RESOLUTION NO. 2026-01

OF THE

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

CERTIFYING THE BUNCOMBE COUNTY AIR QUALITY PROGRAM AS A LOCAL AIR POLLUTION CONTROL PROGRAM PURSUANT TO N.C.G.S. § 143-215.112

WHEREAS, the North Carolina Environmental Management Commission (the "Commission") convened on the 9th day of July, 2026, in Raleigh, North Carolina, after due notice and in open session, and at that meeting considered the matter set forth in this Resolution; and

WHEREAS, Article 21B of Chapter 143 of the North Carolina General Statutes, and in particular N.C.G.S. § 143-215.112, charges the Commission with the review, oversight, supervision, and certification of all local air pollution control programs within the State, to assure that such programs are adequate to meet the requirements of Articles 21 and 21B of Chapter 143 and the rules adopted by the Commission thereunder; and

WHEREAS, in July 2000, the Commission certified the Western North Carolina Regional Air Quality Agency (later renamed the Asheville-Buncombe Air Quality Agency effective November 9, 2021) as a local air pollution control program with full jurisdiction over all air pollution sources located in Buncombe County and the City of Asheville, pursuant to an interlocal agreement signed June 6, 2000, and executed under N.C.G.S. §§ 160A-461, 160A-464, and 143-215.112(c)(3); and

WHEREAS, by written notice given by Buncombe County to the City of Asheville on March 1, 2026, Buncombe County exercised its right under the interlocal agreement to terminate that agreement, for the purpose of bringing the local air pollution control program directly under the administration of the Buncombe County Board of Commissioners ("BOC") pursuant to N.C.G.S. § 143-215.112(c)(2)(a); and

WHEREAS, by letter dated March 20, 2026, the Agency's Director notified the Director of the Division of Air Quality of the proposed reorganization and name change and requested certification by the Commission, and by subsequent submissions has tendered for the Commission's consideration the supporting documentation identified in Appendix A to this Resolution; and

WHEREAS, on June 16, 2026, by resolution, the BOC, and consistent with the provisions of N.C.G.S. § 143-215.112(c)(4), established an Air Quality Advisory Council (Council) with the authority and responsibility to hear appeals of permits, notices of violation and civil

penalties, advise the BOC on technical matters related to air quality, air quality standards and rule updates, and other air quality matters; and

WHEREAS, by the same June 16, 2026 resolution, the BOC extended the term of the interlocal agreement between Buncombe County and the City of Asheville beyond July 1, 2026 for the limited purpose of providing administrative continuity pending the Commission's action on this Resolution; and

WHEREAS, the program has been restructured under the sole governance of Buncombe County, as administered through the Buncombe County Permits and Inspections Department with the program cost center remaining separate and financial tracking conforming to program requirements, and has been renamed Buncombe County Air Quality Program (the "Program"); and

WHEREAS, the BOC is expected to adopt the current Air Quality Code in place for the Asheville-Buncombe Air Quality Agency, and include updates to the Code consistent with the reorganization and other requirements of local program certification as described in this resolution and N.C.G.S. § 143-215.112; and

WHEREAS, the Commission has examined the Program's governance structure and conflict-of-interest provisions and finds them adequate to satisfy both N.C.G.S. § 143-215.112(c)(2a) and Clean Air Act, 42 U.S.C. § 7428 (CAA Section 128); and

WHEREAS, The Program will satisfy the conflict-of-interest requirements set forth in N.C.G.S. § 143-215.112(c)(2a) and Section 128 of the Clean Air Act; and

WHEREAS, the Commission has considered the recommendation of the Director of the Division of Air Quality, the Commission's Executive Director, the Commission's counsel, and the documentation submitted by the Program.

THE COMMISSION FINDS:

Upon consideration of the foregoing recitals and the documentary record before it, the Commission makes the following findings of fact:

1. **COMPATIBLE ORDINANCE AND LOCAL LAW.** N.C.G.S. § 143-215.112(a)(1) requires a local program to provide by ordinance or local law for requirements compatible with those imposed by the provisions of Articles 21 and 21B of Chapter 143 of the General Statutes, and the standards and rules issued pursuant thereto. The Buncombe County Air Quality Code, to be adopted by the BOC on or about July 21, 2026, provides by ordinance for requirements compatible with those imposed by Articles 21 and 21B of Chapter 143 of the General Statutes and the rules and standards adopted by the Commission thereunder. The Commission finds the requirement of N.C.G.S. § 143-215.112(a)(1) satisfied.

2. **ADEQUATE ENFORCEMENT.** N.C.G.S. § 143-215.112(a)(2) requires a local program to provide for the adequate enforcement of the requirements in Articles 21 and 21B of Chapter 143 of the General Statutes by appropriate administrative and judicial process. The current Air Quality Code for the Asheville-Buncombe Air Quality Agency provides for adequate enforcement provisions to satisfy the requirements of Chapter 143 of the General Statutes, Articles 21 and 21B, and upon the BOC's adoption of that Code, the Program will additionally satisfy the enforcement requirement. The Commission finds the requirement of N.C.G.S. § 143-215.112(a)(2) satisfied.

3. **ADEQUATE ADMINISTRATIVE ORGANIZATION, STAFF, AND RESOURCES.** N.C.G.S. § 143-215.112(a)(3) requires a local program to provide for an adequate administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its programs. The Agency is currently staffed as detailed in the organizational chart included in Appendix A. Current funding is provided through air quality permit fees, federal grants under the Clean Air Act, and Buncombe County general fund appropriations, with the program cost center maintained separately within the Buncombe County fiscal structure. The Commission finds that the Program's administrative organization, staff, and financial and other resources are adequate to effectively and efficiently carry out the program, and the requirement of N.C.G.S. § 143-215.112(a)(3) satisfied.

4. **CONFLICT-OF-INTEREST COMPLIANCE.** N.C.G.S. § 143-215.112(c)(2a) provides that any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Clean Air Act, and that any potential conflicts of interest by members of such board or body or by the head of an executive agency with similar powers shall be adequately disclosed. Section 128 of the Clean Air Act, 42 U.S.C. § 7428, imposes parallel federal requirements. The Program's permitting and enforcement decisions are vested in officials whose appointment and supervision are governed by Buncombe County's personnel and ethics framework. The Council, established pursuant to N.C.G.S. § 143-215.112(c)(4) by resolution of the Buncombe County Board of Commissioners adopted June 16, 2026, is constituted such that a majority of members represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Clean Air Act, and potential conflicts of interest by such members and by the Director of the Program are subject to adequate disclosure. The Commission finds these arrangements adequate to satisfy Section 128 of the Clean Air Act and N.C.G.S. § 143-215.112(c)(2a).

5. **OVERALL ADEQUACY.** N.C.G.S. § 143-215.112(a)(4) requires that the program approved by the Commission be adequate to meet the requirements of Article 21B of Chapter 143 of the General Statutes and any applicable rules pursuant thereto. Based upon the findings set forth in paragraphs 1 through 4 above, the Commission finds that the Buncombe County Air Quality Program, as restructured under the sole governance of Buncombe County pursuant to N.C.G.S. § 143-215.112(c)(2)(a), is adequate to meet the requirements of Articles 21 and 21B of Chapter 143 of

the General Statutes and the rules of the Commission, and the requirement of N.C.G.S. § 143-215.112(a)(4) satisfied.

NOW, THEREFORE, BE IT RESOLVED THAT:

Pursuant to N.C.G.S. § 143-215.112(a), and subject to the Reserved Jurisdiction described below, the Buncombe County Air Quality Program is hereby certified as a local air pollution control program.

RESERVED JURISDICTION

BE IT FURTHER RESOLVED THAT, pursuant to N.C.G.S. § 143-215.112(e)(4), the Commission retains jurisdiction over the following facilities owned or operated, in whole or in part, by Buncombe County, and that all air quality permits issued for such facilities shall be issued by the North Carolina Division of Air Quality and enforced by the Division of Air Quality, in order to avoid any actual or apparent conflict of interest arising from the Program's administrative placement within Buncombe County government:

- Buncombe County Landfill;
- Buncombe County Landfill I; and
- Buncombe County Detention Center.

The Commission may, upon petition by Buncombe County and a showing of changed circumstances, modify this reservation in whole or in part.

EFFECTIVE DATE

BE IT FURTHER RESOLVED THAT this Resolution shall take effect upon the later of: (i) July 24, 2026; or (ii) the date the Buncombe County Air Quality Code is adopted by the Buncombe County Board of Commissioners.

SUPERSESSION AND SAVINGS

BE IT FURTHER RESOLVED THAT this Resolution supersedes and replaces the Commission's certification of July 2000 of the predecessor program; provided, however, that permits issued, enforcement orders entered, and other actions taken by the Asheville-Buncombe Air Quality Agency or the Western North Carolina Regional Air Quality Agency prior to the effective date of this Resolution shall remain in full force and effect, and shall be administered and enforced by the Buncombe County Air Quality Program as successor.

Adopted this the 9th day of July, 2026.



J.D. Solomon, Chairman
Environmental Management Commission
State of North Carolina

APPENDIX A — DOCUMENTARY RECORD

The Commission has considered the following documents in support of this Resolution, all of which are incorporated herein by reference and maintained in the Commission's certification file for the Buncombe County Air Quality Program:

- N.C.G.S. § 143-215.112
- Letter dated March 20, 2026, from Ashley J. Featherstone, Director, Asheville-Buncombe Air Quality Agency, to Mike Abraczinskas, Director, Division of Air Quality, notifying DAQ of the proposed reorganization and name change and requesting recertification by the Commission;
- Air Quality Program Transition Memorandum dated May 6, 2026, from the Program Director to the Buncombe County Assistant County Manager;
- Resolution of the Buncombe County Board of Commissioners adopted June 16, 2026, reforming the County Air Quality Board as an air quality advisory body pursuant to N.C.G.S. § 143-215.112(c)(4) and extending the term of the predecessor interlocal agreement for administrative continuity;
- Buncombe County Air Quality Code (to be adopted by the BOC);
- Buncombe County N.C.G.S. § 143-215.112 Checklist