

1 **15A NCAC 01E .0101 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0101 PURPOSE**

4 The purpose of this Subchapter is to establish procedures and standards under which permits for the construction and
5 operation of oil refining facilities will be issued or denied. ~~The permit decision is based on a full and fair discussion~~
6 ~~and assessment of effects which the refinery will or may have on the environment.~~

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8 *History Note: Authority G.S. 143-215.101;*

9

Eff. June 16, 1980;

10

Amended Eff. October 1, 1984;

11

Readopted Eff.

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1 **15A NCAC 01E .0102 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0102 DEFINITIONS**

4 As used in this Subchapter, unless the context otherwise requires:

5 (1) "Act" means the Oil Pollution and Hazardous Substances Control Act, Article 21A, Chapter 143,
6 General Statutes.

7 ~~(2)~~ "Director" means the Director of the Division of Environmental Management.

8 ~~(3)~~(2) "Construction" means:

9 (a) construction and operation of a new oil refining facility;

10 (b) substantial enlargement and operation of an existing oil refining facility; or

11 (c) substantial change in the physical separation or chemical reaction process of an existing
12 oil refining facility and operation of such facility.

13 ~~(3)~~ "Department" means the Department of Environmental Quality.

14 (4) "Environment" means man's total physical environment including but not limited to wildlife;
15 freshwater, estuarine or marine fisheries; air quality; water quality; and publicly-owned parks,
16 forests, or recreation areas.

17 ~~(5)~~ "Oil" means oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, oil
18 mixed with wastes other than dredge spoil.

19 ~~(5)~~(6) "Oil refining facility" means any facility of any kind and related appurtenances located in, on, or
20 under the surface of any land, or water, including submerged lands, which is used or capable of
21 being used for the purpose of refining oil. The term "related appurtenances" includes pipelines.

22 ~~(6)~~(7) "Publicly owned parks, forests, or recreation areas" means lands, including beaches, shorelines, and
23 submerged lands, and waters:

24 (a) ~~which that~~ are owned or controlled by a governmental body for purposes of conservation
25 of natural resources, public recreation, or general public use; or

26 (b) ~~which that~~ the public has a right to use for recreation or as a part of the natural environment.

27 ~~(8)~~ "Secretary" means the Secretary of the Department of Environmental Quality or the Secretary's
28 designee.

29 ~~(7)~~(9) "Wildlife" means wild animals and plants.

30 *History Note: Authority G.S. 143-215.77; 143-215.101;*

31 *Eff. June 16, 1980;*

32 *Amended Eff. July 1, 1988; October 1, 1984;*

33 *Readopted Eff.*

1 **15A NCAC 01E .0103 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0103 OIL REFINING FACILITY PERMIT REQUIRED**

4 (a) No person shall construct or operate an oil refining facility unless and until such person applies for and obtains an
5 oil refining facility permit under ~~these Rules. However, any person who is operating an oil refining facility on the~~
6 ~~effective date of these Rules and who applies for an oil refining facility permit within 60 days of the effective date of~~
7 ~~these Rules, unless that time is extended by the Assistant Secretary pursuant to Rule .0013 of this Subchapter, may~~
8 ~~continue to operate without a permit until a final agency decision to issue or deny the permit is made and until judicial~~
9 ~~review, if any, of that decision is completed.~~ this Subchapter.

10 (b) The ~~director~~ Secretary shall determine upon request or upon ~~his~~ the Secretary's own initiative whether a proposed
11 enlargement or process change to an existing oil refining facility is substantial. In making that determination, ~~he~~ the
12 Secretary shall consider relevant factors including, ~~but not limited to:~~

- 13 (1) the number of employees which the enlargement or process change will add to the facility's
14 permanent work force; ~~and~~
- 15 (2) the character and volume of the changes which will or may occur in the facility's process, products,
16 by-products, discharges, and emissions; and
- 17 (3) the change in oil refining capacity which the facility will be designed to handle after its enlargement
18 or process change.

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20 *History Note: Authority G.S. 143-215.100; 143-215.101; 143B-10;*
21 *Eff. June 16, 1980;*
22 *Amended Eff. October 1, 1984;*
23 *Readopted Eff.*

1 **15A NCAC 01E .0104 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0104 PERMIT APPLICATION REQUIREMENTS**

4 (a) An application for a permit shall be in writing and shall be transmitted to the ~~director~~Secretary at the following
5 address:

6 ~~Director, Division of Environmental Management~~Secretary's Office
7 North Carolina Department of ~~Environment, Health,~~Environmental Quality
8 ~~and Natural Resources~~
9 ~~P.O. Box 27687~~1601 Mail Service Center
10 Raleigh, North Carolina ~~27611~~27699-1601

11 (b) An application shall be made by and in the names of all persons who will be owners or operators of a proposed
12 oil refining facility or who are owners or operators of an existing facility.

13 (c) To apply for an oil refining facility permit, a person or persons shall submit to the ~~director~~Secretary an application
14 which shall contain all of the following ~~16~~ elements:

- 15 (1) A cover ~~sheet, sheet which~~ shall not exceed one page and ~~which~~ shall include:
- 16 (A) the title, APPLICATION FOR PERMIT TO CONSTRUCT OR OPERATE AN OIL
17 REFINING FACILITY; ~~and~~
 - 18 (B) a short statement of the activity for which the permit is sought (i.e., construction and
19 operation, operation, enlargement and operation, or process change and operation) and the
20 name and location of the oil refining facility involved; ~~and~~
 - 21 (C) the complete name, address, and telephone number of each applicant; ~~and~~
 - 22 (D) the date of the application; ~~and~~
 - 23 (E) the name, address, and telephone number of the employee or agent of the applicant who
24 can supply further information; and
 - 25 (F) an abstract of the assessment of the effects which the construction or operation of the oil
26 refining facility will have on the environment.
- 27 (2) A table of contents.
- 28 (3) A description of each applicant's interest in the ownership or role in the operation of the oil refining
29 facility.
- 30 (4) A description of each applicant's experience in the engineering, design, construction, and operation
31 of oil refining facilities.
- 32 (5) A description of any civil or criminal penalty assessment, any criminal conviction, or any prior or
33 pending civil litigation or administrative proceeding relating to environmental activities or related
34 to ~~the~~each applicant's financial condition.
- 35 (A) which arose out of the construction or operation of an oil refining facility by the applicant
36 or by a person holding a substantial interest in the applicant; and

- 1 (B) which involves alleged violations by the applicant or interest holder of federal or any state's
2 laws concerning the environment.
- 3 (6) A description of each applicant's financial condition.
- 4 (7) A description of the proposed or existing oil refining facility, including ~~but not limited to~~ a
5 description of the following aspects of the facility's operation:
- 6 (A) kind of refining process;
- 7 (B) refining capacity;
- 8 (C) kind, character, and volume of raw materials, and the source(s) of their supply;
- 9 (D) kind, character, and volume of products;
- 10 (E) kind, character, and volume of by-products;
- 11 (F) kind, character, and volume of effluent discharges to waters or lands of the State;
- 12 (G) kind, character, and volume of emissions to air;
- 13 (H) number of persons in the facility's permanent work force; and
- 14 (I) cost of construction of the facility.
- 15 (8) If construction is involved, a description of the construction process and the applicant's estimate of
16 the timetable for that process.
- 17 (9) ~~Two~~ An electronic copy or two sets of paper copies of the most current reports, drawings, maps,
18 plans, and specifications ~~concerning~~ describing the location, construction, and operation of the oil
19 refining facility, in such detail as the ~~Assistant~~ Secretary deems necessary to decide to issue or deny
20 the permit.
- 21 (10) A description of the transfer of oil to and from the oil refining facility, including ~~but not limited to~~
22 a statement of the amount and kind of vessel traffic which the facility's operation does or will
23 generate.
- 24 (11) ~~Two~~ An electronic copy or two sets of paper copies of the most current reports, drawings, maps,
25 plans, specifications, and other information ~~concerning~~ describing the transfer of oil ~~(including oil,~~
26 including ~~but not limited to~~ vessel characteristics and ownership, vessel navigation to and from the
27 facility, oil loading equipment, and ~~pipelines)~~ pipelines, in such detail as the ~~Assistant~~ Secretary
28 deems necessary to decide to issue or deny the permit.
- 29 (12) ~~A~~ Upon request of the Secretary, a listing of the effects, environmental or health impacts which
30 interested or affected persons or their representatives have indicated are of ~~substantial~~
31 ~~them and which the oil refining facility will or may have on the environment, them.~~
32 (A) — To prepare such a listing, the applicant shall make diligent efforts:
- 33 (i) ~~(A)~~ to inform about the facility those persons whom the facility will or may interest
34 or ~~affect;~~ affect, including those living within one mile of any part of the facility;
35 and
- 36 (ii) ~~(B)~~ to discover their concerns about the effects of the facility and their suggestions
37 for meeting those concerns.

1 The applicant may coordinate his efforts in this regard with similar efforts required of him by other
2 statutes or regulations, federal or state, so as to reduce duplication of effort.

3 (B) ~~— In the case of an initial permit application for an oil refining facility which is operating on
4 the effective date of these Rules, this Subparagraph (12) of the application will not be
5 required.~~

6 (13) A list of ~~state and federal~~ all federal, state, and local environmental quality permits or approvals
7 related to protection of the environment or environmental resources for which that the applicant has
8 applied or will apply, shall obtain for construction or operation of the oil refining facility, the date
9 on which each application was ~~or is expected to be~~ submitted to the appropriate authority, a copy of
10 each filed application, and ~~the current status a copy of each application or permit.~~ permit or approval
11 showing that it has been issued.

12 (14) An analysis of the effects which construction or operation of the facility, including ~~but not limited~~
13 ~~to~~ the transfer of oil to and from the ~~facility;~~ facility, will or may have on the environment.

14 (A) The applicant shall include in such analysis a description of the environment as it exists at
15 the time the application is ~~filed.~~ filed, including all available data about the site.

16 (B) ~~The applicant shall address in such analysis the relationship of people with the specified~~
17 ~~parts of the natural and physical environment. Therefore, if the construction or operation~~
18 ~~of the oil refining facility, including but not limited to the transfer of oil to and from the~~
19 ~~facility, will or may have a primary effect on the environment, the applicant shall address~~
20 ~~the secondary effects on public health, safety, and welfare which will or may result from~~
21 ~~those primary effects. Those secondary effects shall include but not be limited to social,~~
22 ~~economic, aesthetic, historic, and cultural effects.~~

23 (15) The applicant's proposals for avoiding or minimizing the adverse effects of the construction and
24 operation of the oil refining facility and the transfer of oil to and from the facility on the environment
25 and proposals for enhancing the quality of the environment. The applicant's proposals shall ~~include~~
26 ~~but not be limited to:~~ include:

27 (A) a description of the procedures, methods, means, and equipment, including ~~but not limited~~
28 ~~to~~ those relating to vessel navigation and design, which the applicant will use to prevent
29 any discharges to the waters or lands of the State; ~~and~~

30 (B) a description of the procedures, methods, means, and equipment by which the applicant
31 will detect and report discharges; ~~and~~

32 (C) a description of the procedures, methods, means, and equipment which the applicant will
33 use in the containment, removal, and cleaning up of discharges and in the restoration of
34 any lands or waters affected by a ~~discharge.~~ discharge; and

35 (D) a description and copies of any spill prevention and emergency response plans required
36 under federal, State, or local laws and regulations.

1 (16) A list of the names of the persons who were primarily responsible for preparing the application or
2 any part thereof, together with their qualifications, including ~~but not limited to~~ their expertise,
3 experience, ~~and professional disciplines.~~ disciplines and licenses. Where possible, the persons who
4 were responsible for a particular analysis shall be identified.

5 (17) A statement and explanation by the applicant whether the proposed construction or operation of the
6 oil refining facility is subject to Article 1 of G.S. Chapter 113A, the North Carolina Environmental
7 Policy Act, or corresponding rules adopted by the Department of Environmental Quality or the
8 Department of Administration.

9 ~~(d) In fulfillment or partial fulfillment of any requirement of Paragraph (c) of this Rule, the applicant may adopt an~~
10 ~~oil refining facility permit application or portion thereof which any applicant has previously filed. The adopted~~
11 ~~application or portion thereof must meet the standards for an adequate and complete application under these Rules.~~

12 ~~(e)~~(d) The ~~director~~Secretary shall determine the adequacy and completeness of the submitted application.

13 ~~(f)~~(c) The applicant shall supply such other information as the ~~director~~Secretary deems necessary to decide to issue
14 or deny the ~~permit~~permit according to the schedule provided by the Secretary.

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16 *History Note: Authority G.S. 143-215.84; 143-215.101; 143-215.102;*
17 *Eff. June 16, 1980;*
18 *Amended Eff. March 1, 1990; August 1, 1988; October 1, 1984;*
19 *Readopted Eff.*

1 **15A NCAC 01E .0105 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0105 PERMIT APPLICATION PROCEDURE**

4 (a) Upon receipt of an application for an oil refining facility permit, the ~~director~~Secretary shall determine whether the
5 application contains the necessary parts and whether the content and detail of those parts is sufficient to ~~enable him to~~
6 decide to issue or deny the permit. If the application is incomplete, the ~~director~~Secretary shall within ~~30~~60 days of its
7 receipt describe in writing to the applicant how the application is incomplete. The applicant ~~shall~~shall, within 60 days,
8 submit such additional information relating to the oil refining facility as the ~~director~~Secretary deems necessary. If the
9 application is complete, the ~~director~~Secretary shall so advise the applicant in writing within ~~30~~60 days of its receipt.

10 (b) Within ~~45~~30 days of ~~receiving~~giving notice to the applicant of a ~~complete~~completed application, the ~~director~~in
11 accordance with Rule .0105(a) of this Section, the Secretary shall give notice of the application and of a public hearing
12 to be held pursuant to Rule ~~.0006~~.0106 of this Subchapter to all of the following state agencies and other persons:

- 13 (1) the North Carolina Coastal Resources Commission;
- 14 (2) the North Carolina Department of ~~Economic and Community Development~~Commerce;
- 15 ~~(3) the North Carolina Commercial and Sports Fisheries Committee;~~
- 16 ~~(4)~~(3) the North Carolina Department of Natural and Cultural Resources;
- 17 ~~(5)~~(4) the North Carolina Environmental Management Commission;
- 18 ~~(6)~~(5) the North Carolina ~~Forestry Council~~Forest Service;
- 19 ~~(7)~~(6) the North Carolina Department of Health and Human ResourcesServices;
- 20 ~~(8)~~(7) the North Carolina Marine Fisheries Commission;
- 21 ~~(9) the North Carolina Parks and Recreation Council;~~
- 22 ~~(10)~~(8) the North Carolina Department of Transportation;
- 23 ~~(11)~~(9) the North Carolina State Ports Authority;
- 24 ~~(12)~~(10) the North Carolina Wildlife Resources Commission;
- 25 ~~(13)~~(11) the Boards of County Commissioners for the county in which the oil refining facility is located or
26 is proposed to be located and for contiguous counties;
- 27 ~~(14)~~(12) the governing body of any incorporated municipality within 50 miles of the oil refining facility;
- 28 ~~(15)~~(13) any person whose name is on the mailing list required in Rule ~~.0011~~.0111 of this ~~Subchapter~~;
29 Section;
- 30 ~~(16)~~(14) any owner of real property which is contiguous to the site of the oil refining facility; and
31 ~~(17)~~(15) the applicant.

32 (c) The notice ~~which~~ Paragraph (b) of this Rule requires shall contain the following information:

- 33 (1) The title "Notice of Application for Oil Refining Facility Permit," and a statement that the purpose
34 of the notice is to obtain ~~information, views, and arguments~~information or comments to assist the
35 ~~director~~Secretary in assessing the effects of the oil refining facility on the environment.
- 36 (2) The name and address of the applicants and a brief description of the name, character, location, and
37 capacity of the oil refining facility for which the permit is sought.

- 1 (3) A summary of the analysis of effects submitted in the application ~~as under Subparagraph (14) of~~
2 Rule ~~.0104(c) 0004(e)~~ of this ~~Subchapter. Section.~~
- 3 (4) An invitation to persons who may be interested or affected by the facility to present, ~~either~~ in writing
4 or at the public hearing held pursuant to Rule ~~.0006.0106~~ of this ~~Subchapter. Section.~~ their
5 ~~information, views, and arguments~~information or comments concerning the impacts of the
6 construction and operation of the oil refining facility, including ~~but not limited to~~ the effects of the
7 transfer of oil to and from the facility, on the environment.
- 8 (5) A statement that written ~~information, views, and arguments~~information or comments may be
9 submitted to the ~~director~~Secretary at a specified address at any time until 30 days after the close of
10 the public hearing on the application.
- 11 (6) An announcement of the date, time, and place of the public hearing held pursuant to Rule ~~.0006.0106~~
12 of this ~~Subchapter. Section.~~
- 13 (7) A list of the state agencies ~~which that~~ may review and comment on the ~~application,~~application
14 pursuant to Paragraph (b) of this Rule and the date by which the agencies' comments ~~should~~ shall
15 be submitted to the ~~director.~~Secretary, which shall be within 45 days of the date the notice is issued.
- 16 (8) The ~~addresses and telephone numbers of two locations, one at the Department's offices in Raleigh~~
17 ~~and the other at a public location reasonably close to the site or proposed site of the oil refining~~
18 ~~facility,~~address on the Department's website at which anyone may review the complete application.
- 19 (9) A reference to the particular sections of the North Carolina General Statutes and the North Carolina
20 Administrative Code applicable to the issuance or denial of oil refining facility permits.
- 21 (10) A description of the nature of the hearing and the rules ~~which will~~ that shall govern its conduct.
- 22 (11) The name, email address, and telephone number of a department official from whom additional
23 information may be obtained.
- 24 ~~(12) Any other information provided by the Secretary.~~

25 (d) The ~~director~~Secretary shall arrange for the publication of the notice in a regularly published newspaper of general
26 circulation:

- 27 (1) in the county containing the site of the oil refining facility; and
28 (2) in contiguous ~~counties; and~~counties.
29 ~~(3) in at least three different parts of the State. Publication shall occur at least 30 days before the~~
30 ~~hearing.~~

31 (e) The Secretary shall provide public notice in accordance with the appropriate portions of the DEQ Public
32 Participation Plan.

33
34 *History Note: Authority G.S. 143-215.101;*
35 *Eff. June 16, 1980;*
36 *Amended Eff. March 1, 1990; July 1, 1988; October 1, 1984.*
37 *Readopted Eff.*

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1 **15A NCAC 01E .0106 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0106 PUBLIC HEARING ON PERMIT APPLICATION**

4 (a) The ~~director~~Secretary shall hold a public hearing at which any person will be given a reasonable opportunity to
5 present ~~information, views, and arguments~~information or comments concerning the contents of the application and
6 the effects of the construction and operation of the oil refining facility, including ~~but not limited to~~ the effects of the
7 transfer of oil to and from the ~~facility~~facility on the environment.

8 (b) The hearing shall be held between ~~4560~~ and ~~6090~~ days after the date of the notice required by Rule
9 ~~.0005(b),0105(b)~~ of this Subchapter. If the ~~director~~Secretary deems it necessary, ~~he~~the Secretary may arrange for the
10 sending or publication of a second, abbreviated notice shortly before the hearing.

11 (c) The state agencies listed in Rule ~~.0005(b),0105(b)~~ of this Subchapter may comment on the effects which
12 construction or operation of an oil refining facility will or may have on the environment and in so doing should address
13 matters within their jurisdiction, authority, or expertise. An agency may reply that it has no comment. Agencies
14 ~~must~~shall submit any comments within the time period specified for comment in the notice.

15 (d) The hearing shall be held in the county where the oil refining facility for which the applicant seeks a permit is
16 located or is proposed to be located, unless the ~~director~~Secretary finds and directs that, for reasons of public
17 convenience, safety, or health, it should be held elsewhere in a different location or through a virtual application.

18 (e) The hearing shall be informational in nature and shall not be a contested case as defined in G.S. ~~150A-2(2),150B-~~
19 2. The ~~director~~Secretary shall hold the hearing or appoint a hearing officer to do so. The person holding the hearing
20 has the authority to set reasonable guidelines for the hearing, including ~~but not limited to~~ the length of the hearing and
21 the length of time a person may speak.

22 (f) The record of the hearing shall be open for written submissions until 30 days after the close of hearing. Any oral
23 or written ~~information, views, and arguments~~information or comments offered at the hearing and any further written
24 ~~information, views, and arguments~~information or comments submitted within 30 days after the close of the hearing
25 shall be made part of the record of the hearing.

26 (g) Within 30 days after the close of the public comment period, the Secretary may request that the applicant provide
27 any information necessary to respond to public comments. The applicant shall have up to 90 days to submit the
28 requested information.

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30 *History Note: Authority G.S. 143-215.101;*
31 *Eff. June 16, 1980;*
32 *Amended Eff. October 1, 1984;*
33 *Readopted Eff.*
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1 **15A NCAC 01E .0107 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0107 DECISION TO ISSUE OR DENY PERMIT**

4 (a) Within ~~4560~~ days of the last day for submitting ~~information, views, and arguments~~ public comments about the
5 permit application, or the last day on which the applicant provides additional information requested by the Secretary
6 to respond to public comments, the ~~director~~Secretary shall issue or deny the ~~oil refining facility permit~~ permit for the
7 oil refining facility.

8 (b) In deciding to issue or deny the permit, the ~~director~~Secretary shall consider:

- 9 (1) the permit application and ~~supporting relevant documents;~~ documents such as site sampling, reports,
10 and proposals for minimizing adverse effects on the environment;
11 (2) the data, information, views, and arguments ~~comments~~ which have been submitted during the permit
12 process;
13 (3) all ~~facts~~ facts, information, or analyses of which ~~judicial notice may be taken;~~ the Department
14 becomes aware, including any environmental permits issued by federal, State, or local authorities;
15 and
16 (4) other ~~facts~~ facts, information, or analyses within the specialized knowledge of the Department.

17 ~~(c) The director shall base his decision on the effects which the construction or operation of the oil refining facility,~~
18 ~~including the transfer of oil to and from the facility, will or may have on the environment. In evaluating those effects,~~
19 ~~the director shall consider the relationship of people with the specified parts of the natural and physical environment.~~
20 ~~This means that, if~~ The Secretary shall base the decision on the effects which the construction or operation of the oil
21 refining facility, including the transfer of oil to and from the facility, will or may have ~~a primary effect~~ on the
22 environment, ~~the director shall consider the secondary effects on public health, safety and welfare, including but not~~
23 ~~limited to social, economic, aesthetic, historic, and cultural effects, which will or may result from those primary~~
24 ~~effects.~~ environment.

25 ~~(d)~~ (c) The ~~director~~ Secretary shall deny the permit upon a finding that:

- 26 (1) The construction or operation of the oil refining facility, including ~~but not limited to~~ the transfer of
27 oil to and from the facility, will have substantial adverse effects on wildlife or on freshwater,
28 estuarine, or marine fisheries; or
29 (2) The construction or operation of the oil refining facility, including ~~but not limited to~~ the transfer of
30 oil to and from the facility, will violate standards of air or water quality promulgated or administered
31 by the Environmental Management Commission; or
32 (3) The construction or operation of the oil refining facility, including ~~but not limited to~~ the transfer of
33 oil to and from the facility, will have a substantial adverse effect on a publicly owned park, forest,
34 or recreation area.

35 ~~(e)~~ (d) In the absence of a finding described in ~~(d)~~ Paragraph (c) of this Rule, the ~~director~~Secretary shall issue the
36 permit.

- 37 (1) The ~~director~~Secretary shall impose on any permit he issues the following terms and conditions:

1 (A) The permit shall not be effective until the applicant has obtained ~~the~~all necessary
2 environmental permits, including without limitation, those permits required by G.S.
3 143-215.1, entitled "Control of sources of water pollution; permits required," and G.S.
4 143-215.108, entitled "Control of sources of air pollution; permits required."Articles 21,
5 21A, and 21B of G.S. Chapter 143, Article 9 of G.S. Chapter 130A, and Articles 4 and 7
6 of G.S. Chapter 113A. When the necessary ~~water and air pollution control~~ permits have
7 been obtained by the applicant, the ~~director~~Secretary upon the applicant's request shall
8 confirm the effective date of the oil refining facility permit.

9 (B) The applicant, on February 1 of each year following the year in which the applicant's permit
10 became effective, shall submit to the ~~director~~Secretary a description of the following
11 aspects of the facility's operation as of that date:

- 12 (i) as they are listed in Rule ~~4004(e)(7), 0104(c)(7)~~ (A), (B), (C), (D), (E), (F), (G),
13 and ~~(H); (H)~~ (H) of this Section; and
14 (ii) transfer of oil to and from the facility, including ~~but not limited to~~ a statement of
15 the amount and kind of vessel traffic which the facility's operation does or will
16 generate.

17 (2) Further, the applicant, in making this annual report, may adopt an oil refining facility permit
18 application or portion thereof which the applicant has previously ~~filed.~~ filed, if the adopted
19 application or portion thereof ~~must meet the standards for an adequate response to this permit term.~~
20 provides all of the required information in Subpart (1)(B) of this Paragraph. The applicant shall
21 submit additional information about the facility's operation if the ~~director~~Secretary deems it
22 necessary and requests it.

23 ~~(2)~~(3) The ~~director~~Secretary has the authority to impose any additional terms and conditions on the permit
24 which he deems necessary and appropriate to effectuate the purposes of the Act, including but not
25 limited to terms and conditions requiring the installation of such facilities and the employment of
26 such protective measures and operating procedures as ~~he deems deemed~~ reasonable and necessary
27 to prevent, contain, and remove any discharges to the waters or lands of the State, and to restore,
28 restock, and replenish said waters or lands.

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30 *History Note: Authority G.S. 143-215.1; 143-215.101; 143-215.108;*
31 *Eff. June 16, 1980;*
32 *Amended Eff. October 1, 1984;*
33 *Readopted Eff.*
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1 **15A NCAC 01E .0108 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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15A NCAC 01E .0108 SUSPENSION: REVOCATION: OR AMENDMENT OF PERMITS

- (a) The ~~director~~Secretary may suspend, revoke, or amend the permittee's oil refining facility permit if:
- (1) a permittee violates any provision of the Act, ~~or~~ any rule, regulation, or order made pursuant to ~~Part 4 of the Act, entitled "Oil Refining Facility Permits," or any provision, term, or condition of the permit;~~ permit, or any other environmental permit issued to the facility; or
 - (2) a permittee intentionally misrepresented or failed to disclose material facts which were required to be included in the application.
- (b) The ~~director~~Secretary may, on a continuing basis, amend the permit under Rules .0105 and .0106 of this Section to impose such terms and conditions thereon as ~~he deems~~ necessary and appropriate to effectuate the purposes of the Act.
- (c) G.S. 150B-3, entitled "Special Provisions on Licensing," shall apply to any suspension, revocation, or amendment of a permit.

*History Note: Authority G.S. 143-215.101; 150B-3;
Eff. June 16, 1980;
Amended Eff. July 1, 1988; October 1, 1984;
Readopted Eff.*

1 **15A NCAC 01E .0109 IS PROPOSED FOR REPEAL THROUGH READOPTION AS FOLLOWS:**

2

3 **15A NCAC 01E .0109 ADMINISTRATIVE HEARINGS: FINAL DECISION BY SECRETARY**

4 ~~(a) Any person aggrieved, as that term is defined by G.S. 150B-2(6), by the director's decision to issue, deny, suspend,~~
5 ~~revoke, or amend an oil refining facility permit shall have an opportunity for an administrative hearing.~~

6 ~~(b) Procedures for such a hearing shall be as set forth in 15A NCAC 1B .0200, "Hearing Procedures for Contested~~
7 ~~Cases," and Article 3 of Chapter 150B of the General Statutes.~~

8 ~~(c) The Secretary shall make the final decision concerning the issuance, denial, suspension, revocation, or amendment~~
9 ~~of a permit in contested cases.~~

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11 *History Note: Authority G.S. 143-215.101; 150B-23 through 150B-37;*

12 *Eff. June 16, 1980;*

13 *Amended Eff. July 1, 1988; October 1, 1984;*

14 *Repealed Eff.*

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1 **15A NCAC 01E .0110 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0110 SEVERABILITY**

4 If any provision of this Subchapter or its application to any person or circumstance is held invalid, such invalid
5 provision or application shall not affect the validity of other provisions or applications of this Subchapter; and to this
6 end the provisions of this Subchapter are declared to be severable.

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8 *History Note: Authority G.S. 143-215.101;*

9

Eff. June 16, 1980;

10

Readopted Eff.

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1 **15A NCAC 01E .0111 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0111 MAILING LIST**

4 The ~~director~~Secretary shall establish and maintain a mailing list of all persons desiring to receive any notices required
5 by this Subchapter, and notices required to be given shall be given to all such persons whose names are on this mailing
6 list.

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8 *History Note: Authority G.S. 143-215.101;*

9

Eff. June 16, 1980;

10

Amended Eff. October 1, 1984;

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Readopted Eff.

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1 **15A NCAC 01E .0112 IS PROPOSED FOR REPEAL THROUGH READOPTION AS FOLLOWS**

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3 **15A NCAC 01E .0112 FEES**

4 ~~The director may charge a reasonable fee to recover costs incurred in supplying copies of any application or other~~
5 ~~materials described in this Subchapter.~~

6

7 *History Note: Authority G.S. 7A-308(12); 132-6; 143-215.101;*

8

Eff. June 16, 1980;

9

Amended Eff. October 1, 1984;

10

Repealed Eff.

11

12

1 **15A NCAC 01E .0113 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0113 EXTENSIONS OF TIME PERIODS**

4 The ~~director~~Secretary may extend any of the time periods prescribed by this Subchapter. Such an extension shall not
5 exceed 15 days. The Secretary may issue multiple extensions at the Secretary's discretion.

6

7 *History Note: Authority G.S. 143-215.101;*

8 *Eff. June 16, 1980;*

9 *Amended Eff. October 1, 1984;*

10 *Readopted Eff.*

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1 **15A NCAC 01E .0114 IS PROPOSED FOR READOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0114 DELEGATIONS**

4 The ~~secretary~~Secretary hereby delegates to the ~~director~~Assistant Secretary the authority to issue, deny, suspend,
5 revoke, or amend oil refining facility permits, ~~except that the secretary retains the authority to make the final agency~~
6 ~~decision in contested cases as applied by 15A NCAC 1B .0200—Contested Case Procedures.~~permits.

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8 *History Note: Authority G.S. 143-215.100; 143-215.101; 143B-10; 150B-2(2);*

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Eff. October 1, 1984;

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Readopted Eff.

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1 **15A NCAC 01E .0115 IS PROPOSED FOR ADOPTION AS FOLLOWS:**

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3 **15A NCAC 01E .0115 UNAUTHORIZED DISCHARGES**

4 (a) In addition to any other reporting obligation under State, local, or federal law, the operator of any oil refining
5 facility shall report in writing to the Secretary any unauthorized discharge of oil of 500 gallons or more or other
6 occurrence prohibited by the Act. Such reporting shall occur as soon as practicable, but no later than 24 hours after
7 the owner or operator becomes aware of the discharge or occurrence. The report shall include an estimated volume of
8 the discharge.

9 (b) In the event of an unauthorized discharge of oil from an oil refining facility, the owner or operator of that oil
10 refining facility shall issue a press release to all print and electronic news media that provide general coverage in the
11 county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the
12 press release within 24 hours after the owner or operator has determined that a discharge has occurred. The press
13 release shall include an estimated volume of the discharge. The owner or operator shall provide a copy of the press
14 release and a listing of the news media to whom the press release was issued to the Department.

15 (c) After an unauthorized discharge of oil, the owner or operator shall submit a report to the Secretary describing the
16 actions taken to respond to and contain the release. In the event that a release cannot be contained within 24 hours
17 after the owner or operator becomes aware, the owner or operator shall submit daily reports on the status of the
18 response as directed by the Department until the discharge is contained.

19
20 *History Note: Authority G.S. 143-215.101;*

21 *Adopted Eff.*