

## Regulatory Impact Analysis

**Rule Citation:** 15A NCAC 01E .0101 - .0115

**Rule Topic:** Readoption, Repeal through Readoption, and Proposed Adoption of 01E Rules: Oil Refining Facility Permits

**DEQ Divisions:** Administration

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**Impact Summary:**

State government:	Yes
NCDOT:	No
Local government:	No
Private entities:	Yes
Environment:	No
Substantial Impact:	No

### 1. Necessity for Rule Change

N.C. Gen. Stat. § 150B-21.3A requires state agencies to review existing rules every 10 years, determine which rules are still necessary, and either re-adopt or repeal each rule as appropriate. The proposed rulemaking satisfies these requirements for 15A NCAC 01E. Of the 15 rules in the proposed rulemaking, 11 are proposed for readoption with changes, 2 are proposed for repeal, 1 is proposed for readoption with no changes, and 1 is proposed for adoption. The rules proposed for repeal are either unnecessary based on current Department practice or unnecessary due to other North Carolina laws.

### 2. Purpose of Rules

The rules in 15A NCAC 01E establish the procedures relating to Oil Refining Facility Permits, authorized in N.C. Gen. Stat. §§ 143-215.100–215.102, including the requirements of an oil refining facility permit application, the permit application procedure, the requirements of the public hearing process, the criteria for evaluating an application for an oil refining facility permit, and the requirements for compliance after an oil refining facility permit is issued. These rules fall under the Secretary’s direct authority, delegated to the Assistant Secretary in these rule revisions.

### 3. Regulatory Baseline

As part of the permanent rulemaking process, N.C. Gen. Stat. § 150B-19.1 requires agencies to quantify to the “greatest extent possible” the costs and benefits to affected parties of a proposed rule. To understand what the costs and benefits of the proposed rule changes would be to affected

parties, it is necessary to establish a regulatory baseline for comparison. For this analysis, the following items are considered the baseline: (1) the current version of rules in 15A NCAC 01E (effective November 1, 1989); and (2) North Carolina General Statutes Chapter 143, Article 21A, Part 4, G.S. §§ 143-215.100–215.102.

#### 4. Cost-Benefit Analysis

##### a. Proposed Rule Amendments

The following tables contain summaries of the proposed rule amendments and repeals as well as a statement about the anticipated impact of each change.

Rule	Proposed Change	Economic Impact
15A NCAC 01E .0101 Purpose	Deleted unnecessary language.	None.

15A NCAC 01E .0102 Definitions	Deleted unnecessary definition and added definitions based on changes to other rules.	None.
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15A NCAC 01E .0103 Oil Refining Facility Permit Required	(a) Deleted language regarding effectiveness of these rules to existing oil refining facilities.  (b) Clarified what situations require a determination if the modification is substantial.	None. There were no oil refining facility permits existing in North Carolina as of 1980 and none have been built since then. As such, there are no facilities that would be impacted by removing language regarding the effectiveness of these rules to facilities existing in 1980.
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15A NCAC 01E .0104 Permit Application Requirements	(c)(9) and (c)(11) added option for an electronic application.	This is a potential benefit to the applicant, as it allows for a more efficient application process and reduces the cost for the applicant to print multiple copies of the application materials for submission to the Department.
	(c)(12) Clarified when the information would need to be submitted.  Clarified the minimum radius of affected persons whom the applicant must inform about the application for an oil refining facility permit.	This is a potential benefit to the applicant, as the listing is only required if the Secretary asks and is based upon the environmental or health impacts that members of the public within a limited radius of the proposed facility have indicated are of concern to them. The baseline of the rule required that the applicant inform persons who the facility may or will interest or affect but

		<p>did not specify who needed to be informed of the proposed facility in a targeted way, thus the potential scope of people whom the applicant would need to inform would be much more broad under the baseline conditions. The revised language clarified that the group of people who need to be informed of the proposed facility is more limited in nature and only necessary upon request.</p>
	<p>(c)(13) Clarified the list of potential environmental permits or approvals that an applicant would need to obtain to operate an oil refining facility.</p>	<p>None. Under the baseline conditions, the applicant will already need to acquire permits and would already have had to provide copies of the applications for permits they submitted. Instead of providing copies of the applications, the applicant will provide copies of the issued permits. The cost difference to the applicant of providing a list of the permits applied for and copies of those applications compared to providing copies of issued permits should be negligible, since the permits would be required anyway.</p>
	<p>(c)(14) Clarified the specific data that will be considered when evaluating the environmental impact of the proposed oil refining facility.</p>	<p>None. The “primary and secondary effects” analysis is not typical in modern environmental permitting, so this change is meant to update the language of this rule to the current approach, which does not differentiate between primary and secondary effects. The environmental and health impacts of the proposed oil refining facility will be considered holistically based on the data provided by the applicant, as well as considering the comments and other information submitted by other agencies or persons through the comment process. Under the Oil Refining Facilities Permit statute, the Secretary has the authority to deny the permit upon making a finding that the proposed facility will violate an environmental standard or will have a substantial adverse effect on parks, forest, or recreation area. Overall, this change is meant to simplify the data taken into consideration by the Department in evaluating these impacts</p>

		while updating the language to reflect current practices.
	(c)(15) Added requirement that the applicant provide a copy of the spill prevention plan.	None. The applicant would already be required to have a spill prevention plan under existing laws, so there would be no additional cost to the applicant to provide a copy to the Department.
	(c)(17) Added requirement for the applicant to determine whether the proposed oil refining facility would be subject to the North Carolina Environmental Policy Act.	None. The North Carolina Environmental Policy Act (G.S. 113A-1 <i>et seq.</i> ) already requires that projects which could have a substantial impact upon the environment determine whether there is an environmental impact document required. The Department has existing rules at 15A NCAC 01C .0101 <i>et seq.</i> , which grant the Secretary the authority to require an applicant to prepare an environmental assessment document under the NCEPA. Likewise, the Department of Administration requires that any situation which could have a potential environmental impact upon natural resources, public health and safety, natural beauty, or historical or cultural elements of the State's common inheritance undergo a NCEPA analysis under 01 NCAC 25 .0108. Thus, existing rules and statutes already require that there be a determination made as to whether and what kind of environmental impact statement is required under existing state law, so there is no additional cost to the applicant.
	(e) Clarified that the schedule for additional information is set by the Secretary.	None.

15A NCAC 01E .0105 Permit Application Procedure	(a) Changed the timeline from 30 days to 60 days for the Secretary to review the application to determine completeness and adds a timeline for the applicant to respond to anything missing from the application to 60 days.	None. Existing Rule 15A NCAC 01E .0113 already allows the Secretary to extend any timeline. The inclusion of a specified timeline for the applicant to respond will provide some predictability to the process; however, the Secretary will continue to have the authority to extend the timeline as needed.
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	(b) Changed the timeline for the Secretary to give notice to other agencies from 45 days to 30 days of receipt of a complete application.	None. Existing Rule 15A NCAC 01E .0113 allows the Secretary to extend any timeline; as such, the Secretary will continue to have the authority to extend the proposed timeline.
	(c)(7) Added a timeline of 45 days for other agencies listed in (b) to comment on the application.	None. The existing rule stated that the notice of public hearing would specify a date by which other agencies' comments should be submitted to the Secretary. The updated version specifies that date shall be within 45 days of the notice being issued. The time period for comment will now have a defined amount of time in rule rather than waiting for the date to be published in the notice. 30 days is a typical period for comment from other state agencies under other environmental laws in North Carolina, including the Mining Act, so this is a longer time period by comparison but not a change from the baseline of these rules. The Secretary will continue to have the authority to extend the comment deadline as needed. This is unlikely to occur, however, because the goal is to have other agencies' comments prior to the public hearing so that their comments would be available for public comment.
	(c)(12) Clarified that the Secretary may add additional information to the public notice.	None.
	(d) Removed requirement that publication occur in at least three different parts of the State because DEQ publishes press releases and relevant information to the public on its website, published notice throughout the state is possible without having to publish the notice in a newspaper.	This should reduce costs for the Department to provide newspaper notice to the public throughout the state. While newspaper publication costs vary greatly based on frequency of publication and the number of lines required for notice, a single day of notice publication in a major metropolitan newspaper can cost around \$1,515 (as of January 2022). Newspaper publication in small or mid-sized cities may cost around \$168 to \$395 for a single day of published notice (as of January 2022). Because the baseline requirement was publication in three different parts of the state, this change could save the Department up to \$4,545 per application (assuming a single day of

		<p>notice publication in three major metropolitan areas across the state, which was required under the existing rules). For purposes of this analysis, we conservatively estimate a maximum of one application for an oil refining facility per 30 years; this equates to a potential cost savings to the State of up to \$4,545 (in \$2022) every 30 years.</p>
	<p>Added (e): “The Secretary shall provide public notice in accordance with the appropriate portions of the DEQ Public Participation Plan.”</p>	<p>None. This incorporates existing Departmental policy to ensure that the public and the regulated community are aware of the Department’s policy and know what to expect during the public comment process. Compared to the baseline, which does not include this policy, there is no quantifiable change. The policy clarifies how the Department will conduct public outreach to ensure that all members of the public have the opportunity to be heard during the public comment process and how the Department approaches public engagement and outreach. The DEQ Public Participation Plan would already be referenced when planning public outreach and hearings, even when not codified into rules, so this change merely clarifies that the Secretary will refer to the DEQ Public Participation Plan when evaluating how and what kind of notice and other public engagement should be utilized as part of this permitting process.</p>

<p>15A NCAC 01E .0106 Public Hearing on Permit Application</p>	<p>(b) Changed hearing dates from 45 – 60 days to 60 – 90 days after public notice.</p>	<p>None. The intent of this change is to provide additional time for the Secretary to review comments from other state agencies and provides additional time for the Department to plan the public hearing and ensure that the public has adequate notice of the hearing. The Secretary already has the authority to extend any timeline under existing Rule 15A NCAC 01E .0113, so this is not a change from the baseline beyond providing some predictability to the Department staff and regulated community.</p>
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	<p>(d) Added “safety, or health” to the reasons upon which the Secretary may determine that the public hearing needs to be held in a different location than the county in which the oil refinery facility is proposed to be located.</p> <p>Changed “elsewhere” to “in a different location or through a virtual application” to encompass a broader range of options and clarify that “elsewhere” could involve a virtual or hybrid hearing through a video conferencing application.</p>	<p>This provides alternatives to where the public hearing could take place, which may reduce costs by providing a virtual option for the hearing rather than having the Department rent a physical space of sufficient size to host the public hearing.</p> <p>A virtual hearing may make public hearing portion more accessible to the public throughout the State, giving greater opportunity for public input and feedback on the environmental and health effects of the proposed facility.</p>
	<p>Added (g) to clarify that the Secretary may ask for additional information necessary to respond to public comments.</p>	<p>None.</p>

<p>15A NCAC 01E .0107 Decision to Issue or Deny Permit</p>	<p>(a) Changed 45 days to 60 days for the time for the Secretary has to decide to issue or deny the permit.</p> <p>Clarified timeline for the Secretary’s decision to issue or deny a permit if the applicant provides additional information to respond to public comments.</p>	<p>None. Existing Rule 15A NCAC 01E .0113 allows the Secretary to extend any timeline, so this is not a change from the baseline beyond providing some predictability to the Department staff and regulated community.</p>
	<p>(b)(1) Clarified what documents are considered “supporting” documents with the application and the information required for the Secretary to evaluate the environmental impacts.</p> <p>Incorporated former provisions of (c) into (b).</p> <p>Deleted language that the director will base the decision on the effects that the construction or operation of an oil refining facility will or may have on the environment and shall consider both the primary and secondary effects on the environment; clarified that the Secretary shall base the decision on the effects which construction or operation of the facility will or may have on the environment.</p>	<p>None. The information the applicant must submit as part of the application already includes all necessary environmental permits as well as baseline sampling information which will allow the Secretary to fully evaluate the environmental effects of the proposed oil refining facility.</p>
	<p>(d)(1)(A) Updated the list of permits.</p>	<p>None.</p>

<p>15A NCAC 01E .0108 Suspension: Revocation: or Amendment of Permits</p>	<p>Clarified that violations of any environmental permit issued to the facility could provide reason for the Secretary to suspend the oil refining facility permit.</p>	<p>None. The Oil Refining Facility Permit statute provides the basis for denial of a permit based on the environmental impacts of the facility (G.S. 143-215.101(2)), which creates the basis under which the Secretary could suspend or revoke a permit under the existing rules. The existing rules only referenced violations of the Oil Refining Facility Statute. This rule change clarifies that there could be adverse impacts to the environment or natural resources that could occur because of violations of other environmental permits and thus, violations of other environmental permits could create a basis under which to revoke this permit.</p>
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<p>15A NCAC 01E .0109 Administrative Hearings: Final Decision by Secretary</p>	<p>Proposed for repeal.</p>	<p>None.</p>
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<p>15A NCAC 01E .0112 Fees</p>	<p>Proposed for repeal.</p>	<p>None.</p>
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<p>15A NCAC 01E .0113 Extensions of Time Periods</p>	<p>Clarified that Secretary may issue multiple extensions at the Secretary's discretion.</p>	<p>None. Existing rule language doesn't limit the Secretary to one extension, so this is a clarification only and not a change from the baseline.</p>
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<p>15A NCAC 01E .0114 Delegations</p>	<p>Updated the delegation from the Director to the Assistant Secretary.  Updated language to align with the current Administrative Procedure Act.</p>	<p>None.</p>
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**Proposed New Rule: 15A NCAC 01E .0115**

Rule	Proposed Change	Economic Impact
<p>15A NCAC 01E .0115 Unauthorized Discharges</p>	<p>(a) Requires the operator of an oil refining facility to report any unauthorized discharges of 500 gallons or more or other occurrence prohibited by the Act as soon as practicable, but no later than 24 hours after the owner or operator becomes aware of the discharge or occurrence, and to report the estimated volume.</p>	<p>None. The owner or operator of an oil refining facility would already be subject to State and federal reporting requirements for discharges of oil or its byproducts into the land or waters of the State. The North Carolina Oil Pollution and Hazardous Substances Control Act, G.S. 143-215.75 <i>et seq.</i> requires that any person who owns or has control over petroleum that is discharged into the environment collect and remove the discharge, report the discharge to the Department of Environmental Quality within 24 hours and begin to restore the area immediately if the volume of petroleum discharged is 25 gallons or more or causes a visible sheen on nearby surface water. Federal law also requires that a facility notify the State if a reportable quantity of a hazardous substance is released into the environment, which includes petroleum and various byproducts of the refining process in quantities as little as .454 kg for petroleum refinery primary oil/water/solids separation sludge.</p> <p>The authority to establish procedures and methods of reporting discharges and other prohibited occurrences is granted to the Secretary in G.S. 143-215.101.</p> <p>The addition of this provision will reinforce the requirement to report unauthorized discharges to the Department, but it will not result in additional expense upon the owner or operator.</p>
	<p>(b) Requires the owner or operator of an oil refining facility which had an unauthorized discharge to issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred describing the details of the discharge within 24 hours, which must include an estimated volume of the discharge. The operator is also required to provide a copy of the press release to the Secretary.</p>	<p>Minimal time impact to owner/operator. There is no cost to issue a press release or send it to newspapers, so the only cost to the owner or operator would be the minimal staff time associated with writing a press release.</p> <p>This change ensures that that the public is informed almost immediately of any unauthorized discharges of oil greater than 500 gallons and that the Secretary is made aware of the owner/operator’s compliance with this rule.</p> <p>This authority to establish procedures and methods of reporting discharges and other prohibited occurrences is granted to the Secretary in G.S. 143-215.101.</p>
	<p>(c) Requires the owner or operator to submit a report to the Secretary within 24 hours describing the actions taken to respond to and contain a release of oil.</p>	<p>None. It is already the owner or operator’s responsibility to be aware of any unauthorized discharges and remediate the discharge under existing State and federal requirements for cleaning up discharges of oil or its byproducts into land or water. The North Carolina Oil Pollution and Hazardous Substances Control Act, G.S. 143-215.75 <i>et seq.</i> requires that any person who owns or has</p>

	<p>If the release cannot be contained within 24 hours of the owner or operator becoming aware, the owner or operator shall submit daily reports updating the Secretary on the status of the response until the discharge is contained.</p>	<p>control over petroleum that is discharged into the environment collect and remove the discharge, report the discharge to the Department within 24 hours and begin to restore the area immediately if the volume of petroleum discharged is 25 gallons or more or causes a visible sheen on nearby surface water. Federal law also requires that a facility notify the State if a reportable quantity of a hazardous substance is released into the environment, which includes petroleum and various byproducts of the refining process in quantities as little as .454 kg for petroleum refinery primary oil/water/solids separation sludge. As such, this change would not pose an additional expense upon the owner or operator.</p> <p>This change is to reinforce the requirement that the Secretary be kept informed about the ongoing environmental impacts of the discharge and of the progress the owner or operator has made in remediating the discharge.</p> <p>This authority to establish procedures and methods of reporting discharges and other prohibited occurrences is granted to the Secretary in G.S. 143-215.101.</p>
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**b. Economic Impact to State Government and the Regulated Community**

**Amendments**

The proposed amendments to the subject rules are mainly technical in nature for the purpose of providing clarity; updating agency names, addresses, and cross-references; modernizing application procedures and public notice requirements; ensuring consistency between these and other current DEQ rules; and updating language to reflect changes to North Carolina General Statutes. Throughout these rules, gendered language was removed, and “director” was replaced with “Secretary” to align with the definitions section of these rules and the statutory structure wherein the Secretary is delegated authority for issuing or denying an oil refining facility permit. This should make the rules easier to understand, which should translate into less time spent by the regulated community on the process, as well as less time spent by regulatory staff providing technical assistance. These impacts are expected to be negligible and were not monetized for this analysis.

The reasoning behind some more substantial changes can be described as follows:

- For 15A NCAC 01E .0104(c)(12), the revisions set a minimum distance for the survey of affected persons to create a listing of the environmental or health impacts that are of concern to the public who live in the area, which ensures that these environmental and health concerns are addressed throughout the application process.
- For 15A NCAC 01E .0106, section (g) was added, allowing the Secretary to request the applicant provide any information necessary to respond to public comments within 30 days of the public hearing and requires that the applicant provide such responsive

information within 90 days. This is to allow the Secretary to ensure that the applicant addresses concerns from public comments, particularly if it relates to a need for the applicant to provide additional information about the environment or mitigation.

- For 15A NCAC 01E .0108, the amendments clarify that the violations of any environmental permit issued to the facility provide reason for the Secretary to revoke, amend, or suspend the oil refining facility permit.

The proposed amendments will not affect environmental permitting of NC Department of Transportation (NCDOT), therefore there will be no costs or benefits to NCDOT. The proposed amendments will maintain existing environmental protections at an equivalent level with no costs or benefits to the environment.

Note that 15A NCAC 01E .0110 is proposed for readoption without any changes.

### **Repeals**

For the two rules proposed for repeal, there will be no change to the baseline regulatory condition. The basis for these repeals can be summarized as follows:

- For 15A NCAC 01E .0109, the North Carolina Administrative Procedure Act would apply to these rules, so final decisions in administrative hearings would fall under the authority of the Office of Administrative Hearings. As such, this rule is unnecessary and is proposed for repeal.
- For 15A NCAC 01E .0112, the Department of Environmental Quality typically provides access to application materials to the public through digital means, particularly for permits that are of particular interest to the public. Fees for providing paper copies could be addressed, if necessary, through reference to the NC Public Records Act. As such, this rule is unnecessary and is proposed for repeal.

Neither of these proposed repeals will impose new regulatory requirements. As such, there should be no costs to the regulated community or the implementing agency.

### **Adoption**

For the rule proposed for adoption (15A NCAC 01E .0115), there will be no substantive economic or environmental impact. The Oil Refining Facility statute grants the Secretary the authority to adopt rules establishing the procedures and methods of reporting discharges and other occurrences prohibited in the statute. This rule clarifies the process that the owner or operator of an oil refining facility which has a permit issued under this section would have to follow in the event of an unauthorized discharge of oil. As compared to the baseline, there would be minimal cost to the owner/operator in the form of time to write and send a press release following an unauthorized discharge.

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;*

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*Eff. June 16, 1980;*

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*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 concern to 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.

15  
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.

29  
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.

29  
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:**

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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.~~

10

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.

7

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.

7

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

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*Eff. June 16, 1980;*

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*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;*

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*Amended Eff. October 1, 1984;*

10

*Repealed Eff.*

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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.

7

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

9

*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.*