

SUBCHAPTER 01E - OIL REFINING FACILITY PERMITS

SECTION .0100 – GENERAL INFORMATION

15A NCAC 01E .0101 PURPOSE

The purpose of this Subchapter is to establish procedures and standards under which permits for the construction and operation of oil refining facilities will be issued or denied.

History Note: Authority G.S. 143-215.101;
Eff. June 16, 1980;
Amended Eff. October 1, 1984;
Readopted Eff. April 1, 2023.

15A NCAC 01E .0102 DEFINITIONS

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

- (1) "Act" means the Oil Pollution and Hazardous Substances Control Act, Article 21A, Chapter 143, General Statutes.
- (2) "Construction" means:
 - (a) construction and operation of a new oil refining facility;
 - (b) substantial enlargement and operation of an existing oil refining facility; or
 - (c) substantial change in the physical separation or chemical reaction process of an existing oil refining facility and operation of such facility.
- (3) "Department" means the Department of Environmental Quality.
- (4) "Oil refining facility" means any facility of any kind and related appurtenances located in, on, or under the surface of any land, or water, including submerged lands, which is used or capable of being used for the purpose of refining oil. The term "related appurtenances" includes pipelines.
- (5) "Publicly owned parks, forests, or recreation areas" means lands, including beaches, shorelines, and submerged lands, and waters:
 - (a) that are owned or controlled by a governmental body for purposes of conservation of natural resources, public recreation, or general public use; or
 - (b) that the public has a right to use for recreation or as a part of the natural environment.
- (6) "Secretary" means the Secretary of the Department of Environmental Quality.
- (7) "Wildlife" means wild animals and plants.

History Note: Authority G.S. 143-215.77; 143-215.101;
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Readopted Eff. April 1, 2023.

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

No person shall construct or operate an oil refining facility unless and until such person applies for and obtains an oil refining facility permit under this Subchapter.

History Note: Authority G.S. 143-215.100; 143-215.101; 143B-10;
Eff. June 16, 1980;
Amended Eff. October 1, 1984;
Readopted Eff. April 1, 2023.

15A NCAC 01E .0104 PERMIT APPLICATION REQUIREMENTS

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

Secretary's Office
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601
- (b) An application shall be made by and in the names of all persons who will be owners or operators of a proposed oil refining facility or who are owners or operators of an existing facility.

(c) To apply for an oil refining facility permit, a person or persons shall submit to the Secretary an application which shall contain:

- (1) a cover sheet shall not exceed one page and shall include:
 - (A) the title, APPLICATION FOR PERMIT TO CONSTRUCT OR OPERATE AN OIL REFINING FACILITY;
 - (B) a short statement of the activity for which the permit is sought and the name and location of the oil refining facility involved;
 - (C) the complete name, address, and telephone number of each applicant;
 - (D) the date of the application;
 - (E) the name, address, and telephone number of the employee or agent of the applicant who can supply further information; and
 - (F) an abstract of the assessment of the effects which the construction or operation of the oil refining facility will have on the environment;
- (2) a table of contents;
- (3) a description of the proposed or existing oil refining facility, including a description of the following aspects of the facility's operation:
 - (A) kind of refining process;
 - (B) refining capacity;
 - (C) kind, character, and volume of raw materials, and the source(s) of their supply;
 - (D) kind, character, and volume of products;
 - (E) kind, character, and volume of by-products;
 - (F) kind, character, and volume of effluent discharges to waters or lands of the State;
 - (G) kind, character, and volume of emissions to air;
 - (H) number of persons in the facility's permanent work force; and
 - (I) cost of construction of the facility;
- (4) if construction is involved, a description of the construction process and the applicant's estimate of the timetable for that process;
- (5) an electronic copy or two sets of paper copies of the most current reports, drawings, maps, plans, and specifications describing the location, construction, and operation of the oil refining facility;
- (6) a description of the transfer of oil to and from the oil refining facility, including a statement of the amount and kind of vessel traffic which the facility's operation does or will generate;
- (7) an electronic copy or two sets of paper copies of the most current reports, drawings, maps, plans, specifications, and other information describing the transfer of oil, including vessel characteristics and ownership, vessel navigation to and from the facility, oil loading equipment, and pipelines, in such detail as the Secretary deems necessary to decide to issue or deny the permit;
- (8) upon request of the Secretary, a listing of the environmental or health impacts which interested or affected persons or their representatives have indicated are of concern to them. To prepare such a listing, the applicant shall:
 - (A) inform about the facility those persons whom the facility will or may interest or affect, including those living within one mile of any part of the facility; and
 - (B) ascertain the nature of their concerns about the effects of the facility and their suggestions for meeting those concerns. The applicant may coordinate efforts in this regard with similar efforts required by other statutes or regulations, federal or state, so as to reduce duplication of effort;
- (9) a list of all federal, state, and local permits or approvals related to protection of the environment or environmental resources that the applicant shall obtain for construction or operation of the oil refining facility, the date on which each application was submitted, a copy of each filed application, and a copy of each permit or approval showing that it has been issued;
- (10) an analysis of the effects that construction or operation of the facility, including the transfer of oil to and from the facility, will or may have on the environment;
- (11) the applicant's proposals for avoiding or minimizing the adverse effects of the construction and operation of the oil refining facility and the transfer of oil to and from the facility on the environment. The applicant's proposals shall include:
 - (A) a description of the procedures, methods, means, and equipment, including those relating to vessel navigation and design, which the applicant will use to prevent any discharges to the waters or lands of the State;

- (B) a description of the procedures, methods, means, and equipment by which the applicant will detect and report discharges;
 - (C) a description of the procedures, methods, means, and equipment which the applicant will use in the containment, removal, and cleaning up of discharges and in the restoration of any lands or waters affected by a discharge; and
 - (D) a description and copies of any spill prevention and emergency response plans required under federal, State, or local laws and regulations;
- (12) a list of the names of the persons who were primarily responsible for preparing the application or any part thereof, together with their qualifications, including their expertise, experience, professional disciplines, and licenses. The persons who were responsible for a particular analysis shall be identified;
- (13) a statement and explanation by the applicant whether the proposed construction or operation of the oil refining facility is subject to Article 1 of G.S. Chapter 113A, the North Carolina Environmental Policy Act.
- (d) The Secretary shall determine the adequacy and completeness of the submitted application based on compliance with the requirements in Paragraph (c) and Paragraph (e) of this Rule.
- (e) The applicant shall supply such other information as the Secretary deems necessary to impose appropriate terms and conditions in the permit and to determine appropriate protective measures to prevent oil discharges to the lands and waters of the State according to the schedule provided by the Secretary.

*History Note: Authority G.S. 143-215.101;
Eff. June 16, 1980;
Amended Eff. March 1, 1990; August 1, 1988; October 1, 1984;
Readopted Eff. April 1, 2023.*

15A NCAC 01E .0105 PERMIT APPLICATION PROCEDURE

- (a) If the Secretary determines the application is incomplete under Rule .0104(d) of this Section, the Secretary shall within 60 days of its receipt describe in writing to the applicant how the application is incomplete. The applicant shall, within 60 days, submit such additional information relating to the oil refining facility for the application to be complete. If the application is complete, the Secretary shall so advise the applicant in writing within 60 days of its receipt.
- (b) Within 30 days of giving notice to the applicant of a completed application, in accordance with Paragraph (a) of this Rule, the Secretary shall give notice of the application and of a public hearing to be held pursuant to Rule .0106 of this Subchapter to all of the following state agencies and other persons:
- (1) the North Carolina Coastal Resources Commission;
 - (2) the North Carolina Department of Commerce;
 - (3) the North Carolina Department of Natural and Cultural Resources;
 - (4) the North Carolina Environmental Management Commission;
 - (5) the North Carolina Forest Service;
 - (6) the North Carolina Department of Health and Human Services;
 - (7) the North Carolina Marine Fisheries Commission;
 - (8) the North Carolina Department of Transportation;
 - (9) the North Carolina State Ports Authority;
 - (10) the North Carolina Wildlife Resources Commission;
 - (11) the Boards of County Commissioners for the county in which the oil refining facility is located or is proposed to be located and for contiguous counties;
 - (12) the governing body of any incorporated municipality within 50 miles of the oil refining facility;
 - (13) any person whose name is on the mailing list required in Rule .0111 of this Section;
 - (14) any owner of real property which is contiguous to the site of the oil refining facility; and
 - (15) the applicant.
- (c) The notice Paragraph (b) of this Rule requires shall contain the following information:
- (1) The title "Notice of Application for Oil Refining Facility Permit," and a statement that the purpose of the notice is to obtain information or comments to assist the Secretary in assessing the effects of the oil refining facility on the environment.
 - (2) The name and address of the applicants and a brief description of the name, character, location, and capacity of the oil refining facility for which the permit is sought.

- (3) A summary of the analysis of effects submitted in the application under Rule .0104(c) of this Section.
 - (4) An invitation to persons who may be interested or affected by the facility to present, either in writing or at the public hearing held pursuant to Rule .0106 of this Section, their information or comments concerning the impacts of the construction and operation of the oil refining facility, including the effects of the transfer of oil to and from the facility, on the environment.
 - (5) A statement that written information or comments may be submitted to the Secretary at a specified address at any time until 30 days after the close of the public hearing on the application.
 - (6) An announcement of the date, time, and place of the public hearing held pursuant to Rule .0106 of this Section.
 - (7) A list of the state agencies that may review and comment on the application pursuant to Paragraph (b) of this Rule and the date by which the agencies' comments shall be submitted to the Secretary, which shall be within 45 days of the date the notice is issued.
 - (8) The address on the Department's website at which anyone may review the complete application.
 - (9) A reference to the particular sections of the North Carolina General Statutes and the North Carolina Administrative Code applicable to the issuance or denial of oil refining facility permits.
 - (10) A description of the nature of the hearing and the rules that shall govern its conduct.
 - (11) The name, email address, and telephone number of a department official from whom additional information may be obtained.
- (d) The Secretary shall arrange for the publication of the notice in a regularly published newspaper of general circulation:
- (1) in the county containing the site of the oil refining facility; and
 - (2) in contiguous counties.

History Note: Authority G.S. 143-215.101;
Eff. June 16, 1980;
Amended Eff. March 1, 1990; July 1, 1988; October 1, 1984;
Readopted Eff. April 1, 2023.

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

- (a) The Secretary shall hold a public hearing at which any person will be given a reasonable opportunity to present information or comments concerning the contents of the application and the effects of the construction and operation of the oil refining facility, including the effects of the transfer of oil to and from the facility on the environment.
- (b) The hearing shall be held between 60 and 90 days after the date of the notice required by Rule .0105(b) of this Section. The Secretary may arrange for the sending or publication of a second, abbreviated notice shortly before the hearing.
- (c) The state agencies listed in Rule .0105(b) of this Section may comment on the effects that construction or operation of an oil refining facility will or may have on the environment and in so doing should address matters within their jurisdiction, authority, or expertise. An agency may reply that it has no comment. Agencies shall submit any comments within the time period specified for comment in the notice.
- (d) The hearing shall be held in the county where the oil refining facility for which the applicant seeks a permit is located or is proposed to be located, unless the Secretary finds and directs that, for reasons of public convenience, safety, or health, it should be held in a different location or through a virtual application.
- (e) The hearing shall be informational in nature and shall not be a contested case as defined in G.S. 150B-2. The Secretary shall hold the hearing or appoint a hearing officer to do so. The person holding the hearing has the authority to set reasonable guidelines for the hearing, including the length of the hearing and the length of time a person may speak.
- (f) The record of the hearing shall be open for written submissions until 30 days after the close of hearing. Any oral or written information or comments offered at the hearing and any further written information or comments submitted within 30 days after the close of the hearing shall be made part of the record of the hearing.

History Note: Authority G.S. 143-215.100; 143-215.101;
Eff. June 16, 1980;
Amended Eff. October 1, 1984;
Readopted Eff. April 1, 2023.

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

(a) Within 60 days of the last day for submitting public comments about the permit application, or the last day on which the applicant provides additional information requested by the Secretary to respond to public comments, the Secretary shall issue or deny the permit for the oil refining facility.

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

- (1) the permit application;
- (2) the data, information, and comments which have been submitted during the permit process; and
- (3) other facts, information, or analyses within the specialized knowledge of the Department.

The Secretary shall base the decision on the effects which the construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will or may have on the environment.

(c) The Secretary shall deny the permit upon a finding that:

- (1) The construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will have substantial adverse effects on wildlife or on freshwater, estuarine, or marine fisheries;
- (2) The construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will violate standards of air or water quality promulgated or administered by the Environmental Management Commission; or
- (3) The construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will have a substantial adverse effect on a publicly owned park, forest, or recreation area.

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

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

- (A) The permit shall not be effective until the applicant has obtained all necessary environmental permits, including without limitation, those permits required by Articles 21, 21A, and 21B of G.S. Chapter 143, Article 9 of G.S. Chapter 130A, and Articles 4 and 7 of G.S. Chapter 113A. When the necessary permits have been obtained by the applicant, the Secretary upon the applicant's request shall confirm the effective date of the oil refining facility permit.
- (B) The applicant, on February 1 of each year following the year in which the applicant's permit became effective, shall submit to the Secretary a description of the following aspects of the facility's operation as of that date:
 - (i) as they are listed in Rule .0104(c)(3)(A), (B), (C), (D), (E), (F), (G), and (H) of this Section; and
 - (ii) transfer of oil to and from the facility, including a statement of the amount and kind of vessel traffic which the facility's operation does or will generate.

History Note: Authority G.S. 143-215.101;
Eff. June 16, 1980;
Amended Eff. October 1, 1984;
Readopted Eff. April 1, 2023.

15A NCAC 01E .0108 SUSPENSION: REVOCATION: OR AMENDMENT OF PERMITS
15A NCAC 01E .0109 ADMINISTRATIVE HEARINGS: FINAL DECISION BY SECRETARY
15A NCAC 01E .0110 SEVERABILITY
15A NCAC 01E .0111 MAILING LIST
15A NCAC 01E .0112 FEES

History Note: Authority G.S. 7A-308(12); 132-6; 143-215.101; 150B-3; 150B-23 through 150B-37;
Eff. June 16, 1980;
Amended Eff. July 1, 1988; October 1, 1984;
Repealed Eff. April 1, 2023.

15A NCAC 01E .0113 EXTENSIONS OF TIME PERIODS

The Secretary may extend any of the time periods prescribed by this Subchapter. Such an extension shall not exceed 15 days.

History Note: Authority G.S. 143-215.100; 143-215.101;
Eff. June 16, 1980;
Amended Eff. October 1, 1984;
Readopted Eff. April 1, 2023.

15A NCAC 01E .0114 DELEGATIONS

History Note: Authority G.S. 143-215.100; 143-215.101; 143B-10; 150B-2(2);
Eff. October 1, 1984;
Repealed Eff. April 1, 2023.

15A NCAC 01E .0115 UNAUTHORIZED DISCHARGES

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

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

History Note: Authority G.S. 143-215.101;
Eff. April 1, 2023.