycling or resource recovery of or from solid waste, then they would qualify. Of course they would have to have as their primary purpose recycling or resource recovery of or from solid waste also. Only the square footage of a building that is used for recycling or resource recovery from solid waste can be certified. In the example of a cardboard baler in a local grocery store, only the square footage beneath the cardboard baler used to bale up recyclable cardboard could be certified. The area where the cardboard was stored, prior to being baled, could also qualify, but this storage area would have to be used exclusively for this purpose, and storing any other grocery items there would make this area ineligible for certification.

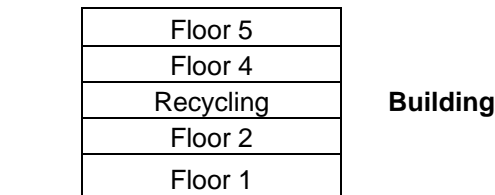
If the building is being used exclusively for recycling or resource recovery of or from solid waste, the building would qualify for certification and the land beneath the building would also qualify. There are two guidelines for the land under a building to qualify. Both of these guidelines pertain only to the land under the building. The first guideline requires the square footage of a building to be equal to or greater than the square footage of the land beneath it. Thus a 2,000 square foot building (one story) could not have more than 2,000 square feet of land to be certified.

The second guideline requires the area of a building designated as a recycling or resource recovery to be only one story. The land under a multistory building could not be exclusively used for recycling or resource recovery if one or part of one of the floors of the building was used for something else. An example of this would be a storage area for recycling on the first floor of a two-story building. While the storage area of the building would qualify for certification, the land would not. This is because the land is being used for the first floor and the second floor simultaneously. It would be impossible for the land to be considered being used exclusively if one floor was not being used for recycling or resource recovery of or from solid waste.

Another example is conveyor belts used exclusively for recycling or resource recovery, which are hung or suspended from the ceiling. If the floor space beneath these conveyors is being used for any purpose other than recycling or resource recovery of solid waste, the land beneath this floor could not qualify. In this example we are assuming that the conveyors are hung or suspended high enough that they do not impede the use of the floor beneath them. Again this only pertains to land under a building, as there could always be land that surrounds the building that could meet the requirements to qualify as well.

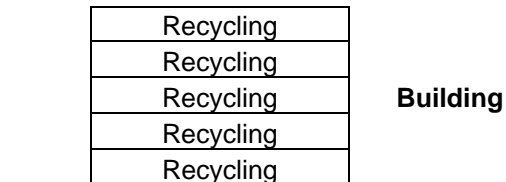
The one exception to the two guidelines on land qualifying underneath the building is where the whole facility, including the buildings and equipment, is used for recycling or resource recovery of or from solid waste. In this particular case, the land would qualify even if the building were multistory since the whole building (all floors) qualifies.

Fig. 1



Land

Fig. 2



Land

In Fig. 1 the land could not qualify since it is not being used exclusively for recycling or resource recovery. In Fig. 2 the land could be certified since the land is being used exclusively. This assuming the recycling or resource recovery equipment is certified.

Land used exclusively for recycling or resource recovery of or from solid waste qualifies for certification. Examples of this might be land that is being used to store the solid waste while it is waiting to be recycled. This would fall under Rule .1501 (b) as land being used to collect resources.

Equipment

It is impossible to define what equipment can qualify for exemption in recycling or resource recovery of or from solid waste. This is because virtually anything can be used for this. A pickup truck could be used exclusively to collect recyclables. A forklift could be used exclusively to move baled cardboard around that is being recycled. A shredder could be used exclusively to shred old tires that could be recycled into new canopies. All of this equipment could qualify for certification if it is being used exclusively for recycling or resource recovery of or from solid waste. There is no limit as to what type of equipment could qualify. Since any type of equipment could be used, it is important to confirm that it is being used EXCLUSIVELY, with its primary purpose to recycle or recover resources from solid waste.

Incidental and Supportive Equipment

As the NCAC stated, incidental and supportive equipment cannot be certified. This includes all bathroom facilities, kitchen and break room areas as well as all office areas. Administrative equipment such as faxes, computers, desks, etc. cannot qualify; nor can spare parts, as they would be considered supportive equipment. Anything that is used for the comfort of the employees should not be certified either. Air conditioning in a facility that is not required as part of the recycling or resource recovery of or from solid waste, and is there for the comfort of the employees, would be considered incidental and supportive equipment and would not qualify for certification.

Major Recycling Facilities

Major recycling facilities must follow the same three requirements as mentioned above for recycling facilities. The only difference between a major recycling facility and traditional recycling facilities is that the major recycling facility has specific requirements it must meet. An example of these requirements would be the major recycling facility must have at least \$300,000,000 invested into the facility and must create 250 full time jobs. See the N.C.G.S. 105-129.26 for the actual definition and all of the specific requirements for a major recycling facility.

Summary for the Division of Waste Management

When trying to determine if real or personal property should be certified, the technical staff should ask these simple questions:

1. Is this property being used **EXCLUSIVELY** (100%) for recycling or resource recovery of or from solid waste?
2. Has the equipment been constructed or will soon be constructed?
3. Is this property complying with the rules of the Department of Environmental and Natural Resources?
4. Is the **PRIMARY** purpose recycling or resource recovery of or from solid waste?

If you answered “YES” to **all** of these questions, the property should be certified. If you answered “NO” to any of these questions, the property does not meet the criteria for certification.

Chapter 6

Cotton Dust

Tangible personal property used exclusively, or if being installed, is to be used exclusively for the prevention or reduction of cotton dust inside a textile plant for the protection of the health of the employees can be exempted from property taxes. G.S. 105-275(8)c details the requirements and restrictions of this exemption. This exemption does not require the property to be certified by any division of DENR, and is solely up to the discretion of the county assessor to accept or deny any application for exemption in regards to cotton dust. As this statute mentions, the Department of Revenue has adopted guidelines to assist the county assessor in administering this exemption. These guidelines for the assessor can be found in Title 17, Chapter 10, sections .0403 thru .0406 of the North Carolina Administrative Codes. They read as follows:

17 NCAC 10 .0403 DEFINITIONS

In construing the provisions of G.S. 105-275(8)c and this Section, the following definitions and interpretations shall apply:

- (1) "Used Exclusively" means used only or solely, to the exclusion of all other uses.**
- (2) "Cotton Dust" means dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabrics is considered cotton dust.**
- (3) "Textile Plant."**
 - (a) "Textile Plant" means a factory or other industrial or manufacturing workplace where cotton or cotton-blend fibers or yarns are manufactured or processed, up to and including the weaving or knitting of fabrics.**
 - (b) "Textile Plant" does not mean a factory or other industrial or manufacturing workplace where woven or knitted cloth or fabric is handled or processed. For example, a factory where garments are manufactured is not a "textile plant."**

17 NCAC 10 .0404 SCOPE

- (a) The tangible personal property covered by G.S. 105-275(8)c includes the following types of equipment:**
 - (1) Safety apparel, masks, respirators, breathing apparatus or any other item of personal protective equipment used exclusively to protect employees from hazardous exposure to cotton dust.**
 - (2) Scrubbers, filters, cyclones, condensers, separators, spray chambers, water curtains or any other item of machinery, equipment or material that is used to reduce the level of cotton dust by removal or collection of the cotton dust from the air.**
 - (3) Fans, pumps compressors or any other power-driven machine that causes a continuous flow of air.**
 - (4) Electrical wiring, ductwork, piping, motors, control system, equipment enclosures, special structural support systems or any other supporting equipment**

associated with and necessary for the proper operation of any category of personal property listed in Subparagraphs (2) and (3) of this Paragraph.

(b) The Subparagraphs listed in Paragraph (a) of this Rule are for illustrative purposes only and are not intended to be an exhaustive listing of qualifying property. Neither does the inclusion of an item in this list indicate that it will, in every case, qualify for the exclusion. A determination must be made in each case that the property claimed as exempt meets all requirements of the exclusion.

17 NCAC 10 .0405 PROCEDURE FOR CLAIMING EXCLUSION

(a) In order to receive the benefit of G.S. 105-275(8)c, the owner must file an application for exemption with the county assessor of the county in which the property is situated as provided in G.S. 105-282.1. The application is to be filed during the regular listing period as provided in G.S. 105-307.

(b) The application must contain a complete description of the property and shall reflect investment figures and pertinent information relative to its value.

(c) The application shall also be accompanied by any other information or documents required by the county assessor to determine the eligibility of the property for the exclusion, such as the following:

- (1) general layout of the equipment or system;
- (2) specifications of the equipment or system;
- (3) function(s) of the equipment or system;
- (4) construction schedule, if not completed, including the anticipated date of final completion; or
- (5) the names, addresses and telephone numbers of the individuals responsible for management, operation and maintenance of the equipment or system.

17 NCAC 10 .0406 VALUATION OF EXCLUDED PROPERTY

(a) After a determination has been made that certain property meets all the requirements for exclusion under G.S. 105-275(8)c, the county assessor must then establish the amount to be excluded. This determination shall be made in accordance with the methods used by the county to appraise other similar property subject to taxation.

(b) Although the statute does not provide for proration, it does not preclude the exclusion of otherwise qualifying property which, by the nature of an operation, is a component part or system of a total operating system. An example of this is the ductwork and filtration system which is a part of an automated bale opening system in a textile plant. The ductwork and filtration system along with related wiring and piping would qualify for the exclusion even though the opener itself and any related production equipment would not.

(c) In any case in which the property owner is unable to furnish exact figures or other specific information regarding the value of qualifying property, the county assessor shall estimate the amount to be excluded on the basis of the best information available.

In 2003 the General Assembly added language to the exclusion, to allow cotton dust equipment that has been integrated into the air condition system to receive the exemption as well.

Chapter 7

Applications for Certification and Exemption

For property (both real and personal) to be exempted from taxes, the owner or the lessee of the property must:

Apply for certification through one of the three DENR agencies.

AND

Apply for exemption to the county where the property is located.

There is no order in which this has to be completed, but there are restrictions as to a timely application being filed with the county tax department. Per G.S. 105-282.1 (a) **“an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.”** (Emphasis added). The statute requires that the applicant file an application during the listing period, which is the month of January, unless the listing period has been extended. An application received after the listing period has ended or after an extension (if granted) has expired is considered a late application. This property can not be exempted for the current year without the approval of the governing body.

Per G.S. 105-282.1 (2) An applicant filing for exemption under 105-275 (8) must **“... file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion.”** Any changes or additions to the property will require a new application to be submitted to the county tax office where the property is located.

Applications

New applications have been created for both Air Quality and Water Quality. They will be a joint application between the two divisions of DENR and county tax offices. These applications request the taxpayer to send one copy to the county tax office where the property is located and to send one copy to the Division of Air or Water depending on what type of property is being requested. Thus these applications will serve for both the application for certification to DENR and for exemption to the county tax office.

All three of DENR’s applications can be found on the North Carolina Department of Revenue’s website at:

<http://www.dor.state.nc.us/publications/property.html>

Examples

The following are examples of what could be certified. **These examples are intended for Air and Water Quality only.** It would be futile to create a list for the Division of Waste Management since virtually any type of property, if used exclusively for the reduction of solid waste, could be certified.

Examples below that are indicated as not meeting the requirements for certification can still receive certification if determined by the DENR staff (Air and Water) as being necessary for the proper operation and maintenance of the treatment system. Remember the property must be used EXCLUSIVELY (100%) in the reduction of pollution to be certified.

This list is for illustrative purposes only and is not intended to be a complete list.

Asset Description	Certify (Yes/No)
Treatment Unit or equipment specifically identified in a DENR Permit or approval document not otherwise addressed in this list of examples	Yes
Items needed for the proper operation and maintenance of the DENR approved treatment system not otherwise addressed in this list of examples	Yes
Items needed for the DENR required sampling and testing of waste, including boats, samplers, wells and testing equipment not otherwise addressed in this list of examples	Yes
Alarms	
Alarm and/or telemetry system required by DENR Permit	Yes
Alarm and/or telemetry system not required by DENR Permit	No
Buildings	
Building or structure in which treatment system(s) or equipment are located, if the building or structure is required by a DENR permit or approval document or deemed to be necessary by the DENR staff for the proper operation and maintenance of the system	Yes
Building or structure in which treatment system(s) or equipment are located, if the building or structure is not required by a DENR permit or approval document and are not deemed to be necessary by the DENR staff for the proper operation and maintenance of the system	No
Collection and Transport Systems	
System for the collection and transfer of waste for treatment	Yes
System for the transfer of treated waste to a point of use or disposal	Yes
Pump that is used 90% of the time for pollution abatement	No
Computers	
Computer located near pollution abatement equipment used by multiple departments	No
Computer used exclusively to monitor pollution abatement equipment	Yes
Computers used with testing equipment or to control the operation of the treatment system	Yes
Computer used exclusively for DENR reports and data management	Yes
Cooling Towers	
Cooling towers with water reuse	No
Cooling towers with a heat recovery system	No
Once through cooling towers with no heat recovery	Yes
Containment Systems	
Spill containment systems constructed for chemical and waste storage tanks and facilities	Yes

Drainage Systems

Drainage system to lower groundwater table to make land application site useable for waste application	Yes	Yes
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Farm Equipment

Tractor used exclusively at the land application site that is part of a pollution abatement process	Yes	No
Tractor used partly at the land application site and partly to mow the grass at the plant		No
Farm equipment used for planting, management or harvesting of crops required to be grown by a DENR permit or approval document		Yes

Fencing

Fencing required by a DENR permit or approval document		Yes
Fencing not required by a DENR permit or approval document		No

Generators

Standby power equipment for a treatment system or equipment		Yes
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Improvements to the Buildings and Land

Handrails or other safety equipment for pollution abatement system required by OSHA		Yes
Painting of buildings or treatment units		No
Paved areas used for vehicle and equipment storage		No

Land

Land used for the land application of waste		Yes
Land needed for buffer or setback areas for land application site with no other use		Yes
Land needed for buffer or setback areas for land application site with other uses such as growing crops (including trees) or residential use.		No
Land under an approved treatment system or treatment equipment		Yes
Site grading and preparation for installation of treatment system		Yes
Site grading and preparation to improve appearance of treatment area		No

Lighting

Outside lighting for waste storage and treatment area		No
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Pollution Control Program Equipment

Items needed for the proper operation and maintenance of the DENR approved treatment system		Yes
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Spare Parts and Repairs

Repairs to treatment systems or to equipment		Yes
Spare parts dedicated exclusively to the treatment system		Yes

Testing

Items needed for the DENR required sampling and testing of waste, including boats, samplers, wells and testing equipment Engineering and consulting fees for treatment system		Yes
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Vehicles (Includes automobiles, boats, golf carts etc.)

Vehicles needed to transport waste materials to treatment or disposal sites		Yes
Vehicles required for the proper operation and maintenance of the treatment system		Yes
Vehicles used for the convenience of the employees		No
Vehicles used strictly for pollution abatement equipment		Yes
Vehicles used strictly for pollution abatement, but are driven home each night by an employee		No

Wiring

Special wiring required to install pollution abatement equipment		Yes
Installation of wiring and cables for operation of a treatment system		Yes
Electrical lines and transformers installed for a treatment system		Yes

Note: This list contains examples that the technical staff may encounter when performing your inspections. Just because this list shows that an asset could be certified, it does not mean the asset should automatically be certified. The technical staff should only consider what the applicant requested to be certified. An Inspector cannot certify equipment that was not requested on the application.