

## **APPENDIX 29 NON-TITLE V PERMITTING PROCEDURES**

### **RETURN OF INCOMPLETE PERMIT APPLICATIONS**

Under **15A NCAC 2Q .0305**, Application Submittal Content, four items are required to be included in the application package. These items are:

1. a permit application processing fee per Section **15A NCAC 2Q .0200**, Permit Fees;
2. a consistency determination per **15A NCAC 2Q .0304(b)(1)**;
3. the appropriate number of copies of the application per **15A NCAC 2Q .0305(b)**; and
4. the signature of the appropriate individual per **15A NCAC 2Q .0304(j)**.

If the application submittal package is missing one of these four items, it shall be returned to the applicant. Also an application can be returned if the applicant fails to submit a financial qualification or substantial compliance statement per **15A NCAC 2Q .0305(a)(1)(C)** and **.0304(b)(3)** if the Director requires such statements.

Procedures are set out under **15A NCAC 2Q .0305**, to determine complete applications for renewals, name changes, ownership changes, and administrative changes.

The requirements of **15A NCAC 2Q .0305** shall be followed to decide if application packages are complete for processing purposes. Incomplete packages shall returned.

The return of an incomplete application package and the resubmittal of a complete application package does not prohibit DAQ from asking for additional information.<sup>1</sup>

## **SOURCE REDUCTION AND RECYCLING PLAN**

Rule **15A NCAC 2Q .0304(b)(2)** requires the applicant to submit along with the application a source reduction and recycling plan. For a new facility or for modification of an existing facility, the applicant must submit a written description of current and projected plans to reduce emissions of air contaminants by source reduction and recycling according to G.S. 143-215.108(g). Failure to submit such a plan is not grounds for returning the application. These plans are not considered part of the application and cannot serve as a basis for denial of the permit or permit revision.<sup>2</sup>

## **GENERAL PERMITS**

General permits are currently available for:

1. cotton gins baling no more than 167,000 bales per year;<sup>3</sup>
2. yarn manufacturing facilities processing less than 210,000,000 pounds of cotton fiber per year.
  1. emergency generators.<sup>4</sup>

The general permit defines the specific criteria that must be met to qualify for the general permit.

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<sup>1</sup>Laura S. Butler to Regional Air Quality Supervisors and Air Permits Branch Staff, 10 Mar. 1994, "Application Submittal Requirements – 15A NCAC 2Q .0305.

<sup>2</sup>*Ibid.*

<sup>3</sup>Laura S. Butler to Regional Air Quality Supervisors, *et al.*, 4 Feb. 1999, "General Permit for Cotton Ginning" (memorandum).

<sup>4</sup>Laura Butler to Regional Supervisors, *et al.*, 16 Dec. 1997, "General Permit for Emergency Generators Rules: 2Q .0310" (memorandum). Laura S. Butler to Regional Air Quality Supervisors, *et al.*, "General Permit for Emergency Generators" (memorandum).

## **SPECIAL PERMITS**

A special permit is a hybrid between a standard permit and a general permit. Like a general permit, it provides a standard set of terms and conditions for facilities that satisfy the criteria of the permit. Like a standard permit, it is issued to facilities individually and the standard permit fee is paid.

A special permit is currently available for crushed stone operations where the facility-wide total rated capacity of all primary crushers does not exceed 5000 tons per hour at any one time and the facility-wide total power output capacity of all diesel generators does not exceed 736 horsepower (549 kilowatts-electric).<sup>5</sup>

## **APPLICATION PROCESSING SCHEDULE**

Rule **15A NCAC 2Q .0312**, Application Processing Schedule, sets out the time lines that the Division of Air Quality shall follow when processing a permit application. If the Division fails to act within the time allowed by this rule, the application is deemed denied. If the application is for the renewal of an existing permit, the permit is not renewed. The permittee may continue to operate under his old air quality permit for 30 days after the time specified for action on the application. After this 30-day period, the permittee may continue to operate under its old permit only if he seeks judicial review of the Division's failure to act and obtains from the Superior Court a stay of the Division's final decision denying the permit.

If the Division affirmatively denies an application to renew a permit, the applicant may challenge the denial by initiating a contested case proceeding in the Office of Administrative Hearings. Only following a final decision of the Environmental Management Commission may the applicant proceed to judicial review in Superior Court. Thus, the original permit would remain in effect until 30 days after notice of the Commission's final decision, when the time to seek judicial review expires.

### **Expedited Application Processing Schedule**

Rule **15A NCAC 2Q .0313**, Expedited Application Processing Schedule, describes the procedures to follow for an expedited permit application

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<sup>5</sup>Laura S. Butler to Regional Air Quality Supervisors, *et al.*, 2 Nov. 1998, "Special Permit for Sand, Gravel, and Crushed Stone Operations" (memorandum).

review as required by G.S. 142-108(h). The Rule describes the items that the applicant must submit. Two items required under to be submitted under this rule that are not required for other permit applications are (1) a draft permit and (2) a certification signed by a professional engineer registered in North Carolina certifying the accuracy and completeness of draft the permit and application, including emissions estimates, applicable standards and requirements, and process specifications. Coverage under this Rule is at the option of the applicant.

In processing an application submitted under this Rule, the Division of Air Quality must follow the procedures in G.S. 143-215.108(h). The statute requires:

1. Within 10 working days of receipt of the application, the DAQ shall determine if the application is complete.
  - A. If the application is not complete, the DAQ shall notify the applicant in writing of all deficiencies and specify the items needed to be included, modified, or supplemented in order to make the application complete. The 10-day period is suspended after this request for additional information. If the applicant submits the requested information within the time specified, the 10-day period begins again on the day that the additional information is submitted. If the additional information is not submitted within the time specified, the DAQ shall return the application to the applicant, and the applicant may treat the return of the application as a denial of the application or may resubmit the application at a later date.
  - B. If the DAQ fails to notify the applicant that an application is not complete within 10 working days, the application is deemed complete.
2. Within 30 days after the date on which an application is deemed complete, the DAQ shall:
  - A. publish any required notices, using the draft permit included with the application;
  - B. schedule any required public meetings or hearings on the application and permit; and
  - C. initiate any and all technical review of the application in a manner to ensure substantial completion of the technical review by the time of any public hearing on the application or if no public hearing is held, by the close of the notice period.

3. The DAQ shall issue a permit decision within 30 days of the last day of any public hearing on the application, or if there is no public hearing, within 30 days of the close of the notice period.

If the DAQ fails to issue a permit decision within the time specified by the General Statutes, the applicant may:

1. take no action, thereby consenting to the continued review of the application; or
2. treat the action as a denial of the application and appeal the denial.

At any time after the permit application is deemed complete, the DAQ may immediately terminate review of the application, including technical review and any hearings or meetings scheduled on the application, upon a determination of one of the following:

1. The permit application is not in substantial compliance with the applicable rules; or
2. The applicant fails to pay all permit application fees.

If the DAQ terminates review of an application, the applicant may:

1. revise and resubmit the application; or
2. treat the action as a denial of the application and appeal the denial.

### Completeness Determination

A completeness determination is due within 10 days of receipt of the application. If the application is not complete, DAQ will notify the applicant in writing of all deficiencies of the application (completeness additional information letter), and the 10-day period is suspended after this request for further information. If the applicant submits the requested additional information within the time specified, the 10-day period will restart from day one. If the additional information required for completeness is not submitted in the time specified, DAQ will return the application to the applicant, and the applicant may treat the returned application as a denial of the application. If DAQ fails to notify the applicant that the application is not complete within the allotted 10 days, the application is deemed complete.<sup>6</sup>

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<sup>6</sup>Laura S. Butler to Regional Supervisors, *et al.*, 10 July 1998, "Procedures for Applications Submitted Pursuant to the Expedited Application Processing Schedule Rules (15A NCAC 2Q .0313 and 15A NCAC 2Q .0527)" (memorandum).

## **SYNTHETIC MINOR FACILITIES: 15A NCAC 2Q .0315**

A synthetic minor facility is a facility whose permit contains terms and conditions to avoid the Title V permitting procedures or the applicability of some other requirement such as maximum achievable control technology standards or reasonably available control technology.

A modification to a permit to remove terms and conditions to avoid the applicability of the Title V permitting procedures (**15A NCAC 2Q .0500**) may be processed under either Section **15A NCAC 2Q .0300** (non-Title V permitting procedures) or **15A NCAC 2Q .0500**. The applicant chooses which procedures to follow. However, if the terms and conditions are removed following the procedures of **15A NCAC 2Q .0300**, the permittee must submit a permit application under the procedures of **15A NCAC 2Q .0500** within one year after the limiting terms and conditions are removed.<sup>7</sup> Before operating the permitted items in excess of the major source (Title V permitting) thresholds, synthetic minor facilities requesting major source status must submit a modification request including application fee to remove the synthetic minor limitation and have received a permit removing these conditions. Once a facility requests to opt into major source status, it is subject to Title V fees.<sup>8</sup>

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<sup>7</sup>Alan Klimek to Regional Air Quality Supervisors, *et al.*, 1 July 1997, "Relaxation of Synthetic Minor Permit Conditions" (memorandum). R. Douglass Neeley to Laura S. Butler, 10 June 1997 (letter on synthetic minor sources).

<sup>8</sup>Laura Butler to Regional Supervisors, *et al.*, 11 Apr. 1997, "Synthetic Minor to Title V Opt-In Applicable Rules: 2Q .0501, .0503, .0511" (memorandum).